

**MINUTES OF THE
TWO THOUSAND EIGHTY SECOND REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
February 8, 2016**

Directors having been duly notified, Chairman Lente called the regular meeting to order at 3:00 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS:

Derrick J. Lente	Chair	
Adrian Oglesby	Vice-Chair	Absent
Glen Duggins	Director	
Karen Dunning	Director	
John P. Kelly	Director	
Chris Sichler	Director	
Beverly Romero	Director	

STAFF:

Michael A. Hamman	Chief Engineer/CEO
Dr. Charles T. DuMars	Chief Water Counsel
Bruce & Lorna Wiggins	General Legal Counsel
David Fergeson	Secretary/Treasurer
Jeanette Bustamante	Administrative Officer
Ray Gomez	Assistant Engineer
Eric Zamora	Asst. Chief Engineer for Ops.
Tom Thorpe	Public Information Officer
Mary D'Ornellas	HR Director
Doug Strech	GIS Supervisor
Joe Brem	Albuquerque Division Manager
Yasmeen Najmi	Planner

The following individual(s) were interested viewers and/or participants:

Christopher Burris, Office of the State Engineer Katie Babuska, Babuska Consulting Martin Haynes Jeff Willis, AMAFCA Harvey Crowley, Mesa Verde Farms Matt Schmader, City of Albuquerque	Brigadier General Mark Toy, USACE, South Pacific Division Commander LTC Patrick Dagon, USACE, Albuquerque District Commander Kris Schafer, USACE Jerry Nieto, USACE
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AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chairman Lente requested that Director Sichler lead the Pledge of Allegiance.

Chairman Lente welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairman Lente called for approval of the agenda. Director Dunning said John Thompson, MRGCD Lobbyist is going to try and make it today and if he makes it to the meeting, she would like to move up agenda item 10a. Director Kelly said he would also like to accommodate Brigadier General Toy and his group when they arrive and move them up on the agenda.

Director Dunning made the **MOTION TO APPROVE THE AGENDA AS MODIFIED**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 3 – APPROVAL BILLS & PAYROLL RATIFICATION & ATTORNEY INVOICES

a. Consideration/Approval of Payment Ratification – February 8, 2016

Chairman Lente called for approval of the Bills and Payroll Ratification for February 8, 2016. Director Dunning asked for an explanation of a claim benefit settlement to a constituent on a ditch break and Mr. Hamman explained the process. Director Kelly asked about a final payment to HDR on the Corrales Siphon and Mr. Hamman explained the final billing. Director Kelly asked if the Board could have a final report regarding the fish monitoring results sometime this spring and Mr. Hamman responded yes. Director Duggins asked about a restocking charge on ordered items and Mr. Ferguson gave an explanation.

Director Romero **MADE THE MOTION TO APPROVE THE BILLS AND PAYROLL RATIFICATION FOR FEBRUARY 8, 2016 AS PRESENTED.** Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

b. Review/Discussion of 2nd Quarter Financials

Mr. Ferguson reported there is nothing significant other than revenues are up and the full extent is not known until the January revenues are in. He said the water service charge rate increase from last year is taking effect and the mill rate increase for the last two years is taking effect. He said it is a little difficult to compare at this point in time because the \$5.5 million came in January and when comparing to December it's really not a good comparable time. Mr. Ferguson said on the expense side, budget to actual versus year to year, it's 40% of the budget at this point. He said he doesn't want anyone to be misled in thinking they will only spend 80% of the budget because there are things such as the San Acacia project that still has a \$1.8 million to be paid out before year end and if they had paid this out, it would have taken the budget to approximately 50%. He said there are savings in personnel and benefits, about \$300,000, and could go higher. He said there are significant savings in fuel costs; close to \$500,000 due to lower fuel costs. Mr. Ferguson said there are some other expenses that are budgeted items that won't come to fruition and will save some money as well. He said it was projected to use \$2.7 million in the surplus, he doesn't think it will be that high. He said they made need to dip in some, but not to the extent that was budgeted. Mr. Ferguson said this is not a 12 month cycle that can be divided into twelve because where rehab is hitting now and some of the other costs that won't be seen until the first quarter. He said looking at things now there are some savings and, obviously, a little better report next time.

Director Kelly said on behalf of the MRGCD Finance Committee, which also includes Directors Sichler and Romero, and they spent an hour going through this and Mr. Ferguson presented a more detailed report. He said as a committee they concur with Mr. Ferguson's report. He said the mid-year budget review always misses a big portion of the taxes coming in and Mr. Ferguson noted that with the \$5.8 million that just came in January. He said they will still need to draw down on reserves, but hopefully \$1 million can be knocked off that number by June 30th. Director Sichler said the only thing he would like to add is if assessments come in like they generally do, then it will be higher than what was projected and some more can be knocked off that number. Director Romero said she is hoping that more of the delinquencies can be collected.

Director Dunning made the **MOTION TO APPROVE THE REPORT BY DIRECTORS SICHLER, KELLY & ROMERO ON THE MRGCD FINANCE COMMITTEE MEETING OF FEBRUARY 8, 2016.** Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

c. Approval of January 2016 Invoice for Law & Resource Planning Associates

Chairman Lente called for approval of the January 2016 Invoice for Law & Resource Planning Associates. Director Kelly said at last meeting he asked about the Acequias Nortenas and was told that there was nothing happening, but there are charges on this current invoice. Dr. DuMars responded and explained the billing.

Director Kelly made the **MOTION TO APPROVE THE JANUARY 2016 INVOICE FOR LAW & RESOURCE PLANNING ASSOCIATES AS PRESENTED**. Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 4 – APPROVAL OF THE MINUTES

- a. Consideration/Approval of Minutes for Regular Board Meeting – January 25, 2016

Chairman Lente called for approval of the minutes for the Regular Board Meeting January 25, 2016.

Director Romero made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING JANUARY 25, 2016 AS PRESENTED**. Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR (Comments are limited to three (3) minutes)

Constituents Martin Haynes and Harvey Crowley requested the opportunity to comment on agenda items 7c and 7e once those reports are given.

There were no other Items from the Floor.

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

- a. Bureau of Reclamation – The following report was received electronically. Ms. Faler was not at the meeting to give this report.

1. Heron Summary

Content = 69,129 ac-ft. (02/04)
 Azotea Tunnel: 0 cfs
 Total SJ-C inflow year-to-date: 170 ac-ft.
 Currently releasing: 0 cfs
 Current MRGCD storage: 1,521 ac-ft.

2. El Vado Summary

- A. Total storage (all contractors and natural) in El Vado as of 02/04:
34,702 ac-ft.
- B. Native in El Vado
13,090 ac-ft.
- C. MRGCD SJ-C storage in El Vado
15,724 ac-ft.
- D. USBR EDWA:
1,206 ac-ft.

E. P&P:
0 ac-ft.

F. All other SJ-C contractors:
4,682 ac-ft.

Current release is 100 cfs RG Inflow is 50-100 cfs

3. Storage in Abiquiu

Content = 132,687 ac-ft. (02/04)
MRGCD SJ-C storage = 1,910 ac-ft.

Total supplemental water released to date for minnow in 2016: 0 ac-ft.

Snowpack Data As of 02/05/16 (%of median)

Rio Chama Basin	119%
Upper Rio Grande Basin	121%
Sangre de Cristo Basin	144%
Jemez Basin	123%
San Juan River Basin	117%

January Streamflow Forecast

Rio Grande @ Del Norte CO	555,000 ac-ft. (108%)
El Vado Reservoir Inflow (Mar-Jul)	230,000 ac-ft. (102%)
Rio Grande @ Otowi	720,000 ac-ft. (100%)
Jemez R. Below Dam	39,000 ac-ft. (115%)
Rio Grande @ San Marcial	520,000 ac-ft. (102%)

b. Bureau of Indian Affairs – Keith Candelaria, Acting Designated Engineer

Mr. Candelaria was not at the meeting to give this report.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE CHIEF ENGINEER (Michael A. Hamman, MRGCD CEO/CE)

a. Water Report – David Gensler, MRGCD Hydrologist

Mr. Gensler reported that the winter of 2016 continues to do ok for the MRGCD. He said the snowpack numbers fell quite a bit from the February 1st forecast; due to a fairly dry January. He said February started off with some more snow in the mountains, the Snotel numbers went up. Mr. Gensler said there are no storms on the immediate horizon; however the outlook for winter and spring continues to favor a cool and wet southwest. He said the inflow to El Vado Reservoir for the February forecast is 102% of average, the Rio Grande at Otowi is 100% of average, Jemez is currently 115% of average and the outlook for San Marcial is 102%. Mr. Gensler said reflecting the early February snow the Cumbres Trestle Snotel is at 22 ½" of water; about 130% of average. He said they need to get 28-30 inches of snow to have 100% in early May.

Mr. Gensler said there is no particular news about storage. He said the MRGCD received an unusual January San Juan-Chama allocation of 1,500 ac-ft. at Heron; they don't usually allocate until spring and he said he not sure why they decided to make the January allocation, the end result is the same. Mr. Gensler said the transfer of 4,000 ac-ft. of San Juan-Chama water was completed to the

ABCWUA and so the net San Juan-Chama water in storage dropped 2,500 ac-ft. He said the pins and needles come into play waiting for the Rio Grande Project storage to rise above 400,000 ac-ft.; total storage this morning there was a little bit over 398,000. Mr. Gensler said there is about 6,700 ac-ft. of that water in storage that does not count; since it is due to Colorado credit. He said the MRGCD will also run into a bit of the Method 1 vs. Method 2 accounting problem; similar to last year. He said under New Mexico's accounting method, there is effectively no credit for New Mexico at Elephant Butte which means the MRGCD will be out of Article VII restrictions as soon as there is 406,000 ac-ft. of storage. He said, however, Reclamation is currently operating under Method 1 and under that method, they are calculating there is about 10,000 ac-ft. of New Mexico credit down there and so the MRGCD is stuck between a rock and a hard place on this accounting and it will be up to the State of New Mexico and Reclamation to determine when the MRGCD can actually begin storing at El Vado. He said it could be as early as next week, but more than likely will be later in the month.

1. BOR 2015 Water Operations & Accounting at El Vado Reservoir

Mr. Gensler said that Reclamation sent out an interesting letter dated February 2nd detailing 2015 water operations and it really helps to sort out some of the complicated things that were done last year. He said overall the letter is a pretty accurate description of what happened, however, there were a few points he thinks should be clarified. Mr. Gensler said the first point is the letter claims the BIA requested storage at El Vado beginning January 1st and he's not sure whether or not that happened, but he does know the MRGCD was requesting Reclamation begin storage on January 1st of last year. He said the MRGCD knew there was going to be a need for storage and both the MRGCD and Reclamation would continue to capture water against credit relinquishments and expected Reclamation to tag some water in storage for Prior & Paramount reserve. He said the MRGCD made that request, which he thinks is proper, and he doesn't think the BIA can request from Reclamation and make that relinquishment statement. He said these storage volumes are not computed until May and, one way or another, water would go into storage and everyone understood the various issues of the accounting and would be sorted out later. Mr. Gensler said he thinks it's probably ok he just wanted to it clear that the MRGCD had made that request and has also made that same request this year and Reclamation is not storing from the flows on the Chama; which he is a little bit disappointed in. He said Reclamation has decided they are going to bypass some of the flows on the Chama against the wishes of the MRGCD gambling on a big runoff in the spring. He said they may be right, but there is the off chance they may be wrong in which case it would be sad to see that water going down and should the MRGCD be storing water in May during the Silvery Minnow peak spawning period, it would be up to the MRGCD then to make the point that Reclamation made a decision that had an effect on flows for the species. Director Sichler asked what their reasoning was for bypassing some of the water. Mr. Gensler said Reclamation apparently made a commitment to the fishery folks on the Chama that the fisherman would like to see a minimum flow of several hundred cfs on the Chama during the winter and the commitment was made to maintain at least 100 cfs on the Chama. Director Kelly asked if other water users sending water through Heron and El Vado to make up that 100 cfs and Mr. Gensler said there is enough water moving to probably have a flow of about 65-70 cfs. Mr. Gensler said with the ABCWUA payback after last week, he told Reclamation this water was available for them to assist with the fishery flow. He said overall it is a relatively small amount of water and may make a difference of about 5,000-7,000 ac-ft., but it is kind of a bird in the hand situation. Director Sichler said the MRGCD has the right to store the water and asked Dr. DuMars if Reclamation was doing something they didn't have a right to do. Dr. DuMars said it is true the MRGCD has the right to capture it and store it and have always worked with the fishery folks. He said the MRGCD should be able to store the water and if it's credit water it should be stored and in the past, the MRGCD has always been cooperative with the fishery folks. Dr. DuMars said the most significant question is whether the BIA should be requesting storage in conjunction with the Reclamation. He went on to give some additional information on the storage, WildEarth Guardians and P&P water and said he would discuss further in Executive Session.

Mr. Gensler said the letter also glossed over the continuing dispute between New Mexico and Texas on the Rio Grande Compact accounting issues. He said the two different accounting methods create uncertainty for all agencies. He said in 2015, he contacted Reclamation and requested they begin storage on April 4th and then the NM ISC notified the MRGCD they were out of Article VII restrictions, however, the accounting didn't start to be credited until April 9th or 10th by Reclamation, as stated in the letter, and this is because of the ongoing accounting dispute.

Mr. Gensler said also something that wasn't fully explained in the letter is on approximately May 20th MRGCD requested that Reclamation begin bypassing a portion of the Rio Grande inflow to El Vado. He said this was in part to assist with spawning flows for the Rio Grande Silvery Minnow and it was also to minimize effects of MRGCD storage operation at the time to let some water pass through the reservoir. He said at that point the MRGCD already had considerably more storage than what was intended to get. He said more importantly, the MRGCD was starting to get an idea of the potential Rio Grande Compact shortfall that they would face at the end of the year which was not in the best interest of the MRGCD and is not fully explained in Reclamation's letter. Mr. Gensler said he wanted to make sure the Board was aware of this and he feels the MRGCD should be properly recognized for this water management decision.

Mr. Gensler said the final point he wants to mention is the disposition of water that was stored between April 4th and April 10th; that water came out of storage late in May. He said it was not originally planned to be done that way and he went on to explain the situation and how it was resolved. He said the remainder of the letter is generally correct, though the MRGCD should be noted, in the last paragraph, that 32,227 ac-ft. of Rio Grande water that was released for Compact deliveries, that was specifically with the intent of fulfilling New Mexico's 2015 delivery obligation and no diversion or use of this water was made by NM users and the decision to release this water was completely voluntary on the part of the MRGCD; this was not made clear in the letter that the MRGCD was not a beneficiary of the movement of this water. Mr. Hamman and Dr. DuMars gave additional information on this issue. Chairman Lente said seeing the numbers from the BOR and the increased snowpack is encouraging and in watching the weather forecast and El Nino and is the MRGCD being assertive to ensure that as much water as possible being stored or sitting in the back and saying they will overlook this incident and saying all will be alright. Mr. Gensler said the MRGCD works very well with Reclamation and he is bringing this up because he has recently sensed more of a unilateral decision making process on Reclamation's part and it's a gamble and he was concerned the MRGCD was not included in these discussions this year. Director Sichler requested that Mr. Gensler clarify the 8,000 ac-ft. released in March and Mr. Gensler complied.

Chairman Lente said it was approved at the beginning of the meeting that John Thompson, MRGCD Lobbyist be moved up on the agenda.

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

a. Report – MRGCD Legislative Committee – Chairman Lente, Directors Dunning & Duggins

John Thompson, MRGCD Lobbyist said he sent to the Board the bills that are affecting the MRGCD. He said HB 143 Change Dates for Certain Elections was pulled from the House Judiciary Committee as of this morning indefinitely. Mr. Thompson said there are some miscellaneous revenue bills for watershed and water funding projects and, he said his concern is anything requesting funding may not make it this year.

Director Dunning said Director Sichler had requested the MRGCD Legislative Committee be placed on the agenda to give a report and they haven't actually met as a committee. She said the

one bill they have discussed and she met with the sponsor of the bill and she would like him to give a report on what happened in this meeting. Mr. Thompson said he and Mr. Hamman met with Representative Bandy and what Representative Bandy is trying to do is consolidate all tax authority districts i.e., soil and water conservation districts, school districts, conservancy districts into one election. He said in the meeting they shared the concerns of the MRGCD and Representative Bandy agreed to amend the bill to postpone for two years, which was done, and he tentatively agreed to amend the bill to include a felon statement in the ballot. He said they are working to include this and working with existing statutes and MRGCD Legal Counsel is working on this as well. He said in all reality this bill will probably not pass this year and the sponsor really intends to pass it next year. Mr. Thompson said it would be prudent for the MRGCD to work with the sponsor to develop this bill. He said he would alert the Board when this bill is scheduled on the Judiciary agenda, but at this point is off the table. Mr. Hamman said he is working to get the "felon" clause inserted into the bill and are trying to get it consistent with existing statutes.

Director Sichler said the reason he requested this be placed on the agenda is in the past and it is his recollection that during the Legislature the Board had an item on the agenda every Board meeting so the full Board could comment on any bills that were pertinent to the MRGCD. He said this worked very well and the CEO worked in consultation with the Lobbyist and the bills were brought to the Board and the Board was given an opportunity to comment and decided, as a full Board, and gave direction to the CEO and Lobbyist on how to pursue these bills. He said on this HB 143 it would have been nice to have a legal review/analysis so the Board could understand how it actually impacted the MRGCD and its ramifications. Director Sichler said he doesn't think this needs to be done on every bill, but this has direct effects on the MRGCD. He said in the past the CEO would ask certain Board members that were appropriate to attend the Legislature and that seemed to work very well. Director Sichler said he received some e-mails on HB 143, which the committee can comment on, but the rest of the Board cannot give comment and it was basically said that this bill wasn't going to go anywhere and then the next thing the bill is going somewhere and there hasn't been an opportunity for the Board to comment. Director Sichler said this will move MRGCD elections in with other agencies together and it is his recollection that in the early 90's, the MRGCD actually had their elections during the primaries and it caused a lot of confusion and that is why there is a stand-alone election now. He said it sounds like the MRGCD is going back to what has already been done in the past. Director Sichler said he hopes the bill doesn't pass during this session and the Board can get with Representative Bandy and give him some additional comments. He said when the Legislature is in session, the Board needs more involvement as a full Board so the lobbyist is clear on the directions of the Board. Director Duggins said he concurs with Director Sichler and if MRGCD elections are moved into the fall, would make it difficult for a farmer to be able to run for the Board. Dr. DuMars said the difficulty that occurred when the elections were held the same as the primary elections, everyone was standing in a long line to vote and then would have to go to another line or vote and show their proof of ownership to vote in the MRGCD election and they were already exhausted. He said there is a concern of low turnout with being lumped in with other elections. He said someone must have some other agenda to bring that bill forward. Mr. Hamman said that Representative Bandy was under the impression that the MRGCD always worked with the County Clerks and, once he found out that was not the case, and agreed to amend the bills for at least two years. He said he and Representative Bandy agreed the MRGCD needs to sit down with the County Clerks to see if they would support and are willing to take on another election. Mr. Hamman said Representative Bandy's recognition that he needs to work with the MRGCD and give plenty of time to either support or not support the bill when it comes up in the sixty day session in January. He said by then the MRGCD will have done their homework and maybe the County Clerks will be in the mix with the MRGCD in terms of commenting on the liability of doing the MRGCD election. Dr. DuMars said he recalls that in the past when this came up, the County Clerks were all unanimous in not wanting to take on a new election and they didn't want to do it. He said if this becomes a Board policy decision the Board wants to support, then they should go with it. He said it is really significant in the way it affects the, not just the Board, but the electorate. Chairman Lente said to Mr. Thompson and to Mr. Hamman that the Board will work with Representative Bandy to make sure he understands where the MRGCD is coming from. Director Sichler said they thought the bill was dead and all of a sudden it was alive and now Mr. Thompson is saying it is dead again. He said this is his point, where are they with this bill and as one Board member, he would prefer this bill be given a do not pass this session

until the MRGCD has time to comment on it. He said MRGCD staff obviously knows a lot about past elections and how they worked and if they are going to pass the bill, Representative should ask for comments and make sure it's done right the first time. Director Kelly asked if Director Sichler was prepared to tell the MRGCD Lobbyist and MRGCD CEO that the Board doesn't support the bill as currently written for the reasons that have been discussed and Director Sichler said yes and Director Kelly said he concurs. Director Dunning said she doesn't necessarily disagree with it, she thought when the bill was introduced that it was aimed at school board elections and turnouts. She said it appears to her that this was really aimed at soil and conservation districts and in her conversation with constituents in the soil and conservation districts, that this is what is going on and they are really opposed to it. Director Dunning said she doesn't think there is a problem with it because the MRGCD does their elections differently and she thinks if there are discussions with the County Clerks and maybe with advance in technology, there could be some kind of way the MRGCD could save a lot of money by having them run parts of the MRGCD election. She said she thinks there are a lot of problems with it and those need to be ironed out. Director Sichler said he and Director Kelly are not saying they are against the bill per se, they are saying they would like to have a chance to comment on it and make sure it works before they lump the MRGCD into the bill that they haven't had a chance to comment on. He said he is assuming if it doesn't pass this session, which seems to be the consensus, that Representative Bandy is going to run it again next year and between now and then, the Board can speak with him and try to figure out something that works for the MRGCD. He said if they can't, then maybe they would oppose it. Chairman Lente said it is his understanding that both Mr. Hamman and Mr. Thompson have said that Representative Bandy isn't able to have those discussions and Mr. Hamman said that is correct. Mr. Hamman said from what he gathers the Board is not in direct opposition to the bill basically, they are just encouraging discussions prior to the next Legislative session and if per chance there is some possibility that it gets through this session, and Mr. Thompson said it has been postponed in Judiciary. Mr. Thompson said it was to be on the Judiciary for Friday and, from the best source of information it would be heard on Wednesday at the earliest. He said after that it would have to pass the House, go through the Senate committees and the Senate floor.

Director Kelly said he would like to give a comment on House Memorial 33; it is a rather interesting memorial. He said the House of Representatives is urging the BOR and the USACE to build an aqueduct from the Upper Mississippi to the Rio Grande and he went on to give some details of the bill. He said perhaps the Board should take a look at it.

b. Introduction of Brigadier General Toy, US Army Corps of Engineers – Update on Corps of Engineer Projects

Chairman Lente introduced Brigadier General Toy. Brigadier General Toy said he is the Regional Commander of the South Pacific Division and Albuquerque is one of four districts in his region. He said he likes to visit each of his districts once a quarter to learn about their programs and connect with the people in each district and understand what he can do from a resourcing perspective to help them. He said the visit is also in conjunction with the Albuquerque District open house for their contracting partners and to reach out to small/large businesses and talk about some of the different program items that are coming up and how these businesses might assist the USACE. Brigadier General Toy said in reading up on the MRGCD that it was unique to see how the MRGCD operates in comparison with those in his California districts. He said he would like to say thank you for being a great partner and the USACE currently has several small and large projects with the MRGCD. Brigadier General Toy said tomorrow the FY17 Budget will be rolled out and FY16 work plan and there will be a press conference and they will figure out how much money will be coming to the active projects, studies and construction. He said when he made his last visit, he was able to get to the San Acacia project and as an Army engineer it was great to see how it was working. Brigadier General Toy said that Senator Udall and his staff have spoken with him regarding 593 reimbursable and environmental infrastructure projects and the largest study in the Albuquerque District is the Bernalillo to Belen project study release this summer. He said the South Pacific Division has the most number of studies of all USACE projects across the nation which is good news for new starts and hopefully lead to construction. Director Kelly said the MRGCD, the USACE and other agencies have \$400 million worth of levee projects to do in the Middle Rio Grande and they are

going to need the help of the USACE for the financing and appropriations to continue with the projects and the most important thing is to finish the San Acacia Levee project, get the FEMA letter of map revision and remove 1,500 property owners from the flood plain in Socorro and show that success. He said the USACE's use of the slurry trench technology on the San Acacia levee is the first of its kind on a NM levee and hopes to prove that it works as a rehab method for the Albuquerque levees that are now showing their age. Director Sichler said he is from Socorro County and said he thanks and appreciates the cooperation from the USACE on the San Acacia project. He said last week they toured the levee project and one of the discussion items was there may need to be an additional phase to complete the wrap around to the levee project and LTC Patrick Dagon, USACE, Albuquerque District Commander explained the necessity of the additional phase. Director Duggins said he would like to say thank you for their service. Mr. Hamman said he would like to take this opportunity and keep it fresh in Brigadier General Toy's mind there is still some funding that is still tied up with the residual funds that local governments contributed to the Albuquerque West Levee project and he would like to know the status of those funds and Brigadier General Toy responded.

c. Update on Corrales Siphon Protection Project – Mike Hamman, MRGCD CEO

Mr. Hamman gave the Board a memo detailing the status of the Corrales Siphon project that Ray Gomez, MRGCD Assistant Engineer pulled together. Mr. Hamman said the MRGCD has been working closely with Reclamation, Village of Corrales and City of Rio Rancho Open Space. He went on to give details of the project and the condition assessment. He said this is a corrective action and is not necessarily an emergency situation and they are hoping that whatever is done prevents an emergency. Mr. Hamman said this project will be done in two phases and the position of the MRGCD is that it is a highly necessary action and is not optional. He said Phase 1 will be the downstream portion to be done in March and he gave details included in the process. Mr. Hamman said Phase 2 would be to install riprap material along the downstream side of the exposed siphon and west bankline and completion of this work is anticipated for April 2016. Director Dunning said there are other things that are happening there and will those be a part of one big project or will they be done piece meal and Mr. Hamman gave that information and he said in the long term that the MRGCD will be working with Reclamation and others to determine a solution to permanently protect or replace the siphon

Chairman Lente asked those with public comment to come forward.

Martin Haynes said he heard Mr. Hamman say they will begin this work next month and it is the policy of the MRGCD and the Board that irrigators have water from the first of March until the end of October. He said he is an irrigator at the end of the siphon and will the water be delayed even further than what they get historically. Mr. Hamman said the siphon will not be out of service at all, in fact, they want it to be running full boar come March 1st. Mr. Haynes said there was huge cfs running through the siphon at the end of last season and did that siphon get flushed by the larger cfs through the system. Mr. Hamman said they haven't had an opportunity to inspect the siphon post flushing with the 68 cfs that went through. Ray Gomez, MRGCD Assistant Engineer said they flushed out debris, sand and gravel and hopefully that helps produce a cleaner pipe.

Harvey Crowley said that he didn't have any comments on this agenda item.

Brigadier General Toy and his staff left the meeting.

d. Update on Final Alignment of Bosque Trail I-40 to Campbell Road Phase – Mike Hamman, MRGCD CEO & Dr. Matt Schmader, Director, City of Albuquerque Open Space Division

Mr. Hamman introduced Dr. Schmader, Director, City of Albuquerque Open Space Division and said he wanted to thank Yasmeen Najmi, MRGCD Planner for her assistance on this project. Dr. Schmader said he would like to thank Mr. Hamman and Ms. Najmi for attending a very large public meeting that was held on January 7th at the Duranes Culture Center and all three Bernalillo Board

members attended as well. He said the January 7th meeting was the end of a very long process of taking in information and they vowed at that time to continue coordinating with the MRGCD on taking extra consideration of their concerns and input on the final alignment for the proposed trail and several meetings have been held since that time. Dr. Schmader said the City did decide on a final alignment for the proposed crusher fine trail from I-40 to Campbell and they feel it is the best balance that takes all factors into consideration. He distributed a map of what the City of Albuquerque has selected as the preferred trail alignment and was published on February 3, 2016. He then went over what the map showed and explained each of the details. He said the plans are to break ground on the project is next Monday, February 15th and they will be working with MRGCD staff to obtain a license to construct, manage and maintain the improvements. Dr. Schmader then fielded questions from the Board.

e. Status on BIA/MRGCD O&M Agreement Negotiations – Mike Hamman, MRGCD CEO

Mr. Hamman said he, the MRGCD BIA Negotiations Committee, the BIA and a small group of folks that was provided by the Coalition have been plowing through the O&M agreement since October. He said it has essentially culminated in what the Board has in their packet as the current status of the agreement and he said he would just give the highlights and answer any questions the Board may have. He said the MRGCD Secretary/Treasurer was called in to be part of the negotiating process as they got into the analysis of the financial side and he went on to give the Board details of the financial discussion. Mr. Hamman said prior to tackling the financial components of the agreement, there were several revisions primarily with trying to get clarity and continuity in the expectations of what the MRGCD was required to do for the basic O&M and what was the dividing line between basic O&M and additional services. He said they have also been working closely on finalizing the List “A” facilities which are the facilities that were originally determined by the Supplemental Applications that determine the easements and boundaries of the original project and how those facilities would be incorporated into P&P lands and facilities. He said the goal is to get this decided and designate the list and get the easements identified which are not now in existence. Mr. Hamman said they also focused their attention on what constitutes Additional Services and how those projects would be paid for and he went on to list the criteria for funding; they got this ironed out and are in agreement. He said other areas of discussion are how to communicate to resolve issues without going to dispute, the length of term of the agreement and payment in lieu of ad valorem.

Chairman Lente said the MRGCD BIA Negotiations Committee met last week and Mr. Hamman updated the committee on what he just relayed this afternoon. He said he was very involved in the first go-round of the negotiations and it has been much easier this time and he has heard from the Pueblos and other Pueblo irrigators that things seem to be going very well and it proves to him that the nuts and bolts of the agreement are being practiced out in the field. Chairman Lente said formulating the rates is always a sticking point and knowing what the opening BIA number was and where it is now and it appears they are getting there. He said he is happy that staff is able to do the leg work this point and Director Oglesby was also able to support staff's progress so far. Director Duggins said the trust deal needs to be better, the term of the agreement needs to be longer and set rather than negotiating every year and he still doesn't understand the cost of \$721,000. Mr. Hamman explained the cost calculation process for the agreement and what the BIA is authorized to pay. Mr. Wiggins gave a history of the negotiation process and said the good news is the format was set and has not changed and lawyers have not been involved, at all, during this negotiation. He said the differences have been narrowed to a very narrow scope and there has been no angst and no hard feelings during this set of negotiations. He said the only thing that always comes up is the money and it will continue to come up no matter what happens, however, the structure for determining what the money is has been somewhat solidified and he feels in the future it will be tweaking the technical part about how issues are addressed and will be very minor in comparison to the issues faced two years ago. Director Dunning said she is disappointed in not having a five year agreement; is it because the Pueblos don't trust the MRGCD or the MRGCD said in two years there will be better figures and may be able to come back and get better money. Mr. Hamman described the options under the new formula in the agreement and the provision in the agreement saying the numbers will be re-visited annually; no matter what the term is, but permanently locks in the calculation so that it doesn't have to be addressed again. He said as far as the trust issue, he feels the Pueblos are very

happy with the way the things have gone the first year, but they want to make sure that it goes well for at least two years before they move on to the next year. He said it doesn't prohibit the MRGCD from going in and asking for an adjustment to the numbers every year if it is justified. Director Kelly said without accurate cost accounting of work done in the field, the MRGCD can't know if costs are being captured or not and hopefully the work order system will continue to be refined and a high priority. Director Sichler asked about the \$721,000 not reflecting the current water service charges, ad valorem, future rates increases and how the acreage was calculated. Discussion followed.

Director Sichler said he would make a **MOTION TO HAVE MR. HAMMAN GO BACK TO THE NEGOTIATION COMMITTEE AND REQUEST A FIVE YEAR AGREEMENT.** Director Duggins seconded the motion. Chairman Lente said he would open the motion for discussion. Director Kelly asked if this motion could be considered and does it fit in with what has been advertised. Mr. Wiggins said the agenda itself and the Open Meetings Resolution say that any item on the agenda is subject to action.

Chairman Lente called for the public to speak as requested at the beginning of the meeting. Martin Haynes said it is refreshing that the Chairman can say that he feels the Pueblos, per se, are happy with the Board and Counsel can say that negotiations are heading in the right direction. He said Director Kelly brings up the issue of the inability of the MRGCD to justify costs. He said he has been standing at the podium for the last decade and saying if the BIA doesn't like the MRGCD's accounting, doesn't like the work, then they can go elsewhere and the Board doesn't have the fortitude to do that. He said he met with Board members in relation to the rate increases that occurred lately. Mr. Hayes said it is counter intuitive to him and unfair to receive a rate increase, but decrease the cost elsewhere. He said that Director Dunning is proposing at least a five year agreement and the Board needs to get it done and move on to other productive issues. Harvey Crowley said in his past life he was a CPA and he understands accounting and cost. He said he is astonished that an organization the size of the MRGCD does not know what the costs are. He said a couple of years ago there were comments made that the cost to service Indian lands was \$1 million or \$1.2 million and the contract ended up being \$700,000. Mr. Crowley said if they take the MRGCD acres of service in total and the cost and it is very basic calculation. He said the MRGCD should be able to figure out what the costs are and not in two years. He said this is a dis-service to the MRGCD, the Board and to the ratepayers. He said the Board needs to figure out the cost and deal with knowledge and not guesses.

Chairman Lente called for the vote. The **MOTION CARRIED** unanimously.

Dr. DuMars brought up an O&M item on removal of the dredging material in the easements in the Pueblo. He said on page 18, paragraph 1 and he read it into the record. He suggested that this paragraph may need some work so they don't face the same issue as on Isleta Pueblo and Mr. Hamman and the Chairman agreed that it needs to be clarified.

Chairman Lente said this agenda item ties in with agenda item 10d and he will call for approval of the report. Director Dunning made the **MOTION TO APPROVE THE MRGCD BIA NEGOTIATIONS COMMITTEE REPORT BY CHAIRMAN LENTE, DIRECTORS OGLESBY & DUGGINS – FEBRUARY 3, 2016.** Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 8 – FIRST ANNIVERSARY PERFORMANCE REVIEW OF CEO HAMMAN & APPROVAL OF SALARY INCREASE AS PROVIDED IN HIS EMPLOYMENT CONTRACT

Mr. Hamman said he has provided the Board with several documents which are requirements of his contract and he gave some additional background on the documents. Ms. Wiggins said what she is seeking now from the Board is an approval of the salary increase as contemplated by the CEO/Chief Engineer's employment contract. She said what they hope to accomplish is a written record that they have in place demonstrated that Mr. Hamman is entitlement to that. Chairman Lente asked the increase amount and she responded that it is \$10,000.

Director Dunning made the **MOTION THAT MR. HAMMAN HAS MET HIS CONTRACTUAL OBLIGATIONS, THE BOARD HAS DISCUSSED THOSE OBLIGATIONS IN PRIOR CLOSED SESSION AND NOW IN THIS OPEN SESSION AND APPROVE THE PERFORMANCE REVIEW AND THE SALARY INCREASE OF \$10,000.** Director Sichler seconded the motion. Director Sichler said he thinks Mr. Hamman has lived up to his agreement and has the MRGCD on a good track. He said he has read Mr. Hamman's submission and he agrees with it and there have been some things that he didn't necessarily agree with Mr. Hamman, there was a discussion and he listened to what he had to say and worked hard to correct the grievance. Director Kelly said he has provided comments on the performance evaluation and as they work through the budget process, the Board will be able to settle on the priorities and collective goals for the next year and the next five year window. He said they need to continue to be sure they are working on the right priorities. Director Duggins said Mr. Hamman has done a fine job and has been available to him when needed. Director Romero said she has enjoyed working with him as well. Chairman Lente said he agrees with all of the Board's sentiments and he is looking forward to his doing well in the future. The **MOTION CARRIED** unanimously.

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

- a. Report – Response to WildEarth Guardian Letter on Carryover Storage – Dr. Charles T. DuMars, MRGCD Chief Water Counsel

Dr. DuMars said he will address this in Executive Session. He said the reason he is doing this, and to be clear, they are moving to possible litigation and there are a number of requests in the WildEarth Guardian's letter and he named a couple of those requests. He would like to defer his comments on this letter to the closed session.

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

- a. Report – MRGCD Legislative Committee – Chairman Lente, Directors Dunning & Duggins

This report was discussed and approved earlier in the meeting.

- b. Report – Tour of San Acacia Levee Project in Socorro County – January 29, 2016 – Directors Sichler and Duggins

Director Duggins said this was the first time that he had been to the levee; even though it is in his back yard. He said it was interesting to learn about the slurry that is channeled in the middle of levee to keep the water penetrating farther. He said they had some places where they thought the river may come close to the levee and they looked like they were taking precautions to keep it from washing out like big rock against the levee and some type of material they were going to go up the side of the levee for protection. He said Director Sichler pointed out to him that there is more money needed to go ahead and finish the levee.

Director Sichler said the surprising part was they heard while they were touring the levee that to finish the City of Socorro area where they tie in and protect the City of Socorro and he thought they were actually done with the project and obtained all the money needed. He said they were informed that there may be a shortfall and he's not sure by how much. He requested that Mr. Hamman would like to discuss with the Board. Mr. Hamman said the Corps does really great work, but also comes at a cost. He said there is a cost overrun on the project that may require the MRGCD to reach into their pocket and he hopes that is not the case. Mr. Hamman said he has really been pressing hard on the project managers of the Corps to give the firmest numbers possible so some planning can be done. He said the Corps keeps assuring him that they think they will not have to come back to the MRGCD. He said the MRGCD will have to be cognizant that there might be a cost overrun and the Corps may be asking for more money for the last segment. Mr. Hamman said he doesn't know at this point in time what that might be and he will continue to work with them to get some figures and report to the

Board at the next meeting which will be in Socorro and might be an opportune time to talk about it. Director Dunning asked about the tour before the Socorro meeting and Director Sichler said that Ray Gomez, MRGCD Assistant Engineer had indicated that a better time for a tour would be when they are doing the slurry transfer.

Director Romero made the **MOTION TO APPROVE THE REPORT ON THE TOUR OF THE SAN ACACIA LEVEE PROJECT IN SOCORRO, COUNTY BY DIRECTORS SICHLER AND DUGGINS ON JANUARY 29, 2016.** Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

c. Report – Alameda Drain Master Plan Meeting – January 30, 2016 – Director Dunning

Director Dunning said she is not asking for compensation for this meeting. She said the County had three different sites where you could meet and go on a tour and discuss the Alameda Master Plan. She said the tour was well represented and she wanted to compliment the County that they did a really good job in their public outreach. Director Dunning one thing she wanted to bring up that was a conversation that she would like to place in the budget for next year. She said the Board has discussed this for years and previous Director Meyers was very interested in this. Director Dunning said she would like to see signage on the ditches mainly for safety issues. Director Kelly said there is \$5,000 in the current budget for signage on the Isleta Drain.

d. Report – MRGCD BIA Negotiations Committee – February 3, 2016 – Chairman Lente, Directors Oglesby & Duggins

This agenda item was discussed and approved earlier in this meeting.

e. Report – MRGCD Board Finance Committee Meeting – February 8, 2016 – Directors Sichler, Kelly and Romero

This agenda item was discussed and approved earlier in this meeting.

AGENDA ITEM NO. 10 – EXECUTIVE SESSION

- a. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)7)
 - 1. Threatened or Pending Litigation
- b. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)2)
 - 1. Limited Personnel Matters

Chairman Lente requested a motion to move into Executive Session.

Director Kelly **MADE THE MOTION TO MOVE INTO EXECUTIVE SESSION PURSUANT TO NMSA 1978 OPEN MEETINGS ACT, (SECTION 10-15-1(H)2) & NMSA 1978 OPEN MEETINGS ACT, (SECTION 10-15-1(H)7).** Director Dunning seconded the motion.

Chairman Lente requested a roll call vote:

Director Duggins	Yes	Director Dunning	Yes
Director Oglesby	Absent	Chairman Lente	Yes
Director Kelly	Yes	Director Sichler	Stepped Out of Room
Director Romero	Yes		

The **MOTION CARRIED** unanimously.

Chairman Lente adjourned the meeting at 5:48 pm.

Chairman Lente reconvened the meeting at 6:20 pm.

Chairman Lente requested a motion to move back into the regular Board meeting. Director Kelly made the **MOTION TO MOVE BACK INTO REGULAR SESSION**. Director Duggins seconded the motion.

Chairman Lente requested a roll call vote:

Director Duggins	Yes	Director Dunning	Yes
Director Oglesby	Absent	Chairman Lente	Yes
Director Kelly	Yes	Director Sichler	Yes
Director Romero	Yes		

The **MOTION CARRIED** unanimously.

Chairman Lente said discussion was had and there were no decisions made.

With no further comments, questions or concerns, Director Sichler made the **MOTION TO ADJOURN THE MEETING**. Director Duggins seconded the motion and the **MOTION CARRIED** unanimously.

The meeting was adjourned at 6:22 pm.

Approved to be the correct Minutes of the Board of Directors of February 8, 2016.

Attested:

David M. Fergeson
Secretary/Treasurer

Derrick J. Lente, Chairman
MRGCD Board of Directors