

**MINUTES OF THE
TWO THOUSAND ONE HUNDRED TWENTY SIXTH REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
APRIL 2, 2018**

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

DIRECTORS			STAFF	
John P. Kelly	Chairman		Mr. Hamman	Chief Engineer/CEO
Glen Duggins	Vice-Chair		Lucy A. Daniel	Chief Water Counsel
Joaquín Baca	Director		Lorna Wiggins	General Counsel
Karen Dunning	Director		David M. Fergeson	Secretary-Treasurer
Derrick J. Lente	Director	Absent	Jeanette Bustamante	Administrative Officer/CPO
Beverly Romero	Director		David Gensler	Water Operations Manager
Valerie Moore	Director		Becky Burnham	Budget Analyst
			DeAnna Philips	GIS Mapping Technician
			Adrienne Martinez	Engineer 1
			Rick Altenberg	GIS Mapping Technician
			Christine Nardi	Human Resource Director
			Jason Casuga	Engineer Manager
			Joe Brem	Albuquerque Division Manager
			Doug Strech	GIS Supervisor

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

Erica Gurule Martinez	Frank Chavez, Sandoval County
Earl DeBrine	James Martin, Lemitar
Viola Sanchez, BIA	
Jeff Willis, AMAFCA	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Director Romero led the Pledge of Allegiance.

Chairman Kelly welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairman Kelly called for approval of the Agenda.

Chairman Kelly added Bureau of Indian Affairs Report – Presented by Viola Sanchez, after Item 5, "Items from the Floor.

Chairman Kelly moved Items 9.a. and 9.e. to follow the New BIA Report - Presented by Director Baca.

Mr. Hamman deferred Item 8.a., to the first meeting in May.

Director Dunning made the **MOTION TO APPROVE THE AGENDA AS AMENDED**. Director Moore seconded the motion. The **MOTION CARRIED**.

AGENDA ITEM NO. 3 – APPROVAL OF MRGCD PAYMENT RATIFICATION & ATTORNEY INVOICES

a. Consideration/Approval of Payment Ratification for the March 2018 period.

Director Dunning questioned where there was new activity on the hydroelectric study.

Mr. Hamman confirmed there is activity but deferred discussion regarding the report.

Director Romero questioned the refund of \$2,300 back to TLC.

Mr. Hamman explained that it was a deposit that was refunded back to TLC.

Chairman Kelly questioned if TLC had the option to bond or is a cash bond utilized.

David Ferguson responded that the Conservancy has never discussed a bond, but maybe they would look into it.

Director Romero made the **MOTION TO APPROVE THE PAYMENT RATIFICATION FOR THE MARCH 2018 PERIOD**. Director Moore seconded the motion. The **MOTION CARRIED** unanimously.

b. Consideration/Approval of March 2018 Invoice for Wiggins, Williams and Wiggins.

Director Dunning questioned a referral made in regards to the "AG matter" and requested that it be discussed during Executive Session.

Director Dunning made the **MOTION TO APPROVE MARCH 2018 INVOICE FOR WIGGINS, WILLIAMS AND WIGGINS**. Director Baca seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 4 – APPROVAL OF THE MRGCD MEETING MINUTES

a. Consideration / Approval of Minutes for Regular Board Meeting – March 12, 2018

Director Dunning suggested changing line 732 to reflect "Director Dunning was **not** invited to talk about a specific issue ..."

Director Dunning suggested changing line 737 to read "Rio Grande State Park" (not Rio Grande Estates Park).

Director Baca noted that an item he had brought up at the 3/12/18 meeting was not on the minutes for that particular meeting. On 3/12/18, he had brought an item to the meeting pertaining to some of his constituents reporting to him that they could not view minutes from prior years (older than one year) on the web site. He had asked if those minutes could be added. He was told at the 3/12/18 meeting that the minutes could be added. Chairman Kelly reported that now the minutes could be viewed on the MRGCD website back to 2014. Director Baca did not feel it necessary to change the minutes from the 3/12/18 meeting as long as the action item was taken care of.

Director Duggins made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING MARCH 12, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR

Earl DeBrine

Mr. DeBrine is a farmer, located in Lemitar. Mr. DeBrine has a strong family history, dating back to the 1800s, of family farming in Lemitar. He is purchasing another parcel of land in May, but, in order to have the proceeds to purchase that land, he is selling some of his water rights. He is attempting to sell water rights to Rio Rancho. He received a call from Mr. Hamman, who informed him that the District was going to protest his application to change the point of diversion for some water rights. If his transfer does not go through, it will have severe and adverse financial consequences to his family. He believes that before the District makes a decision on his transfer, they should consult with the member whose property rights are at stake to gain an understanding insofar as history and the reason for the transfer. He does not believe the District has any type of basis for imposing individual charges on individual transfers. He feels as though it is extortion for the District to approve a transfer, only then to charge costs associated with the

transfer. If the District is in the middle of drafting policy, he believes the policy should be applied prospectively, in other words, for rights that are being sold after the policy is put into place. Mr. DeBrine also feels that if MRGCD protests water sales that it gives credence to other protests that are filed that have a different mission.

Chairman Kelly explained to Mr. DeBrine that the District is in the middle of working on a policy. He deferred to Mr. Hamman for more explanation.

Mr. Hamman explained that he had spoken to Mr. DeBrine recently, so he was aware of Mr. DeBrine's issue. Mr. Hamman explained that all of these protests were taking place in trying to "bring Rio Rancho to the table" to discuss water issues. The Bureau of Reclamation, Pueblos, and MRGCD are working together on these protests. Mr. Hamman believes that none of the involved parties are trying to tie the hands of smaller transactions, such as this one. He believes that Rio Rancho may be coming to the table for negotiations sooner rather than later.

Directors Duggins agreed with Mr. DeBrine and feels that the District should not have a say in transfers of water rights. He feels that the District is holding people hostage while it tries to make its policy.

Director Moore also agreed that the District should not be protesting water rights transfers because it is personal property. She feels drafting the policy should be a top priority.

Director Baca thanked Mr. DeBrine for coming out to speak to the Board but reminded everyone that nobody owns water in New Mexico, the state owns it, and people only have the right to share the water. He reiterated that he wanted the policy to be drafted soon.

Mr. Hamman reported that the District's consultants gave him a date in August for the policy to be brought forward.

Chairman Kelly suggested that the small transfers be discussed and a policy come forward by the next meeting on May 7th, which Mr. Hamman said was doable.

Director Baca reiterated that he supports the interim policy idea but wants the water protection committee to participate in the negotiation process, not only the irrigation committee.

All Directors want to participate in the process. Lorna Wiggins suggested that a subcommittee come up with the policy and that all Directors will have an opportunity to edit, add, give knowledge, etc. A special meeting will be called as soon as possible.

Director Duggins brought up that Director Lente texted him while sitting in a ditch waiting for water, but no water was running, wondering if he wasted his money on fertilizer.

An email was sent in response by David Gensler reporting that there was a scheduled shutdown for that area to install turnouts that had been requested by the Pueblo.

Director Duggins reported that gates, valves, etc., should be kept in stock, and that the District had these problems last year and continue to have these problems this year.

Director Romero reiterated that she had complaints from other constituents as well, regarding these scheduled shutdowns.

David Gensler entered the meeting and reported that his crew had just finished the turnout at the main canal and that the canal will be turned back on this evening. There are two more turnouts to do, but they are in the Corrales feeder. He reported that everyone in the Pueblo should have been notified of the shutoff by the ISO or the Pueblo's ISO.

REPORT(S) FROM THE U.S. DEPARTMENT OF THE INTERIOR

- a. Reports from U.S. Department of Interior – Jennifer Faler, Area Manager

MS. FALER WAS NOT PRESENT AT THIS MEETING

- b. U.S. Bureau of Indian Affairs – Ms. Viola Sanchez, Designated Engineer

Ms. Sanchez thinks that financially everything is squared away, now that the President signed the budget. Money should be trickling down by the end of the month. Hopefully, there will be a new contract modification in place by December, which is when they look into the two option years of the contract. She is recommending that they exercise at least the first option year.

Based on the May 1 forecast, Pueblo Prior and Paramount has roughly 40,523-acre feet in El Vado. Rio Grande content is 48,134 acres, based on Reclamation water buckets. San Juan-Chama water is 24,744. In the past, they have storage computations compute a monthly total. If at the end of the month, they have not used up all the water, because it is stored outside of Article 7 Restrictions, they would turn over unused water to the District at the end of the month, or at least before the District runs out of their owner water for the rest of the District irrigators.

Right now, it is not looking good. Natural inflow coming into La Puente is only about 100- CFS, 330 from the main stem of the Rio Grande at Embudo, and Colorado is at about 100 CFS at the state line, which they will probably be taking most of.

So, things are not looking good, but she is hoping that BIA, MRGCD, and the Pueblos will work together to find the best way to work cooperatively for all irrigators.

Chairman Kelly echoed that the District will do its part.

Mr. Hamman reported that the agreement that the District is operating under was designed between the BIA and Reclamation in 1981. Mr. Hamman believes that there is room for discussion about the amount of water released to the District, as well as the timeframe (currently June and July) for the release. The District will make a case to release early months as soon as possible so that we don't run the risk of using San Juan-Chama until later in the season.

Ms. Sanchez believes the amount Mr. Hamman is discussing is not as high as what he thinks. She reports that they do start the releases in May, even though they don't computer for May. She further explained that it turns out to be on paper, but they do begin daily turnover to the District and credit P&P storage.

Chairman Kelly clarified that Mr. Hamman was suggesting that a fresh set of eyes should relook at the agreement's premises and also take the experience of the past few years to reset the goals.

Ms. Sanchez explained that even though the storage agreement is from 1981, it was signed by the BIA and Reclamation. The District was offered an opportunity to sign but chose not to sign. The current 77,000 acre foot demand was negotiated a few years ago between Reclamation and the BIA. It was at 83,000. She is still researching the reasoning behind the change. She is ready to have plenty of meetings and work through the summer.

AGENDA ITEM 6 - FY 2019 BUDGET - David Fergeson, MRGCD Secretary-Treasurer

- a. **Consideration of MRGCD Finance Committee Recommendation for FY-19 COLA and Budgeted Amount for Step Increases**

The Finance Committee is recommending a split cost of living allowance. Employees earning less than \$50,000 will receive a 2½% cost of living allowance. Employees earning more than \$50,000 will receive a 1½% cost of living allowance. At the MRGCG, 183 out of 222 employees earn less than \$50,000, and the committee felt this would help lower-paid employees with the increasing health care premiums.

The committee also recommends that we budget 1% of total salaries for step increases within the merit pay system within the MRGCD. The COLA will have about a \$200,000 impact on the budget. The 1% for step increases will be about \$90,000.

Director Dunning noted that she was appreciative of all the work the committee had done and appreciates that the District is trying to assist with the increasing cost of healthcare. She just wishes there was a different way to help out in the cost of health insurance other than adding it to salary as it increases the costs (i.e., employee is taxed on it, and District has to increase PERA). She recognizes this would be a bureaucratic nightmare, so she agrees with the way the committee would like to address this area.

David Ferguson added that he would like for the recommendation to be effective the first full pay period in July, rather than July 1st.

Director Dunning made the **MOTION TO APPROVE THE FINANCE COMMITTEE'S RECOMMENDATION FOR FY19 SPLIT COLA, AND BUDGETED AMOUNT FOR STEP INCREASES AS PRESENTED**. Director Duggins seconded the motion. The **MOTION CARRIED unanimously**.

b. Consideration of Board Member Budget Request

Director Baca gave a handout regarding a hybrid constituent services outreach and education position. Director Baca would like to add a new position wherein the District would hire a person that would do a little bit of the following job duties: Phone calls that may not rise to the level of requiring Mr. Hamman's or a Board Member's involvement, liaison from the District to the constituents, facilitate/manage meetings with ISOs, trainings with ISOs on how to work/speak to the public, stewardship of the District land, work with schools (FFA, university, internships, recruit for future staff/ISOs), maintain a database of the amount of time for an issue from start to finish, schedule meetings, grant writing, get the District's information out (stories of staff, stories of amazing folks within the District), internal training material to District staff.

Director Baca suggested a starting salary of \$40,000-\$50,000. Mr. Hamman suggested that this position would report to him. Mr. Hamman has been working with Mr. Gensler to hire a person with an agronomy background. Mr. Hamman would like to "hybridize" the position to cross a couple of different boundaries. There is also still a vacancy within the District for a grant writer. Chairman Kelly added that the person being bilingual would be a huge advantage.

Director Dunning believes that trainers have a specialized skillset and questioned if training should be part of the duties. She would like to see website maintenance and social media added as part of the job duties.

Director Moore specifically asked if a constituent has a complaint, would this new position be the person they would go to. Director Baca likened this position more to the Albuquerque 311 line, which Chairman Kelly echoed has been extremely successful.

Director Romero felt that this position should not deal with ISOs since she believes too many people deal with the ISOs currently. She reminded everyone that two positions were created as supervisors for ISOs, and currently they do not deal with the ISOs.

Mr. Hamman will discuss where this position would fit into the salary range at the next Finance Committee meeting.

Director Duggins strongly suggested that the District involve the schools and the kids for help in areas such as trash, signage. Regarding the new position, he really would like the person to have a "warm" personality so that people will feel comfortable coming to talk to him/her. He does feel that people should still have direct access to all Board Members.

Director Dunning would like to be sure that there is an appropriate amount in the budget for signage and gates. Mr. Hamman threw out some preliminary numbers for gates but said they are working on that part of the budget. Directors Duggins and Romero would like to involve the kids in the signage and offered up

a contest by schools within the District to design a sign and physically make the sign. Winners could win a free trip to the zoo.

- c. Set Board Meeting Dates in May for Budget Review and Approval as May 28, 2018, is Memorial Day

Chairman Kelly suggested that since the Board's regularly-scheduled meeting falls on Memorial Day (May 28th), that the May meetings be moved up a week to May 7th and May 21st.

Reminder was given for the Chama Float. Board Members would meet up in Chama on Thursday, June 14th, float for two nights, and then come off the river on Saturday, June 16th.

Directors Duggins and Romero did not feel comfortable with participating in the Float. They felt it was a hard sale to make for constituents who just had their taxes raised, questioned the item on the budget, and suggested perhaps Board Members and staff should pay for their own trips. Chairman Kelly believes it is appropriate for Board Members and staff to physically check on the District's water flows and believes this is part of the Board's responsibility. Directors Duggins and Romero will not participate in the Float for the aforementioned reasons. Their concerns were duly noted on record by Chairman Kelly. Other Board Members interested in going must let Mr. Hamman know as soon as possible.

AGENDA ITEM 7 - REPORT(S) FROM THE MRGCD CHIEF ENGINEER – Mr. Hamman, MRGCD Chief Engineer/CEO

- a. **Water Report – David Gensler, Water Operations Manager**

There's a lot going on on the river, but there's not anything substantially different from what was reported the last two meetings. Probably the only really big change that we've seen this week is Colorado turned on pretty dramatically last week, and we're seeing the main stem plummet. So, we're starting to bypass more water up at El Vado right now. We probably actually have a little bit of storage coming out today. Mr. Gensler expects that'll stop in another couple of days as the temperature warms up. But the District is having to supplement the Rio Grande right now on April 1st or April 2nd with the Chama.

So, there is about 100 CFS crossing the state line today. The District is working on getting the river shrunk up now below San Acacia. The first drying happened yesterday (somebody said there was about a half mile of dry river down at the south boundary of the refuge). We have good control on our diversions now at San Acacia. The dam is checked up and functioning, and we've got all the gates dialed in. We're starting to ratchet flows down here pretty quickly. From what Mr. Gensler hears from our guys in the field are pretty happy with everything that is going on in terms of the water supply. While everybody would like more water, they say it is probably enough.

Mr. Gensler added that he very much enjoys going on the river trips, and he has made many of them over the years. Mr. Gensler guesstimates it costs him about \$200 out of pocket for the trip, which he thinks is pretty fair.

Director Moore thanked Mr. Gensler for the report he generated for her. She asked that it be added to the water report on the website. She also would like the report emailed to her so that she can forward it to her farmers.

Mr. Gensler assured the Board that he will update the website and report every time he gets a new forecast. He believes there will be a new forecast in about four or five days.

Director Duggins asked Mr. Gensler about the amount of acre feet in Elephant Butte. Mr. Gensler believes it's about 500,000, Caballo and Elephant Butte, combined. Director Duggins saw water being released but did not know if it was going to the Mesilla farmers, Mexico, or Texas. Mr. Gensler reported it could be Texas water, since he does not think Mexico has called yet. Mr. Hamman added that during his discussions at the Compact Meeting, he learned that they were releasing both BP number one, which is Texas and Mexico, at the moment.

Director Duggins asked, if at the current rate of release, did Mr. Gensler think that they will pull that down by the time we have snow melting, and will that affect the ability to store up north? Mr. Gensler's response was that it could potentially. He doesn't think they will pull it down until at least probably the first or second week in May. They could probably increase their rate of release. But he does not think it will matter, really. He thinks our storage window is going to be done by probably the first of May. Anything that we get in a storage, he thinks, will be pretty much wrapped up by the time the Butte goes back into below 400,000, combined.

Director Duggins asked if there was a known number that they may pull out of those lakes this year for the entire season? Mr. Hamman explained they have an allocation, and currently it is about half of what it was last year. When they are finished with the allocation, it will leave probably less than 100,000, combined. Mr. Gensler reported they are forecasting 50,000 in the Butte and about 30,000 in Caballo at the end of the year.

Director Duggins also asked about the level of the lake and its effects on a possible fish kill. Mr. Gensler did not know what the level is set at, but when the lakes get low, they will lift fishing restrictions and urge anglers to go out there and get everything they can because the fish are competing for a very small quantity of water.

b. Report on Meeting with Rio Chama Acequia Association (RCAA), March 14, 2018 -- Mr. Hamman, CE/CEO, and David Gensler, Water Operations Manager

Mr. Hamman and Mr. Gensler met with Tim Sieman, who is the president of Rio Chama Acequia Association, to discuss options for their situation. They've got an appropriation that was mislabeled that did not allow them to utilize \$100,000 worth of appropriations for the purpose of "purchasing water rights." The word water rights really prohibitive them from purchasing wet water. They attempted to alleviate that particular concern during this legislative session, but the Governor pocket vetoed their bill. They are left stranded with \$100,000.

They can spend it on purchasing by entering into a long-term contract with MRGCD for storage space for a relatively small amount of water (1,000- acre feet or 1,200-acre feet), that would be similar to what the Acequias Nortenas wants to do with Horse Lake water, which really is only there when there' is a good year or several good years together.

The combination of those known assumptions was that having a small storage vessel in El Vado that has been leased from us, and they could park San Juan-Chama water in there. They could, if it worked out and there was Horse Lake creek water, it could be in there for a bit of time. It would be used to eliminate the call on the upper river for shortages on the lower river. We have done that in the past by allowing them to use district water for push water. They would offset up that a calculation at the end of the year and get us some San Juan-Chama water that somebody would either lease them or donate to them for purposes of keeping them in balance.

The other thing is the state may allocate 1,100-acre feet out of their credit water reserves that might be stored during Article Seven, perhaps, if that opportunity exists to park a little water in there for this operation.

Nonetheless, MRGCD agreed to draft the storage contract that would allow them to pay us \$100,000 before the end of the fiscal year, which is June 30th, for a 10 or 15-year storage contract, depending on the amount of water they want to reserve there. It would be junior water against our right to store. It would allow them to park San Juan-Chama water there. The City of Espanola, Los Alamos County, and San Juan Pueblo, all said that they would be willing to either donate or lease them a small amount, enough to cover their needs to stay in operation when the river drops to essentially 30 or less this summer. Unless we get really good rains, there's a high probability that they' will need somewhere around 600 to 900-acre feet of water to keep them in operations without doing a priority call on the upper river.

Mr. Hamman and Mr. Gensler are working on a draft contract. We will use the basis of about \$3/acre foot, and then whatever block of storage they want to reserve, we will multiple \$3 dollars. We will how many years \$100,000 will go as an advance purchase of storage space for us into the future so that they can allocate that \$100,000. Otherwise, it will have to go back to the State, if they don't expend it by the end of the fiscal year. They will locate some San Juan-Chama water to store so that we are made whole as we operate through the Rio Chama this summer.

Director Dunning asked about charging others for water storage in the future, Mr. Hamman replied that he and Mr. Gensler are working on various strategies to capitalize on other space available from the San Juan-Chama contract, etc., to at least help offset our O&M costs.

Director Kelly asked Mr. Hamman to address El Vado Storage Plan. Mr. Hamman reported that we're going to have extended periods of time with available airspace can be filled by wet water. San Juan-Chama contractors of a particular color right now can only get \$47/acre foot from the United States, if they have no place to store it.

We would offer them a reasonable storage contract that might include combination of wet water and money or maybe all water. We can also negotiate with individual San Juan-Chama contractors. Strategically it makes sense to offer up space. That would give us an opportunity for a little more revenue, and then, we can also continue to work with those individuals on timing the water releases down to Abiquiu and various things to help us cover some holes in the operational system for various resource advantages, like maintenance of the winter flows for brown trout, etc.,

Mr. Hamman recommended we would reserve space, keeping in mind that our storage needs are priority

Mr. Hamman does not think this will harm MRGCD's relationship with the Bureau of Reclamation (due to doubling the cost of water they are buying for the minnow) since it is one of their top priorities (buying as much water as they can for the budget that they have).

Chairman Kelly asked Mr. Hamman to bring back the draft plan and his ideas on paper.

c. Report on Rio Grande Compact Commission Meeting, March 29, 2018 - Mr. Hamman, CE/CEO

Mr. Hamman, Director Lente, and Dr. DuMars attended this event. There was an evening cocktail hour with reacquainting and discussions going on with attendees from all three states, as well as the federal chairperson, Mr. Hal Simpson, who served as the state engineer for the state of Colorado for a number of years, who was appointed by the Obama administration to be the non-voting chair member of the Commission.

For those of you not familiar, each state's Governor designates an individual to represent the state on the Compact. Traditionally, it is the state engineers from the states of Colorado and New Mexico, and Texas usually appoints a person that is well acquainted with the Rio Grande, either in the lower part of it or El Paso area. Mr. Pat Gordon is a prominent attorney in the El Paso area, who the current and former Governors have continued to reappoint on behalf of the state of Texas.

It is a very complicated situation, and every year all representatives all get together. They go over the numbers of all the water that's flowed through all three states where, where it has been stored, how much evaporative losses, etc. They account the difference between the San Juan-Chama water, which is imported into the basin. They keep that separate so that it does not count against Compact deliveries. This is the reason San Juan-Chama water is so important to us and everybody in the middle valley. It has no requirements to be delivered down to the lower basin. It does help us meet our delivery obligations because once it is used, especially in MRGCD, it loses its color, so to speak, and the return flows of that 21,000 we use every year does find its way partially down to Elephant Butte. So, it helps us make our Compact deliveries.

They have a meeting once a year to go over the Compact numbers that the engineer advisors have calculated. Lately, there's been a dispute between the states of Texas and New Mexico about the Compact accounting. There are two reports. They do have annual meetings, and they officially accept the reports. They write letters to the Governor about the Compact. They go over the budget. They also receive reports from all the federal agencies that have some contribution to the Compact process. However, they do not run the Compact. The three states (New Mexico, Texas and Colorado) run the Compact. It's not federal. All of the agencies contribute, but it is definitely a state-run Compact.

MRGCD wanted to make a statement about its concerns about the Supreme Court Judge Gorsuch decision. MRGCD wrote a statement for Director Lente. The Board will be provided a copy in the next packet for the next board meeting.

Two items were presented to the Compact; the Middle Valley has been meeting its Compact obligations, as well as the state of Colorado since 1985, and it will continue to meeting its obligations.

We advised the three states to be very inquisitive about the Gorsuch statement, that the federal government has an intense interest in assuring that these states continue to deliver water down to Elephant Butte. So that, on its face, could not mean much, but there might be something in the minds of the court that maybe they want the feds to take a stronger role in a Compact that has been very well managed by the three states.

Mr. Hamman also had a discussion with Rio Rancho's attorney regarding our water transfer protest process. They are not much interested in inflating the value in the Middle Valley. It is really about us sitting down together and working things out. We can educate Rio Rancho about what we face with ESA and things like that. Maybe they would work with us on a river divergent project right there in Corrales, that they could maybe directly divert water similar to what's going on in the city of Albuquerque, to help them be a little bit more proactive in their water management.

Needless to say, they are very interested. Rio Rancho's attorney will go back and talk to folks about sitting down with us and talking about becoming a more regional partner in this.

d. Review and Approval of El Vado Storage Plan – Mr. Hamman, CE/CEO

Item covered in 7.b., above.

e. Update on Isleta Diversion Dam Settlement Agreement – Jason Casuga, Engineering Division Manager

Jason Casuga updated the Board on the agreement of compromise and settlement regarding the Isleta Diversion Dam. This was an agreement that was entered in by the MRGCD, the Bureau of Reclamation, and the Pueblo of Isleta, that settled some longstanding issues.

He reviewed major pieces of the agreement, which are all tied to funding. In the 50-year dam easement, this was a boon for the District in that it got us out of the easement conversation with the Pueblo. This was settled between the federal government and the Pueblo. Our name is not on any type of contribution settling this issue, but there was an agreed-upon \$5-million payment from BOR to the Pueblo was Isleta. The easement that the federal government got was a 50-year easement with an additional 50-year easement on top of that, that can be renewed. That easement is specifically with the federal government and the POI. Obviously, we are a partner with the federal government, which is the dam that we operate for irrigation. But it kind of gets us out of that easement conversation that really should have been between the federal government and the Pueblo of Isleta anyway.

The next piece, which really does involve a lot of what the District is going to be involved in, is the dam and irrigation infrastructure modifications. The main purpose of this is the deal with the amount of sediment that gets to the dam. Primarily the sediment gets there during high flows. Similar to what we had last year would be the flow range that one would be looking at. It also gives us and BOR the opportunity to look at fish passage at the dam when we are considering these modifications. (If you

recall, fish passage is one of the items that are in the 2016 biological opinion.) This will serve two forms, and it's working with BOR, splitting some of that cost to meet biological opinion requirements, but also major improvements that will help the District in long-term O&M with related sediment management (and it has been a long-term O&M item).

The next major piece was the Bosque Habitat Restoration, which was just between BOR and the Pueblo. The primary point of that is to look at potential habitat downstream of the dam. Some of that was fished. Some of it can just be riverine habitat with no specific designation, but it isn't something that the District is contributing to financially.

Regarding legacy sediment removal, as part of the Isleta Diversion Dam technical team prior to the settlement, we calculated approximately 200,000 cubic yards of material, spread out in different locations along different ditches. As part of the agreement, 25% of the removal was to be completed by BOR. To date, they have completed their piece. They completed that piece for themselves in 2017. The remaining balance, 75%, of that removal was to be completed by MRGCD.

There was a dam tender position, to be filled to manage the dam and also be an ISO on the Pueblo itself. That position has been filled with a qualified person from the Pueblo, which assists the District in many ways, especially when we're trying to run water and when cultural issues come up (gives us a way to navigate that a little easier).

The major piece of the dam infrastructure modifications that Jason Casuga wanted to highlight is that as part of the agreement, BOR sent some of their money over to the Pueblo in a 638 Contract to hire a contractor. That contract was put out to bid, and Tetra Tech won that contract to complete what we're calling a PEAR, preliminary engineering analysis report. That process has started, and the contractor is doing the items listed in there, which is gathering the data, and there will be some modeling that needs to be done associated with that. The district will be coming in and assisting financially with the portion that will be counted towards our piece of that \$2½-million. That gets us with the alternatives to be able to consider totake the final design.

He noted cameras were installed at the dam to monitor river conditions, which we weren't able to do prior to the settlement. Staff gauges where were also installed. So, now, we're going to be able to correlate visually large runoff events along with staff gauges and timing. There will be a lot more known data-wise in terms of how some of these events hit the damn, larger events that cause major sediment movement. The agreement really categorized spoil removal into two categories. There is transitional removal, and the best definition for transitional removal is the material that is dredged post-settlement, that we have to dredge, let dry, and then haul off. Every year, we're going to have transitional material as we clean the ditch, and the agreement requires us to have 12 months from the time we dredge new material out to let it dry, and then we pick it back up and haul it off to disposal pits. This year, we had probably the worst-case scenario on transitional removal in the amount of sediment that we had, and that was completed on time but before the March 1 deadline, using some of the new equipment that was purchased and approved by the Board on larger equipment and larger trucks. We met that part of the agreement. We expect to meet that annually from here on out.

In regards to the Legacyspoil material. Reclamation completed their 25% portion, which we estimate at approximately 60,000 cubic yards. The remaining balance, 75%, is MRGCD's to remove. We have started removing that in earnest, as of February. We took delivery of our new trucks at the end of December, and those trucks immediately started going transitional material. When that was complete, they immediately started working on legacy sediment removal.

We are hopeful that those trucks will be working on this settlement about nine months out of the year. There will be times during construction projects and emergencies where we move them off. But we will be pretty strict about the trucks usage. Approvals have to come from Mr. Hamman or Jason Casuga to remove those trucks off of the settlement work.

In looking at slides, BOR completed this lower section on the bottom (color is magenta). That was what was removed by BOR in 2017. Strategically, it was a really good spot for BOR to work. We set that up

such that they could use their large, articulated trucks that didn't go on highways, and they removed some difficult areas up along the mesa. It really worked out well to have them work in that area because their equipment was just really suited to that off-road work.

We are working on that northern section of the Big Chical. That material is being removed as we speak. We expect that removal will probably be done in about six to eight weeks. The trucks are moving sediment pretty well on a weekly basis.

Mr. Hamman added that some of the sediment we're finding is a pretty good mix. So, the District is able to stockpile up our own needs somewhere.

Also as part of the agreement, there were four very large earth pits that the federal highways took material out of that was on Pueblo land when they built I-25, and the Pueblo has given us access to several of those pits. They asked us to fill those back in with this material, so they didn't have very large holes in the ground.

Chairman Kelly asked about transitional sediment and how much of are we allowed to dispose of on the ditch bank to build up the banks, to make up for wear and tear and weathering and wind erosion.

Mr. Casuga responded that we can use what we need. The way they were certifying these is by elevation. MRGCD, the Pueblo of Isleta, and BOR agree on an elevation prior to working in an area. For instance, on the Big Chical, there's a large wind row that we're not removing because it deflects water that comes off the mesa. So, that's a ditch-by-ditch case, but that is something that's talked about what the tech team and agreed to by all parties. And then, once that elevation is established, the benchmarks are put in place for that. We will go by when we put more material on there and then take it off, put more material and take it off. We will have benchmark surveys to go back to.

Finally, Chairman Kelly asked Jason about the sediment transport model provided by the Bureau showed there was no sand coming down in the bed of the river, based on the Rio Bravo or Central gauge. Chairman Kelly wanted to know if the issue had been resolved to where we're going to get some realistic numbers,

Mr. Casuga reported that the model wasn't built to answer these types of questions. It will take time to modify the model, and he is not sure the technical team is interested in doing that. Tetra Tech has proposed an alternative way of at least gaining the conservative magnitude of delivery at the dam, and then that modeling, to which everyone has agreed.

f. Update on NWRA Conference and Meeting Schedule for the Washington DC Trip, April 9-12, 2018 – Mr. Hamman, CE/CEO

Everything has been finalized with one exception, we still do not have Senator Heinrich's meeting date, but they promised they'd get that to me in the next day or two. We have made arrangements with the Corps of Engineers, BIA, Bureau of Reclamation, and then all of our delegation, as well as two staffers from key Senate and House Energy and Water Committees and Subcommittees. There is a full agenda.

g. Approved Licenses for March 2018 (For Informational Purposes Only)

This item is for informational purposes only.

AGENDA ITEM 8 – REPORT(S) FROM THE MRGCD ATTORNEY(S) – Chief Water Counsel and General Counsel

a. Update on Water Rights Transfer Protest Process and Policy Development – Dr. DuMars, Chief Water Counsel

Item deferred until May.

b. Discussion and Sanction of Board Meeting Numbering Ascending to #3000 beginning November 7, 2016

Lorna Wiggins reported that in October of 2016, the District held its 2099th meeting. That means the next meeting, which was scheduled for November, was to be the 2100th meeting. Instead, the prior board secretary skipped 900 meetings and designated that November meeting as the 3,000th meeting of the MRGCD. Today's meeting is officially the 2,126th meeting of the Board.

To renumber all of these agendas and tie it back would be an administrative nightmare. So, what Lorna Wiggins recommends is that we note this in the Minutes so that there is a record and either continue with the 3027th meeting, or our next meeting could be designated the 2127th meeting of the MRGCD. The Board must decide how to proceed.

Discussion ensued on the various opinions of how to proceed. It was finally decided that the error will be noted in the record, and we will now proceed as the next meeting being the 2127th MRGCD Board Meeting.

AGENDA ITEM 9 - REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

a. Report on Los Padillas Acequia Association Meeting, March 13, 2018 - Director Baca

Director Baca reported that he attended the annual meeting of the Los Padillas Acequia Association. He presented Mr. Gensler's water report, of which they were very appreciative. He was able to do a Q&A during the meeting. They had questions on water rights and the goals of the District. They are very much in support of the District's actions on water protests because they want to keep water in the valley. Senator Michael Padilla was also in attendance. Senator Padilla discussed that New Mexicans need to familiarize themselves regarding the New Mexico v. Texas lawsuit to protect New Mexico. Senator Padilla also gave a quick legislative update and reported he would be introducing legislation to break up the districts of the MRGCD.

Chairman Kelly gave his thanks and appreciation for Director Baca attending the meeting.

Director Romero made the **MOTION TO APPROVE DIRECTOR' BACA'S REPORT ON THE LOS PADILLAS ACEQUIA ASSOCIATION MEETING, MARCH 13, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

b. Report on Pueblitos/Jarales Meeting, March 17, 2018 – Director Romero

Mr. Hamman asked that either Director Moore or Director Romero attend the meeting, and Director Romero did attend. It was a follow-up after the floods. According to the sign-in, there were 22 people who attended. Senator Armstrong was in attendance, and this was the heavy rains and flooding that left 29 structures in Valencia county destroyed or heavily damaged and farm proper was devastated.

Counselor Gallegos (Belen Council) said there was a need to have more money for emergencies. The Counselor also felt that the MRGCD should attend the city council meetings and that there had been talk about MRGCD and the City of Belen getting together to talk about their infrastructure.

They discussed House Bill 452, which is the 911 Bill. They talked about building codes and water/soil flood control. Gates were also discussed. It was unclear if they would like MRGCD to put up gates. They would like MRGCD to turn off water when it knows that a big rain is coming.

NRCS (POC Mr. Lopez) was also in attendance, and they said they would be willing to help any time flooding is taking place. District Advisor, Barbara Romero, also attended. If the Conservancy ever needs help insofar as looking for grants, Ms. Romero requested that MRGCD just give her a call. She would need one point of contact to talk to her, because she has someone specifically that looks for certain grants. She said it is time consuming, but she has designated a full-time person for grant research.

Director Dunning made the **MOTION TO APPROVE DIRECTOR ROMERO'S REPORT ON THE PUEBLITOS/JARALES MEETING, MARCH 17, 2018.** Director Moore seconded the motion. The **MOTION CARRIED.**

c. Report on Personnel Committee Meeting, March 19, 2018 – Directors Dunning, Moore & Romero

Director Dunning reported that the purpose of the meeting was the cost of living raise for the CEO, to which he is entitled without Board action.

The committee did not evaluate performance, which has already been done. The committee felt he was doing a really good job.

They based their recommendation on two things, mainly one was what are other employees getting and long-term impacts on the budget. At that time, the committee did not know what the cost of living recommendation would be that the finance committee was making, but they we knew that the CPI was going up about 2%. So, they thought it would be maybe 2%. So, the committee is recommending a 3% raise, with understanding that there would probably be a 2% COLA.

Director Duggins made the **MOTION TO APPROVE THE PERSONNEL COMMITTEE'S RECOMMENDATION OF 3.5% COST OF LIVING RAISE FOR THE CEO.** Chairman Kelly seconded the motion. The **MOTION CARRIED**

Chairman Kelly made the **MOTION TO APPROVE DIRECTOR DUNNING'S REPORT ON THE PERSONNEL COMMITTEE MEETING, March 19, 2018.** Director Duggins seconded the motion. The **MOTION CARRIED.**

d. Report on Finance Committee Meeting, March 21, 2018 – Chairman Kelly and Directors Moore & Romero

This item was covered in previous action, as Item 6.a.

Director Dunning made the **MOTION TO APPROVE THE REPORT ON THE FINANCE COMMITTEE MEETING, March 21, 2018.** Director Duggins seconded the motion. The **MOTION CARRIED.**

e. Report on Urban Committee Meeting, March 23, 2018 - Directors Dunning, Baca, and Duggins

Director Baca began by thanking Director Duggins for his hospitality as host for this meeting. He reported it to be an enjoyable and productive meeting, with, of course, great lunch provided by Director Duggins.

Game and Fish representatives were there to discuss the elk population problem and the options that are open to the District should they decide to work Game and Fish on this endeavor. The Directors were able to also meet with a few landowners and walk their property to see the effects of the elk on the infrastructure and the farms themselves. Director Baca was surprised to see the extent of the damage caused by the elk.

After discussions of this committee, they are in support of doing a population management hunt. Game and Fish will do the initial plan. The area would include ten miles south to Belen to Bosque Del Apache (to begin with). Funding would be split; however, the District does not know Reclamation's opinion on the matter. Timeframe is to be determined, as well as type of hunting (i.e., archery, regular firearms, or muzzle loader) to be determined.

Director Dunning also thanked Director Duggins for hosting the event. She reported that farmers discussed with them the amount of money they are losing. Some farmers are even willing to build a blind for the hunters. One of the biggest concerns for Director Dunning is the safety and the respect of the property by the hunters. She was assured by Fish and Wildlife that there would be no tolerance of disrespect of land, and that safety would be monitored. There was discussion of double coverage by Game and Fish wardens during the hunt.

Director Duggins extended an invitation of *mi casa es su casa* to the Board. He reiterated the amount of damage by the elk. He gave examples of places where the elk have carved out deep trails, which jeopardizes equipment being turned over, physical human injury, etc. The shedding of antlers also causes damage to machinery. Director Duggins reiterated that he is not a hunter but understands this problem. He is happy that the Board is taking action to help farmers.

Mr. Hamman discussed his action items from the committee. He will look into the funding situation. There are some options that the District has, but he will need to discuss with Reclamation since the venture involves joint title lands. It is possible that for the first year, the District will allow Game and Fish to run the whole program until the District gets its feet on the ground. They are thinking about a December/January hunt just for the ease of the farmers. Instead of issuing permits, they may sell an access fee and issue a gate key. On the other hand, he feels that should the District decide to go with permits, the District would get half, and Mr. Hamman feels they would not be too hard to manage.

Director Romero made the **MOTION TO APPROVE THE URBAN COMMITTEE'S REPORT ON THEIR COMMITTEE, MARCH 23, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

f. Report on Rio Grande Compact Commission Meeting, March 29, 2018 – Director Lente

Due to Director Lente's absence, this topic was deferred.

AGENDA ITEM NO. 10 –ANNUAL PERFORMANCE REVIEW OF CHIEF EXECUTIVE OFFICER - MRGCD BOARD OF DIRECTORS

Chairman Kelly would like all seven members of the Board to weight in on Mr. Hamman's evaluation. Chairman Kelly does not want to rush through something that is so important, not just for this year but for the rest of Mike's tenure as the Chief Engineer. Chairman Kelly suggested that this item be deferred to the May 7th meeting. The Board was in agreement.

AGENDA ITEM NO. 11 – EXECUTIVE SESSION

Due to the length of today's meeting, Directors' time constraints, and with Ms. Wiggins and the Board's approval, the Executive Session was not done for today's meeting.

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

The meeting was adjourned at 6:05 p.m.

Approved to be the correct Minutes of the Board of Directors of April 2, 2018.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

John P. Kelly,
Chairman, MRGCD Board of Direc