

**MINUTES OF THE  
THREE THOUSAND TWENTY FIFTH REGULAR MEETING  
OF THE  
BOARD OF DIRECTORS OF THE  
MIDDLE RIO GRANDE CONSERVANCY DISTRICT  
MARCH 26, 2018**

Directors having been duly notified, Chairman Kelly called the regular meeting to order at 3:00 pm at the Valencia County Administrative Offices, County Commission Chambers. The following Directors and Staff were present:

<b>DIRECTORS</b>		<b>STAFF</b>	
John P. Kelly	Chairman	Mike Hamman	Chief Engineer/CEO
Glen Duggins	Vice-Chair	Dr. DuMars	Chief Water Counsel
Joaquín Baca	Director	Patty Williams	General Counsel
Karen Dunning	Director	David M. Fergeson	Secretary-Treasurer
Derrick J. Lente	Director	Jeanette Bustamante	Administrative Officer/CPO
Beverly Romero	Director	DeAnna Philips	GIS Mapping Technician
Valerie Moore	Director	David Gensler	Water Operations Manager
		Jason Casuga,	Engineer Manager
		Alicia Lopez	Engineer 1
		Mike Lopez	Construction QC Manager
		Daniel Arquero	Cochiti Division Manager
		Sloan Washburn	Belen Division Manager
		Christine Nardi	Human Resource Director
		Lorenzo Benavidez	Socorro Division Manager

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

Scott Edeal, Valencia County	Jimmy Pareo
John & Linda Tull, Bosque Farms	Boggy Baca
Gabriel Baca & Keisha, Veguita	Jericho Sanchez, Tres Hermanos Dairy
Dale Jones	

**AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE**

Ray Dominguez, Director Romero's father led us with the Pledge of Allegiance.

Chairman Kelly welcomed the guests and declared a quorum.

**AGENDA ITEM NO. 2 – WELCOME STATEMENTS BY MRGCD BOARD CHAIRMAN, JOHN P. KELLY, AND BEVERLY DOMINGUEZ-ROMERO, VALENCIA COUNTY DIRECTOR, OF THE MRGCD BOARD OF DIRECTORS**

Chairman Kelly opened thanking to everyone for attending the meeting. He announced that we will be holding regular board meetings throughout the District (Socorro, Belen, and Sandoval County) during the spring in an attempt to bring our business in front of our constituents without them having to make a trip to Albuquerque. There was good turnout in Socorro a month ago. Chairman Kelly then introduced each Board Member.

Director Romero also thanked everyone for attending the meeting. She noted that we would be showing a slide presentation on what the MRGCD Belen Division crew has worked on during the off-season. She encouraged constituents to feel free to comment during the “Items from the Floor” segment of the meeting.

### **AGENDA ITEM NO. 3 – APPROVAL OF THE AGENDA**

Chairman Kelly called for approval of the Agenda.

Chairman Kelly deferred items 8.a., 8.c., 8.d., and 8.e., to the April 2<sup>nd</sup> meeting. Director Lente will lead 8.f., today.

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

### **AGENDA ITEM NO. 4 – INTRODUCTION OF VALENCIA COUNTY DIGNITARIES**

Unfortunately, local officials could not attend today’s meeting.

### **AGENDA ITEM NO. 5 – INTRODUCTION OF BELEN DIVISION FIELD STAFF – Mike Hamman, MRGCD CEO/CE & Sloan Washburn, MRGCD Belen Division Manager**

Mike Hamman and Sloan Washburn welcomed everybody to the meeting after duly noting that some of the staff is out running water currently. Mr. Hamman introduced Lorenzo Benavidez, Socorro Division Field Manager, Daniel Arquero, Cochiti Division Manager, Mike Lopez, Construction Manager for Engineering Division, Jason Casuga, head of the Engineering Department, Alicia Lopez, Engineer, Christine Nardi, HR Department, and David Gensler, Chief Hydrologist.

Chairman Kelly introduced DeAnna Phillips, Mapping Department, Jeanette Bustamante, Administrative Officer, David Fergeson, Secretary/Treasurer, Lorna Wiggins, General Counsel, and Chuck DuMars, Chief Water Counsel.

### **AGENDA ITEM NO. 6 – REPORTS FROM THE CHIEF ENGINEER – Mike A. Hamman, MRGCD CEO/CE**

#### **a. General Focus & Priorities of the MRGCD – Mike Hamman, MRGCD CE/CEO**

From a financial perspective, the Board decided to gradually increase rates to what they were before the rate cuts were imposed back in 2008. Two things that Mike has been tasked to do by the Board of Directors is, number one, increase our efficiencies and keep our costs low. Our system has a lot of deferred maintenance. It has a lot of structures that are old and, in some cases, failing. We have issues with culverts and crossings, etc. It is just the nature of having an 85-year-old system. We must continually reinvest in it to make it functional and efficient.

The other thing we have implemented is trying to increase our water efficiency by adding new types of structures and measuring devices throughout the system so that we can more efficiently move water towards needs during the irrigation season, as well as, prevent the need for us to artificially surge the system forward, to manage the water, the way that we've done in the past. In essence, we are able to take a much smaller block of water, compared to what was diverted in the '80s and early '90s, and turn that into a very efficient irrigation delivery to get everybody the water they need when they need it. We must also put as much water in storage

as we possibly can and keep it in storage, so that we can get through tight years as low snow pack years unfold over time.

Regarding water cycles, we came out of a very rough cycle in the '80 and early '90s. We then had about 16 years (including this one), where we have had only average or above-average snow pack and water supply. We have been able to manage our water more efficiently by assuring that we had sufficient revenues for us to function and to reinvest in the system. We are at a point now where we are starting not only reinvesting in the system but also modernize our equipment. We were spending a lot of money on equipment insofar as repairs and replacements or parts, because the District was not able to replace that equipment. We are spending in excess of \$450,000-\$500,000 just on replacement parts alone, much less the lost opportunity that we have when those pieces of equipment are down.

We also are working hard to balance our physical mowing with herbicide applications so that we have a much more efficient management of the weed problem. For example, we spend in excess of \$3-million annually dealing with weeds out of the District's roughly \$20-million annual budget. We cannot always do it efficiently because of the nature of the rain cycles and the nature of our mowing process. We only have so many mowers and so many staff to do it. Then, we must worry about weed removal.

We are also focusing on improving our services to all our irrigators and other non-irrigating members of MRGCD constituency. There is also more interest in recreation, trails, the use of beautiful green valley for equestrian uses, and lots of other non-irrigation related activities that are getting to be more and more of an interest to our constituents, who pay all their own taxes but do not necessarily irrigate.

In addition to that, we have an ESA (Endangered Species Act) responsibility. We are very fortunate that, with the help of our chief water counsel, chief hydrologist, and a number of Board Members, including a couple of former Board Members, we were able to negotiate a very good new biological opinion that just came into effect in 2017.

We do have a number of obligations to fulfill under that commitment to our federal agencies, our partners, and the Fish and Wildlife Service, as well as the State of New Mexico. We are all working together to allow for continuing irrigation. Our new biological opinion, as long as we stay above that red line, so to speak, of the silvery minnow population, we will continue to meet the needs of the District.

We continue to be committed to fish passage at all our division dams, creating new habitat, and managing our water more efficiently so that we can generate a spawn and recruitment flow in the spring, as well as survival flows and habitat water for survival of the silvery minnow through the hot days and low flow periods of the summer.

We are working on several other initiatives, but those are the major priorities that we are working on, as well as essentially trying to be more cost-conscious, as well as providing better service. Please feel confident that if you need to talk to anybody in the District, we are available.

Director Kelly asked that, given we cannot put together a spawning flow for the minnow, given the forecasts, but that we had a strong carryover population from last year, is Mr. Hamman optimistic that we will be above the red line? Mr. Hamman answered that barring any dramatic changes in our water supply situation, combined with, hopefully, getting somewhat normal monsoon precipitation, we expect that we should be well above the red line of the one CPUE number that has been identified in the Opinion.

**b. Water Report & Report Irrigation Start-Up – David Gensler, Water Operations Manager**

In a normal year, we would start to see river flows rise, as lower elevation snow starts to melt. This year, there is no elevation snow to melt down. There is about 525 cubic feet per second in the Valley. In a normal year, Mr. Gensler would expect to see something on the order of 1,200 to 1,500 cubic feet per second. What we have today is probably enough for our needs but not by much. As of last Friday, we had to start bypassing the inflow of the El Vado Reservoir to help prop up those middle valley flows. We ceased our storage as of Friday morning up there. Mr. Gensler hopes it resumes some time soon, but, for the moment, we are not storing any more water.

We currently have bypass flows from the Isleta and San Acacia Dams. We are not taking the entire flow of the river yet. We had a 200 CFS bypass below Isleta, which is being cut to 150, and we had approximately a 250 CFS bypass at San Acacia. Return flows from upstream were coming back into the river, accounting for the extra water down there, but that is starting to change now. We are going to begin reducing those flows, down to 200 today, probably 180 tomorrow, and beginning to set the stage for some river drying. Mr. Gensler expects that we will see some drying down at San Marcial at the extreme south end of the middle valley by probably April 1st or 2nd. This will be the first time since 1996 that we have had river drying in April. So, it really is a different world from what we've seen for the last 22 years.

Although it is a very poor year, we do have a substantial amount of water still in storage. We carried over quite a bit from last year. So, we are going into the season with something in the bank to work with. Nothing really has changed from March's water report. We have about 108,000-acre feet sitting in the reservoirs. We will start to use that water as needed as we get further into irrigation season. Mr. Gensler thinks there is a chance to store some additional water at El Vado, depending on the timing of the higher elevations snow melt. No doubt, it's going to be a tight year water-wise, but he does expect we'll get a chance to store some more water up there.

No changes in the current forecast yet. We will have new numbers out from NRCS in about two weeks. Mr. Gensler does not expect them to change very much from the March 1 numbers. We are looking at roughly 64,000-acre feet inflow at El Vado, 28% of normal, and 182,000-acre feet at Otowi or 25% of normal.

In terms of irrigation deliveries, we are starting out the season with a fair amount of water in storage, and we will start releasing it as needed. Irrigators should be able to count on normal deliveries, understanding that everything must be scheduled tightly. We cannot afford to waste anything, but we should be able to meet people's needs throughout most of the summer, if not all of it. Depending on what happens with monsoon season, what we're able to store this spring, and how far we're able to stretch that supply, Mr. Gensler thinks there is still a good chance we may get all the way through the fall and the end of the normal season.

Director Baca expressed thanks to Mr. Gensler for the water report that he distributed to Los Padillas, they really appreciated it.

Chairman Kelly asked what the status was of Article 7, combined storage downstream. Mr. Gensler responded that he believes we are still over 500,000-acre feet. He expects we will stay

out of Article 7 and be able to store normally whatever water is available, probably through mid-May.

Mr. Hamman asked Mr. Gensler what we would have had to have done under these circumstances under the old 2003 Biological Opinion. Mr. Gensler responded under the 2003 BO, there would have been a requirement to keep the river fully connected and flowing through June 15th. What would be happening today is the Bureau of Reclamation would be releasing supplemental water to increase flows through the valley to keep the river flowing at roughly 200 to 250 CFS from the San Acacia Dam. It would not necessarily have any immediate impact on the District; however, they would probably have to be releasing today on the order of 300-acre feet a day, climbing rapidly to about 600 to 700-acre feet a day. They would run out of their supplemental water supply. The river would recede very quickly, and we probably would very rapidly exceed the original take statement. We would then have problems with Fish and Wildlife. So, there would be problems throughout the valley, not to mention the impact on the fish.

Mr. Hamman asked Mr. Gensler about the relationship that MRGCD has with Fish and Wildlife Service under the new Biological Opinion, are they supportive of what we are doing and the actions we are taking to help endangered species situation? Mr. Gensler reported that we have had meetings with Fish and Wildlife Service and Reclamation regarding the conditions. We explained to them that if we do not do things very carefully this year, that everybody could run out of water very rapidly, which alarmed them. After a couple more meetings, they have come to understand the seriousness of the lack of water and how dry it really is. Mr. Gensler thinks they also understand that the District and the other water management entities in the valley are really working hard to make this come together. We have warned them that this year will be ugly in this river this year, but it is going to be a whole lot less ugly than it would be if we were operating under past Biological Opinions, when we ran everything to the point was nothing left. If we were operating under the old Opinion, there would catastrophic effects on species. The CPU is 25 or 26 currently (20.6 fish per 100 meter squared), which is a good number. Mr. Gensler expects it to decline a lot this summer because certainly there's going to be a lot of fish dying. All in all, Mr. Gensler believes we will stay above the red line.

We also discussed with them that there is not going to be any spawning events this year, at least in terms of what they like to see with the water and coming down the river, and fish getting out into the open bank areas and really doing good reproduction. We made a commitment that we can keep a lot of what we have alive this year by managing the small amounts of water that we do have. We have learned over the last few years that we can manipulate some small spawning events for diversion structures through the operation of our gates. We will attempt to collect some eggs and move fish into hatcheries, which will preserve the genetic diversity. Mr. Gensler thinks we will see several of those little spawning events happen this spring, probably in May.

Chairman Kelly asked Mr. Gensler about the predatory fish situation. Mr. Gensler believes that in the past it was not an issue; however, currently, they may be revisiting the issue.

**c. Projects in the MRGCD Belen Division – Sloan Washburn, MRGCD Belen Division Manager**

Sloan Washburn presented a power point presentation of pictures of what MRGCD in Belen has done in the past year. The pictures included some of the following explanation:

- Built two structures, in addition to an existing structure that will regulate and feed two areas, as well as providing water out to the river.

- Construction of the head wall that goes out to the river there in Los Chavez.
- Form strip (structures are getting ready to be back-filled).
- Construction of the aprons at the same project.
- Belen upper river side drain that was burned off and redirecting that water into another drain to help speed construction there.
- Structure that somewhat failed during the season and some irrigation.
- Other maintenance done throughout the season. We had to do some burning where we can, try to alleviate some weeds before we run the water there.
- Some of our new printout boxes that we're constructing, we hope to get some longevity.
- Sediment removal from the Highline Canal.
- Rain events at the end of September with water coming in on our canal.
- At Bosque drain a couple hundred CFS rolling bank to bank. Same drain that the rain water eventually made it down to East side of Highway 314, where that water gathered between the road and the railroad tracks, which caused some damages to our facilities.
- Crews in action, rebuilding our canals, putting them back in working order.
- The day after the second round of storms, working all night and all day
- A siphon was damaged
- A siphon that got filled in with silt and sand runoff, there is a structure underneath the concrete structure siphon.
- The following slides are of the second round of rain storms, water flowing over the top of our siphons on the highline, which, unfortunately, it's headed for another district that's downstream.

Mr. Washburn closed by saying that he and the crews take pride in their work. There are countless things that cannot be shown in pictures on a day-to-day basis, but, hopefully, today's slide show gave everyone a glimpse into part of the winter works.

Director Romero asked Mr. Washburn if some problems had to be placed on hold due to the flooding. Mr. Washburn reported that some things were delayed. He added that everybody pitched in from Cochiti to Socorro Division, they sent crews and equipment. If not for all the assistance from everyone (from staff from engineering down to labor crews), we would not have recovered. We would still be working on it. BLM pitched in with machines, and their guys worked countless hours without sleep. It was a trying time, but it really united the District as a whole. So, it was a great group effort.

Director Romero and Chairman Kelly thanked everyone for the recovery. Director Duggins also thanked Mr. Washburn.

**AGENDA ITEM NO. 7 – REPORTS FROM THE ATTORNEYS (MRGCD Chief Water Counsel and General Counsel)**

Chuck DuMars, Chief Water Counsel wanted to bring people up to speed on that status of litigation in the courts. There are three lawsuits that we're involved in.

The first one is the suit of Wild Earth Guardians, which was filed in Santa Fe two-and-a-half years ago. It is a suit against the State Engineer of New Mexico, to force us to file a proof of beneficial use. If we actually had to file such proof, it would show that there is excess water available for the endangered species and that the water can be taken because the District is not using all of their water. The State Engineer has moved to dismiss this. The Middle Rio Grande Conservancy District has moved to discuss. The United States has taken the position that it is entitled to have it dismissed, but they do not subject themselves to state court jurisdiction. That matter will be argued in a couple of months, and Mr. DuMars believes we will a result that's favorable to the District. At the same time, we are working very closely with the State

Engineer's Office to have a streamlined proof of beneficial use that shows every drop is being beneficially used. There's no excess water, but it would be a good thing to get that process done in an expedited way. Mike and Mr. DuMars have met with the State Engineer, and they have an upcoming meeting very soon.

The second one is a suit by the Wild Earth Guardians. It was originally against the Bureau of Reclamation to force them to regulate the District's diversions of water, the same issue they've raised over the years and the U.S. Army Corps of Engineers. The Middle Rio Grande Conservancy District intervened as the Defendant. We are the real party of interest. We were successful in getting all of the claims against the Bureau of Reclamation dismissed, but there was a remaining claim about the operation of Cochiti Dam. The Wild Earth Guardians were arguing there that the Flood Control Act, which regulates and has a series of purposes for the dam, had been modified by the Endangered Species Act. We have taken the position that that is not the case. The United States Supreme Court has ruled it is not the case.

The other issue they were arguing was the scope of discretion of the federal government under Section 7. Their argument was that under Section 7, the operational reservoir was entirely at the discretion of the Corps, and they could operate it for benefits of species as opposed to flood control and other purposes. The United States has challenged both of those rulings, and we remained in the case. We were very happy with the brief that was filed by the United States. We think it was very effective. However, we did file a small bill on behalf of the District in which we simply said it is not the case that the Endangered Species Act modifies specific purposes within the Flood Control Act. That will be getting new argument, and we will be getting a ruling on that case.

The third one is up in the San Juan Basin. Many years ago, when they filed the lawsuit to adjudicate the San Juan River, they joined the Middle Rio Grande Conservancy District and then the City of Albuquerque, now the Flood Control Authority. They said, "When you get to the stage where we're no longer adjudicating between the tribes and others." Then they wanted to make sure that the Middle Conservancy District, as a user of San Juan-Chama water, was subject to the Court's jurisdiction in the San Juan Basin. Mr. DuMars thinks we will be successful.

The fourth is we do have a case where the District has protested a major water right transfer from the Bosque Del Sol up to Rio Rancho. In that particular case, we have said in our protest that individual pre-1907 water rights holder has the right to transfer any water he wants. There are three reasons why we believe in this protest. We believe the State Engineer should condition it on the obligation of Rio Rancho to pay for the economies of scale or the impacts of those who remain. For example, the District has committed to do a lot of work to support the Endangered Silvery Minnow, and in doing so, they are going to commit the resources of the District to pay it. The taxpayers pay for all of that.

Rio Rancho contributed zero to that process, but they will take the full 500-acre feet and be able to use it to support homes on the mesa, which is a legitimate purpose, but they should not leave the District holding the bag and the biological opinion costs. Bureau of Reclamation has also protested on that basis in defense of the biological opinion, and the Pueblos have made the same argument, only stronger. Their argument is that when you systemically reduce the number of irrigators of a system like this, it affects the Pueblos, which affects everyone else. So, there must be some method for calculating those effects and making sure that the transferee.

The City of Albuquerque Water Utility has already drafted out to the policy. They don't repay any pre-1907 rights out of the District, out of respect for the importance of agriculture and the culture of the area. Rio Rancho has not made that same choice. So, hopefully, we can work this out with them and come up with a method for designing and figuring out how the District decreases in size, 250-acre feet, sometimes in this case 600-acre feet, in one year with all the other rights, then those will really keep the District alive and viable.

On the bigger issue of what the District has done is retaining two experts for this protest. One is a hydrologist who will evaluate the full consequences of not only this transfer but all past transfers and projected transfers on the capacity to even move water in the system. The other one is an economist who is going to calculate the present value of the future costs of it continuing the systemically decreasing the numbers of rights that are available for those who are irrigating. They are both working on their reports right now. The case has been slowed down because the State Engineer's Office has lost yet another hearing examiner and another hydrologist.

Lorna Wiggins, General Counsel, will report at the meeting in May.

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

a. **Report on Los Padilla's Acequia Association Meeting, March 13, 2018 – Director Baca**

Deferred to April 2<sup>nd</sup> meeting.

b. **Report on Legislative Committee, March 15, 2018 – Chairman Kelly and Directors Dunning and Duggins**

Chairman Kelly reported that he, Directors Dunning and Duggins, and Mike Hamman met with our lobbyist, John Thompson, and discussed two things. One is going to be the implementation of House Bill 98, the Local Elections Act that ponders changing the date of the MRGCD election to be in November of odd years, which would be in conjunction with the general election. As this bill went through, we made it very clear that keeping our qualified elector as being a property owner was extremely important to the Board and all of our constituents. Several board members raised concerns about having to manage an election during harvest season. There is a four-year window for us to be absorbed into this system, and Mike will be meeting with the four Count Clerks to talk about some of the details that are unique to the MRGCD that they probably haven't thought through all the way to try to bring us into this combined election.

The good news is that our next two elections will be just the way they've always been, the first Tuesday in June. We are keeping a good eye on this as it moves forward. We also discussed some legislation we are trying to push through, and we are seeking out our friends among other agencies and local governments. This legislation would establish a cap on torts regarding inverse condemnation claims similar to what's in the tort claims act. We are at the stage on that where we are just trying to figure out what the support is among the state and figure out how to best take that through the committee process and ultimately to the legislature.

Director Romero made the **MOTION TO APPROVE THE REPORT ON THE LEGISLATIVE COMMITTEE MEETING, March 15, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

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

Deferred to April 2<sup>nd</sup> meeting.

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

Deferred to April 2<sup>nd</sup> meeting.

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

Deferred to April 2<sup>nd</sup> meeting.

- f. **Report on Irrigation Committee Meeting, March 26, 2018, Chairman Kelly and Directors Moore and Romero**

Director Lente reported that he and Directors Moore, Duggins met prior to the Board meeting to discuss some of the issues. We did have several items on our agenda, the first being a minimum service charge for irrigated properties that are less than an acre. Now, those properties are primarily in the urban areas of our District, Albuquerque areas, and some in Bosque Farms.

What happens currently is that those properties are prorated, based on how many acres they are irrigating that are less than acre. And what it causes for our district is there are a lot of administrative processes that it must go through, and it tends to be a little bit difficult to work with, not only just the administrative side but it also for our ISO's monitoring as well. Many of the properties in these areas don't adhere to the hour-per-acre standard that the District is moving forward on.

We discussed instead of having that prorated value for these less-than-acre properties, that they would pay a standard, uniform \$40 per acre rate to utilize the water, and that would ensure that the time that our administrative staff spends on these properties, as well as the people outside on the ground, would be more impactful, given the certain circumstances. That will be coming to the Board, perhaps at the next Board meeting, after Mr. Hamman and Chief Water Counsel prepare an amendment to our policy.

Next, we discussed lands that are irrigated outside of the benefitted area. Apparently, there's about 300 acres outside of the benefitted area of our District that currently irrigate, because the lands are accessible to ditches that are in our District. The plan is to add these 300 acres into our District so that we could then begin generating revenue, because a lot of these acres are oftentimes unannounced and are oftentimes being irrigated illegally, or they are not paying for the water service charges or the water that they are using.

We also discussed land water rights, transfer policy, as well a water wasting program. Overall, it was a discussion about how we, as irrigators, and those of us that are on this Board that irrigate larger parcels of land, how we want to make sure those large pieces are put on par with those that are required to adhere to an-hour-an-acre policy and to make sure that if there are folks that are going outside of the policies or that are not necessarily adhering to the rules that we set forth, that we need to make sure that we are aware and that we implement a program that we can stop them. Overall, considering the situation especially with the Texas v. New Mexico case, that we, as a District, contend that we are over-delivering to Texas and that we are very efficient, and yet we have these types of things going on within our own District, right

under our noses, and we do not do anything about that publicly. It sets a bad precedent on our District, on our Board, and on our staff.

Director Moore added that they discussed the lands that are being irrigated that belong to the District, and we've had people interested in buying those. Right now, we are waiting for the Bureau of Reclamation to get the title transfer so that they are transferred into our name. Until we get that done, and that will have to go through the federal government, what we are going to do is enter into a three-year contract with people that are interested in buying these properties. It will be a \$50 contract fee, plus they will pay the service charge on it. In essence, they are saying that, yes, they want to purchase this land, but as soon as the title transfer gets done, we will move forward with that.

Director Dunning asked if the 300 acres that are outside the District pay the ad valorem tax.

Chuck DuMars responded that we could not require somebody to come into the District, but we can stop delivering water to their property. There's a special statute wherein the Board, without going to the act of the Conservatory Court, can settle with that person, and that person can be brought into District. Mr. DuMars authored a memo on it, which explains how to proceed. In that case, that individual would be obligated, if they tried to get water, to ask that their property be assessed the District amount, because of the action of the Board. They would pay at the lower property tax, and then they would pay the water service charge under a separate contract.

Mike Hamman added that there is another class of lands that may have part of their property, as in the old benefitted line, that could, in theory, irrigate most of it. They are already in the District, and they are already being assessed ad valorem tax. However, because we could expand the benefitted area, most of their parcel could be brought in under the water service charge, if the benefitted line was moved to where the irrigated lands are. There are scenarios that we are looking to correct.

Chairman Kelly asked Director Lente if he was looking at small parcels paying \$40/ acre. Director Lente confirmed that it is an acre minimum. We are going to treat them all the same. The Board would need to talk about it, but if it does increase, then they would follow the same rule as to follow that minimum service charge

Mike Hamman then added that we will have to work on an individual property basis to look at that. If there are some upgrades to systems that need to be done, then we will work with them to get them as close to an hour per acre as possible.

Director Dunning brought up that in Bernalillo County there are areas where people run their hoses or have pumps. It is her understanding that some of them are not doing it legally. They have agreements with the District where they can pump from the ditch, is that going to change?

Mike Hamman noted that we discussed setting up a system where we can license people that are pumping illegally from the system that we discover from time to time, give them a real access to our system but also hold them accountable to the one hour per acre or so, if it is a little tiny pump. If they're meeting the one-hour-per-acre or better with their system, then we're not going to worry so much about their water use. If it is clear, however, that they cannot meet that, then we talked about requiring a meter on that system.

Director Dunning questioned where would we put a meter, to which Mike Hamman responded that they might have to report to us or it would need to be at the base of the pump, displayed prominently where we could look at it when we needed to.

Director Dunning the **MOTION TO APPROVE THE REPORT FROM THE IRRIGATION COMMITTEE MEETING, March 26, 2018.** Director Baca seconded the motion. The **MOTION CARRIED.**

## **AGENDA ITEM 9 – ITEMS FROM THE FLOOR**

### **Dave Baca**

Mr. Baca wanted to know if anything has been planned for cleaning up the underbrush in the Rio Grande by using goats. He raises goats, and he was just looking to work on getting that river cleaned up a little bit.

Mike Hamman responded MRGCD has considered that in the past and talked to some various goat farmers, goat providers, even from as far away as Montana, which they would bring them in and herd them with big, mean dogs. Apparently, it worked well in particular areas, because they are agile animals, and they can get in and out of steep terrain. That could be something that we would be interested in test piloting. Chairman Kelly said he would support a test.

David Gensler recalled experimental goats up in the Albuquerque Bosque, and he believed the goats did an excellent job at vegetation control. He believes the issue that Albuquerque ran into was they could not find enough willing herders. The herders felt like they weren't getting enough in return. There were a lot of constraints on it because it was up there in Albuquerque in the state park area. He suggested getting in touch with Sterling Grogan and see what he had to say.

Mike Hamman knows a friend who did a test run in Montana. He will give his friend a call to see how they liked it.

Director Duggins liked the idea and would like to give it a try and also strongly suggested that we use local people, like Mr. Baca, to do it.

### **Leroy Baca**

What can we expect from the delivery or maybe the scheduled ditch riders? Are we going to go from check to check, or is it going to be done manually? What can we expect?

Mr. Gensler reported that he believes we are going to operate under a normal schedule throughout most of the season. That could change later in the season, if we really start to run up all our water supply. In the Belen division, it will take the form of side-to-side rotation, whereby, you'll contact your ISO, give him your water needs. They'll work out a schedule. They will deliver more water to the west side for probably a week to ten days. They then will shift the bulk of that water back over onto the east side, shifting it back and forth between the two main canals. We're not going to do a strict location on the canals. That would happen when we get into a supply limited times, if we don't have enough water to go around. So, it will be scheduled as normal. Contact your ISO. Schedule as far in advance as you can, five to ten days is good.

As far as irrigation, there are two things. If they have sold their water rights, they should not be able to irrigate. We implemented last year in all the ditch rider log books, and there are stop signs on any property that is not to be irrigated. They are not supposed to deliver water to that property. If they find out, there are serious consequences. We do periodic updates for the State Engineer's Office on when water rights have been transferred. He believes our database

is much more up-to-date now than it used to be. So, they might have just happened recently, and we just have not received the notification yet. But if they're in the log book with a stop sign, they should not be getting irrigated. Some properties may get on the District's Water Bank, and if you do get a water bank contract, then that stop sign will be removed from the log book. Actually, they give a green sticker to go over the stop sign, saying it's okay; they've got a water bank contract. We have a system of rules for the water bank. If storage is above a certain level, water bank users can irrigate. If natural flow is above a certain level, water bank users can irrigate, and all of this is in our policies, which are posted on the website. If we got below those thresholds, we issue a curtailment order, and ISOs are not to deliver water.

Mr. Baca further questioned the policy of the delivery of water. He is concerned in that he believes it takes too long to get water. He has not seen water for three weeks currently. He is concerned because of his crops and needs water.

Mr. Gensler responded that there is a system in place, and it is getting on the schedule books. The ISO that reports back to the supervisor what they had scheduled, and that gets reported back to the general office in Albuquerque. We arrange for the releases out of the reservoirs, and need that five-day-plus notice. It takes roughly five days to get water from El Vado Reservoir down to Isleta and San Acacia Dams. We do have a system in place. It just requires people to go ahead and place that phone call to the ISO, saying, "You know, I'd like to have water next Saturday at 3 p.m. Do you have it?"

Mr. Baca further noted that he feels that every year MRGCD says the same thing over and over, and it's the same thing. It doesn't change. He does not want to hear lip service anymore. He wants to be sure he gets water. He is going to hold the Board accountable.

Mr. Gensler attempted to reiterate to Mr. Baca that if he gives enough notice, he will be delivered water. Chairman Kelly reported that we have gone to great effort to ensure every ditch rider treats everyone the same through all four divisions.

Director Duggins added that he is also a farmer. In a perfect world, we could schedule Monday, Tuesday, and Wednesday, however, we do not live that type of world as farmers. It may rain. An irrigator might have a problem with his hay bailer, and he couldn't take the water. To see forward 20 days is just not going to happen. Going check to check, sounds good, but it won't work there are different crops growing, but the District is doing pretty good.

Mr. Baca reiterated that he did not want it taking 30 days to receive water. Director Duggins reiterated his understanding of Mr. Baca's feelings and desires but also explained the ever-changing demands and levels of water in New Mexico. He asked Mr. Baca to just contact his ditch rider and get scheduled.

Director Baca asked about Mr. Baca's method of knowing when his water was going to be delivered. Mr. Baca said he did not know when his water was coming. Mr. Baca would just like accountability on the delivery of his water on-time.

Regarding the method of communication on water delivery, David Gensler reported there's communication almost constantly between the irrigators and the ISOs. The irrigators calling the ISO to request water and the ISO, at least the way it's supposed to be working, maybe it's not in Mr. Baca's case, but it's supposed to be communicated back with him when he's going to have water availability.

We don't require people to schedule it three weeks out. Mr. Gensler just urges people to get on the books as early as they can. But, as Director Duggins knows, things happen. The ISO job is to make good field decisions and make changes as they come down the pike, but those people

that have called and scheduled, you need to try your best to maintain that schedule. We will not rearrange things unless it's in everybody's best interest and everybody is in agreement on it. For the most part, Mr. Gensler believes the ISOs are pretty good about maintaining that communication back and forth between the ISO.

Director Baca requested a ride-along and would like a board presentation at one of the committee meetings where the Board is walked through the process. He also questioned if it is possible for MRGCD to have an app or use the website for communication about water delivery. David Gensler reported that he thinks that will happen in the fairly near future. There are packages out there now for irrigation; however, most of them involve purchasing water on a volumetric basis. He believes we may have something to work with soon.

### **Jericho Sanchez**

Mr. Sanchez' concerns are that the start time for water is starting later and later every year. He believes the District says it will be same as last year, but it never is.

Chairman Kelly responded that he believes David Gensler has done a great job trying to manage the District and start-up of natural flow in the river. This year, we just do not have the water to charge everything up.

Mr. Sanchez said he understood that, and if it really is that there is no water, that is fine. But don't say it will start up, when it does not, because the farmers plant certain crops depending on certain things. Director Duggins agreed with Mr. Sanchez and understood his frustration.

Mike Hamman reported that some years are harder to run water to than others, and it takes a while to kind to work it all the way through the system. Some areas do lag behind some of the other areas that are closer to the main canals. It kind of depends on where land is. If we had a better system of understanding what your cropping pattern, proposed first planting, and when you want to fertilize, etc., that would help. Mr. Hamman thinks we need to have o a little higher level of communication, as well as these irrigation maps.

Mr. Sanchez said that he does not think the issue is communication (He has spoken to 12 ditch riders). He simply wants to start the season on time.

### **Bob Baca**

Mr. Baca reported that he does not have the problem the others have. He just wanted to say that he has seen big improvements this year and the last couple of years where he waters, in Tome, by Tome Hill. He waters with the Romeros, who water 300 or 400 acres. Mr. Baca thinks it is all communication for your ditch rider to deliver. He just wanted to say good job. He feels the District has made his property look nice. He notices good things. His ditch rider is Derek, and Mr. Baca feels that Derek works well with him and the neighbors.

Chairman Kelly thanked Mr. Baca for speaking today.

Chairman Kelly closed with appreciation of everybody coming down today and speaking. He said the Board wants to hear those hard questions. Some of them we've heard before; some of them are new for us. The Board may have to defer things right back to Mr. Hamman, Mr. Gensler, or division mangers to take care of, Board members do not have all the answers. It's the employees on the ground that are going to be our best resource as we work through this, as we head into a dry summer, without a lot of water in the system.

Director Romero also thanked everyone again for coming out today.

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

The meeting was adjourned at 5:02 p.m.

Approved to be the correct Minutes of the Board of Directors of March 26, 2018.

**ATTESTED:**

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David M. Fergeson  
Secretary/Treasurer

\_\_\_\_\_  
John P. Kelly,  
Chairman, MRGCD Board of Direc