

**MINUTES OF THE
TWO THOUSAND EIGHTY EIGHTH REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
May 9, 2016**

Directors having been duly notified, Chairman Lente called the regular meeting to order at 3:02 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS:

Derrick J. Lente	Chair
Adrian Oglesby	Vice-Chair
Glen Duggins	Director
Karen Dunning	Director
John P. Kelly	Director
Chris Sichler	Director
Beverly Romero	Director

STAFF:

Michael A. Hamman	Chief Engineer/CEO
Dr. Charles T. DuMars	Chief Water Counsel
Lorna Wiggins	General Legal Counsel
David Fergeson	Secretary-Treasurer
Jeanette Bustamante	Administrative Officer
Eric Zamora	Asst. Chief Engineer for Ops.
Ray Gomez	Assistant Engineer
David Gensler	Hydrologist
Tom Thorpe	Public Information Officer
Yasmeen Najmi	Planner
Joe Brem	Albuquerque Division Manager

The following individual(s) were interested viewers and/or participants:

Ernest Marquez, Automated Election Services Pat McCraw, South Valley Ink John Thompson, MRGCD Lobbyist Jeff Willis, AMAFCA	Keith Candelaria, US BIA Sandra Fleming Elaine Hebard Santiago Maestas, NM Acequia Association
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AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chairman Lente requested that Director Dunning lead the Pledge of Allegiance.

Chairman Lente welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairman Lente called for approval of the agenda.

Director Dunning made the **MOTION TO APPROVE THE AGENDA AS PRESENTED**. Director Oglesby seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 3 – APPROVAL BILLS & PAYROLL RATIFICATION & ATTORNEY INVOICES

- a. Consideration/Approval of Payment Ratification – May 9, 2016

Chairman Lente called for approval of the Bills and Payroll Ratification for May 9, 2016.

Director Dunning **MADE THE MOTION TO APPROVE THE BILLS AND PAYROLL RATIFICATION FOR MAY 9, 2016 AS PRESENTED.** Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

- b. Consideration/Approval of April 2016 Invoice for Wiggins, Williams & Wiggins

Chairman Lente called for approval of the April 2016 Invoice for Wiggins, Williams & Wiggins.

Director Romero made the **MOTION TO APPROVE THE APRIL 2016 INVOICE FOR WIGGINS, WILLIAMS & WIGGINS AS PRESENTED.** Director Duggins seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 4 – APPROVAL OF THE MINUTES

- a. Consideration/Approval of Minutes for Regular Board Meeting – April 25, 2016

Chairman Lente called for approval of the minutes for the Regular Board Meeting April 25, 2016.

Director Dunning made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING APRIL 25, 2016 AS PRESENTED.** Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR (Comments are limited to three (3) minutes)

Pat McCraw distributed her document and said she needed to give a definition of a community ditch and that is two people must own it either in common or jointly. She said part of her document is a copy of a questionnaire regarding the money for the South Valley community acequias; on page two according to the questionnaire the South Valley Regional Acequia Association owns the land on which the stuff is going to be done and they don't own that land. She said the Los Padillas Acequia does not own the land on which the work was done; the lands are owned by private ownership. Ms. McCraw said the Board directed for Mr. Shah to sign the document sometime in the last year in order to preserve the money and then went ahead without researching, as she warned, to check to see who owned the property. She said she would also like to point out on the signature page that shows they all agree that they own the community acequia. She said the document also says the public must have access to that ditch to walk up and down and enjoy and the photo she has in the packet shows the area has been completely fenced in with a lock on the gate; no public access. Ms. McCraw said the next document is an acequia project form that shows the piece of property where the underground pipe was installed at the taxpayer's expense and the MRGCD was the pass through agency, but didn't do the due diligence to find out who owns the property. She said this property shows no easements of record, only one owner, there is no community ditch, no joint owner in tenancy, no joint owner in common and is not even owned by Los Padillas Acequia. Ms. McCraw then gave the history of the property and how it came to be irrigated. She said this particular property was never part of the acequia. Ms. McCraw said she wanted to point this out to the Board because something is wrong and something should be done about it and she suggests giving back the money and in the future to read the documents and find out who owns what.

Director Kelly said the larger issue is that improvements to the system to save water, increase irrigation efficiency, whether on farm or in the conveyance system, is something the Board should support and Ms. McCraw responded that she agrees if it is a community ditch. Director Kelly asked why not on a private ditch and Ms. McCraw said she would like the MRGCD to come in and replace the ditch the State Highway Department took out at her place at about \$50,000 and that would improve her property and if the MRGCD is going to do it for this particular piece of property, then she deserves the same thing. Director Kelly said this came to the MRGCD as an already approved capital outlay grant from the State of NM and Ms. McCraw said it was a capital outlay grant which used State money and by State Procurement Code requires the money not go to private property. She said these taxpayer dollars increased the value of that private property by \$10-

15,000 and the Los Padillas Acequia has not been judged yet to be a real acequia by the NM Attorney General and that case is still going on.

Director Dunning said the works would be owned by the South Valley Regional Association of Acequias and Ms. McCraw said it is not, not on the plat that she has and Director Dunning said that is the old original plat and Ms. McCraw that you can go back and see there was never a ditch there that was the with the South Valley Acequia and so how can South Valley Regional Association of Acequias own it. Ms. McCraw said she has researched all the records and the map she has is correct and there is nothing on file. She said it is now too late to deed it over to the South Valley Regional Association of Acequias.

Director Oglesby asked if the MRGCD actually did the work or was the MRGCD just a pass through and Mr. Hamman said as a pass through. Mr. Hamman said DFA rules on administering funding to get the work done as an appropriation for this purpose and was appropriated to the South Valley Regional Association of Acequias to determine where it should be used.

Director Sichler asked if this was a private ditch on the actual acequia and Mr. Hamman said that is the allegation. Mr. Hamman said the MRGCD wasn't in a position and wasn't the call of the MRGCD and it was the South Valley Regional Association of Acequias that allocated the resources; the MRGCD was acting as the pass through to get the work done on the ground. Director Sichler asked if Ms. McCraw would be taking this concern to the DFA and she responded she would take it to the State Auditor. Director Sichler said the MRGCD was the middle man and that Ms. McCraw should be taking this to the guy at the top that is handing out the money. He said if what Ms. McCraw is saying is correct, the money was misappropriated then it needs to go back to that agency. Ms. McCraw said the MRGCD has the fiduciary duty to make sure it was done correctly.

Director Oglesby said for the record if Ms. McCraw has accused the MRGCD, then the Board has an unusual rule about accusations on the record and he would like to say that there might be an anti-donation policy issue that taxpayers' money isn't supposed to be spent on private benefits, but that isn't an absolute prohibition of taxpayer money being spent on private land.

Dr. DuMars said he thinks the question is who owns works of a community ditch and who is the actual owner and he doesn't have all the facts in this particular case, but there is certainly no violation of the anti-donation clause. He said it sounds to him like the complaint should be directed at the funding sources.

Elaine Hebard said she would like to talk about Regional Water Planning and the last formal public hearing will be held on the 17th. She said the earlier Regional Water Planning, it was discussed that everyone would work together to have a uniform water budget and that hasn't happened, however, she still has hope. She said meanwhile the Bernalillo County Water Utility Authority (ABCWUA) has a new Groundwater Management Policy they are proposing which would allow it to utilize the substantive water permits and she went on to give details of this plan. She said she made a copy of a couple of their slides to show what they consider now to be their groundwater reserve and said their working reserve would be from 50 feet below pre-development to 250 feet and they could move that up and down and the safety reserve is between 250 and 300 feet below pre-development. Ms. Hebard said her concern is that the MRGCD represents the other large water provider and the two keep the region in balance and what the impact might be if the ABCWUA actually were to implement this plan to pre-1907's. She said her request is the MRGCD consider looking at this prior to their next budget and thinking about these impacts the MRGCD and their constituents might experience. She said she will provide the URL's to the Recording Secretary if the Board would like to review.

AGENDA ITEM NO. 6 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation – Jennifer Faler, Area Manager

Chairman Lente said he was just notified that Ms. Faler would not be able to attend the meeting. The following summary report was received electronically from the Bureau of Reclamation.

1. Heron Summary

Content = 84,323 ac-ft. (05/05)
 Azotea Tunnel: 200-300 cfs
 Total SJ-C inflow year-to-date: 23,756 ac-ft.
 Currently releasing: 0 cfs
 Current MRGCD storage: 3,476 ac-ft.

2. El Vado Summary

- A. Total storage (all contractors and natural) in El Vado as of 05/05:
97,876 ac-ft.
- B. Native in El Vado
81,214 ac-ft.
- C. MRGCD SJ-C storage in El Vado
13,551 ac-ft.
- D. NMISC EDWA:
1,195 ac-ft.
- E. All other SJ-C contractors:
1,916 ac-ft.

Current release is 300 cfs RG Inflow is 1,100-1,200 cfs

3. Storage in Abiquiu

Content = 132,058 ac-ft. (05/05)
 MRGCD SJ-C storage = 1,879 ac-ft.

Total supplemental water released to date for minnow in 2016: 0 ac-ft.

Snowpack Data

As of 05/06/16 (%of median)

Rio Chama Basin	69%
Upper Rio Grande Basin	83%
Sangre de Cristo Basin	124%
Jemez Basin	0%
San Juan River Basin	82%

April Streamflow Forecast

Rio Grande @ Del Norte CO	445,000 ac-ft.	(86%)
El Vado Reservoir Inflow (Mar-Jul)	138,000 ac-ft.	(61%)
Rio Grande @ Otowi	435,000 ac-ft.	(60%)
Jemez R. Below Dam	19,000 ac-ft.	(56%)
Rio Grande @ San Marcial	235,000 ac-ft.	(46%)

b. Bureau of Indian Affairs

Keith Candelaria presented the report and said the final P&P storage target calculated from the May forecast is 14,473 ac-ft. He said on June 1, 2016 the first quarterly payment for the current OM&B is due. He said regarding the Condition Assessment, they are expecting the report to be

finalized by early June. Mr. Candelaria said all interviews have been conducted as of last week for the Designated Engineer position and a selection should be made by the end of this week.

AGENDA ITEM NO 7 – REPORT FROM THE MRGCD ELECTION DIRECTOR (Ernie Marquez, Automated Election Services)

a. Consideration/Approval of Polling Locations for 2017 MRGCD Board of Director's Election

Mr. Marquez presented the Board with maps and a list of those polling locations he is recommending for the 2017 Board of Director's election. He went on to point out the locations that he is recommending for elimination, his reasoning for removal of those polling locations and the savings to the MRGCD.

Director Kelly said this is a relevant discussion as the Board moves into the budget. He said every other year, staff budgets \$300,000 for the election and a year ago during the election cycle after nomination petitions had been turned in, the Board reviewed the submitted polling locations and none of the Board members wanted to do anything because of political perceptions and realities and he is appreciative of this coming to the Board well ahead of the election. He said he thinks the Board should consider going even further and eliminating two in Bernalillo County because they are so close to each other. He said in the South Valley there might not be the same opportunity given the geographical distances involved, but it is \$7,500 a location and he thinks they may be able to knock the \$300,000 down substantially. Director Romero said there are two in Valencia County that are in very close proximity to each other and one of those could be deleted. Mr. Marquez said he could do that research in the next week and bring back those recommendations. Director Kelly said there is a report from the MRGCD Legislative Committee later in the meeting regarding the potential of what may be a Bandy/lvey-Soto bill coming back that could throw a wrench in everything.

Director Dunning said she agrees with Director Kelly that it is best to review this now before there is vested interest. She asked Mr. Marquez to look at the like election of 2013; especially for Sandoval and Socorro County to see if there is a large difference in the numbers. She said she is all for cutting back because now constituents can vote anywhere, early voting and absentee. Mr. Marquez said he would do that research and report back.

Director Sichler said in the Board's last conversation, he thought they discussed submitting a number of how many people voted at a location and if that location didn't meet that threshold, then it would be eliminated and he would agree to go back and review the 2013 election. He said maybe voters are going to other locations or even early voting. Mr. Marquez said that early voting is growing with every election and absentee, in the last election, decreased. Director Sichler said they need to determine some criteria and make everything fit that criteria and do that process now so there is no perception of unfairness. He said he can see Socorro going down to just two locations, but looking at the location in the northern part of the county used in the last election, that might need to stay.

Mr. Marquez said he will do the research, but they want to be mindful not to disenfranchise any voters. Chairman Lente said he doesn't think the Board is suggesting this; they just want to research the locations where the voters are going to vote.

Director Kelly suggested having the At-Large and Sandoval County positions were elected at the same and then there would not be a need for multiple locations and Mr. Marquez said the statutes would have to be changed in order to do that.

Chairman Lente said the direction to Mr. Marquez is to go back do research for other elections and bring back to the Board for discussion and recommendation and Mr. Marquez said he would do that and bring back to the next meeting. Director Kelly requested that Mr. Marquez share this information with staff prior to their Finance Committee meeting next Tuesday for input into the budget.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE CHIEF ENGINEER (Michael A. Hamman, MRGCD CEO/CE)

a. Water Report – David Gensler, MRGCD Hydrologist

Mr. Gensler reported that there hasn't been a lot of change since the last meeting. He said the overall storage numbers have not changed, however, one thing that has changed is the little bit of accounting difference between the Compact, Texas and New Mexico for approximately 8,000 ac-ft. that the MRGCD previous thought would be in storage free and clear is not going to happen. He said he was a little unhappy with this, but it is part of the long standing accounting dispute with Reclamation and Texas and it is out of his hands. Mr. Gensler said the weather has been really good for the MRGCD with the cool weather and the rain. He said there is still 50 inches of water sitting on top of Cumbres Pass and so he knows the Chama will produce quite a bit of water yet. He said the Sangre de Christo's are looking pretty good as well with essentially 100% of normal snowpack right now and he thinks there will be a relatively decent runoff this year. Mr. Gensler said it will probably be pretty smooth sailing through mid-June. He said on the fish front, the El Vado Rio Grande Resolution is now in effect, water is being stored since about May 2nd and all of it is going to be released later this month to enhance spawning conditions for the fish and that is going to be OK with the MRGCD. He said that Compact restrictions are set up in such a way that the MRGCD wouldn't be storing water anyway.

Mr. Gensler said that natural flows coming into the Valley today are about 1,300 cfs and most of that is coming down the main stem. He said he expects that will gradually work up this week, but not too much and he thinks there will be a little warmup next week and flows climb pretty rapidly after that. Mr. Gensler said his best guess now is that the peak would be somewhere on the order of 2,500 to 3,000 cfs in the fourth week of May and it all depends on the weather. He said everything else is pretty normal.

Director Sichler asked how much was actually in storage and Mr. Gensler said as of today there is approximately 80,000 ac-ft. composed of 65,000 native, about 15,000 of San Juan and he is hoping for another 21,000 San Juan for a total of \pm 102,000 ac-ft. Director Kelly asked about drought water at El Vado and Mr. Gensler said the MRGCD has finished storing drought water and everything that has gone into storage since May 2nd is El Vado Rio Grande Compact Resolution water and he went on to explain the process.

Mr. Hamman said he would like to compliment Mr. Gensler on working on this to advance the MRGCD's additional commitments, but continue to squeeze as much flexibility out of the system as possible in concert with the states of Colorado and Texas. He said it was led by NM to come up with the resolution to start with in order to create the opportunity to try to maximize multiple purposes and it is gratifying to have a really good storage supply not only for this year, but hopefully carry over for next season.

Dr. DuMars said this El Vado modification or deviation, retention and release of water in the spring in compliment with the runoff, is a hugely significant contribution by the MRGCD because of all the things that were looked at that actually provide help for the minnow, there aren't many, but this is one because the spring runoff water at the right timing sparks the spawning process and that, in turn, creates a number of minnows and is a huge contribution by the MRGCD.

b. Set Date for FY17 Budget Review – Mike Hamman, MRGCD CEO/CE & David Ferguson, Secretary/Treasurer

After discussion, staff and Board were in consensus that the budget review would be scheduled for 1:00 pm on May 23, 2016, prior to the next regularly scheduled Board meeting.

- c. FY16 Budget Adjustments Request for MRGCD Main Office and Albuquerque Division Security System – Mike Hamman, MRGCD CEO/CE & David Fergeson, Secretary/Treasurer

Mr. Hamman said they presented these adjustments agenda items in the Finance Committee meeting held earlier today. He said staff discovered a longer list of necessary items that need to be addressed; primarily in the General Office and he went on to detail those items. He said another item on the list which is an additional \$75,000 to the Corps for the Bernalillo to Belen feasibility study. Mr. Hamman said the security system for the Albuquerque Division, as well as a few other items, will be held over for next year's budget. Director Kelly said the committee did review a rather lengthy list of things that need to be done and they felt these are the most important items to be done in the remaining two months of this budget and Mr. Fergeson explained where the monies would come from and how it would be reconciled with the FY16 budget.

Director Kelly made the **MOTION TO ACCEPT THESE PROGRAM ADJUSTMENTS AS LISTED FOR THE REMAINDER OF FISCAL YEAR 16**. Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

- d. Discussion Item – Policy Regarding MRGCD Serving as Fiscal Agent for Third Party Grants – Mike Hamman, MRGCD CEO/CE, Ray Gomez, MRGCD Assistant Engineer & Yasmeen Najmi, MRGCD Planner

Mr. Hamman said there was discussion earlier in the Items from the Floor that there are things to be considered when taking on the mantle of fiscal agent in a grant setting and being aware of the laws and associated components in a fiscal agent process. He said what the MRGCD is trying to do is advance relationships within the community at large. Mr. Hamman said they already have some projects to consider and this would give the MRGCD the capacity to manage smaller projects that would help to improve the efficiency of the system at large. He said he would like Mr. Gomez to speak to the relationship that was developed with the project he recently worked on and for Ms. Najmi in terms of her obligation and efforts with the acequia groups and land management entities. Both Mr. Gomez and Ms. Najmi addressed the Board with their comments and answered questions from the Board.

Director Kelly said he requested this item be placed on the agenda so there could be discussion regarding the development of a policy, establishment of rules for the various projects and possible administrative fees. He said there certainly won't be a decision today, but to consider if the Board wants to take this on and begin the process. Director Kelly said he supports this and would like the Board to move forward to begin draft language in a policy to support this type of work which may take 2-3 months to complete. Director Sichler said he would favor doing this with some kind of policy that would address the liability concerns and there would be good value in this type of service. After discussion, it was agreed that Ms. Wiggins, MRGCD General Counsel and Dr. DuMars, Chief Water Counsel will work to develop a policy and then a detailed set of procedures would be developed by staff that would change over time as needed.

- e. Discussion and Recommendation Regarding Evaluation of Chief Water Counsel & General Counsel Proposals – Mike Hamman, MRGCD CEO/CE & Jeanette Bustamante, MRGCD Administrative Manager

Ms. Bustamante reported that she sent out applicable information to the Board last Monday for the two proposals received for General Counsel and one proposal received for Chief Water Counsel. She said in speaking with Mr. Hamman there was discussion on the evaluation process; the seven member Board panel or establish a Board committee and that is the decision that needs to be made today. Discussion followed and there was Board consensus that Director Kelly would be the Board representative to an evaluation committee comprised of Mr. Hamman, Mr. Fergeson and Ms. Bustamante. Ms. Bustamante said she would notify the candidates of the change in schedule of events and requested a date to meet for the evaluation and it was decided later in the week of May 16th.

f. Status Update on Operations – Eric Zamora, MRGCD Assistant Chief Engineer for Operations

Mr. Zamora said he would like to take this opportunity to reiterate how important easements are to the operation of the MRGCD and gave a recent experience as an example. He said staff needs to refine some of the easement processes currently used.

Mr. Zamora said in his operations update he would start out with mowing and said it is in full gear and the winds are the biggest issue with implementing the herbicide program. He said another issue is the recent rash of vandalism to turnouts in the Albuquerque Division and those turnouts are now being repaired. Mr. Zamora said a welder from the Belen Division has been assisting the Albuquerque Division temporarily. He said they are also working on a pilot project that he spoke of during the last update and that is GPS capability and they are working with a software vendor to install their product and a training meeting has been scheduled. He said this is to better track productivity, equipment and personnel and as soon as there is concrete information to report, there will be a debriefing with the Division Managers and he will report to the Board. Mr. Zamora said staff is working on the sediment removal at Isleta and they are a month into the project with extra trucks from the Socorro Division. He said they are currently working with a private contractor on the possibility of removing the sediment from the area. Mr. Zamora and GIS staff have completed the stationing project in the Cochiti and Socorro Divisions and books have been printed, the Belen Division is complete and the books are being printed right now and the Albuquerque Division is almost complete. He said they are reporting about 1,177 miles of ditches and drains and so there are approximately 200 miles they need to research and account for to reach the 1,200 miles. Mr. Zamora said a project was started back in November with Valencia County on purchasing diesel fuel through their pumps. He said a quick analysis over the past five months the MRGCD has purchased about 25,000 gallons of fuel at a cost savings of approximately \$.55-60 on average per gallon.

Mr. Zamora distributed a draft Vehicle/Replacement Policy to the Board. He said this is a guidance document and does not dictate anything specific. He said this is a proposal to analyze MRGCD equipment with a value over \$5,000 and to establish the various categories, projecting service life and upper ranges for hours and mileage. Mr. Zamora then reviewed several other points in the draft policy. He then presented a PowerPoint showing a spreadsheet that was developed by staff showing equipment by division, description, cost, current book value, mileage, anticipated replacement date and costs related to the vehicle during its life. Mr. Zamora then presented a spreadsheet detailing capital outlay for equipment by division and reviewed several of the line items. He said this information will be used as a tool for staff in their decision making process in the future.

Director Dunning asked Mr. Zamora about the individual divisions doing their own oil changes and Mr. Zamora said this discussion has been had with MRGCD ER&T. He said presently the Socorro Division does their own oil changes in-house, Belen has a couple of vendors they use and recently the ER&T Division has been doing more in-house oil changes for the Albuquerque Division.

Mr. Fergeson said these spreadsheets are a first step that will be used in a process to continue to give information to the Division Managers that they can utilize in repair and replacement of vehicles and equipment.

g. Approved Licenses for April 2016 (For Informational Purposes Only)

AGENDA ITEM NO. 9 – REPORT(S) FROM THE ATTORNEY (Chief Water Counsel and/or General Counsel)

a. WildEarth Guardians Mandamus Litigation – Dr. Charles T. DuMars, Chief Water Counsel

Dr. DuMars distributed copies of the recent MRGCD Motion to Intervene and a proposed response to the Writ of Mandamus. He said he mentioned this before in closed session and he thinks this does a very good job of responding. He said the State did not oppose arguments and the WildEarth Guardians said they admit that the MRGCD is the real in party in interest, but then said

they reserve the right to oppose the argument. He said the United States filed a special [appearance contesting jurisdiction](#) and said they were a [real party in interest](#) and the whole thing has to be [dismissed because the United State is immune from suit](#) in State Court. Dr. DuMars said he thinks this is actually worth reading and it has a lot of history as well as the [basis for collaboration](#) that exists between the State Engineer and the MRGCD itself. He said the only requirement of intervention is not to make the same arguments necessarily and so the State Engineer's argument is they have discretion to request a Proof of Beneficial Use and the argument of the MRGCD is that it is the MRGCD itself who determines whether it has put the water to beneficial use through procedures of the Conservancy Court in Albuquerque.

- b. Negotiations with Pueblo of Isleta Over Isleta Diversion Dam – Dr. Charles T. DuMars, Chief Water Counsel

Dr. DuMars said negotiations have gone back and forth on language of the agreement for removal of the spoil and at the same time moving forward because, he has taken the position along with staff, that the MRGCD has the authority because of the easements to bring in removal for value. He said they seem to make good progress and then there are steps back, but every time they get to a critical issue where he feels the MRGCD should be protected and a limit on the obligation, the Pueblo pushes back and say not they are not going to do that. Dr. DuMars said the key issue that has been raised is whether or not the removal of the spoil is a stand-alone agreement as opposed to a subset of a larger settlement agreement. He said the MRGCD's position has been that the spoil will be removed because that is the right thing to do, but not be expected to remove it all within the next year with the BOR and then turn around and get sued for the damages. Dr. DuMars said it is his understanding at the middle of the month there will be an offer from the Pueblo; that will be very useful and instructive. He said the MRGCD has not been anxious to commit to a whole bunch of contractual obligations, but is doing it because it is the right thing to do and they will move forward with the BOR and the Pueblo and keep communication going. Dr. DuMars said it is clear there is some tension between the perceptions as to what the damage is in this case. He then cited a recent case between the United States and Espanola. He said the question has been how much damage has the Pueblo suffered because of this sediment issue, but he is hopeful that they will all be in the same ballpark and can settle the situation.

AGENDA ITEM NO. 10 – REPORTS FROM THE BOARD

- a. Report – MRCOG Water Resource Committee Meeting – May 4, 2016 – Director Oglesby

Director Oglesby said the meeting was a fairly standard meeting with several presentations one on evaporative pan technology, which the Board has seen previously, one presentation on the upgrades to LIDAR across New Mexico, they were introduced to the new Water Resource Manager for Rio Rancho and most importantly an introduction to the new CEO of the MRGCD.

Director Kelly made the **MOTION TO APPROVE THE REPORT FROM ON THE MRCOG WATER RESOURCE COMMITTEE MEETING OF May 4, 2016 BY DIRECTOR OGLESBY.** Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

- b. Report – MRGCD Legislative Committee Meeting – May 4, 2016 – Chairman Lente, Directors Dunning & Duggins

Director Dunning said the Legislative Committee met to discuss the bill put forth by Senators Bandy and Ivey-Soto to discuss the substitute bill that was introduced at the eleventh hour of the legislative session regarding a date change in the Election Day and a substitute bill that was going to change the whole election code. She said at the meeting there were lots of questions regarding the complex bill and they didn't come up with anything concrete to report back to the Board with the exception of requesting John Thompson, MRGCD Lobbyist to get answers to their list of questions on the bill. Director Dunning says the committee feels the bill will come back again in the next legislative session. Director Duggins said it is his opinion that the MRGCD resist this bill 100% and enlist the

help from the Pueblos as well. Chairman Lente said there was a lot of discussion on the potential impacts and consequences of the bill. He said it was suggested to have discussions with Senator Ivey-Soto and others. Director Dunning said earlier in the meeting Director Kelly brought up about MRGCD elections and the budget and if this bill goes into effect, the MRGCD would no longer directly pay for elections. She said if this bill passes in the next legislative session, unless there is an emergency clause, it wouldn't take effect until after the 2017 election. John Thompson said if it were passed in the last legislative session, it would have taken effect in November 2019 and applying the same rule, November of 2020 would be the implementation date. Mr. Hamman said they did place in next year's budget an item to do some kind of analysis on the cost and affect to the MRGCD. He said he feels they should also reach out to the County Clerks, Soil & Water Conservation districts and other affected group of folks that may or may not like this bill. Director Oglesby requested that the Recording Secretary distribute to the Board the final report of the 2010 SM21 Task Force. Director Kelly said that he concurs with Mr. Hamman that the MRGCD should reach out to the Soil & Water districts to discuss this and Director Sichler said that he concurs with Director Duggins that there is more negative impact and the MRGCD needs to stay on top of this and be prepared for January. Chairman Lente said the MRGCD has done so much work to try to make Pueblo and non-Pueblo issues on par with each other and this bill does a lot more damage and there are a lot of issues to think about. Dr. DuMars shared his experience with having the MRGCD elections at the same time as other elections. Director Kelly said that when the time comes, he would like the input from Dr. DuMars on whom the MRGCD should hire to analyze and evaluate the bill and Dr. DuMars said that he would be available.

Director Sichler made the **MOTION TO APPROVE THE REPORT FROM THE MRGCD LEGISLATIVE COMMITTEE MEETING ON MAY 4, 2016 BY CHAIRMAN LENTE, DIRECTORS DUNNING & DUGGINS**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

- c. Report – Pueblo Coalition Meeting – May 5, 2016 – Mike Hamman, MRGCD CEO and Director Oglesby

Mr. Hamman reported said there was a really unique situation with three types of water that the MRGCD is now storing; in Article VII, out of Article VII, San Juan Chama carryover from last year and also there is a block of water that was stored at the beginning of the year that will ultimately have a P&P label associated with it. He said there was a pretty lengthy discussion about this about all the different blocks of water in the system and with the introduction of the resolution of the Rio Grande Compact Commission authorizing another bucket of water in storage for El Vado Rio Grande Compact Resolution operations. He said it is his understanding the Coalition will receive a briefing for proposing the way that the balance of the 14,900 ac-ft. of water that will be stored, essentially around 10,000 ac-ft. that would be tied to storage out of Article VII and would actually be within what the MRGCD has stored for itself as an umbrella for all the people it serves; including the Pueblos. He said the water would be labeled to start with and as the season went along and if the water is not needed for any reason by the Pueblos, then it would revert back to the MRGCD on a month by month basis. He said this has happened in the past on water that was stored out of Article VII in normal times. Mr. Hamman said he thinks they are evaluating this from the standpoint of getting their arms around it and he thinks they will accept it as a means of moving forward. He said whatever is done for ESA is good for the entire basin including the Pueblos.

Director Oglesby said he thinks the Coalition is amenable to this practice and he suspects they will come to some caveats in terms of asserting their dominion control of the stored water and there will be ongoing conversations.

Director Kelly made the **MOTION TO APPROVE THE REPORT ON THE PUEBLO COALITION MEETING ON MAY 9, 2016 BY MIKE HAMMAN, MRGCD CEO & DIRECTOR OGLESBY**. Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

- d. Report – MRGCD Finance Committee Meeting – May 9, 2016 – Directors Kelly, Sichler & Romero

Director Sichler said he feels there is nothing more to add to this report.

Director Oglesby made the **MOTION TO APPROVE THE REPORT FROM DIRECTORS KELLY, SICHLER & ROMERO ON THE MRGCD FINANCE COMMITTEE MEETING MAY 9, 2016**. Director Duggins seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 11 – EXECUTIVE SESSION

- a. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)2)
 1. Limited Personnel Matters
- b. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)7)
 1. Threatened or Pending Litigation
- c. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)6)
 1. Certain Purchases – Section 13-1-116 of the Procurement Code

Chairman Lente requested a motion to move into Executive Session.

Director Oglesby **MADE THE MOTION TO MOVE INTO EXECUTIVE SESSION PURSUANT TO NMSA 1978 OPEN MEETINGS ACT (SECTION 10-15-1(H)2), (SECTION 10-15-1(H)7) & (SECTION 10-15-1(H)6)**. Director Kelly seconded the motion.

Chairman Lente requested a roll call vote:

Director Duggins	Yes	Director Dunning	Yes
Director Oglesby	Yes	Chairman Lente	Yes
Director Kelly	Yes	Director Sichler	Yes
Director Romero	Yes		

The **MOTION CARRIED** unanimously.

Chairman Lente adjourned the meeting at 5:30 pm.

Chairman Lente reconvened the meeting at 6:15 pm.

Chairman Lente requested a motion to move back into the regular Board meeting. Director Oglesby made the **MOTION TO MOVE BACK INTO REGULAR SESSION**. Director Dunning seconded the motion.

Chairman Lente requested a roll call vote:

Director Duggins	Yes	Director Dunning	Yes
Director Oglesby	Yes	Chairman Lente	Yes
Director Kelly	Yes	Director Sichler	Yes
Director Romero	Yes		

The **MOTION CARRIED** unanimously.

Chairman Lente said discussion was had and there were no decisions made.

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

The meeting was adjourned at 6:17 pm.

Approved to be the correct Minutes of the Board of Directors of May 9, 2016.

Attested:

David M. Ferguson
Secretary/Treasurer

Derrick J. Lente, Chairman
MRGCD Board of Directors