

**MINUTES OF THE  
SPECIAL MEETING OF THE  
BOARD OF DIRECTORS OF THE  
MIDDLE RIO GRANDE CONSERVANCY DISTRICT  
ON THE MRGCD WATER BANK  
FEBRUARY 8, 2021**

**COVID-19 Response: This meeting was held telephonically.  
The Office is Closed to the Public for General Board Meetings**

Directors having been duly notified; Madam Chair Dunning called the special meeting to order at 2:16 pm at the MRGCD General Office. The following Directors and Staff were present:

<b>DIRECTORS</b>		<b>STAFF</b>	
Karen Dunning, Madam Chair	Present	Mike Hamman	Chief Engineer/CEO
Joaquin Baca, Vice-Chair	Present	Dr. Chuck DuMars	Chief Water Counsel
John Kelly, Director	Present	Lorna Wiggins	General Counsel
Valerie Moore, Director	Present	Jason Casuga	Chief Operations Officer
Michael T. Sandoval, Director	Absent	Pamela Fanelli	Secretary-Treasurer
Barbara Baca, Director	Present	David Gensler	Water Operations Manager
Stephanie Russo Baca, Director	Present	Mike Lopez	Water Distribution Div. Manager
		DeAnna Philips	GIS Tech/Board Liaison

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

Viola Sanchez, BIA	Larissa Gordon	Thomas Padilla, MRGCD
Greg Kaufman	Miguel Hidalgo	Rick Altenberg, MRGCD
John Fleck	Eugene Pickett	Judy McSweeney, MRGCD
Loyola Chastain	Jonathan Vergeer	Francesca Shirley, MRGCD
Anders Lundahl	Matt Pecos	Daniel Arquero, MRGCD
Britany Chaves	Duana Draszkiwicz	Estella Gamboa, MRGCD
Deidra Velasquez	Will Kolbenschlag	Casey Ish, MRGCD
T. Scott Edeal	Barbara Romero	Rebecca Thompson, MRGCD
Paul Cruz	Analise Porter	Mike Apodaca, MRGCD
Susan Cordova	Jamie Park	Dan Clouser, MRGCD
Matthew Aragon	Jay Vee	Marta Moerch, MRGCD
Addy FryeWeaver	John Nugging	Justin Becker, MRGCD

### **AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE**

Mike Lopez led the Pledge of Allegiance at today's meeting.

Madam Chair Dunning declared a quorum and noted that the meeting was publicly noticed. She noted that MRGCD is following the New Mexico Governor's health and safety guidelines. The meeting was held telephonically (telephone and on Zoom), with some Board Members and some staff present at the MRGCD main office and the other Board Members on telephone/Zoom, and other speakers and the public on the phone. 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.

Because of a religious ceremony on San Felipe Pueblo, Director Sandoval will not be in attendance of today's meeting.

Congratulations went to Director Russo Baca on the birth of her son, Brock Baca, on Saturday.

### **AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA**

No changes or additions were made to the proposed agenda.

Director Kelly made the **MOTION TO APPROVE THE MEETING AGENDA**. Director Moore seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

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

### **AGENDA ITEM NO. 3 – WATER AVAILABILITY REPORT - David Gensler, Water Operations Division Manger**

Mr. Gensler reported that following on the heels of last month's relatively poor water availability report, February is also disappointing. In spite of some mountain snows, the February forecast has not significantly improved. Our February 1 forecast is for 59% of average at Otowi Gauge and 64% of average inflow to El Vado. At present, there is not much hope for a strong runoff, and our ability to store water remains significantly constrained by Rio Grande Compact conditions.

Rio Grande Compact Article 7 is in effect, meaning no Rio Grande storage cannot occur until Rio Grande project storage, Elephant Butte, reaches 400,000-acre feet. With that present runoff forecast and the water needs of users who are supplied from Elephant Butte and will be withdrawing water from the reservoir this spring, it is extremely unlikely that we could emerge from Article 7 restrictions during this year's runoff.

As the Board is also aware, New Mexico currently has a 96,800-acre foot debit in Texas under the Rio Grande Compact. This means that if Article 7s were lifted and if we could store Rio Grande water, the first 96,800-acre feet that we put into El Vado would be required to remain there throughout 2021, becoming in effect collateral on New Mexico paying its water debt by the end of the year. With El Vado total storage limited to 115,000-acre feet, because of the rehab project, we could only potentially store 18,000-acre feet for our use this year, even under the best conditions if, somehow, we did miraculously have a change in the weather.

There is an issue of some credit water storage out there. New Mexico has outstanding credits from past relinquishment to Texas, and these can allow New Mexico water users to store under certain conditions. It is unclear how those credits fit in the context of the Article 6 requirement to retain water this year. New Mexico State Engineer and ISC staff have been consulting the District about this and discussing possibilities. We do not have a resolution on the issue yet, but even if it were determined to be possible to store and use credit water this year, the amount could not be large, certainly no larger than 30,000 to 35,000-acre feet, which is not enough to fully supply the District throughout the summer, under normal conditions.

On our San Juan-Chama water supply, we expect to receive some water this year. Normally, we receive 20,900-acre feet. Our normal practice is to take delivery of that water at Heron during the year and move it to El Vado the following winter and use it the year after it's been allocated to us. I don't know what will happen this year, but I do think we're likely to get a

considerably smaller than normal allocation. The San Juan-Chama tributaries that supply Heron reservoir are now sitting at about 50% of average. He doesn't think we can count on that water supply either.

Mr. Gensler's summary for the water availability for the 2021 season appears to be very poor; saying it's almost certain that we will experience periods of shortage this year for all users. Storage conditions that would allow water bank deliveries will not be met this year at all. And stream flow conditions, if they are met, will be met only for brief periods in the spring runoff or after summer thunderstorms. Due to the Rio Grande Compact debit status, even if streamflow should be high enough to allow water bank delivery, it is likely it will be necessary to curtail those deliveries in favor of lowering the Rio Grande Compact debit for the year.

**AGENDA ITEM NO. 4 – MRGCD IRRIGATION/WATER BANK COMMITTEE REPORT AND RECOMMENDATIONS ON WATER BANK LEASE RATES AND FEES - Directors Moore, Sandoval, and Russo Baca**

Director Moore reported for the Committee members that they discussed all of the issues that David Gensler spoke about in Item 3. One being discussed is Rule 23, the conditions where water is curtailed on the water bank to include debit water as a trigger for curtailment.

The Committees also discussed MRGCD encouraging farmers to put water on their best ground, so that would be more efficient and productive farmland, as well as discussed alternate curtailment location (if an individual has a water bank - or wants to have a water bank lease), they can move it to a better place).

They also discussed illegal irrigation. Mike Lopez and his team are going to start marking the turnouts that correspond with the ditch farmers are on. They are working on detailed scheduling as well. They are making these recommended changes after listening to the farmers within the District express their concerns.

Director Moore read the resolution for the proposed Adoption of Water Bank Rates and Fees for the 2021 Irrigation Season. The administration fee is \$100 per lease (for 5 years, subject to no changes in the water bank contract). The water service charge fee is \$43.82 per acre / per year; and the lease rate is \$50 per acre / per year.

RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT  
ADOPTION OF WATER BANK RATES & FEES FOR 2021 IRRIGATION SEASON

M-02-08-21-170

WHEREAS, the Board of Directors (Board) of the Middle Rio Grande Conservancy District (District), has reviewed a recommendation from the Board's Water Bank Committee for the fees for the 2021 irrigation season; and

WHEREAS, at a Special Meeting of the Board held February 8, 2021, called for the purpose of establishing Water Bank Rates and Fees, the Board approved the following for the 2021 irrigation season:

**Administration Fee**  
\$100.00/per lease  
(for 5 years subject to "NO" changes to Water Bank Contract)

**Water Service Charge (per acre)**  
\$43.82 per acre / per year

**Lease Rate (per acre)**  
\$50.00 per acre / per year

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Governing Body of the Middle Rio Grande Conservancy District, hereby approves the fees and lease rates for the Water Bank hereinabove described.

RESOLVED: in session this 8<sup>th</sup> day of February 2021.

Director Russo Baca added the change in the administration with Mike Lopez, the District is working preemptively to make sure that deliveries are done in an equitable manner and that individuals who do decide to go through with the water bank, whether they have an alternate curtailment or just risk the fact that there is no extra water. They do have that option, but there will be much tighter restrictions to ensure that individuals aren't illegally irrigating with the water bank situation and the water situation in general. Lastly, she reiterated that the system will be updated with turnouts being tagged.

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

##### **Addy FryeWeaver**

Ms. FryeWeaver expressed her concern saying that in light of what Mr. Gensler reported about the water conditions and understanding that groundwater and the aquifer water are a separate condition, she would like to continue to prioritize those farmers and the people who live in New Mexico rather than allowing aquifer water to be sold off.

##### **Miguel Hidalgo**

Mr. Hidalgo has lived in the Valley for over 50 years and has irrigated off of the ditches. He is concerned about the amount of people who sold their water rights and are now subleasing their water to the big farmers and looks forward to fair amounts of water distributed. He is very happy about the selection of Mike Lopez and Daniel Clausser for the new positions in the District. He believes that they will take care of the issues and distribute water fairly.

##### **Eugene Pickett**

Mr. Pickett lives in Pueblitos (Jarales). He thanked Director Moore for keeping the farmers informed and asked for Mr. Gensler's report to be posted on-line so that it can be passed on to others who were not on the call. He stated his concern about the heavy water users moving into Valencia County, which is going to make this year especially difficult.

##### **Duana Draszkievicz**

Ms. Draszkievicz lives off Highway 47 in Valencia County where she waters from a well. She is concerned about limiting farmers with water, while allowing Niagara Bottling Company to more than double their usage of pulling water from the aquifer to bottle and sell it. She didn't know where else to take this concern but voiced it here today for the Board's consideration.

#### **AGENDA ITEM NO. 6 – CONSIDERATION/APPROVAL OF RESOLUTION M-02-08-21-170 FOR THE ADOPTION OF WATER BANK RATES AND FEES FOR 2021 IRRIGATION SEASON**

Mike Hamman explained briefly that the Water Bank Rule 23 is the Rule that guides the administration of the water bank policy that we administer at the behest of the Board of Directors. It was designed originally to allow for lands that had severed their water rights, which are typically more productive lands in the Valley, to provide alternative water sources in times of surplus water, such that they could arrange for a lease with the District and they could irrigate those lands, as long as that surplus water was available, based on criteria that we've established that is tied to the river flows at Otowi Gauge. The other criteria is a storage allocation, or a storage amount in our reservoirs to the north. Either one of those can cover the water bank. Even if we are out of those two compliance matters, there are times when valley rains will provide pulses of water in the system that create some excess, or surplus water,

relative to the current demand. Sometimes we will allocate a block of water in certain areas of the District to allow water bank properties that may have been curtailed earlier in the year to actually come back on and water. We are now in a situation where surpluses are in the rearview mirror, so to speak, because of a poor runoff scenario and the severe storage restrictions at El Vado (due to Compact rules).

We are changing the water bank policy to recognize a third criteria, such that, even if we are in a surplus status on base flows at Otowi Gauge, we would also consider the Compact debit situation, such that if we have excess water under the flow rules, we want to expedite the delivery of that water that could be viewed as surplus for water bank purposes but is ultimately very important to all the remaining water users that we get back out of compact debit.

Getting out of Compact debit is a very high priority because we are now in a situation where Compact debit has seriously restricted our abilities to have late season stored water available from El Vado. The sooner we can chip our way out of Compact debit, the better it is for all water users, hopefully including water bank users in the future.

The other criteria that we're changing in the water bank is allowing for those that have used alternative curtailments in the past (or may choose to if they never have before) that have water bank high-quality lands that have severed water rights, but they also have a piece of land they irrigate of lower quality soils and productivity, they can enter into a water bank lease with us to move the water use they would normally get on their normal District or pre-1907 water right lands. They could move that water to a higher productivity piece of land for a water bank lease fee.

Director Kelly clarified by noting that with the debt we have to the Compact, if an individual is not moving water from one field with pre-'07 Rights to a water bank field under the alternative location program, the only chance they will have for water is after a big thunderstorm that puts surplus flow in the system, based on the current hydrological forecast. Mr. Hamman agreed to that clarification and added that that would be best scenario that we can see right now. The snow melt runoff forecasters are saying that, because of the dry watershed we inherited from last fall and early winter, it would take about 120% of average type of precipitation (snow pack) from this point forward through the May 1 forecast to produce enough of a water supply to have a significant runoff into what we used to enjoy early routinely into late June and early July. Barring that, we foresee the runoff coming and going sometime late May, early June. We are hoping the early monsoon comes into being to help us keep things going. If we get significant monsoonal rains, we will have some surplus water for those that would want to essentially sign up for a water bank situation.

Director Moore noted that at one time we said farmers might get one or two waters before they might be curtailed. She then asked if they would get any water? Mr. Hamman responded that the situation with the Compact would probably preclude any designation of surplus water for the water bank during the runoff. The realities of the situation are that for our farmers that have regular water rights (and pre-1907 water rights with the District and with the State), we are opening the season in April. There will be a good watering session in April. There is a likelihood that we will have a pretty good opportunity for watering in May and hopefully early June, but it looks sketchy beyond that for this year for all water users, with the exception of the Prior and Paramount water users (as they have the senior rights on the river).

The current 90-day outlook that we see is higher than normal temperatures, lower than normal precipitation. From the National Weather Service, it is not looking promising. We have known that to change dramatically in a short period of time. There is a decent storm pattern shaking out for late this week, early next week up north. We hope that we get more than what we

expect. Mr. Hamman would like everybody to essentially plan for the worst. He noted that we have not seen something like this since the 1950s, which was the last time that the District was consistently in debit to the Rio Grande Compact.

Lastly, Director Moore asked what will happen with the \$100 administration fee. Mr. Hamman stated the only time we change the administrative fee is if people are changing their locations and moving properties around. If you have the same water bank scenario under your original contract, it does not change for five years.

Director Moore made the **MOTION TO APPROVE RESOLUTION M-02-08-21-170 FOR THE ADOPTION OF WATER BANK RATES AND FEES FOR 2021 IRRIGATION SEASON.** Director Russo Baca seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY.**

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

With no further comments, questions or concerns, Madam Chair Dunning adjourned the meeting at 2:53 pm.

Approved to be the correct Minutes of the Special Meeting on the MRGCD Water Bank of February 8, 2021.

**ATTESTED:**

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 Pamela Fanelli, CMA, CGFM  
 Secretary/Treasurer

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 Karen Dunning, Madam Chair  
 MRGCD Board of Directors