

**MINUTES OF THE
REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
SEPTEMBER 24, 2018**

Directors having been duly notified, Chairman Duggins called the regular meeting to order at 3:03 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS			STAFF	
Glen Duggins	Chairman		Mike Hamman	Chief Engineer/CEO
Derrick J. Lente	Vice-Chair		Dr. DuMars	Chief Water Counsel
Joaquín Baca	Director		Lorna Wiggins	General Counsel
Karen Dunning	Director		Bruce Wiggins	General Counsel
John Kelly	Director		David M. Fergeson	Secretary-Treasurer
Beverly Romero	Director	Absent	Jeanette Bustamante	Administrative Officer/CPO
Valerie Moore	Director		David Gensler	Water Operations Manager
			Becky Burnham	Budget Analyst
			Alicia Lopez	Engineer 1
			Adrienne Martinez	Engineer 1
			Yasmeen Najmi	Planner/RRA
			DeAnna Philips	GIS/Mapping Technician
			Jason Casuga	Engineer Manager
			Lorenzo Benavidez	Socorro Division Manager
			Rebecca Thompson	Assessment/Collection Clerk II
			Joe Brem	Albuquerque Division Manager

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

Elizabeth Dicharry	Gabe Baca
Gina DelloRusso	Jeff Willis, AMAFCA
Deb Caldwell	Chris & Paula Sichler, Snake Ranch, LLC

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chris Nelson, who is an MRGCD employee and who specializes in building maintenance, runs parts, led the Pledge of Allegiance.

Chairman Duggins welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE MEETING AGENDA

Mike Hamman asked that Item 6.d. be swapped with 6.b., due to Yasmeen Najmi needing to leave early due to a family issue. Chairman Duggins asked that we postpone Item 3 due to Mayor Bhasker not being able to attend today's meeting.

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

AGENDA ITEM NO. 3 – SUMMER PROGRAM POOL PASS SUPPORT PROVIDED BY MRGCD - MAYOR RAVI BHASKER, CITY OF SOCORRO

This item will be tabled for a future meeting, since Mayor Bhasker could not make today's meeting.

AGENDA ITEM NO. 4 – DISCUSSION AND ASSIGNMENT OF SUB-COMMITTEE MEMBERS
- Chairman Duggins

The former committee called the BIA committee will be reconstituted, which will include Chairman Duggins, Vice-Chair Lente, and Director Baca. There was discussion of eliminating the Water Protection Committee; however, the Board felt that due to the importance of the obligations under the Biological Opinion, it would be best to keep the committee standing with the understanding that the Board must ensure that the process is in compliance with the Open Meetings Act. Director Kelly noted that the election committee has been changed to include members who are not up for re-election next June.

It was the consensus of the Board to leave the current committee member assignment as is, and reinstated the BIA Negotiation Committee, Directors Duggins, Lente and Baca.

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

Gabriel Robert Baca

Mr. Baca reminded the Board that he is here today for an update on the goat project. Chairman Duggins let him know that Yasmeen Najmi will be discussing that in just a few minutes.

Deb Caldwell

Ms. Caldwell is the Executive Director of the Friends of the Bosque Del Apache National Wildlife Refuge. She is here today to see if there is an update on SunZia cross the river.

Mike Hamman responded that MRGCD is in the process of watching the PRC issues unfold. MRGCD is also waiting to see how some of the other issues that have been brought forward by SunZia also unfold. Bureau of Reclamation also must sign off on this, and they have not reviewed it yet. We are in a holding pattern as of right now.

Elizabeth Dicharry

Ms. Dicharry is a resident of Valencia and is also an irrigator. She came out today to lend her support for the JPA between MRGCD and Los Lunas. She very much is looking forward to hearing what is said today on that topic.

AGENDA ITEM NO. 6 – REPORT(S) FROM THE MRGCD CHIEF ENGINEER - Mike Hamman, CE/CEO

Old Business (Items Deferred from a Previous Board Meeting)

a. Discussion and Approval of Draft Resolution Authorizing Chief Engineer/CEO and Chief Water Counsel to Develop and File Proof of Beneficial Use Application with the State Engineer - Dr. Charles DuMars, MRGCD Chief Water Counsel

Mike Hamman and Chuck DuMars felt that they need to get board approval to continue with a proof of beneficial use (PBU) application process with the State Engineer. Dr. DuMars gave a history on this topic. He believes it is important because there is major litigation going on in the lower part of the Rio Grande. The law is unclear on whether or not they can go under the Compact accounting apportionment and start enforcing priority. One could begin to argue that there are excessive consumptive uses in this basin, that they're not covered by a proof of

beneficial or a license. Therefore, those should be restricted in favor of increasing flows under the Compact. MRGCD would, of course, argue that this is unfair. So, this is just to begin discussion.

Director Dunning asked about depletions from recreational use. Dr. DuMars responded that depletions from recreation are typically evaporation. Director Dunning further asked if we anticipate severed water rights coming back to us. Dr. DuMars responded we don't; however, if the water rights are severed, and they are transferred to a municipality, they are still water rights that are consumed as part of our project. Mike Hamman added that there are idle rights associated with several large entities right now that have been acquired that could temporarily allow their severed but idle rights to be in a water bank of sorts.

Director Dunning then questioned timeline. Dr. DuMars explained that MRGCD will sit down with the State Engineer and show them what MRGCD is proposing. We will go over description of the properties, boundaries, and the numbers. Once there is agreement, it will come back to the Board. Once the Board approves, MRGCD will file a proof of beneficial use application. No need for a hearing.

Director Moore thinks this is a good idea. She wondered, however, how Texas felt about it. Chuck DuMars responded that he thinks Texas will more than likely be unhappy, but Texas gambled on high flows, and New Mexico gambled on low flows. Dr. DuMars does not believe that if Texas tried to oppose it, that they would be successful.

Director Dunning made the **MOTION TO APPROVE THE DRAFT RESOLUTION AUTHORIZING CHIEF ENGINEER/CEO AND CHIEF WATER COUNSEL TO DEVELOP AND FILE PROOF OF BENEFICIAL USE APPLICATION WITH THE STATE ENGINEER**. Director Moore seconded the motion. The **MOTION CARRIED** unanimously.

New Business

b. Water Report - David Gensler, Water Operations Manager

Last meeting, we had more water than we knew what to do with. The forecast for the middle valley of last week was for a lot of rain. We got a little dribble. We still have comfortably adequate water for the P&P lands and some extra water to move around for newly-reclaimed and non-Indian irrigators.

Currently, today, we're diverting about 120 CFS at Cochiti, and we're allowing five-day block east side to west side, to allow Sile and Pena Blanca to rotate back and forth up there. So, they're able to get a little bit of water. At Angostura, we have between 130 and 150 CFS in the Albuquerque main canal. Some of that's diverted from the river. Some of its return flow from Cochiti. That's enough for Santa Ana, Sandia, and some return flow into the North Valley. We've been moving somewhere between 30 and 70 CFS around to various ditches on various days. We've had some complaints from irrigators in these areas. Typical story, they want water to schedule, and we simply don't have it to give. So, when we have water put into a ditch for three or four days, we have our ISO call everybody and say we're going to have it in this timeframe. And if you can take it, and if we can get it to you, great; but if it doesn't work for your schedule, we'll try and get back to you next time we come around. It's very opportunistic, just taking advantage of what we have and trying to get it to as many people as we can help. The biggest loser up north right now has been the Bernalillo area. We have not been letting the non-Indians irrigate upstream of Sandia Pueblo. It's just a little bit problematic to bring them on-line and then have a Pueblo irrigator need water. But once it gets south of the Pueblo, we can

distribute it okay. Mr. Gensler hopes to get a chance to get some water to the folks in Bernalillo maybe this weekend.

Down at Isleta, we're finding we have a pretty comfortable amount of water arriving there. We're getting between about 180 and 250 CFS daily. So, Pueblo needs are met, and we do have water leaving the Pueblo for non-Indian irrigation, something on the order of between 100 and 150 CFS for use by irrigators down there, a fraction of what we'd like to have, but we're able to irrigate some people with it. Currently, that water is on the east side. We'll be moving it back to the west side mid-week.

The loser down there is the Belen Highline Canal. This has been a problem for us in other years when we've run the Prior and Paramount deliveries. It just takes a lot of water to get that canal up and running, and we just physically can't run it on the amount of water that we have. So, pretty much everybody gets water in Belen, except those unfortunate people who irrigate off the highline system. We are hoping to get a little shot of rain some time, maybe later this week, and get enough water. And if we do, then we'll be able to fire up the highline. But until we have more water to work with, we probably can't do it.

Socorro still has water somewhat miraculously. Rains last week were a little stronger down south than they were up north, and kind of wet things up. And there was a little bit of flow out of the Salado, maybe even a little bit out of the Rio Puerco.

There are still some drain returns at Belen, coming out of Belen, but it is drying down south very slowly and steadily. We were down over the weekend to the order of between 70 and 80 CFS in the Socorro Main. It will probably just continue to turn downwards from there until we get our next shot of rain. So, it's working now, but the amount of water we have to work with gets a little less every day.

Something that's been kind of interesting is the Prior and Paramount release has been adjusted a few times over the past three weeks. We've had little shots of rain and things changing in the system. And we haven't needed the full release.

So, that water gets relinquished back to us as we move through the P&P schedule. Mr. Gensler has been talking with Ms. Sanchez about this quite a bit. He is thinking right now, we have a small bit of water, about 1,300-acre feet back in storage for the District and not needed for the Prior and Paramount delivery to date.

The big question is what do we do with it? It's not really enough right now to bring us back to normal ops for everybody. It might get us two days' worth of normal operations, and we wouldn't be able to irrigate everybody in that time. I'm inclined to hang onto to it, probably use it going into October, as need be. There won't be any more P&P reserve in October, but we will have a little bit of water to help increase flows and kind of maintain the status quo that we're operating under now, assuming we don't get any rain.

Currently, we have 500 CFS coming out of Cochiti Dam, not released from the reservoir but issuing out in the river below the dam, and about 60 percent of that is this Water Utility Authority/Reclamation/Santa Fe environmental release that's going on. The remainder, about 200 CFS is for P&P use and whatever else we can get. So, you can kind of see the breakdown on the water. We're finding that we've got about 140 right now in the river at Albuquerque. It's up a little bit. It got down as low as about 90 about a week-and-a-half ago. It's back up a little bit, so we may be able to adjust a little bit there.

We've got about 35 in the river south of Isleta, down at Bosque Farms, and we've got about 25 still in the river below San Acacia. So, we're doing pretty well in terms of our minnow ops this fall, better than anybody expected we'd be doing. There's only about 20 miles of river, actually a little less than 20 miles of river, dried right now. So, I'm hoping those October census numbers are going to be better than people imagined they would be.

Regarding the Rio Grande Compact, we're presently still running a debit, but the way things have shaped up this year, Mr. Gensler feels pretty confident that we're going to break even, maybe even get a small credit. More water for us would depend if we had a credit, and it would depend if New Mexico relinquished and if Texas accepted. There are lot of ifs there, but at least he doesn't don't think we're going to be sitting on owing Texas a bunch of water at the end of the year, which is a good thing.

c. Approval of Joint Powers Agreement Between the Village of Los Lunas and MRGCD to Jointly Manage the Rio Grande Bosque Lands within Village Boundary - Yasmeen Najmi, MRGCD Planner

Ms. Najmi stated that all questions were asked at the last board meeting, and there was no discussion today regarding this topic.

Director Lente made the **MOTION TO APPROVE JOINT POWERS AGREEMENT BETWEEN THE VILLAGE OF LOS LUNAS AND MRGCD TO JOINTLY MANAGE THE RIO GRANDE BOSQUE LANDS WITHIN VILLAGE BOUNDARY**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

d. Update on Goat RFP - Yasmeen Najmi, MRGCD Planner

Ms. Najmi advised the Board she met with Sterling Grogan. The best timeframe to place the herd in the Bosque is from December to March. Ms. Najmi is working with Mr. Grogan to come up with verbiage for the RFP, which should be going out soon. Ms. Najmi and Mr. Grogan will also choose some potential sites within the next month.

e. Discussion of Five-Year Agreement Between NM Tech and MRGCD to Acquire Rock and Other Services - Mike Hamman, CE/CEO

Mike Lopez, Jason Casuga and Mike Hamman of MRGCD, met with Mike Stanley, head of the New Mexico Tech Energetic Materials Research and Testing Center. They are the guys that "blow stuff up" For research. They have a developed a good stockpile of various rock that MRGCD needs. This would be a five-year agreement (which could be extended further) for up to 70,000 tons of rock for the San Acacia Diversion Dam. This is not only related to maintenance of the dam itself, but also for fish passage, which is part of the 2016 Biological Opinion commitments. We pay \$2.50/ton plus pay for student fellowships, which are an excellent price, and it's a short haul from the Tech campus to San Acacia.

f. 87th Annual NWRA Conference at Hotel Del Coronado, San Diego, California, November 7-9, 2018 - Mike Hamman, CE/CEO

Mike Hamman reported this is an opportunity for us to network with Reclamation and the Corps, as well as various other parties. Any board member interesting in participating must let Jeanette Bustamante know as soon as possible so arrangements can be made.

Dr. DuMars added that he would like to get the board members attending the NWRA to also visit with the Imperial Irrigation District, who is a much larger organization than MRGCD. Dr. DuMars thinks our board members would enjoy a tour and the discussion. Dr. DuMars will get information out to the board as soon as hears back from the Imperial Irrigation District.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE MRGCD ATTORNEY(S) (Chief Water Counsel and/or General Counsel)

a. WEG v. OSE Tom Blaine - Dr. DuMars, Chief Water Counsel

The Wild Earth Guardians filed suit against MRGCD, attempting to have the NM State Engineer force MRGCD to file proof of beneficial use. They also wanted a finding that MRGCD only uses half of the water and that the rest of the water should be available for endangered species. Dr. DuMars intervened. In the end, the Judge ruled against Wild Earth Guardians. So, the case is over.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

a. Report on Water Protection Committee, September 24, 2018 – Chairman Duggins, and Directors Lente and Baca

Chairman Duggins stated that this topic has been covered in earlier discussion. Approval not required.

b. Report on Legislative Committee Meeting, September 24, 2018 – Chairman Duggins, and Directors Kelly and Dunning

John Thompson reported that the legislative committee (comprised of Chair Duggins and Directors Dunning and Kelly) met to discuss a few items. Mr. Hamman is going to present, along with other water managers, at the Water and Natural Resources Committee on 10/2-3 in Roswell. The meeting will solely focus on water for two days. The legislative committee also discussed local election act updates and potential legislations for a State Environmental Protection Act. We also discussed the South Valley Board seat that Senator Padilla had mentioned to Director Baca, but not a priority. They also discussed capital outlay collaboration with Valencia and Socorro Counties to deal with flood mitigation. Also he discussed watching out for any Whistle Blower Act and any PERA bills.

Director Kelly added that we also talked about that we want to consider any changes to the practice of funding projects ourselves with the feds, through the water trust board, and specifically did we want to go after this big pot of capital money that's going to be out there (1.2 billion). John reports to the committee that the funding has already been spent, about four or five times over. They will not be directing Mr. Thompson to find money for culverts in Socorro or the North Valley, we're going to take care of those ourselves and let him focus on the larger policy issues.

c. Scheduling of Urban Committee Meeting – Director Baca

Director Baca would like to set a meeting to discuss movie credits. Discussion ensued amongst the board members for the best day and time. It was decided to hold the meeting on October 1st at noon.

AGENDA ITEM NO. 12 – EXECUTIVE SESSION

a. **NMSA 1978 Open Meetings Act, Section 10-15-1(H)7**
1. Threatened or Pending Litigation

Lorna Wiggins reported that an Executive Session was not necessary today.

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

The meeting was adjourned at 4:10 p.m.

Approved to be the correct Minutes of the Board of Directors of September 24, 2018.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

Glen Duggins, Chairman
MRGCD Board of Directors