

**MINUTES OF THE
2,167th REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
SEPTEMBER 14, 2020**

COVID-19 Response: For this meeting, Board Members, legal counsel, and a limited number of staff members are physically in the board room, socially distanced. All other attendees (whether guest speakers or constituents) are attending via telephone, as the Office is Closed to a Limited Number of Visitors

Directors having been duly notified; Madam Chair Dunning called the regular meeting to order at 3:16 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	Jason Casuga	Chief Operating Officer
Michael T. Sandoval, Director	Present	Pamela Fanelli	CFO/Secretary-Treasurer
Barbara Baca, Director	Present	David Gensler	Water Operations Division Manager
Stephanie Russo Baca, Director	Present	Estella Gamboa	Assessment Clerk III
		DeAnna Philips	GIS Tech/Board Liaison
		Willie West	Assistant Division Manager
		Anne Marken	Supervisory Hydrologist
		Richard DeLoia	Chief Procurement Officer
		Matt Martinez	Licensing Supervisor
		Casey Ish	Water Resource Specialist

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

Viola Sanchez, BIA	Carolyn Donnelly, BOR	Melin Villegas-Vargas, MRGCD
Jennifer Faler, BOR	Robert Leopold	Rebecca Thompson, MRGCD
Renee Robichaud	Jan Perea	Alicia Lopez, MRGCD
Melissa Gordon	Rex Foust Janet Jarratt	Adrienne Martinez, MRGCD
Mike Silva	Miguel	Francesca Shirley, MRGCD
Mitchell Vergeer	Erica Desmet	Dan Arquero, MRGCD
Daryl Jones	Joel Gay	Mike Padilla, MRGCD
Ron Jones	Leroy Baca	Rick Altenberg, MRGCD
Robert Levin	Page Pegram	John Thompson, MRGCD Lobbyist
Mark Garcia	Beverly Dominguez Romero	Judy McSweeney, MRGCD
Matthew Aragon	Rolf Schmidt- Peterson	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Vice Chair Baca led the Pledge of Allegiance at today's meeting.

Madam Chair Dunning declared a quorum and noted that the meeting was properly noticed. Due to COVID-19, the meeting was held telephonically. All Board Members and staff identified themselves on the call and also gave the phone number they were calling in from. Members of the public that called in were asked to identify themselves, identify their phone numbers, as well as note if they intended to address the Board under "Items from the Floor."

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

Madam Chair stated because there are many people who wish to speak, would like to have the board of equalization at the end of the meeting to accommodate the public to be heard. Ms. Janet Jarratt was asked if she was ok with waiting online till the end of the meeting, and Ms. Jarratt agreed. Ms. Jarratt also inquired if she was on the list for public comment on Irrigation issues.

Madam Chair Dunning asked that Item 4, Board of Equalization, move to the beginning of Item 10. Also, would like to hear from Rolf Schmidt-Peterson from the Interstate Stream Commission.

Director Baca asked that Item 12.d., the Urban Committee Report, move to 10.g., which is the Resolution (topic of Item 12.d.).

Director Baca made the **MOTION TO APPROVE THE MEETING AGENDA WITH THE ABOVE-NOTED CHANGES**. Director Sandoval seconded the motion. The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 3 – CONSENT AGENDA

- a. Consideration/Approval of Payment Ratification - September 14, 2020
- b. Consideration/Approval of August 2020 Invoice for Wiggins Williams & Wiggins
- c. Consideration/Approval of August 2020 Invoice for Law & Resource Planning Associates, PC
- d. Consideration/Approval of Minutes for Regular Board Meeting - August 10, 2020
- e. Memo on MRGCD Approved Licenses for August 2020 (For Informational Purposes Only)

No discussion or questions were raised with the Consent Agenda.

Vice Chair Baca made the **MOTION TO APPROVE THE CONSENT AGENDA**. Director Baca seconded the motion. The **MOTION CARRIED, unanimously**.

AGENDA ITEM NO. 4 – CONVENE BOARD OF EQUALIZATION

- a. Reclassification Hearing - Estella Gamboa, Assessment Clerk III

Chair Dunning called for motion to convene the MRGCD Board of Equalization. Director Kelly made the **MOTION TO CONVENE THE BOARD OF EQUALIZATION**. Director Baca seconded the motion. The **MOTION CARRIED**.

The meeting was turned over to Estella Gamboa who explained that the constituents/landowners were offered an opportunity to file a protest indicating why a particular property should not be assessed a water service charge. Any protestor who disagrees with the MRGCD staff recommendations were given the opportunity and advised to call before the Board today and show cause as to why the water service charge reclassification is either incorrect or can be reconsidered. In other words, any non-irrigated land that they would like to reclass to non-irrigable status, as far as their billing is concerned (as far as any improvements, driveways, no access, corrals, etc.). Janet Jarratt inquired if she were to foreclose irrigation on a piece of land, in the future would it be possible to bring it back into production. Ms. Gamboa

answered yes, that is correct.

MEMORANDUM



TO: CHAIR KAREN DUNNING & BOARD OF DIRECTORS
 THROUGH: MIKE A HAMMAN, CEO/CE & PAMELA FANELLI, CFO/TREASURER/SECRETARY
 FROM: ESTELLA GAMBOA, ASSESSMENT CLERK III & REBECCA THOMPSON, CLERK II
 DATE: SEPTEMBER 14, 2020
 SUBJECT: 2020 Water Service Charge Reclassification Protest Hearing

The 2020 Water Service Charge (WSC) protests have been reviewed by staff and the staff recommendations are detailed on the attached pages.

As per Section 73-18.8.1 NMSA 1978, and Rule 24, the individuals filing the protests have been notified of the proposed recommendations.

Staff recommendations have been indicated in the *'Approved Exemption Acreage'* column on the far right hand side of the page. Any Protestor who disagrees with the MRGCD staff recommendations are given the opportunity to appear before the Board and show cause as to why the Water Service Charge reclassification recommendation is incorrect and should be changed.

Staff recommends removing 86.27 acres from the Water Service Charge assessment. Using the current assessment amount of \$43.82 per acres, this will reduce revenues by \$3,780.35.

In addition, Water Service Charge contracts totaling 131 acres have been added to the assessment base for 2020. This will add \$5,740.42 to the revenues using the \$43.82 per acre fee.

The net revenue increase is \$1, 960.07

STAFF RECOMMENDS APPROVAL OF THE SUMMARY OF PROTEST FINDINGS REFLECTED ON THE ATTACHED PAGES.

P.O. Box 581
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 1931 Second St. SW
 Albuquerque, NM
 87102-4515
 505.247.0234
 Fax # 505.243.7308

COUNTY	APPROVED EXEMPTION	WSC ACREAGE ADDED
SANDOVAL	5.00	11.79
BERNALILLO	9.51	14.47
VALENCIA	46.98	87.35
SOCORRO	24.78	17.39
TOTALS	86.27	131.00

Director Kelly made the **MOTION TO SUPPORT STAFF RECOMMENDATIONS MADE FOR THE RECLASSIFICATION HEARING.** Director Baca seconded the motion. The **MOTION CARRIED.**

AGENDA ITEM NO. 5 – RECONVENE REGULAR BOARD MEETING

Director Kelly made the **MOTION TO RETURN BACK TO THE REGULAR BOARD MEETING AND FOR THE BOARD TO ACCEPT THE STAFF'S RECOMMENDATIONS MADE FOR TODAY'S RECLASSIFICATION HEARING.** Director Baca seconded the motion. The **MOTION CARRIED, unanimously.**

The regular meeting of the Board of Directors reconvened at 6:00pm.

AGENDA ITEM NO. 6 – PROPOSED CHANGES TO THE 2020 AND 2021 IRRIGATION SEASON**a. Report on Water Supply Conditions and General Water Operations - David Gensler, Water Operations Division Manager**

David Gensler went into background and history, which is different than usual water reports.

The 2020 season has been extraordinarily challenging, with one of the lowest spring runoffs on record. We had almost no summer rains, and we had week after week of 100° every single day. It's understood that there is a lot of concern from our water users about what's going to happen this fall, and there is also a lot of misunderstanding about what we've been doing the last few weeks and what we're likely to be doing the next few more weeks and how we got there.

The Rio Grande Compact, of course, guides the distribution of the waters of the Rio Grande between Texas, Colorado, and New Mexico. The Compact was signed by the three states and the U.S. government back in 1938. It settled disputes that stem all the way back into the 1800s. The Compact is a series of rules that determine the amount of water that Colorado passes to New Mexico and rules that determine how much New Mexico passes on down to Texas and also rules specifying conditions under which water can be stored, the timing of it. That includes MRGCD's El Vado Reservoir. The compact recognizes the unpredictable hydrology of the Rio Grande with variable annual delivery obligations based on "index supplies" at key locations, and a system of debits and credits.

In recent years, New Mexico has done a pretty good job managing the water. That wasn't always the case. There were decades where New Mexico got deeply into debt that caused a lot of problems in the system. In the fall of 2019, New Mexico was in a very large debt. It was estimated to be 100,000-acre feet (AF). There wasn't anything wrong that we were doing. It was the hydrology that year where flows at Otowi gage exceeded 1.4M acre-feet. The Compact required that we deliver about 1.0M acre-feet.

In late 2019, attempting to balance the books for that year, we released all the remaining storage that we had in El Vado Reservoir. That decision to release is one of the misunderstandings that has been going on out there in the community this past year. The release of that storage in 2019 was an obvious and unmistakable conclusion. Article VI of the Compact obligates New Mexico to retain water in storage to the extent of our accrued debit. Although that retained water remains New Mexico's water, it becomes a factored insurance policy that we've got water in the bank to meet our obligations. We delivered all we could late in 2019 but since we had no rain, we came up 38,000 acre-feet short.

Mr. Gensler continued saying, in some years, it hasn't been such a big problem, but we're currently limited in storage at El Vado at 114,000 AF total because of the restrictions on the dam. With the potential 100,000-plus acre foot, essentially, we're at 100% of our reservoir storage, which is occupied by this Article VI deficit water.

So, we knew that we had to do something to lower that deficit, and that meant dumping all our water in 2019 so that we could restore it and have normal use of the reservoir for 2020. In any normal year, the Rio Chama produces something on order of 200,000 to 230,000 AF during the runoff, with the ability to store 90,000 to 100,000 AF at El Vado.

Early in the winter, the forecast was good, but we still thought we were going to see 45,000 AF or so. We got into the meat of the runoff. We stored very little water, maybe a total of 60,000,

and 38,000 of that was locked up off the bat because of Article VI Compact. 21,000 got tagged as Prior and Paramount by the BIA and Reclamation. Of course, running ending almost as soon as it started, and we started drawing on that storage. Just like that, it was gone.

Fortunately, we had some San Juan-Chama water storage leftover from the previous year and also some 2020 delivery, and we started using that. Another decision that was made in 2019 was to payback some of our San Juan-Chama water to the Water Utility Authority. We have an outstanding debt with them dating back to 2002. We paid them back 10,000-acre feet in 2019.

Because of the desperate water situation in 2020, Mr. Hamman talked to John Stomp of the Water Utility Authority, and the Water Utility Authority allowed us to have that water back. We covered that from previous years. Even so, with all these things that we were doing, the year was bad. We were predicting running out of storage around July 18, and shortly before that time, of course, we realized at that point that we would have nothing left. We would be down the natural flow of the river. At that time, natural flow was inconsequential, something like 7 or 8 cubic feet per second on the Chama and maybe 12 or 15 across the state line on the Rio Grande. That's not enough to produce any flow. We would potentially see the valley drying up below Angostura Dam.

We realized that was a pretty devastating situation the middle of the summer, and we approached the Rio Grande Compact Commission. Mr. Hamman prepared a letter for them, requesting permission to access this Compact reserve. This was an exceptional measure, something that had not been done for nearly 70 years. Unanimous approval by the States was required. All three Compact commissioners did approve that request, and they allowed us to use that 38,000-acre feet with some restrictions.

Beginning on or about July 20, that water started to come out of storage from El Vado, and it was used to prop up flows through the middle valley so that we could continue to deliver water through Angostura and Isleta Dam for diversion and continue to supply our irrigators, albeit at a reduced rate of what we would normally operate at. That was one of the restrictions placed on us by the Compact Commissioner. We would just run a barebones sustenance, to get people through the year.

We were fortunate and had a little bit of rainfall in late July, and it helped us stretch out that Compact water about two weeks. Once the rains were gone, and we were about to mid-August, we had to start pulling at the maximum rate Compact Commission authorized. We did get through to the required cessation date of September 7th with that water. At midnight on September 7th, the release of the Article VI water was stopped, and we were essentially done for the year in terms of being able to release water from storage and dependent on whatever the natural flow of the river was at the time. That's where we are at today.

Returning back to the Compact water, we are past Labor Day, which was our goal. We need to take some sort of action to turn this New Mexico debit situation around. It's virtually certain that we will remain in debit status at the end of 2020. It would be almost miraculous if we did not have a very substantial debt at the end of this year. Current estimates range from 85,000-acre feet to well over 100,000-acre feet. Debt is allowed by the Compact. It's clearly in our best interest to reduce that debt as quickly as possible. If we were to go into the end of this year with 80,000- or 100,000-acre feet of debt, next year, if El Vado is fortunate enough to store water, all of that water winds up being debit reserve.

To continue to operate like we need to, with flexibility of reservoir storage, we really need to keep our debt low, minimize it as much as possible. We did dodge a bullet this year through the

generosity of our neighboring states. It was a huge sacrifice by the Texas Commissioner to allow MRGCD farmers to use that water. I've heard that the Texas Commissioner was put under serious fire from Texas water users, even called the Governor's office. It was quite a brave move on his part to allow New Mexico to use the water this summer and allow the District farmers to use that water this summer. He did not have to do it, and a lot of people expected him to not do it. Based on that, I really think that we need to make some extra serious efforts to get some water down to Elephant Butte this fall and next spring and ease that debt burden that we have, I doubt that NM would ever again be allowed any flexibility in Compact requirements.

Today, we have no more stored water. We're living primarily on the very small natural flow of the Rio Grande. It's not enough for us. There is a little Rio Grande water still in El Vado for P&P reserve. That's coming out at a constant rate now, and it will take care of the pueblo needs through the month of September. It will be fully exhausted on October 1. There will probably be a little bit of extra that we will be able to share around with people throughout September.

There is not going to be a lot of water to go around, probably not enough to meet everybody's needs. We plan to make the best with what we've got between now and October 1. With all of this in play though, I am urging the Board to end our normal irrigation season early this year, by October 1, so that we can have a chance for some of this fall water to make it down to Elephant Butte, start to turn that Compact deficit around, replace some of that water we were allowed to use this summer for our irrigators. We are not going to have enough to operate normally anyway. There is already a lot of concern about some people get water and some don't. So, it just seemed like in the interest of fairness to our own irrigators, we can end it for everybody and help to turn the Compact situation around. I am also hoping we can hold off on our startup in the spring, again, for the Compact reasons, until April 1. All things considered everyone has done an excellent job.

Director Moore stated it is a very hard decision to make for farmers – do we hurt now or later?

Chair Dunning asked Mr. Gensler this could hurt us this year but will give us some assurance that next year won't be as dire. Mr. Gensler responded by undergoing a shortfall now there could be a better future for next year. He wants to keep options open, flexibility as much as possible meaning having access to our reservoir storage if we have water to fill it. If we don't have any water to fill it, we don't have any water to fill it. If we do and we can't fill it because its space is already occupied by debit water or some other Compact condition restriction, then we're really in a bad hurt.

Mike Hamman presented the official document from the Climate Prediction Center and NOAA, along with some precipitation forecasts, and the La Niña trends. He added that what we would like to do as an organization in terms of the idea of preparing the District for water shortages in the long run and the short run is to continue our outreach efforts in the programs that we're trying to set up with our grant and some of the things we're trying to work with Natural Resource Conservation Service (NRCS) and their programs for EQUIP and what they call the RCPP program. We would like to try to identify folks that are willing to take the coming year and work on their farms and their fields to improve them, to become more efficient and to identify more of those folks that want to work with us, either during the off season or maybe during the fallowing for a period of time to actually invest in those fields with the farmers, as well as improvements to our system with re-regulation reservoirs, and other features strategically placed throughout the system to allow for better distribution of available water.

The more we save that storage, the more we can have more flexibility going into another dry year scenario and to work with our three states (New Mexico, Colorado, Texas) as a regional approach. We can work together to optimize the upper Rio Grande system for all our benefit, instead of just worrying about whether we meet Compact debit or not.

Director Kelly posed a question to Mr. Gensler by securing the Compact water we got people through September. We don't have enough Rio Grande water to effectively run the system and the proposal is to allow the remaining fall/winter flows to reach Elephant Butte because we need to for Compact reasons and it's not effective to run the water in our system. Mr. Gensler is looking at how best to get water down to the Butte, and not re-wet/re-dry the river and will run flows down to Socorro through the Low Flow. The water flow will not be available to farmers, but it isn't a lot of water anyway, but it will prepare the system for when Colorado releases base flows into New Mexico in November. Mr. Gensler noted that most people really do not know how little water there actually is and this generation of irrigators have not experienced drought to this magnitude.

Director Russo Baca had a few questions and wanted to verify if this decision to end the irrigation season, will affect any other subsequent decisions by the Board of start and end dates. Mr. Gensler replied that's correct, that it's the Board's decision to end the irrigation season.

Director Russo Baca also asked, would it cause more uncertainty, with the current water supply, could we prioritize individuals that have not irrigated in the last 30-60 days and leave it open and run through October 31, although we don't have enough water for everybody. Mr. Gensler said we did exactly that, catching up on all these people that they know have been cut for a long time or that have some new seed and they are doing a pretty good job. It is dry out there, by the end of the week, there won't be any to spread around. We will have plenty for the pueblos which is a part of our Prior & Paramount operation.

Lastly, Director Russo Baca wanted clarification on when the season would have potentially ended if not for the emergency release from the Compact. Mr. Gensler stated he would've started north on July 20th and probably around July 25-26th shutting off all the way down into Socorro as there is no other option as there's nothing left in the bank to send.

Director Moore has concerns regarding preferential treatment that there are some irrigators that have not irrigated in 30-60 days and others have irrigated every 15 days and it is not fair, and Mr. Gensler agreed.

Rolf Schmidt-Peterson was on the line and added his comments. He realizes this has been a hard situation for the farmers, and it's getting harder. We've had that experience now all the way up the Rio Grande corridor, starting actually in mid to late June on parts of the Rio Chama, where the State Engineer's Office was actually curtailing diversions of 1600 priority date rights in order to get some of that stored water downstream to the farmers that David (Gensler) was talking about earlier.

Mr. Schmidt-Peterson has been doing this for about 20 years. 2018 was bad. This year is worse because of some of these storage supply issues and the accrued debit under the Compact.

He wanted to let everybody here know that the decisions were made in early July to try to do as much as possible to help the middle Rio Grande farmers. This debit water release piece that John D'Antonio moved with the state of Texas and Colorado is a big part of it, but the Water Authority with that 10,000 or 12,000 acre feet of storage water, State of New Mexico through the

ISC (Interstate Stream Commission) for offset water provided another 10,000 acre feet. Without those storage supplies, the situation that you're feeling today really would have been felt in early July. That's because of the efforts of your water managers who've done an amazing job with almost no water to try to get to this exact point. In past years, we've always had some summer monsoon that added a week or two weeks, and that just didn't happen this year.

All those things are in place, and it's not easy going forward from here. Almost no matter what, next year is going to be a more difficult year than this one because releasing that debit water this year will show up on the Compact record next year, and there will be a higher accrued debit unless we get some miraculous rain below the Otowi Gauge. If we have an accrued debit of 100,000-acre feet, it really means no storage in El Vado next year for the District of any real kind, except for some P&P operation. That situation can be ameliorated to a small degree with operations this year, but it will take next year's operations actually to support it in following years.

The decision that was in front of Mr. Schmidt Peterson and the State Engineer (who is the Compact Commissioner) was to help MRGCD farmers this year to get to Labor Day, recognizing that by doing that, things will be difficult next year, but people have a chance to plan. There is just no water left.

Public comment was opened up at this point. Please see Item 7 (below), Items from the Floor.

b. Consideration/Approval of Changing the End of the 2020 Irrigation Season from October 31 to October 1, 2020, and Beginning the 2021 Irrigation Season on April 1, 2021 in Lieu of March 1, 2021 - Mike Hamman, CE/CEO, and David Gensler, Water Operations Manager

Director Moore asked where the gauge is to determine the quantity of water to be delivered to the Rio Grande Project. Detailed information is below in Mr. Sanchez public comment read in by Director Moore.

Director Kelly asked if April 1st would be the start-up date to get the system running or if it was the day that wet water would be delivered to fields. David Gensler responded that it would be the day that the system starts to get up and running, but he felt that 90% of the water could be delivered within ten days of starting it up, depending on the water quantity at that time.

Discussion ensued with the farmers, Mr. Gensler and Vice Chair Baca on how the deferring the decision of the startup date would impact the farmers. Janet Jarratt also suggested delaying the decision on the startup date until January or February.

Discussion ensued with all Board Members and David Gensler on the pros and cons of ending the season early in 2020 and starting late in 2021.

Director Kelly made the **AMENDED MOTION TO APPROVE THE STAFF RECOMMENDATION FOR SHUTTING OFF DIVERSIONS ON OCTOBER 4 5, 2020, AND THE BOARD WILL REVISIT THE STARTUP OF THE 2021 SEASON AT THE JANUARY 11, 2021 MEETING, WITH A DECISION TO BE MADE NO LATER THAN THE FEBRUARY 8, 2021 MEETING (PREFERABLY AT THE JANUARY 11th MEETING)**. Vice Chair Baca seconded the Amended motion. Rollcall vote was administered with all members voting yes. The **MOTION CARRIED, unanimously**.

Director Baca

Yes

Vice-Chair Baca

Yes

Director Sandoval	Absent*	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

* Director Sandoval left during the discussion of this topic due to the curfew in place on his Pueblo due to COVID-19, but later phoned in to rejoin the meeting.

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

Mike Silva

Mr. Silva is a Tome farmer and a former ditch rider. He was extremely upset and expressed his concerns with the idea of cutting off the irrigation season. He went without water for 60 days. He does not understand why there is no water. He lost his crop. He usually has 8,000 bales of hay and this year only had 800. We are put on rotation but believes that the larger farmers receive most of the water. Ditch riders need to make sure that the water is distributed equally.

Mitchell Vergeer

Mr. Vergeer is from Los Lunas. He's concerned with preferential treatment as well as the cut off. He stated that with what's said in the Board room is a different message out in the field. He believes the smaller farmers are being pushed out and that the larger farmers take all the water. Also, there are many people that don't irrigate efficiently, saying he can irrigate 36 acres in 12 hours.

Robert Leopold

Mr. Leopold lives in Los Lunas and water with Scott Edeal. We don't have spring anymore it goes from winter to summer. Summer wheat comes in early and asked how does one manage when you depend on mother nature. He said he calls Danial (Clouser) and is deferred to Michael (Apodaca). He also said he's had two excellent ditch riders, but he's had 14 over the past 10 years. This year the ditch rider is new, or they get sick, but they have little experience with farming, with watering; feels there's a need for better management at the ditch rider level.

Jan Perea

Ms. Perea reiterated the issue on preferential treatment stating the District needs better management and is frustrated as she feels that there is preferential treatment going on with the ditch rider in Bosque.

Rex Foutz

Mr. Foutz's house backs up to the Otero drain and ditch. All-terrain vehicles and motocross bikes speed up and down the ditch road all hours of the day and evening, which he feels seriously aggravates his health conditions. The noise is also a nuisance. He is curious why there are no signs indicating that these activities are illegal. He is also curious why there are no gates that prevent access of these vehicles. He said he's sure there is expense to put up signs or access gates the District collects money from him. He said he just wanted to bring this issue to the Board's attention. The Chair advised Mr. Foutz if he will stay on the line the Board will be discussing gate policy.

Miguel Cordova

Mr. Cordova noted that everybody just wants to be treated fairly. He believes there is corruption going on in the District and that there is weird stuff going on (water being transferred). He believes that next year, when the water is going to be bad, they are going to see it ten times worse. He noted fake water, water that comes from paper that does not exist is going to be there, and the small guys, medium-sized farmers, are not going to have any water.

Janet Jarratt

Ms. Jarratt is a farmer in Los Lunas of over 200+ acres (and former Board member). She seconded Mr. Foutz's comments about the four-wheelers not posted as its very problematic for livestock as well. She then referred back to Mr. Gensler's comments about people not knowing the water situation. She noted that people at the District don't understand the farming situation. Stating if you're not living it, it is very hard to be secure in your employment and your income and be struggling with the devastating effects of the COVID virus and dealing with the irrigation situation at the same time. Without any income and when they name you as an essential business, it just means getting further into debt. There is no supplemental income or anything. The most disturbing things she hears is curtailing the irrigation season and delaying the start of the 2021 season. In 2018 with La Niña which means not much snowpack, also means a warm, dry winter. It means poor soil conditions by the time you get to February and March. Delaying to April means there will not be any Spring crops coming up; charging the ditches on April 1 means it will take 3 weeks to really start up. She feels that the decisions you make now have effects into the future saying it is well in good to start irrigation season late and curtail it early but COVID about killed us. It is extremely expensive without providing the water as who has three years of income available to live on plus the expense of maintaining a farm? She also feels there needs to be better communication to the Ditch riders. She's on her third ditch rider and the first cut her off for no good reason. She stated she has a field of alfalfa and has not received water since August 5th. The water bank is not posted on the District's website front page anymore showing when water bank users are on or off, Land that has been curtailed should not water, but other water bank users have been irrigated; yet she sees water flowing down past Los Lunas.

Erica Desmet

Ms. Desmet's family has been in Bosque Farms since 1949, four generations of Dee Smith irrigating and she's frustrated as she believes that the blame is not with the ditch riders but is with the Board and the higher ups of the District. She believes that Board members and higher ups should go out and talk to the farmers instead of going through the ditch riders. All she has heard is all the excuses from the District, and only depend on the ditch riders. She feels that the District is not going to take care of the farmers and that this is the most ill-managed she has ever seen the District operate. She stated she is sorry for the farmers and hopes they can survive this because this Conservancy District is not going to help the New Mexico farmer.

Joel Gay

Mr. Gay grew up in the North Valley. He is speaking today as the Chairman of the News Mexico Chapter of Back Country Hunters and Anglers, which is a nationwide, nonprofit organization that seeks to protect public lands, wildlife, and hunting and fishing traditions. They try to be good partners and have helped clean up Conservancy District lands. He noted that as the Board reviews and revises the gate policy and the bosque access policy, his organization hopes that they will preserve and protect the access to Conservancy District lands that hunters, anglers have used for generations.

Mark Garcia

Mr. Garcia believes the problem at MRGCD is transparency, we, the farmers, are losing communications. He would like to see MRGCD speak to the farmers more, maybe add some farming committees. He supports the farmers and expressed his concern about growing out and those who fallow crops, no spring crops. He understands there's no water, but he doesn't think the answer is to close that window; they may not get that water. He feels it's going to get tougher and hopes we are blessed with rainfall.

Matthew Aragon

Mr. Aragon is an agriculture producer in Valencia County. He was surprised to learn that MRGCD was considering more water debt. He feels if we are taking on more water debt, the water needs to be spread out more fairly. A large number of farmers have been out more than 30 days out. You must be fair with limited amount of water.

Robert Levin

Mr. Levin is the State Director of the American Canoe Association, which is a national organization that promotes paddle sports, instruction, safety, and stewardship. Mr. Levin was shocked at the recent onslaught of users with copied keys, no vehicle stickers, ATVs everywhere, beer parties, and homeless camps that ensued, as well as the refuse they left behind. The wildlife disappeared with the increased invasion of the people. He thanked MRGCD for its action during this time. He would like to work cooperatively in partnership with the District in promotion of stewardship, educational programs, and acceptable use. He wanted to put on the table better access for canoe, kayak and other recreational watercraft. Currently Algodones and the 550 bridge access have tremendously long river access that limits users. Disabled Veterans on the Water, one of the many disabled groups and others cannot without great difficulty use the river access at Algodones and 550.

Leroy Baca

Mr. Baca believes that there are systemic problems and that MRGCD's Board and management should put together a workshop to meet with the farmers to understand the farmers' issues. He also would like to see a "live" portal for the ditch riders and farmers to see up-to-minute what is going on with the water.

Madam Chair Dunning replied that is something that the District will explore regarding workshops in each county, but unfortunately it depends on the Governor' orders due to the pandemic.

Mr. Hamman asked for clarification, if the work order topic would be the more fair distribution of water is the main issue. Mr. Baca said yes that is part of it. He feels we need to underline the problems and get input from everyone to correct the issues, come up with creative ideas for water, open an Operator portal so the farmer can see what is scheduled when. He said technology is out there and it's feasible for everyone.

The Chair stated we heard public comment and Director Sandoval needs to leave early because of the Pueblo of San Felipe's curfew so they will be discussing and voting on the irrigation season.

Director Moore for Daniel Lopez

A comment was given to Director Moore, and she was asked to read it into the record. Mr. Lopez is a farmer from San Antonio. He would like to run the full season and says that for him and his family, they are New Mexico first.

Director Moore for Chris Sichler

Mr. Sichler, a former Board member in San Antonio, would like for the Board to put off making the decision about the start date of the 2021 irrigation season until January, to see how the weather is then.

Director Moore for Mr. Sanchez

Mr. Sanchez recommended that MRGCD provide water check to check.

Director Moore inquired as to where the evaporation is measured. Mr. Hamman responded that the measuring was originally at San Marcial. The USGS or the managing agency back in those days, had trouble getting highly accurate gauge to continue to measure the actual deliveries. Based on its location, it had a different schedule with it. There was an extensive study because of gate problems and various things. It was converted to the system we have now, and the delivery point is now Elephant Butte Reservoir. It's more complicated than just reading the gauge and there is extensive review by engineer advisors to figure out evaporation. It is not a gauge it is a calculation with all the data collected for the delivery of New Mexico's water to the Rio Grande Project. They adjust the delivery schedule for the calculated evaporated losses by moving the delivery point down to Elephant Butte.

Dr. DuMars stated Mr. Hamman is correct about the advisers and they evaluate it very carefully.

Director Russo Baca for Rita Padilla

Director Russo Baca received via email Ms. Padilla's detailed list of questions and concerns to be read into the record. Ms. Padilla stated that preferential treatment must cease. She asked about forfeiture when irrigating; are there women ditch riders (it not, why not), why are local subdivisions and private homes allowed access to water lawns, and is it possible to do an analysis of who irrigated and when?

September 14, 2020 MRGCD Board Meeting | Items from the Floor

From: Rita Padilla <rmpg@unm.edu>
Date: Mon, Sep 7, 2020, 1:16 PM
Subject:
To: russobaca.mrgcd@gmail.com <russobaca.mrgcd@gmail.com>

The following are questions and concerns I have regarding water delivery and other general issues:

- 1) The practice of preferential treatment must cease. It appears farmers with large tracts access water in timely ways. The small farmer continues to struggle even though MRGCD irrigation rules and regulations spell out that a fair and equitable system is in place. If that is the case, the discretion or indiscretion of the ditch rider becomes the issue. Who and how is the efficacy of the rules and regulations monitored? I imagine specifics can be produced in a town hall or other appropriate venue.
- 2) What is the practice of forfeiture when irrigating? When a farmer is scheduled and he/she cannot for whatever reason water on the scheduled date, he/she should then forfeit and reschedule. This practice of a "special watering" should cease.
- 3) Does the MRGCD have a program to recruit and train women ditch riders? If not, why not?
- 4) Why is it that the Los Locos subdivision and other private homes around the Tavalopa area are allowed to access ditch water for their lawns?
- 5) Based on ditchrider records, is it possible to do an analysis of who irrigated and when and/or how many times a particular farmer irrigated? This will certainly illustrate water usage and by whom, right? Something like this kind of reporting should be made public.

I'd prefer to present these in person, but due to Covid, this will have to do for now. Thanks

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

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Ms. Faler sympathized with the farmers. She views her role to offer a balance to these types of discussions. She basically was here to take questions. No questions were raised.

MRGCD BOARD MEETING (9-14-20)

1. Heron Summary

Content = 75,679 ac-ft (9/10)
 Azotea tunnel: 0 cfs
 Total SJ-C inflow year-to-date: 48,123 af.
 Currently releasing 590 cfs
 Current MRGCD storage: 0 ac-ft

2. El Vado Summary

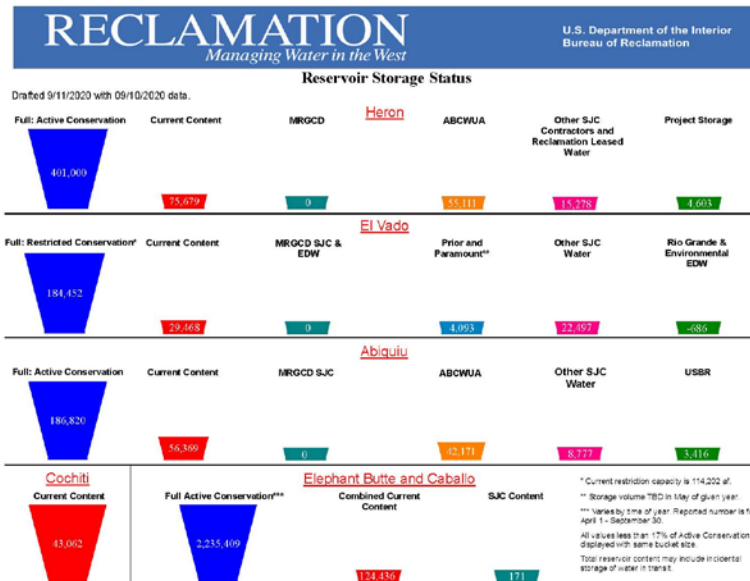
- A. Total storage (all contractors and natural) in El Vado as of 9/10:
29,468 ac-ft.
- B. Native in El Vado
0 ac-ft.
- C. MRGCD's SJ-C storage in El Vado
0 ac-ft.
- D. P & P: 4,093 ac-ft
- E. EDWA: 0 ac-ft
- F. All other SJ-C contractors: 21,811 ac-ft
- G. NM Compact Debit: 3,565 ac-ft

Current release is 600 cfs RG Inflow is ~20 cfs

3. Storage in Abiquiu

Content = 56,369 ac-ft (9/10)
 MRGCD's SJ-C storage – 0 ac-ft

Total water released for minnow to date in 2020: 19,302 ac-ft



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

Ms. Sanchez reported on the Prior and Paramount supply. She then informed the board that the pueblos were not likely to go along with the closing of the irrigation season on October 1. She recommended to wait and contact the new Governor on this issue.

When the request came in late August, too many farmers had already planted for the following year. Also moving water in October is much less efficient than moving it in November and December when evaporation is much lower. Shutting down the P&P deliveries in October would only yield a few hundred ac-ft to Elephant Butte, and this would be too much sacrifice by the Pueblos for too little benefit. I advised them that I would ask for a letter from the pueblos.

She also informed by board that the Pueblos have helped quite a bit during the course of the irrigation season, including signing an agreement in early July with the District on deliveries and another one in early September to allow for daily turnback of unused P&P water from September's P&P storage. They were able to save some releases during rainfall events in late July for use later in August when it was needed more by all District irrigators. The Pueblos have helped as much as they can during the course of the irrigation season, and moved their shutdown date from November 15 to November 3, but are not willing to shut down in early October.

The Pueblos have also agreed to an irrigation start date of March 15 next spring instead of March 1 but are unwilling to start as late as April 1. Pueblos have traditional, ceremonial uses of water in early November and March.

Madam Chair Dunning asked if she heard the vote to shut down on October 5th and the Board delayed making the decision about April until hopefully the January meeting and Ms. Sanchez said it was difficult to hear but she will ask the tribes to send a letter to the District.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE SECRETARY/TREASURER AND CHIEF FINANCIAL OFFICER - Pamela Fanelli, Secretary/Treasurer

a. Fiscal Year 2021 Budget Approved by Department of Finance and Administration

Ms. Fanelli reported that the State of New Mexico, Department of Finance, has approved the final budget submission on July 23rd. We are going to currently report quarterly transactions, and everything has been approved

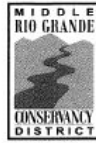
The final budget for your local government entity for Fiscal Year 2020-21, as approved by your governing body, has been examined and reviewed. The Department of Finance and Administration, Local Government Division (LGD) finds it has been developed in accordance with applicable statutes and budgeting guidelines, and sufficient resources appear to be available to cover budgeted expenditures. In addition, the *Tiered System* rule, 2.2.2.16 NMAC, requires that your entity's "Agreed Upon Procedures" for Fiscal Year 2018-2019 should have been submitted to the Office of the State Auditor as of this time. The LGD's information indicates that you are in compliance with this requirement. Therefore, in accordance with Section 6-6-2(E) NMSA 1978, the LGD certifies your entity's final Fiscal Year 2020-21 budget.

Madam Chair reminded the Board to read the second paragraphs second sentence as it outlines what the Boards fiduciary responsibility is. -----

Budgets approved by the LGD are required to be made a part of the minutes of your governing body in compliance with Section 6-6-5 NMSA 1978. In addition, Section 6-6-6 NMSA 1978 provides that the approved budget is binding on local officials and governing authorities, and any official or governing authority approving claims or paying warrants in excess of the approved budget or available funds will be liable for the excess amounts. Furthermore, state statute requires all revenue sources be expended only for public purposes, and if applicable, in accordance with the Procurement Code, Chapter 13, Article 1, NMSA 1978. Use of public revenue is also governed by Article 9, Section 14 of the Constitution of the State of New Mexico, commonly referred to as the anti-donation clause.

b. Removal of MRGCD Fixed Asset

Ms. Fanelli reported that during the FY20 year-end audit, a Panasonic camera recorder (a fixed asset) was determined to be not found and was lost. It was identified in the 2019 FY audit. Ms. Fanelli is formally asking approval from the Board to remove this fixed asset from inventory.



Memorandum

To: MRGCD Chairman Dunning and Board of Directors
 Mike Hamman, CEO/CE
 Pamela Fanelli, Secretary-Treasurer/CFO

From: Andrew Melendez, Property Specialist 

Date: July 27 2020

Re: Removal of MRGCD Fixed Asset

During the FY20 end of year audit of MRGCD fixed asset inventory it was determined that a Panasonic Memory Card Camera-Recorder was not found and has been lost and/or missing since the 2019 fiscal year fixed asset audit. Protocol was followed and a Police report has been filed for this missing item.

Description of fixed asset below:

YEAR	MAKE	MODEL	SERIAL #	AMOUNT
2015	Panasonic Memory Card Camera-Recorder	AJ-PX270	C4TCA0408	\$6,652.09

Also attached you will find a draft letter to New Mexico State Auditor and New Mexico Department of Finance and Administration as required.

Upon Board approval letters will be finalized and submitted to the NM Office of the State Auditor and NM Department of Finance and Administration as per NMSA 13-6-2

Therefore, staff is hereby requesting approval from the Board to remove this fixed asset from the MRGCD Inventory.

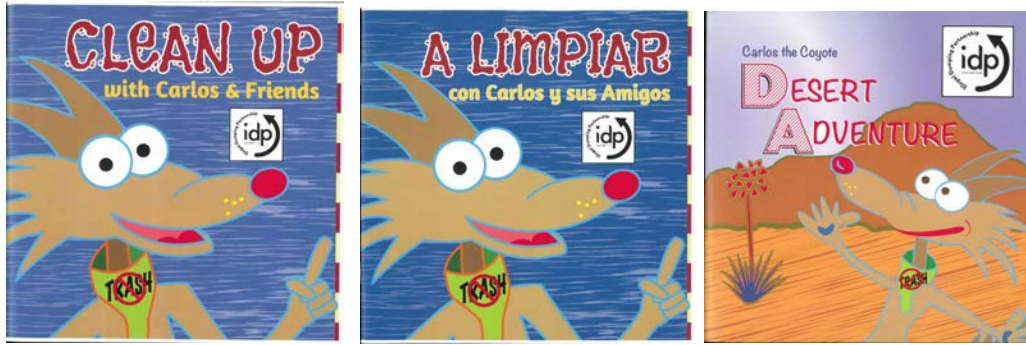
cc: MRGCD Accounting Department
 Central Files

Director Moore made the **MOTION TO REMOVE THE PANASONIC CAMERA RECORDER (FIXED ASSET) FROM INVENTORY**. Vice Chair Baca seconded the motion. The **MOTION CARRIED, unanimously**.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE CHIEF ENGINEER - Mike A. Hamman, PE

a. Report on the Joint Agency Efforts to Address Illegal Dumping in Bernalillo County - Willie West, Assistant Division Manager, ABQ Division

Mr. Hamman explained the District was invited to participate with the numerous Bernalillo County agencies at the request of Commissioner Quezada which we convened; meeting with various entities such as the Sheriff's department, Solid Waste and other agencies. Willie West attended and represented the District in this committee. Mr. West reported that MRGCD is in partnership with Albuquerque Public Schools, Bernalillo County Sheriff's Office, AMAFCA and other entities. The committees main focuses are deterrents, education, and grant funding. He then explained how the District is helping and working with the other agencies to deter illegal dumping. Mr. West discussed the ideas that are being deliberated, such as a tire buyback program. Handouts were made to distribute to kids, in thinking the kids would teach the parents about illegal dumping.



Director Baca is happy to hear this and suggested that Mr. West share the gate policy with law enforcement in terms of off road vehicles are not allowed. Mr. West stated that the South Valley Command understands our challenges or issues with the four wheelers, side by side and in some cases even the horseback riders and they've been responsive.

Director Kelly asked if this should be in the budget for next year and Mr. West stated not yet.

Chair Dunning unofficially made the motion **TO CONTINUE THE MEETING PAST 6:00, UNTIL ALL ITEMS WERE HEARD**. Director Russo Baca unofficially seconded this. All were in favor excluding Director Sandoval who left earlier due to his curfew.

b. Review and Approval of the Memorandum of Agreement of the Upper Rio Grande Basin Study - Anne Marken, MRGCD Supervisory Hydrologist

Ms. Marken reported that in 2016, the District and Reclamation, along with several other stakeholders, set out to develop a proposal for a plan of study to conduct a basin study in the Rio Grande, from Lobato Gauge to Elephant Butte Reservoir. Basin studies are part of the Reclamation's Water Smart Program. They are supply and demand studies that are cost shared between Reclamation and its non-federal partners.

In September 2017, the District was notified that the proposal was accepted, and Reclamation would fund the study. Since 2017, the District and Reclamation have been working to get support from stakeholders to commit to participate in order to ensure the study is inclusive of a broad spectrum of stakeholders. This is the first basin study that will have had tribal participation from the start of the study. At this point, three pueblos have signed up, and there is potential to have more tribal participations.

Ms. Marken provided the MOA in the Board packet. Up to this point, the District has been the sole non-federal lead on the study, but the Albuquerque Bernalillo County Water Utility Authority has been invited to participate in the study as a non-federal co-lead. The MOA reflects that as co-leads the District and the Water Utility Authority would have a permanent seat on the steering committee and each would contribute \$50,000 annually to the study and cost share over the three-year study period.

Chair Dunning questioned the cost sharing percentages not adding up. Ms. Marken stated that they're not asking entities to give money necessarily, but it can be participation, conducting studies or supply and demand can also be counted towards it.

Director Kelly made the **MOTION TO APPROVE THE MEMORANDUM OF AGREEMENT OF THE UPPER RIO GRANDE BASIN STUDY**. Director Moore seconded the motion. The **MOTION CARRIED unanimously**.

c. Consideration/Approval of Resolution #BA-09-14-20-82, MRGCD Rule 26 - Procurement Regulations Update - Richard DeLoia, MRGCD Chief Procurement Officer

The Board had no questions around this Resolution. Lorna Wiggins proposed two changes to the document, to which the Board agreed.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT
PROCUREMENT RULES AND REGULATIONS
SUPERSEDED
MRGCD RULE 26**

NO. BA-09-14-20-82

WHEREAS, the governing body is a political subdivision of the State of New Mexico charged with the management and responsibility of many governmental functions; and

WHEREAS, proposed Procurement Regulation shall supersede all previous procurement rules, policies and regulations under MRGCD Rule 26; and

WHEREAS, proposed Procurement Regulation shall be effective on September 15, 2020, amendments to Chapter 13 Public Purchases and Property were introduced, passed and became law; and

WHEREAS, the Chief Procurement Officer of the MRGCD shall administer the Procurement Regulations of the District;

NOW, THEREFORE BE IT RESOLVED by the governing body of the Middle Rio Grande Conservancy District that:

Section 1. MRGCD hereby adopts the Middle Rio Grande Conservancy District Procurement Regulations that hereby supersede existing MRGCD Rule 26.

Section 2. As in original.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

Director Kelly made the **MOTION TO APPROVE RESOLUTOIN #BA-09-14-20-82, MRGCD RULE 26 - PROCURMENT REGULATIONS, INCORPORATING THE TWO CHANGES AS DISCUSSED**. Director Baca seconded the motion. The **MOTION CARRIED unanimously**.

d. Report on Pena Blanca Bosque Access Parking Lot - Jason Casuga, Chief Operating Officer

Jason Casuga reported that MRGCD received some public comment in email about not being able to access the Pena Blanca Bosque access and wilderness area. In consultation with Daniel Arquero and Mike Hamman, the District locked that bosque access and changed the key due to the high volume of recreational use. In discussions, it was decided that MRGCD would create a parking area that would get folks closer to the bosque area while still being able to restrict access and allow folks to be able to easily walk in. MRGCD is substantially close to completing that parking area and getting the gates up. MRGCD will begin selling keys by the end of September in this area. Mr. Casuga has responded to the email; requester has not heard back as of today. He will attempt to reach out again.

e. Update on COVID-19 Responses Issues and Limited Office Reopening Schedule - Mike Hamman, CE/CEO

Mr. Hamman expressed his concerns with the increase of colds and flus will be hard to decipher between COVID symptoms as effecting MRGCD workforce. He reported that Jason Casuga has come up with the winter work schedule. They will still work on the facility maintenance projects and keep social distancing. Other contract work will be planned and will continue to follow COVID protocol. The MRGCD General Office has opened to the public, where MRGCD can service up to four people. The Assessments group are tightly isolated with glass partitions and a security coded door. The MRGCD will have a longer season to handle maintenance, educating the ditch riders on how to respond to public questions and concerns. Also, Presbyterian Health Plan will be at the MRGCD main office and other locations to provide free flu shots. He mentioned one can use your health insurance to receive flu shots that are available at various places such as Walgreens and Albertson's.

f. Review and Discussion of the Draft MRGCD Gate Policy - Jason Casuga, COO, and Matt Martinez, Licensing Supervisor

Matt Martinez provided a draft policy to the Board and made the distinction that this policy applies to access of gates not including the bosque/levee. Over the last few months, this policy has been under review by the committee (including Mr. Hamman, Mr. Casuga, Ms. Najmi, Director Baca, Vice Chair Baca, and Director Russo Baca). The purpose of the review is to provide recommendations and updates to the policy to better reflect MRGCD's responsibilities and public interest. The policy is intended to retain pieces of the old policy but to change the approval process and to establish a process to permit gate access for irrigation and farming purposes. The most prominent change is that the gate installation approval will no longer be granted by the license eliminating the idea that an individual will own, operate and regulate a gate on MRGCD facilities. This policy introduces a cost share component. The biggest challenge is evaluating access, and the merit of the request, therefore staff will evaluate per qualifications outlined in the proposed policy.

Jason Casuga added that the cost share is similar to how we handle turnouts where individuals pay a fee and the District owns it for life. We don't have grant funds to install the gates allowing them to help streamline the process. The Chair asked if the MRGCD has cooperative law enforcement, installing barriers and regarding gate removals, if they are grandfathered in. Mr. Casuga responded the District is trying to build relationships with law enforcement agencies and working diligently on those matters. MRGCD has received funding from the Legislature for gates and is working with the partners and with the community. To answer about the grandfathering in, the district has had the gate policy for a while, but as we upgrade, we will evaluate each replacement.

Ms. Wiggins questioned if there is a difference between a requester and an applicant. If not, she suggested using one term consistently, so no future misunderstandings occur.

Director Kelly brought up some key points that should be addressed such as accommodating handicap access and clarification is needed on one key per person or one key per vehicle. Mr. Casuga replied that access for peoples with disabilities is being looked into and will be forwarded to legal counsel to be reviewed. The key fee is for the vehicle which will be made clearer in the updated policy.

More discussion ensued between the Board and Mr. Casuga.

g. Review and Discussion of Draft Resolution Regarding Recreational Use on MRGCD Facilities - Director Barbara Baca and Mike Hamman, CE/CEO

Director Baca stated the resolution recognizes the recreational uses now that there are more people wanting to utilize our facilities now during Covid-19. There is a recreational use statute and this resolution is to include a small addition to the statute.

There was also a recommendation from Director Russo Baca to work with our southern neighbors Elephant Butte Irrigation District and request their support, as she feels it will be positive.

Dr. DuMars commented on the sixth paragraph although the concept is right there, he didn't think that's a concession we want to make regarding the District has little control over the facilities. The wording needs work. Ms. Wiggins stated that is focused on the recreational user or the third party that is targeted. Discussion ensued on amending the resolution, but Chair Dunning reminded that this is the report of the Urban Committee.

Director Moore made the **MOTION TO APPROVE THE REPORT ON THE URBAN COMMITTEE MEETING, SEPTEMBER 3, 2020**. Director Kelly seconded the motion. The **MOTION CARRIED unanimously**.

h. Review and Approval of the "Belen Watershed Project" Cooperative Agreement Between the MRGCD and the National Resources Conservation Service - Mike Hamman, CE/CEO

Mike Hamman reported that staff reviewed, and Ms. Wiggins reviewed the agreement. Saying that the District is committed to making it work. He then said that it was decided to prepare a request for proposal to hire specific expertise for the particular contract whether it's one or more entities. The District will budget for upfront payment for these planning and NEPA contract work. It's approximately \$365,000, more or less, and is fully reimbursable.

Vice Chair Baca made the **MOTION TO APPROVE THE "BELEN WATERSHED PROJECT" COOPERATIVE AGREEMENT BETWEEN THE MRGCD AND THE NATIONAL RESOURCES CONSERVATION SERVICE**. Director Baca seconded the motion. The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 11 – REPORT(S) FROM THE MRGCD ATTORNEY(S) - Chief Water Counsel and/or General Counsel

- a. Report from the Chief Water Counsel, Chuck DuMars, who had three topics to share:
- MRGCD has received a letter from the attorney for the La Jolla Acequia indicating they felt like the acequia was not being treated fairly by the MRGCD. David Gensler, Mike Hamman, and Dr. DuMars have looked at this question, and Dr. DuMars did quite a bit of research on it early on, when we had some conflicts with them. A good option to deal with this is for an agreement by the Board that Mike Hamman, David Gensler, and Dr. DuMars write a response letter, so that it does not require Board resolution. Mike Hamman will email the letters to the board members.
 - Now that we have a finite source of water, we know that we're going to be limited next year. There are some options that we could exercise that have been exercised in other irrigation districts, and that might be available to help out the farmers who may choose not to farm next year because of the shortage of water. One of them, as an example, would be the Fort Sumner Irrigation District has made water available to the Bureau of Reclamation for an endangered species there by leasing their water rights to the Bureau

of Reclamation. There is often a program whereby individuals who don't want to irrigate that year can lease their water on a short term lease basis to someone else who feels like they're willing, they want to stack water rights or do something to keep themselves afloat so that can cover the cost of the person who might operate at a loss in the upcoming year.

- What has happened at various times on the Pecos River, where there was a shortage under the compact. They got together and paid people to forbear from the use of their water rights in a way that it helped the compact delivery. But Dr. DuMars thinks there is some room for a lot of creativity now on that aspect. He is asking for permission to sort of look at those options along with Mr. Hamman and David Gensler and come up with some possible scenarios that the board might want to consider helping out people, given the fact that we know that we're going to be in a water short year. It's unlike a typical year where people will gamble on it. If you know that you're going to be shorted over the irrigation districts, the time period was made short to meet a Compact delivery, then there's a lot more flexibility. He thinks the State Engineer would be very flexible with MRGCD to either allow the short-term leases or anything else we needed to try to get through this thing.

Discussion ensued with Director Kelly and Dr. DuMars about metering water.

- b. Report from the General Counsel, Lorna Wiggins, reported on the Alice Romero v. MRGCD, State Highway, and the Mechenbier entities. The Mechenbier defendants have moved to strike the MRGCD's Expert Witness Report, which is not surprising because our expert with this report addresses the claim by Mr. Mechenbier and the Defendants that lowering his land threefold from the toe of the east bank of the Highline Canal affected the integrity of the bank and actually caused that east bank to fail during the historic rain event that is the subject of the litigation. Ms. Wiggins just wanted to give the Board members a heads up since the constituents in that area are watching this very closely.

AGENDA ITEM NO. 12 – REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

- a. **Meeting with Rep. Miguel Garcia and Community Members Regarding Road Dedication Request Along Isleta Drain and Hooper Road, July 24, 2020 - Director Baca**

Director Baca met with Representative Miguel Garcia and community members regarding four or five houses on the west side of the Isleta Drain maintenance road. It was deemed that MRGCD did have enough right of way to make this a dedicated road. Bernalillo County First responders have a difficult time locating the homes and also mail delivery is difficult and this road dedication would be beneficial.

Director Kelly made the **MOTION TO APPROVE THE REPORT ON THE MEETING WITH REP. MIGUEL GARCIA AND COMMUNITY MEMBERS REGARDING ROAD DEDICATION REQUEST ALONG ISLETA DRAIN AND HOOPER ROAD, JULY 24, 2020.** Vice Chair Baca seconded the motion. The **MOTION CARRIED unanimously.**

- b. **Report on the Socorro County Commissioner's Meeting - Resolution 2020-47 "Demanding a Representative of the Farming Community Sit on the MRGCD Board or that the MRGCD be Divided into Two Districts," August 11, 2020 - Chair Dunning, Directors Moore and Russo Baca**

Madam Chair Dunning sent her updates on the Socorro County Commission meeting via email. She stated that the Commission streams their meetings on Facebook so anyone can see and hear the commissioners speak and also leave Facebook comments any time during the meeting. The commissioners wear masks and actually speak (for the most part) with their masks on. They also zoom the meeting, but the public isn't given the zoom information, only those people who request in advance to speak. If you zoom in, you cannot see commissioners but can hear them and a staff member controls the muting. It was very confusing for those calling in whether they were muted or not. Several speakers spoke in favor of not rescinding the resolution. Most just talked about the importance of farmers in the middle valley. Directors Moore and Russo Baca spoke along with former board member Chris Sichler and herself.

Director Moore spoke of her personal history with agriculture and talked about all the projects the MRGCD has done in partnership with either the City or County to help Socorro farmers and residents. She spoke about how unprecedented it is for one elected body to try to tell another elected body how they should be structured.

Director Russo Baca spoke of her and her family's connection to agriculture and also spoke about efforts by Senator Soto to change the way directors are elected. I spoke about how it was the role of the legislature to change the makeup of the board and also how unworkable two districts would be from both a practical and financial perspective and if they really wanted to pass such a resolution it should be directed at the legislature.

Chris Sichler also spoke about how he had served on the Finance Committee and if the District were to be split into two, the cost of water for farmers would put them out of business. Commissioner Duggins spoke in favor of keeping the resolution but maybe changing the language so that it was directed to the legislature. There are 5 commissioners with one commissioner absent. The vote to rescind the resolution was 3 in favor and 1 against (Commissioner Duggins).

Chair Dunning's impression is that commissioners appreciate the partnership with MRGCD, want dialog not dictation and they also realized that the resolution contained errors. She thinks Commissioner Duggins may try to reintroduce a resolution aimed at the legislature. Also that the meeting presents a golden opportunity for the District to talk to the County Manager and the elected officials about our role in the middle valley and to further a collaborative working relationship. She extended her thanks to Directors Moore and Russo Baca for calling in and for their patience with all the technical difficulties.

Director Moore stated that there was an article in the El Defensor Chieftain and read excerpts from the article, such as, Socorro County Commissioners passed a resolution asking the MRGCD "to take the necessary legal steps to require one of its board members to be a representative of the farming community". In effect, the commission believes that "without representation from the farming community the MRGCD does not adequately provide its established purpose". Director Moore didn't understand the reasoning and reported the commission had a vote 4 to 1.

Director Russo Baca extended thanks to Commissioner Martha Salas and looks forward to continuing the good relationships with Socorro County commission and collaborate with them.

Director Kelly made the **MOTION TO APPROVE THE REPORT ON THE SOCORRO COUNTY COMMISSIONER'S MEETING - RESOLUTOIN 2020-47 "DEMANDING A REPRESENTAITIVE OF THE FARMING COMMUNITY SIT ON THE MRGCD BOARD OR**

THAT THE MRGCD BE DIVIDED INTO TWO DISTRICTS," AUGUST 11, 2020. Director Baca seconded the motion. The **MOTION CARRIED unanimously.**

c. Report on the Conservation Advisory Meeting, August 20, 2020 - Vice Chair Baca and Director Moore

The committee met to discuss the Partial Leasing Program as of this meeting there 260 acres and 10-11 irrigators and maybe next season will go to the lower and upper Rio Grande valley and maybe have a short presentation for future showing where all the acequias.

Vice Chair Baca did not attend this meeting.

Vice Chair Baca made the **MOTION TO APPROVE THE REPORT ON THE CONSERVATION ADVISORY MEETING, AUGUST 20, 2020.** Director Russo Baca seconded the motion. The **MOTION CARRIED unanimously.**

d. Report from the Urban Committee Meeting, September 3, 2020 - Vice Chair Baca, Directors Baca and Russo Baca

This item was covered in Item 10.g., above, including the approval of the report.

e. Report on the Legislative Committee Meeting, September 9, 2020 - Chair Dunning, Directors Kelly and Baca

Madam Chair reported that the Legislative Committee met with Senator Daniel Ivey-Soto and discussed election changes. The Senator thinks the MRGCD elections are unconstitutional. Madam Chair believed it was a good meeting saying that he explained different ways that it could be done legislatively or non-legislatively. He will ask the attorney general for an opinion and conversations will continue. Therefore, the committee did not have any recommendations.

Director Moore made the **MOTION TO APPROVE THE REPORT ON THE LEGISLATIVE COMMITTEE MEETING, SEPTEMBER 9, 2020.** Director Sandoval seconded the motion. The **MOTION CARRIED unanimously.**

f. Report on MRCOG Executive Board Meetings, May 14 and June 11, 2020 - Director Baca

Director Baca attended telephonically. She mentioned they canceled the September meeting. Discussion was had regarding the annual report, submitted fees, reaching out to partners and on the recreational use on MRGCD facilities.

Chair Dunning stated that Director Baca is the Vice Chair on the MRCOG Executive Board.

Vice Chair Baca made the **MOTION TO APPROVE THE REPORT ON MRCOG EXECUTIVE BOARD MEETING, SEPTEMBER 9, 2020.** Director Moore seconded the motion. The **MOTION CARRIED unanimously.**

g. Report on Personnel Committee Meeting, September 14, 2020 - Chair Dunning and Directors Kelly and Russo Baca

Chair Dunning reported for the committee met and discussed retiring benefits. There were no recommendations at this time but will meet again next month and report back at the October Board meeting.

With no further comments, questions or concerns, Madam Chair Dunning adjourned the meeting at 7:35 p.m.

Approved to be the correct Minutes of the Board of Directors of September 14, 2020.

ATTESTED:

Pamela Fanelli, CMA, CGFM
Secretary/Treasurer

Karen Dunning, Chair
MRGCD Board of Directors