

**MINUTES OF THE
2,154th REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
SEPTEMBER 9, 2019**

Directors having been duly notified, Madam Chair Dunning called the regular meeting to order at 3:07 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS		STAFF	
Karen Dunning, Madam Chair	Present	Mike Hamman	Chief Engineer/CEO
Joaquin Baca, Vice-Chair	Present	Dr. Chuck DuMars	Chief Water Counsel
John Kelly, Director	Present	Lorna Wiggins	General Counsel
Valerie Moore, Director	Present	David M. Fergeson	Secretary-Treasurer
Michael T. Sandoval, Director	Present	Jeanette Bustamante	Administrative Officer/CPO
Barbara Baca, Director	Present	John Thompson	MRGCD Lobbyist
Stephanie Russo Baca, Director	Present	David Gensler	Water Operations Manager
		Becky Burnham	Budget Analyst
		Estella Gamboa	Assessments Clerk III
		Rebecca Thompson	Assessment Clerk II
		Alicia Lopez	Engineer I
		Adrienne Martinez	Engineer I
		Christine Nardi	HR Director
		Steve Kinberger	HR Generalist I
		Sloan Washburn	Belen Division Manager
		Joseph Brem	Albuquerque Division Manager
		Doug Stretch	GIS Manager

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

Allison Martin, Valencia SWCD	Jeff Willis, AMAFCA
Ted Hodoba, Valencia SWCD	Santiago Chavez
Abel Camarena, Valencia SWCD	Gary Stansifer, OSE
Annalise Porter	Viola Sanchez, BIA
Max Trujillo	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

In honor of Chuck DuMars being recognized by the New Mexico State Bar Association for having been a member for 50 years, he was asked to lead the Pledge of Allegiance.

Madam Chair Dunning declared a quorum and welcomed guests, as well as noted that the meeting was publicly noticed.

Madam Chair Dunning noted that Director Russo Baca and Vice-Chair Baca would be running a few minutes later today.

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

Mike Hamman asked to add the following:

- Item 9.I., Notice of the Annual NWRA Meeting in Houston, Texas, November 6-8, 2019 (Mike Hamman).

Mike Hamman asked the following revision to be made:

Minutes of Middle Rio Grande Conservancy Board Meeting
September 9, 2019

- Item 9.g., Discussion Regarding a Meeting Scheduled on September 11, 2019, with the Secretary of State Regarding the Local Election Act (Mike Hamman).

Director Moore made the **MOTION TO APPROVE THE MEETING AGENDA WITH THE ABOVE NOTED CHANGES**. Director Sandoval seconded the motion and the **MOTION CARRIED**.

AGENDA ITEM NO. 3 – CONSENT AGENDA

- Consideration/Approval of Payment Ratification - September 9, 2019
- Consideration/Approval of August 2019 Invoice for Wiggins Williams & Wiggins, PC
- Consideration/Approval of August 2019 Invoice for Law & Resource Planning Associates, PC
- Consideration/Approval of Minutes for Regular Board Meeting - August 12, 2019
- Memo on MRGCD Approved Licenses for August 2019 (For Informational Purposes Only)
- Discussion/Approval of Fresno Slide Gates - Jeanette Bustamante, Administrative Officer/CPO

No questions, comments, or discussion ensued regarding the Consent Agenda.

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

AGENDA ITEM NO. 4 – RECONVENE BOARD OF EQUALIZATION

- Reclassification Hearing - Estella Gamboa, Assessment Clerk III

The meeting was turned over to Estella Gamboa. The constituents/landowners are offered opportunity to protest any non-irrigated land that they would like to reclassify to non-irrigable status, as far as their billing is concerned (as far as any improvements, driveways, no access, etc.). No one in attendance of today's meeting appealed the decisions of the staff.

Mike Hamman noted that there is a lot of detail that goes into this work, and recognized all the groups that coordinate the information for this doing a job well done. Directors Moore and Kelly also thanked all of the people that worked on this.

AGENDA ITEM NO. 5 – RECONVENE REGULAR BOARD MEETING

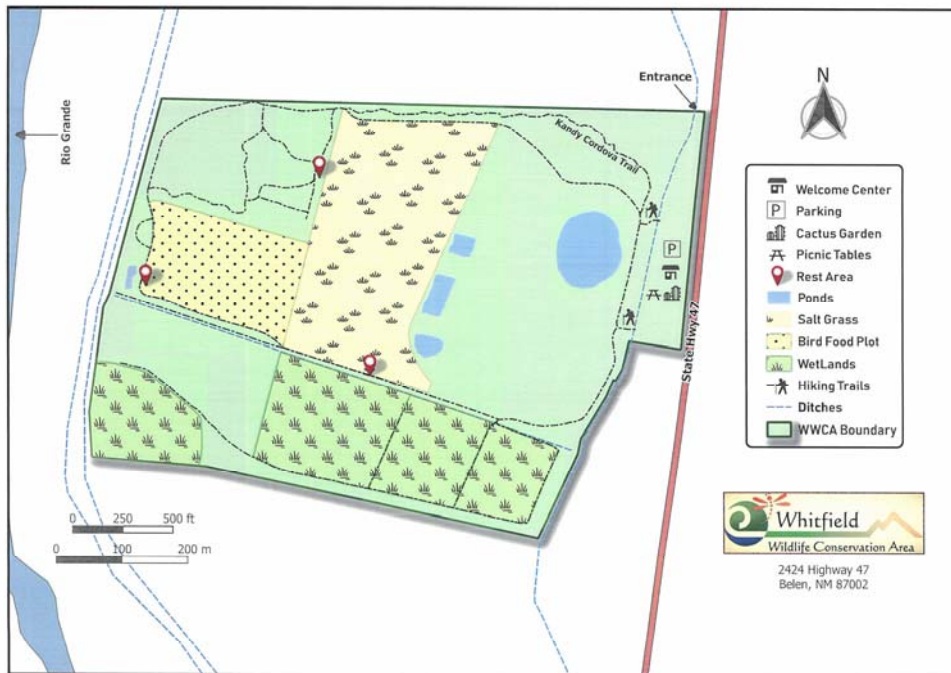
Director Moore made the **MOTION TO RETURN BACK TO THE REGULAR BOARD MEETING**. Director Kelly seconded the motion and the **MOTION CARRIED**.

AGENDA ITEM NO. 6 – VALENCIA SOIL AND WATER CONSERVATION DISTRICT PROJECT FOR WHITFIELD WILDLIFE CONSERVATION AREA (WWCA) - Mike Hamman, CE/CEO, and Ted Hodoba, Whitfield Project Manager

Mike Hamman gave a brief history that about 2½ years ago, at the request of Whitfield Group, MRGCD reviewed a couple of issues that were of interest to them to make improvements. They had acquired a new piece of property to the north that had an access problem, and MRGCD worked with them to install a crossing over one of our drains to eliminate a dangerous maneuver of getting farming equipment along the main road and into the new property (so they could go behind, along one of our drain bank roads and then cross into their new property with a safer

access for their operations). We also looked at a site for a pedestrian bridge across a wide section of the Riverside Drain. Discussions have ensued, but a solution could not be reached that was financially and physically viable. So, we are now open to further discussion and partnership with Valencia Soil and Water Conservation District.

Ted Hodoba brought a picture board to show the access they are requesting. They would like to get direct access into the bosque (currently it is impossible to cross) for their education program.



Allison Martin is the education manager for Valencia Soil and Water Conservation District. Her main job is to go the schools to present the riparian area, the land, the environment, and why it's so important to protect it and to get the kids to be familiar with them. There have been 18 field trips scheduled this year within the Los Lunas School District, including kindergartners through sixth grade (she is also now looking at the high school level).

Madam Chair Dunning noted that she did not think there would be a problem getting the license for this project. She asked if Mr. Hodoba had any preliminary numbers regarding the cost to build the pedestrian bridge. Mr. Hodoba responded that he and Mr. Hamman had discussed it but have no hard numbers knowing it could be well over \$100,000. Discussion ensued regarding various options for the crossing. Director Moore questioned the high flows and noted that it must be very safe for children.

Director Russo Baca and Vice Chair Baca gave strong support in favor of this project and also added their vision on how they see it coming together, which included adding other agencies to the partnership (i.e., Facebook Data Center, the county firefighters so they can utilize the crossing as well for their firetrucks, etc.).

Director Kelly summarized the discussion had and threw out a number of half a million dollars for the project, which would include all that was on the wish list (i.e., firefighters being able to cross, a fishing pier, etc.). He would like Mike Hamman to get an engineer's cost estimate,

which would also serve as the beginning stages to ask for capital outlay funds. Mr. Hamman will get started; possibly with a dual agency request.

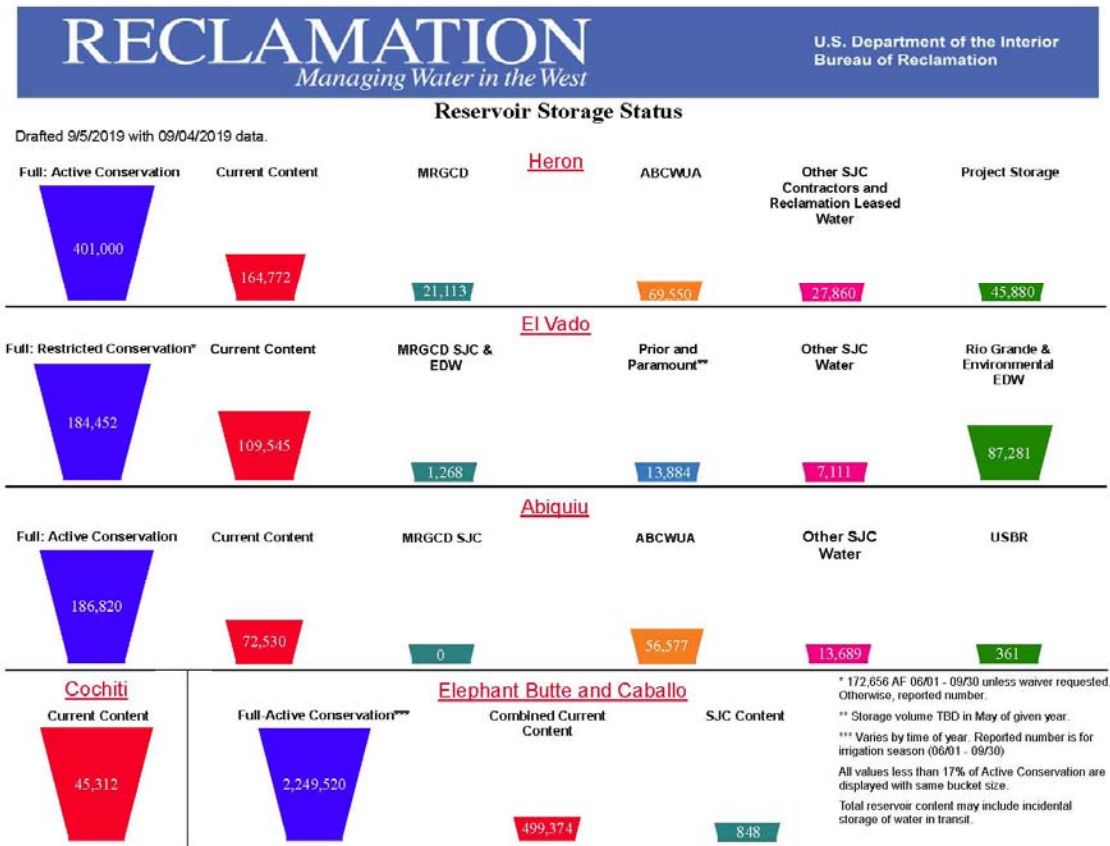
AGENDA ITEM NO. 7 – ITEMS FROM THE FLOOR (Comments are held to six (6) minutes)

There were no public comments at today's meeting.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Jennifer Faler was not in attendance of today's meeting.



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

Viola Sanchez happily reported that there was nothing really to report since things are going smoothly since people have plenty of water this year.

Ms. Sanchez is able to get into Dropbox finally. She reported that she has been briefing the Pueblos about having to release some of the stored water for Compact purposes at the end of the year. Other than that, the Pueblos are waiting to see the outcome on beneficial use, title transfer, and drought planning. Currently, everything is in a holding pattern.

Director Kelly asked about the winter work plans and the survey of items on each Pueblo. Ms. Sanchez reported that they are trying to do the work plans year round and not just through the winter. She reported that four of the Pueblos are using Dropbox, and it has been between them

and the District. She manages Dropbox for Cochiti, who this year only has maintenance scheduled for the winter, and San Felipe (they have security/firewall issues, much like BIA), who will have four turnouts put in.

Ms. Sanchez will be talking to the District about taking back O&M of the Baca Lateral, which was historically done by the Conservancy District. The tribe had agreed with Mr. Shah, Mike Hamman's predecessor, to go ahead and take back maintenance of the Baca Lateral until it could be concrete lined. They would like to turn it back because they did get it concrete lined, and now it's easy to maintain compared to before. She is working with Mr. Hamman to determine who has responsibility for various canals, turnouts, etc. on the pueblo.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE MRGCD CHIEF ENGINEER - Mike Hamman, CE/CEO

a. Discussion/Approval of License to Mr. Joe Cuellar for access off the Corrales Main Canal's Maintenance Road from Entrada de Los Martinez - Jason Casuga, Engineering Division Manager

Last month, Jason Casuga brought before the board a request for a license by Mr. Joseph Cuellar who lives in Corrales, New Mexico. Mr. Cuellar currently accesses his home by driving along the Corrales Main Canal. We were asked by him to evaluate his access to his home in conjunction with his subdivision plat that he was putting forward with the Village of Corrales. Both he and the Village asked MRGCD to take a look at it to determine if we would grant a licensed access along the Main Canal.

In short, based on our analysis and the different options that we analyzed, staff proposed one option, which was to give him a culvert crossing (which would be done for anyone else), which would give him perpendicular access to Loma Larga Road. That was contingent on the Village being willing to grant the access point at Loma Larga which the Village, at this point, is still unwilling to give due to their own purposes having the public road and then his access point so close together. It doesn't meet their needs for spacing. Also staff determined that his property has a dedicated 25-foot easement that would give him access to his properties from the public road that is located north of him.

MRGCD would also give an appropriate grace period to allow him to figure out his process with the Village subdivision process and create this alternate access point, and that would become his permanent access point.

Staff recommendation would be that MRGCD deny access by permit along Corrales Road but, with an appropriate grace period, to allow Mr. Cuellar to shore up his access point along the public road located just north of this property.

Director Baca questioned the length of time for a grace period. Discussion ensued regarding the length of time that would be reasonable for the grace period. Everyone felt that five years would be too long. Currently, they are thinking 12 to 24 months.



Director Moore made the **MOTION TO ACCEPT STAFF RECOMMENDATION TO DENY THE REQUEST BY MR. JOE CUELLAR FOR ACCESS OFF THE CORRALES MAIN CANAL'S MAINTENANCE ROAD. This does not preclude granting of a license in the future for a perpendicular crossing of the main canal with the culvert, should the Village**

reverse its decision. Director Kelly seconded the motion. The **MOTION CARRIED unanimously.**

b. Discussion/Approval of Triadic Replacement Analysis - Jason Casuga, Engineering Division Manager and Mike Hamman, CE/CEO

Jason Casuga began by noting that the document handed out in the packet is not the actual document that will be signed, if approved today. This analysis agreement would follow the State Procurement Agreement in all terms and conditions negotiated within it.

August 23, 2019

Triadic Replacement Analysis
Statement of Work

Prepared for:
Middle Rio Grande Conservancy District
TIG Reference ID: #147805-39571

Prepared by:
Patricia Anglada, Account Executive
Phone: (800) 858-0549 x 8418
Email: Patricia.Anglada@tig.com
Fax: (858) 790-0042

Jason Casuga reported that Triadic is the system used by the District to manage information on assessments. Triadic is an IBM-based product and is now considered obsolete, and support for the system may be purchased for a one-year grace period of \$8,000, which will expire in September 2020. The District requires a dynamic and robust system that would fully integrate GIS, finance, assessments, etc., and become one tool for the District to use. In order to fully understand moving from one type of system to another, an analysis must be completed, and it requires a full-time dedicated project manager. Mr. Casuga has recommended having an analysis done that would find out what information is needed, what information, if any, can be pulled out of Triadic, what the needs are of a system that would take the District into the future, and what types of systems exist, if any.

This item is a non-budgeted item (it was thought of after the fiscal year); however, there is money from the IT budget for things that were funded at the end of last fiscal year.

Director Kelly asked David Ferguson about the District's existing financial software, Munis, and various issues with Triadic. Mr. Ferguson discussed the overall vision and completely agrees with Jason's recommendation to have this analysis done for the District.

Director Kelly made the **MOTION TO APPROVE TRIADIC REPLACEMENT ANALYSIS, NOT TO EXCEED \$70,000, MORE OR LESS, IN TERMS WITH THE SCOPE OF SERVICES PROVIDED BY TIG, SUBJECT TO THE EXISTING STATEWIDE PURCHASING RULES AND REGULATIONS.** Director Baca seconded the motion. The **MOTION CARRIED unanimously.**

c. Fiscal Year 2020 Budget Approved by Department of Finance and Administration - David M. Ferguson, MRGCD Secretary/Treasurer

The District received (erroneously addressed to Chairman Kelly instead of Madam Chair Dunning) a letter from the Department of Finance and Administration approving MRGCD's FY 2020 budget.

d. Water Operations and River Flow Outlook - David Gensler, Water Operations Division

August was dry, and hot. Avg. temp for the month was several degrees above normal, and the monsoons did very near zero for us. But aside from that, 2019 is still a remarkable year. Even with no rain, our river is still producing. The winter and spring precipitation, long ago melted away, continues to make its way through soil and rock and keep the Rio grand!

Natural flow in the Rio Grande is declining, as you would expect in late summer. Today there is about 550 cubic feet per second (cfs) at the Embudo gauge. But throughout most of August flows there remained over 1000 cfs. For perspective, we typically see Embudo gauge in the 200 cfs range this time of year. Last year, there was a much less than that, sometimes as little as 100 cfs. On the Rio Chama, flows have dropped to around 40 cfs. That's typical for late summer, but nowhere near the single digit flows we have experienced some other years.

Through the middle valley, the river is looking quite healthy. We currently have 950 cfs coming out of Cochiti, 500 cfs at Central Avenue, about 125 cfs past Isleta dam, and 75 cfs below San Acacia. Our irrigation needs are being comfortably met, although we have started having to release some water from El Vado. Our storage release is small, only about 250 cfs. We began that release less than 2 weeks ago, and until then, natural flow was meeting all our needs.

Reclamation began releasing supplemental minnow water a few days before we started releasing. Initially a 150 cfs release was maintained, reduced last Friday to 125 cfs, and Wednesday of this week it will go to 100 cfs. We managed our San Acacia bypass flow for a smooth ramp-down and flow recession, starting around 200 cfs and settling out at 75 cfs. There has been some river drying. About 15 miles is dry, from around Highway 380, south through the Bosque Del Apache, and down to the South boundary pump site. Reclamation is pumping from the Low Flow Conveyance Channel (LFCC) to maintain flow below South boundary. To date, there is no drying in the Isleta reach, and depending on how much supplemental water Reclamation decides to release, there may not be any this year.

Current diversions are 140 cfs at Cochiti, 115 cfs at Angostura, about 370 cfs at Isleta, and 120 cfs at San Acacia. The Socorro Main is running very full now, as we are diverting extra water at San Acacia to stabilize river flows in the San Acacia reach for the FWS minnow rescue crews. Farmers in the Socorro area should have plenty to go around. This can help our Rio Grande

Compact (RGC) deliveries too, as this water finds its way to the LFCC, and Elephant Butte somewhat more efficiently than running it down the floodway and we need to save every drop right now!

The big concern for us remains end of year RGC status. As of the end of August, NMISC preliminary accounting shows NM 58,000 AF behind for the year. Unfortunately the debt is getting worse rapidly. We're losing ground at the pace of about 900 AF per day. Estimates range from 80-120,000 AF in debt by years end, depending on who you talk to, and how much rain think we get. We badly need some rain below Otowi gauge to help us out this fall. It's nice to be in September with over 100KAF sitting in storage, but we very likely we will be sending most of that water down to EB to pay our bills before the end of the year.

Director Kelly asked about the 60-day outlook on the rest of the monsoon season looks like, even chances, maybe slightly dry. Mr. Hamman added that it is supposed to improve in October, but the next 30 days or so are going to be pretty much average.

Director Kelly noted it would not hurt to start considering some of those releases in the warmer weather, as it has an impact on the brown trout spawning. There are quite a few things to work into the wild and scenic river equation. David Gensler responded that the water managers have discussed this. There have some meetings discussing winter ops and how things are going to shape up. The problem is they do not know yet what has to be moved, as well as there is a timing issue. Year-End Rio Grande Compact, it all has to get there before December 31st, and right now with what's being moved for delivery to Abiquiu, we are probably looking at a fairly constant flow on the Chama from here through the end of the year. Recreationally, it's great for people, but the brown trout are going to have a tough time this year. After the first of the year, flows will drop dramatically. Reclamation is scrambling around, figuring out what water to move, and there will be some San Juan moving to Abiquiu. So, there will be some options there, but there will be a big decrease after about December 25th.

e. Report on the Conservation Advisory Committee Meeting, August 29, 2019 - Mike Haman, CE/CEO

Currently, there are 11 members on this committee including Director Moore and Vice Chair Baca but they were not in attendance. They have organized three separate subcommittees: Irrigation efficiency, general outreach and education, and work with the State Engineer's Office. At their meetings, they discuss what has occurred between the meetings and their next steps. Mr. Hamman gave some ideas that are being considered, but nothing is set yet. There will be a Bernalillo County Acequia meeting Thursday, September 12, 2019, and options will be discussed with Commissioner Quezada and Debbie O'Malley. Discussions at the meetings are extremely robust. It will be a couple more months before this committee is ready to bring their focused policy recommendations to the Board.

Director Kelly asked if Mike Hamman felt he had the right groups and interests represented by the volunteers that are serving on the committee. Mr. Hamman responded that he felt there was a good cross-pollination through the meeting and good representation. The committee is large enough to be inclusive yet small enough to get things done.

f. Report on the Meeting of the Six MRG Pueblos Coalition, September 5, 2019 - Mike Hamman, CE/CEO

Mike Hamman reported that at the meeting held on September 5th, there was much discussion about water ops, the amount of water that will need to be sent to Elephant Butte, the P&P storage insurance supply that was stored when we were in Article Seven (14,000 AF has to be

released). They also discussed winding down the season and starting up winter work. They discussed urging everyone to get their projects identified and prioritized, as well as title transfer, status of El Vado construction project, how will P&P water be stored when El Vado is not available. The Pueblos did ask about an extension of the irrigation season, to which Mr. Hamman responded that the District will consider the request.

g. Discussion Regarding a Meeting Scheduled on September 11, 2019, with the Secretary of State Regarding the Local Election Act - Mike Hamman, CE/CEO, Madam Chair Dunning, and Directors Kelly and Baca

Madam Chair Dunning reported that the Legislative Committee met. The purpose of the meeting was to discuss the then-future-dated meeting with the Secretary of State and Senator Ivey-Soto about implementation of the new election law that will take effect for MRGCD's 2023 election. They discussed logistics of how to get to/from the meeting.

They also discussed capital outlay funding and that in the past MRGCD has not made it a practice to ask for it. The committee decided that this year may be a good time to ask for funding for various projects (Whitfield bridge would be a good example). Madam Chair asked all Board Members to bring their requests for their respective districts to the Legislative Committee by October. They will vote in November on the wish list and prioritize it.

Director Kelly noted it's our fiduciary responsibility to seek these funds, given the so-called surplus the State has, but these should be enhancements to our system and not intended to replace the normal work we do, which is taxed to our Constituents. He reminded all Board Members to stop and let the Legislative Committee know about requests before speaking to any legislators so that MRGCD speaks as a whole.

Madam Chair Dunning noted that the deadline for Infrastructure Capital Improvement Plan (ICIP) requests has passed; however, she still thinks they will entertain requests.

Director Moore questioned types of projects that this would cover, i.e., a picnic area by the river. Dr. DuMars made a suggestion regarding the La Joya area have asked about a joint venture to improve efficiencies of their acequia system (although not within the District).

h. Notice of Bureau of Reclamation Upper Rio Grande Tour Scheduled for September 24 to 26, 2019 - Mike Hamman, CE/CEO

Notification for this tour was handed out in the Board Member packets. This is a multi-agency tour (great opportunity for networking). It is a couple of days with some overnights in the Chama area. People are coming in from all over the state, as well as some folks coming in from the south in Las Cruces, Texas and Colorado. Mr. Hamman asked any Board Member interested in attending, to please let him know of their interest by the end of the week.

i. Proposal of Board of Directors Tour of District Facilities in Chama, NM, for October 2-4, 2019 - Mike Hamman, CE/CEO

Mike Hamman reported that the timeframe that was discussed at prior meetings did not pan out. The tour has been set for October 2-4th including Far Flung Adventures river guide for a one day float. Again Mr. Hamman asked any Board Member interested in attending to notify him by the end of the week, at the latest.

j. Notification of NM Water Law 27th Annual Conference in Santa Fe, October 3-4, 2019 - Mike Hamman, CE/CEO

The agenda for this meeting was handed out in the Board packets. Dr. DuMars will be presenting at this conference, along with many other esteemed speakers. Mike Hamman encouraged attendance of this conference, if Board Members were not in attendance of the other two tours taking place at the same time. Please let Mr. Hamman know of your interests in attending by the end of the week.

NEW MEXICO WATER LAW
Water Rights & Water Quality
October 3-4, 2019 • Eldorado • Santa Fe

27th Annual Conference *Live!*
in Santa Fe

REGISTER NOW! cle.com/NewMexicoWaterLaw or (800) 873-7130

27th Annual Conference *Live!*
NEW MEXICO WATER LAW
Legislative & Regulatory Initiatives
October 3-4, 2019 • Eldorado • Santa Fe

Two Featured Presentations!

Update from the State Engineer
John R. D'Antonio Jr., PE, State Engineer
New Mexico Office of the State Engineer
Santa Fe

The Future of New Mexico Water Law
James C. Kenney, Cabinet Secretary
New Mexico Environment Department
Santa Fe

Featuring Experts From:

- Environmental Defense Fund
- Marathon Oil Corporation
- New Mexico Environment Department
- New Mexico Environmental Law Center
- New Mexico Interstate Stream Commission
- New Mexico Legislature
- New Mexico Office of the State Engineer
- New Mexico Supreme Court Disciplinary Board
- University of New Mexico Department of Earth & Planetary Sciences
- University of New Mexico School of Law
- University of New Mexico Water Resources Program
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27th Annual Conference *Live!*
NEW MEXICO WATER LAW
Water Rights & Water Quality
October 3-4, 2019 • Eldorado • Santa Fe

Dear Jeanette:

We invite you to register now to attend the event of the year for New Mexico water professionals!

You don't want to miss this opportunity to discuss the most current topics from all points of view, while networking with leading professionals in vibrant downtown Santa Fe. In just two days you will update your knowledge of key issues, and legislative and regulatory efforts relevant to New Mexico Water Law. You will hear the diverse perspectives of experts on topics including:

- Update from the State Engineer
- Water Transmission Projects: The Augustin Plains Decision
- Interstate Litigation
- Pecos Basin Issues
- Implementation of Amedt Settlement
- Water Conservation
- The Future of New Mexico Water Law
- Legislative and Regulatory Update
- Climate Change
- Polyfluoroalkyl Substances and Groundwater
- Environmental Justice
- Produced Water Regulation

We look forward to seeing you in Santa Fe.

Sincerely,

John B. Draper, Esq.
Program Co-Chair
Draper & Draper, Santa Fe

Louis W. Rose, Esq.
Program Co-Chair
Montgomery & Andrews, Santa Fe

CONFERENCE LOCATION & HOTEL ACCOMMODATIONS

Eldorado Hotel and Spa
309 W. San Francisco St.
Santa Fe, NM 87501

Eldorado Hotel and Spa is a premier hotel, where award-winning luxury and unexpected delights set the stage for an enchanting visit. The hotel is conveniently located near the historic Santa Fe Plaza, offering the perfect embodiment of the spirit of the city.

Conference participants and hotel guests enjoy a 10% discount at Eldorado Spa.

Hotel sells out quickly, so reserve and register today!

Hotel Reservations
1-800-955-4455 or 505-988-4455
Group Name: New Mexico Water Law
Group Code: 19092NMWATER

PS: Don't miss our private networking happy hour on Thursday evening—free to conference attendees!

"Very valuable seminar!"
- Lewis Campbell, Esq.
Office of Lewis Campbell and Energy Consultant at Kerns Consulting, Inc. Albuquerque, New Mexico

REGISTER NOW! cle.com/NewMexicoWaterLaw or (800) 873-7130

SCHEDULE AND INFORMATION **INSIDE** →

k. Notification of South Valley Superfund Site (For Informational Purposes Only)

Madam Chair Dunning asked how this impacts MRGCD. Mike Hamman noted that there are issues associated with the San Juan drain and some other things going on in that area. The legislature is very concerned that this is just plowing forward without any real public input, and they would like to see some public meetings. Mr. Hamman thought it would interesting to the Board Members.



August 26, 2019

Michael A. Hebert
 Remedial Project Manager
 Environmental Protection Agency, Region 6
 Mail Code SEDRL
 1201 Elm Street, Suite 500
 Dallas, TX 75227-2102

Dear Mr. Hebert:

This letter serves to follow up on previously sent letters dated January 15, 2019 and June 6, 2019. These letters discussed local Superfund sites located on the Environmental Protection Agency's (EPA's) national priority list, specifically the South Valley Superfund site, including operable units 1, 2 and 5.

We have received notice regarding the removal of the South Valley Superfund site from the national priority list. We would like to respectfully reiterate our initial request that the EPA hold three to five public meetings prior to the removal of the Superfund site. This would allow members of the public the opportunity to obtain important information and to provide input on this important issue.

We are currently working with the residents of the San Jose community, neighborhood leaders and community organizations and would like the opportunity for additional time to work with Department of Environment (NMED) Secretary James Kenney and NMED staff to discuss concerns related to the South Valley Superfund site.

Michael A. Hebert
 August 26, 2019
 Page 2

We appreciate your consideration of our requests.

Sincerely,

Michael Padilla
 MICHAEL PADILLA
 State Senator, District 14

Linda M. Lopez
 LINDA M. LOPEZ
 State Senator, District 11

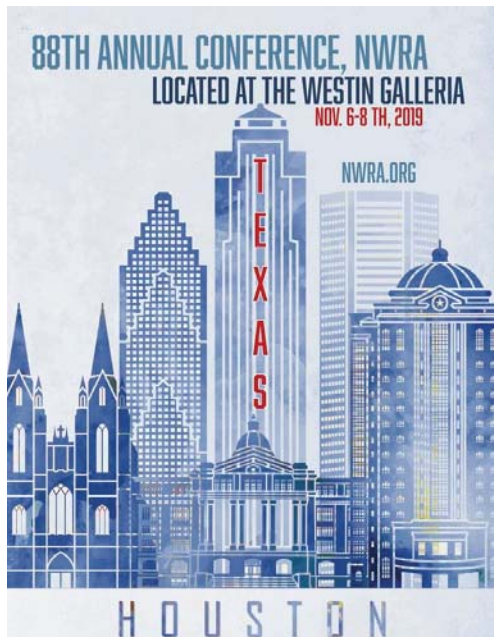
G. Andrés Romero
 G. ANDRÉS ROMERO
 State Representative, District 10

cc: Michelle Lujan Grisham, Governor of New Mexico
 Howie Morales, Lieutenant Governor of New Mexico
 Debra A. Haaland, United States House of Representatives
 Martin T. Heinrich, United States Senate
 Ben R. Luján, United States House of Representatives
 Xochitl Torres Small, United States House of Representatives
 Tom Udall, United States Senate
 Ronald D. Brown, Chair, Albuquerque Metropolitan Arroyo Flood Control Authority
 Gregory D. Hull, Chair, Mid-Region Council of Governments
 Debbie O'Malley, Chair, Albuquerque-Bernalillo County Water Utility Authority
 Mike Hamman, Chief Engineer and Chief Executive Officer, Middle Rio Grande Conservancy District
 Central New Mexico Legislators

MP/LML/GAR:nm

I. Notice of the Annual NWRA Meeting in Houston, Texas, November 6-8, 2019 - Mike Hamman

Mike Hamman will be attending the conference and believes it would be a good idea if a couple of Board Members attend also. Board Members are asked to let him know of their interest in attendance as soon as possible.



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

a. Discussion/Approval of a Contract with Michael Connor - Dr. Charles T. DuMars, Chief Water Counsel

Mike Connor is a very successful member of the Bureau of Reclamation community, former Deputy Secretary, and extremely talented in his relationships in Washington, DC. He works for a firm in Denver, Colorado.

Mike Hamman and Chuck DuMars would like to have Dr. DuMars' law firm subcontract some of the legal work that Dr. DuMars does for the District to Mr. Connor for a period of six months. His scope of work would include following two tracks on title transfer. One is using Reclamation's current secretarial authority to grant title transfer to a noncontroversial components or projects vis-a-vis a signature under Reclamation's authority to transfer to us everything essentially that we need for the Bernalillo to Belen Levee Project. Mr. Connor would develop the standalone legislation required to get the other parts of the District title transferred to us that have more controversial components that need to be worked out. There has to be a transfer agreement that the Pueblos sign off on that doesn't inhibit their abilities to acquire lands in the future, their original land grants, and various things that are of deep concern to the Pueblos. The other two things that he will be asked to focus on is working with our congressional delegation to reduce our cost share requirement, as well as the four-and-a-half mile stretch that is built specifically on Isleta Pueblo lands as a trust asset. He would also help with the Utility Authority to get native storage legislation for Abiquiu, which will give us flexibilities during our El Vado construction year to store water in Abiquiu, as well as other options down the road.

Director Kelly made the **MOTION TO ENGAGE THE SERVICES OF MICHAEL CONNOR THROUGH OUR EXISTING CONTRACT WITH LRPA AS A CO-COUNSEL ON ITEMS AS DESCRIBED SUBJECT TO MR. DU MARS NORMAL SUBCONTRACTING PROCEDURES FOR LEGAL ASSISTANCE.** Director Moore seconded the motion and the **MOTION CARRIED unanimously.**

b. Report on Protest of Water Transfer to Santa Fe Buckman Direct Diversion - Dr. Charles T. DuMars, Chief Water Counsel

Dr. DuMars reports that he and Mike Hamman thought they would handle this protest as they handled the Rio Rancho protest; however, they cannot get the City of Santa Fe to return any calls. The difference between this protest and the Rio Rancho protest is that there is absolutely no redeeming value to a water right pulled out of the valley and sent up to Santa Fe, it's taken out of the Buckman Direct Division. It's a direct diversion from the river, water that will never get here.

c. Report on Proof of Beneficial Use (PBU) Scheduling Hearing - Dr. Charles T. DuMars Chief Water Counsel

Regarding proof of beneficial use, there was a Mandamus Action filed against the State Engineer directing the State Engineer to not grant us a proof of beneficial use. That was how we intervened as a defendant, along with the United States. Judge Frank Matthews dismissed that case. The Court of Appeals has now said that they would like to just summarily affirm Judge Matthews. Wild Earth Guardians said they did not want it to be affirmed. That will be important for the second matter because the Wild Earth Guardians then, after the fact, and even

though they're not a water rights holder, they have said that they oppose the granting of the extensions of time that we've already received from the State Engineer.

On September 25th, Dr. DuMars will go to Denver and meet with them on the last remaining Wild Earth Guardians' case, which is where U.S. District Judge ruled against them and found that everything that had been done with respect to the Corps of Engineers' refusal to exercise its discretion to release water for the minnow was appropriate and consistent with federal law.

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

a. Report on 2019 Field Day at NMSU Ag Science Center, Los Lunas, August 15, 2019 - Directors Russo Baca

This was a wonderful event. Christine (Nardi), Yasmeen (Najmi), and Director Russo Baca attended the Field Day. They spoke with many irrigators at the booth. Director Russo Baca is encouraged that there is Board representation there every year.

Director Russo Baca was asked to sit on NMSU's advisory board for the Agricultural Science Center. She asked if there was a conflict. All board members felt it was fine (and would be a good thing) for her to serve.



New Mexico State University
College of Agricultural, Consumer, and Environmental Sciences
Agricultural Science Center at Los Lunas
1036 Miller Road
Los Lunas, NM 87031
Phone: (505) 865-7340 or (505) 865-4684

FYI

August 16, 2019

Middle Rio Grande Conservancy
P.O. Box 581
Albuquerque, NM 87103

Thank you for your generous donation toward Field Day this year. We're happy to say that the day was a huge success with over 200 attendees. We appreciate the support of our cooperators and sponsors to help make this day a successful one. I would like to emphasize the importance of agricultural research. It is with the support from people like you that helps us to share the techniques and results of this research. Once again, we appreciate your support and look forward to our continuing association.

Thank you for your continuing support, sincerely

Tom Place, Farm Manager
New Mexico State University Agricultural Science Center at Los Lunas

Director Kelly made the **MOTION TO APPROVE THE REPORT ON 2019 FIELD DAY AT NMSU AG SCIENCE CENTER, LOS LUNAS, AUGUST 15, 2019.** Director Moore seconded the motion and the **MOTION CARRIED unanimously.**

Minutes of Middle Rio Grande Conservancy Board Meeting
September 9, 2019

b. Report on the Courts, Corrections and Justice Committee Meeting, September 4, 2019 - Director Baca (Mike Hamman, CE/CEO, and John Thompson, MRGCD Lobbyist also attended)

Director Baca found this meeting to be very interesting. It was a review of the election legislation. She thought it was good for her to meet Senator Ivey-Soto and to continue moving the conversation along on logistics of MRGCD.

Director Sandoval made the **MOTION TO APPROVE THE REPORT ON THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE MEETING, SEPTEMBER 4, 2019**. Director Russo Baca seconded the motion and the **MOTION CARRIED unanimously**.

c. Report on the Water and Natural Resources Committee Meeting, September 5, 2019 - Director Russo Baca

The meeting was held in Ruidoso, New Mexico. Director Russo Baca reports it was a great meeting. She noted HB-546, which is the Produced Water Act. Produced Water is a fluid that is byproduct of fracking. With the implementation of HB-546, one of the big issues is to reuse and recycle the water that's already been used for fracking, to continue keeping it in the oil and gas industry. There's also talk of putting it for reuse for other uses, such as agriculture. The Board should be aware that NMED will be hosting public engagement meetings around the state this fall in coordination with the Energy and Mineral Department and the Office of the State Engineer. They are going to be collaborating with technical experts to fill science and tech gaps for the treatment of produced water. One of the biggest issues that they had in discussion was that we need to know that the science is there before we use it in any capacity.

Chuck DuMars added that the interesting issue coming up is that there is about 10,000-acre feet of water coming out of Texas into New Mexico for fracking purposes (it's Texas water). Many of the wells from which it comes are near the New Mexico border. If a New Mexican did the same thing, they would be subject to mining criteria and aquifer designation. He is interested to see

how this will play out.



Snapshot of Produced Water in NM

- For every barrel of oil produced, four to seven barrels of produced water may be generated.
- In 2018, NM became third largest oil producing state and oil and gas activity in NM generated over one billion barrels of produced water.
- Produced water contains total dissolved solids and other constituents such as chemicals, metals and naturally occurring radioactive materials.
- Traditionally, a small portion of produced water is recycled in the oil and gas sector while the majority is disposed through underground injection wells.

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Key Provisions of HB 546

- HB 546, which includes the Produced Water Act, became effective July 1, 2019.
- Responds to policy interests in encouraging the oil and natural gas industry to favor reuse, recycling and treatment options over reliance on New Mexico's limited fresh water resources.
- Defines:
 - *Produced water* as a fluid that is an incidental byproduct from drilling for, or the production of, oil and gas.
 - *Treated produced water* as water reconditioned by mechanical or chemical processes into a reusable form.
 - *Recycled produced water* as water reconditioned by a recycling facility permitted by the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (EMNRD)

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Key Provisions of HB 546 (cont.)

- Protects water quality by closing important regulatory gaps with respect to produced water transportation, storage and treatment. When produced water is:
 - Reused or recycled for use in the oil and natural gas industry, EMNRD has jurisdiction of these activities.
 - Treated for use outside of the oil and natural gas industry, the New Mexico Environment Department (NMED) has jurisdiction of these activities.
- Confirms that an Office of the State Engineer (OSE) permit is not needed for use of produced water and that parties do not acquire/do not need to acquire a water right to use produced water.
- Establishes that the Water Quality Control Commission (WQCC) shall adopt regulations for implementation by NMED for use outside the oilfield of treated produced water, treated product or any byproduct of the produced water in order to protect water quality.

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NMED Implementation of HB 546

- Host public engagement meetings around the State this Fall, in coordination with EMNRD and OSE.
- Collaborate with technical experts to fill science and technology gaps for the treatment of produced water.
- Begin developing regulations after public meetings.
- Propose draft regulations for formal rulemaking before WQCC, including public notice and comment period.

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For More Information

- NMED contacts for produced water:
 - Rebecca Roose, Water Protection Division Director, Rebecca.Roose@state.nm.us
 - Annie Maxfield, Assistant General Counsel, Annie.Maxfield@state.nm.us
- EMNRD contacts for produced water:
 - Adrienne Sandoval, Oil Conservation Division Director, Adrienne.Sandoval@state.nm.us
 - Bill Brancard, General Counsel, Bill.Brancard@state.nm.us
- OSE contacts for produced water:
 - John Romero, Water Rights Allocation Program Director, John.Romero2@state.nm.us
 - Owen Kellum, Administrative Litigation Unit Attorney, Owen.Kellum@state.nm.us
- Sign-up for NMED updates on Produced Water at <https://public.govdelivery.com/accounts/NMED/subscribe/new>.

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AGENDA ITEM NO. 12 – EXECUTIVE SESSION

An Executive Session was not necessary at today's meeting.

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

The meeting was adjourned at 5:17 p.m.

Approved to be the correct Minutes of the Board of Directors of September 9, 2019.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

Karen Dunning, Madam Chair
MRGCD Board of Directors