

**MINUTES OF THE
REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
JUNE 11, 2018**

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

DIRECTORS

John P. Kelly	Chairman	
Glen Duggins	Vice-Chair	
Joaquín Baca	Director	
Karen Dunning	Director	
Derrick J. Lente	Director	Absent
Beverly Romero	Director	Absent
Valerie Moore	Director	

STAFF

Mike Hamman	Chief Engineer/CEO
Dr. DuMars	Chief Water Counsel
Bruce Wiggins	General Counsel
Lorna Wiggins	General Counsel
David M. Fergeson	Secretary-Treasurer
Jeanette Bustamante	Administrative Officer/CPO
David Gensler	Water Operations Manager
Becky Burnham	Budget Analyst
Alicia Lopez	Engineer 1
Adrienne Martinez	Engineer 1
Yasmeen Najmi	Planner/RRA
Christine Nardi	Human Resource Director
Jason Casuga	Engineer Manager
Lorenzo Benavidez	Socorro Division Manager

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

Rita M. Padilla-Gutierrez	Kenneth Davis	Sterling Grogan, Carpe Diem West
Andrea C. Padilla	Ondrea Hummel, Tetra Tech	Debbie O'Mally, Bern. Co. Comm,
Joe Baca	Christy Tafoya, NM State Parks	Gary Stansifer, OSE
Therese Williams	Oleta Saunders	Trevor Birt, UNM
Dede Feldman	Peggy	Katie Elder, BEMP, Bosque School
Scott Edeal	Susan Kelly	Jennifer Faler, USBR
Suzanne Williams	John Fleck	Earl Gleason
Joe Williams	Adrian Oglesby	Vince Case, SMNHC
Henry Shonerd	Judy Kowalski, NM State Parks	James Martin, Lemitar
Oscar Simpson	Craig Strandberg	Laura Paskus, NMPR
Emily Willis	Diane Souder	
Mark Mahmann	Jeff Willis, AMAFCA	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Senator Feldman led the Pledge of Allegiance.

Chairman Kelly welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairman Kelly asked to move Item 10.b. the Water Report and Item 10.g. Report on Pueblo Coalition to immediately follow after Items from the Floor.

Director Baca asked to add his Report of Meeting with Mr. Edeal on June 10, 2018, to Item 12.b.

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

AGENDA ITEM NO. 3 – APPROVAL OF RESOLUTION M-06-11-18-156 - RECOGNIZING ELIZABETH DILLINGHAM FOR HER YEARS OF SERVICE TO THE STATE OF NEW MEXICO AND THE MIDDLE RIO GRANDE VALLEY - John Kelly, Chairman

Director Baca presented the award in recognition of Elizabeth Dillingham.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

**RECOGNIZING ELIZABETH DILLINGHAM
FOR HER YEARS OF SERVICE
TO THE STATE OF NEW MEXICO AND
THE MIDDLE RIO GRANDE VALLEY**

M-06-11-18-156

WHEREAS, Elizabeth (Beth) Dillingham grew up near the Rio Grande Nature Center and graduated from Valley High school, and spent her formative years roaming through the Rio Grande Bosque and watching the birds, fish, and frogs in the “Clear Ditch”; and

WHEREAS, In 1991 Beth joined the Sandia Mountain Environmental Education Center during a pending closure of the Education Center and worked with Governor Bruce King to secure funding for the Center’s continued existence in partnership with New Mexico Museum of Natural History; and

WHEREAS, from 1991 to 1993, through tenacity, tireless perseverance and hours of collaboration, Beth was instrumental in establishing the joint powers agreement between the Albuquerque Public Schools and the New Mexico Museum of Natural History and Science at the Sandia Mountain Natural History Center in Cedar Crest to sustain threatened environmental education programs for over 10,000 5th graders annually in the Middle Rio Grande valley; and

WHEREAS, as an education coordinator at the Rio Grande Zoo from 1994 to 2004, Beth developed environmental education programs and trained hundreds of volunteers; and

WHEREAS, Beth served as Superintendent of the Rio Grande Nature Center State Park from 2004 thru 2017 and welcomed over 240,000 visitors per year to the Nature Center as well as almost 300 different species of birds; and

WHEREAS, Beth directly impacted the lives of these visitors, including thousands of children statewide, by coordinating and providing excellent outdoor educational programming; and weaving together a connection between the Bosque and children in a way that changed lives; and

WHEREAS, in her role as Superintendent, Beth supported the protection and stewardship of the natural and cultural resources of New Mexico; and fostered strong partnerships with federal, state and local agencies, non-profits and many wonderful volunteers; and

WHEREAS, her efforts were recognized by the New Mexico Riparian Council in 2012, when she received the Council’s prestigious Education/Public Awareness Award; and

WHEREAS, she helped find an agreeable way forward in the design and construction of the new education building at the Rio Grande Nature Center, which is a true showcase of sustainable green building techniques; and

WHEREAS, Beth always considered the Albuquerque Riverside Drain a key component of the Rio Grande Nature Center's ecosystem, and was known to protect and support the beavers and their dams in the "Clear Ditch"; and

WHEREAS, she's always a calming presence with a tremendous sense of humor; and

WHEREAS she has nurtured volunteers, created intergenerational programs, and promoted-- with an eye toward preservation-- the Rio Grande Valley State Park as this city's crown jewel.

NOW THEREFORE, BE IT RESOLVED:

That the Board of Directors and Staff of the Middle Rio Grande Conservancy District recognize and honor Elizabeth Dillingham for her many years of dedicated public service for the benefit of the citizens of the State of New Mexico, and for the flora and fauna of the Middle Rio Grande Valley.

DATED AND RESOLVED this 11th day of June, 2018.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

John P. Kelly, Board Chairman

ATTEST:

David M. Fergeson, Secretary/Treasurer

AGENDA ITEM NO. 4 – ELECTION OF BOARD CHAIR & VICE-CHAIR – REORGANIZATION OF THE BOARD – Lorna Wiggins, MRGCD General Counsel

Chairman Kelly explained that Director Lente was called on by the Pueblo of Sandia Council and also Director Romero had a family emergency, and both of them would be unable to attend today's meeting. Chairman Kelly strongly felt that voting and reorganization should take place with all directors present. Lorna Wiggins explained the Resolution for this activity and further explained that the Board can resolve issues that arise at its pleasure. Lorna Wiggins also explained that officer positions are one-year terms to ensure that there is opportunity for Directors to voice their positions on leadership of the Board.

Director Dunning's preference was to continue with the status quo and re-elect the Chair and Vice-Chair, but she also comments Chairman Kelly for taking the moral high ground.

Director Baca reiterated Director Dunning's sentiments and feels Chairman Kelly has done a great job.

It was Director Duggin's recollection that the vote had been postponed in years past, and his suggestion was to postpone this year as well.

Director Moore commended Chairman Kelly for his stance on wanting to make sure everyone participated in the vote.

Chairman Kelly made the **MOTION TO TABLE THE ELECTION OF BOARD CHAIR AND VICE-CHAIR UNTIL THERE IS A FULL BOARD IN ATTENDANCE**. Director Duggins seconded the motion. The **MOTION CARRIED**.

AGENDA ITEM NO. 5 – APPROVAL OF MRGCD PAYMENT RATIFICATION & ATTORNEY INVOICES

a. Consideration/Approval of Payment Ratification for June 11, 2018

Director Moore questioned check 127562 for fuel. David Fergeson explained that we have an agreement with Valencia County to buy diesel fuel at a reduced price.

Director Moore also questioned how many times we replenish turnouts because of some of the substantial amounts shown on the payment ratification. David Fergeson explained that he is trying to keep an inventory on hand at all times.

Chairman Kelly questioned why MRGCD was utilizing Fresno instead of Waterman. Mike Hamman explained that Waterman was headed out of business and could not deliver on an important order and did not inform MRGCD for a couple of months, which put us in a tight spot. Fresno bailed us out, so we are trying to stick with Fresno.

Director Dunning made the **MOTION TO APPROVE THE PAYMENT RATIFICATION FOR JUNE 11, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

b. Consideration/Approval of April 2018 Invoice for Law and Resource Planning Associates

No questions or discussion regarding the Invoice was presented.

Director Moore made the **MOTION TO APPROVE THE APRIL 2018 INVOICE FOR LAW AND RESOURCE PLANNING ASSOCIATES**. Director Dunning seconded the motion. The **MOTION CARRIED**.

c. Consideration/Approval of May 2018 Invoice for Law and Resource Planning Associates

No questions or discussion regarding the Invoice were presented.

Director Dunning made the **MOTION TO APPROVE THE MAY 2018 INVOICE FOR LAW AND RESOURCE PLANNING ASSOCIATES**. Director Moore seconded the motion. The **MOTION CARRIED**.

d. Consideration/Approval of May 2018 Invoice for Wiggins, Williams & Wiggins

No questions or discussion regarding the Invoice were presented.

Director Dunning made the **MOTION TO APPROVE THE MAY 2018 INVOICE FOR WIGGINS, WILLIAMS, & WIGGINS**. Director Baca seconded the motion. The **MOTION CARRIED**.

AGENDA ITEM NO. 6 – APPROVAL OF MRGCD MEETING MINUTES

a. Consideration/Approval of Minutes for Regular Board Meeting – April 24, 2018

Director Dunning suggested two changes for the minutes: On line 89, change Southwest Rural Flycatcher to Willow Flycatcher. On 99, she would like the reference of "we" removed (i.e., ... that "we" are trying to transfer water out of the district ...").

Director Moore made the **MOTION TO APPROVE THE MINUTES FOR THE REGULAR BOARD MEETING ON APRIL 24, 2018**. Director Baca seconded the motion. The **MOTION CARRIED**. Chairman Kelly abstained from the vote due to his absence from the April 24th meeting.

b. Consideration/Approval of Minutes for Regular Board Meeting – May 7, 2018

No questions or discussion regarding the Minutes for the Regular Board Meeting of May 7, 2018, were presented.

Director Duggins made the **MOTION TO APPROVE THE MINUTES FOR THE REGULAR BOARD MEETING ON MAY 7, 2018**. Director Moore seconded the motion. The **MOTION CARRIED**.

c. Consideration/Approval of Minutes for Special Board Meeting – May 21, 2018

No questions or discussion regarding the Minutes for the Regular Board Meeting of May 21, 2018, were presented.

Director Dunning made the **MOTION TO APPROVE THE MINUTES FOR THE REGULAR BOARD MEETING ON MAY 21, 2018**. Director Duggins seconded the motion. The **MOTION CARRIED**. Chairman Kelly abstained from the vote due to his absence from the April 24th meeting.

AGENDA ITEM NO. 7 – ITEMS FROM THE FLOOR

Rita Padilla-Gutierrez

Rita Padilla-Gutierrez owns a farm in Tome and Jarales. She thanked Director Duggins for his quick response a few months ago. They met over the phone, and, although, at the end of the conversation, they agreed to disagree on certain things, that was good. She was mostly interested in the fact that he responded very quickly, which has not happened in the past. She wanted to give her two cents regarding all of the acts of nature, if you will, that have occurred up on the mesa. Her main concern is that there was a huge legal payout a few months ago that had the same kind of issue. She believes that, now, we have it here again, but this time she believes it was an act of nature. She is hoping that this board will not paying out on large lawsuits because it is ultimately money from fee payers. She is hoping that this Board will examine the situation and not pay to do something that maybe someone else could be control, like the person upstairs.

Rhonda Davis and Chase Williams

Rhonda Davis and Chase Williams' parents live on Olive Terrace. They are here to ask for help in addressing the damage caused by flooding (not only water damage but the mud as well). The effects have been detrimental to the people that live on Olive Terrace. In addition, there are safety issues because rescue personnel would not be able to access the area.

They wanted to know if the canals or ditches were ever inspected, and, if so, what are the findings? They believe the problem is being created above I-25. They have heard that certain parts of the Highline Canal are "breaking" and would like to know if that is true, why, and what is being done about it.

Ms. Williams shared pictures of the devastation with the board. Chairman Kelly turned the questions over to Mike Hamman. Mr. Hamman responded that there were two storm events, one in September 2017 and one late in May 2018. Some reports indicate as much as four inches of rain fell on parts of the watershed in that area; however, that has not been confirmed by the storm tracking data that we've asked our engineers to look at. Certain parts of that watershed experienced close to a 100-year event close to the area that actually comes through, crosses I-25, and kind of concentrates the flow right in that Olive Terrace area. That road is a relatively steep road that is flat in some areas. From a water flowing perspective, it flows pretty quickly down that road. The nature of the culverts that are situated on I-25 and the way the storms came across the area, it overwhelmed the canals. We are still working on trying to get the canal back in order. We have a very narrow right of way with a small amount of operating space to create flood protection, even though the canals that we have throughout the District have prevented smaller storms from bothering areas like Olive Terrace. Olive Terrace just happened to be hit by two very intense storms. So, that's why the canals broke. The flows get concentrated in certain areas. They overwhelm the canal. They fill it full of sediment. They dam it up, and then it flows over and creates the flooding

Ms. Davis asked if there were automatic gate that were supposed to open and divert the water into the main canal down from Olive Terrace. Mr. Hamman reported that the gate did, in fact, open up completely. When the canal was overwhelmed, it was running somewhere around 300-plus CFS, which is over its design capacity. The canal was completely full and overwhelmed with both sediment and water, and it was flowing full bore down the Feeder Three cascading concrete channel. The road was closed. Our guys could not even get up in there to survey the damage because the flows were coming through so intensely. So, it was the kind of flows that we have not seen in quite a long time.

Ms. Davis asked what would be done from preventing this from happening in the future. They have heard others blaming other agencies. They just want to know what to do to prevent it. Mr. Hamman responded that we have committed to perform a drainage management plan that would give us some options about what sort of structural fixes and things we can do to try to route that flow farther south and maybe get it down into some holding ponds or actually create some holding ponds right above the canal itself. The final plan will be complete in July. Regarding flood control, our authority is really only for the main stem of the Rio Grande. We manage all the levees to prevent the Rio Grande from flooding people in the valley, but we do not have specific flood control authority outside of our right away. Our authority is along the canals. We have no authority to go upstream of that. Whether we end up having that authority, I don't know, but maybe in this area they have formed flood control authorities that assist with these kinds of storm events that come off the mesas and into the valley.

Ms. Davis asked for assistance with the irrigation ditch in her area for the many elderly people on Olive Terrace. Mr. Hamman said that there are resources available, either through the Soil

and Water Conservation District or the NRCS for emergency support when irrigation systems get wiped out. Mr. Hamman offered assistance to help her in that regard.

Ms. Williams then asked if the ditches and canals are inspected, and, if so, when the canal above I-25 was inspected. Mr. Hamman responded that the MRGCD inspects frequently. The irrigation system operators are constantly up and down the canal, as well as division managers that are in charge of maintenance. About three or four years ago, the Bureau of Reclamation performed a comprehensive review of certain areas of the District that could be of concern from a possible flood event, and the report is public.

Ms. Davis reiterated her plea for help for retired or elderly and sick since they do not have resources. She would like to do something "quick."

Earl Gleason

Mr. Gleason was at the County Commission meeting, and relayed his negative experience with the Valencia County Commission. He said they told him that the flooding and damage is a legal matter. He believes there are places with highline breaks from Los Chavez. He also discussed the history of the Houston Dam and shared his engineering ideas for the entire basin.

Chairman Kelly explained that MRGCD has engaged a local engineer to take a look at the entire basin, and they're looking at solutions. We also have 50 acres that are going to be deeded to us very soon that may be part of the solution. Chairman Kelly cautioned that the MRGCD has to be sure that it does not assume what the county does. Mr. Hamman put together an agreement that brings together Valencia County, Socorro County, the Highway Department, and the MRGCD, and a major property owner out there, and we're trying to execute that agreement and start getting holes in the ground where we need them. It takes a while to get these things moving, and it took a while to get the counties to agree to be part of the program due to funding issues. MRGCD's mission is flood control on the Rio Grande; however, we're the ones up there on the side of the hill with the canal. So, we are going to have to be part of the solution, but we are not going to be the masters of the solution, nor are we going to have the money to pay to implement the whole thing. We are going to need help from the State. Mr. Hamman has talked with the Corps of Engineers, trying to get them interested in what really needs to be about six big detention dams up there, sized where they could bleed a 24-inch pipe into the canal and, better yet, with the gate on each one to where you could wait until you're ready for it before you opened the gate. There are a lot of big things that need to happen, but as soon as we get that first 50 acres, per the agreement, we can make a few things better with the property we're able to work with.

Chairman Kelly asked Mike Hamman to run through the major points of the agreement. Mr. Hamman reported that the study has to be done first, which should be finalized in July. The other major component is to gather the partnership and the resources and have people start looking at their internal resources to help us in all the phases of this that are going to begin to address that issue. Then, the combined efforts of all of us will allow us to apply for grants and other actions.

Chairman Kelly asked if MRGCD has any sediment with some fine binder material in it that we might make available to the county. Mr. Hamman reported that he thinks two of our board members know (one is absent), we are already undertaking that with the county. I understood the county was working on trying to get some kind of release forms for them to allow them to work on a private road. And I'm not sure what the status is on that, but we are ready to help, to the extent that we can.

Director Duggins added that the canal was not MRGCD water. At about noon that day, very little was coming down that was storm water. Directors Duggins and Romero went out there, but sometimes their hands are tied, and they cannot help due to state law preventing them. Lorna Wiggins concurred with the comment. Director Duggins wanted everyone to know that he and Director Romero care very much.

Director Moore wanted to know where Olive Terrace is located. Mike Hamman explained that it is off Highway 116, about two miles south of Dump Road.

Kenneth Davis

Kenneth Davis lives in Olive Terrace. He believes the Conservancy or the Highway Department removed a culvert right above the falls when he moved there about 30 years ago, and he wants to know who removed them (MRGCD or Highway Department). Chairman Kelly reported that Mr. Hamman is looking into it. Mr. Davis said there was a culvert that ran the water south, which is now blocked. It goes right onto his place and does not go south anymore. The west side of that road is for emergency only. He understands Mechenbier can take heavier equipment on his side, but he believes that is where the water is coming from, out of the highline ditch. The clay is extremely thick at his barn. He does not believe it came off of the west mesa; he believes it came out of the highline ditch.

Mr. Davis appreciates that Director Duggins visited his property. Director Duggins didn't doubt that what is there is clay, but Director Duggins says he knows the ditch was not carrying Conservancy water. Mr. Davis is adamant that it is coming from the ditch. Chairman Kelly asked Mr. Hamman to look into the culvert.

SCOTT EDEAL

Mr. Edeal was on the Soil Conservation Board in Los Lunas when he was 19 years old. In 1969, they (including him) warned Belen and others that the area would flood, and there was no way to stop it. Everybody just laughed at them. He believes that is why they built Houston Dam. They did some things but did not do anything south of Belen when they worked on plans.

His issue today is that we are still dealing with the water rights. He had a few bullet points:

- MRGCD let water go to Santa Fe without being protested, and it went through. Nobody protested it. So, he feels MRGCD is "picking" on certain individual people. This thing went through with no protests, which is not very friendly to me.
- MRGCD has not dropped his protest, like it promised.
- MRGCD counsel is misleading everyone on the amount of water that is still left to transfer, that is available pre-1907.
- We are more pre-1907 water rights by land being abandoned and not farmed (houses are built on them).
- The transfers that you protested, the water was leased back to the farm for five years. So, it would not have affected anything on the farm.
- Rio Communities, which their water system is owned by New Mexico Water, which is actually California water, has water they use all the way from Meadow Lake. The way to get to Rio Communities, all of the water rights was given to them by the State of New Mexico or somebody. It is not pre-1907; it's 1956 water. They do not have to buy anymore. They got 1,600-acre feet extra. They can build houses all the way to the mountain, and the MRGCD is worried about Rio Rancho?

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

a. U.S. Bureau of Reclamation – Ms. Jennifer Faler, Area Manager

Jennifer Faler thanked the Board for rearranging the agenda.

She echoed everything that Mr. Hamman said about where we are with this year's water ops and tagging water with just a slight variation. From their perspective, it is pretty late in the game. You see the big zero on the sheet in June. We have folks that look at our model that we run every day, and they want to see exactly where the water is and which pots that it's in, and we don't have it in those pots yet because we have not tagged the P&P because we're waiting for these negotiations to play out.

So just a little bit of anxiousness on Reclamation side since we run the model. Folks are expecting this information. So, we are just asking for patience from everybody because this is a good process of trust building. It is very stark contrast to Klamath. The only thing I would add is the relationship with the tribes is like a thousand times better here than what's going on up in that basin. We are blessed to be in this basin and to be able to work together so well. So, acknowledgement to the District for their cooperative approach in this very difficult year and for everyone's patience.

Next item the Department of Interior was asked by Senator Udall's staff to draft up some legislation, and we have been able to accomplish that so that process is moving along. The El Vado safety dam project has had a few activities going on, and there is a big meeting coming up this week where I think folks will be pretty informed on what is going on there. It is working through the process and compared to from when it started in the late '90s to now, it's really on an accelerated pace. That project is moving forward, and she encouraged folks to get up there, if they haven't had a chance. It was really eye opening for my team.

She wrapped up with BO implementation. As far as the water ops side of our BO implementation and the performance based biological opinion that we received from the service on minnow populations; that despite all the grim discussions that are ongoing, so far, we've done well with managing the minnow populations. Some of the rain events that have happened, along with some operations they have been able to produce lots of minnow eggs. We're optimistic about the minnow population and always want to remind folks that this is a population that can get very, very small and very, very big in a matter of just one year, when the monsoons do cooperate. There will probably be a lot of educational things this summer along those lines because everybody sort of expects the worst if you have a bad year. We were coming off three bad years in a row, and the population got pretty low and was able to recover from just one good water year.

We've also committed to quite a few projects, and we're making good progress on those projects. We are looking to form maybe a little bit more structure to make sure those projects are moving forward, reach out with the ISC and MRGCD to get designated team members on some of the specific projects when it takes all three of us agencies to implement those, and then have an oversight group that will be making sure that progress is being made. If they hit any roadblocks that they can't get over, they have folks that can elevate issues too. They are working on setting that structure now.

Just a reminder to folks that all eyes are on us. There is a lot of press about the water situation in the southwest, particularly New Mexico. You've probably been forwarded a lot of these articles, and it just struck me that there was a major court decision with Wild Earth Guardians v. Corps of Engineers. The District is intervener there, and none of us have seen any articles on that. People are really paying attention to the hydrology. Maybe you've seen some articles, but

we have not. So, it's just sort of amazing how much focus we have on us this summer because of the water situation.

Chairman Kelly asked if the State Highway Department had agreed to pay for the bridge over the spillway at El Vado. Ms. Faler reported that they have not agreed. She added that they appreciate the District's commitment. Our main thing is we want the road to go straight at the end and not make that big bend. If MRGCD has anything specific it wants them to do, they have opportunities to apply pressure, but as a federal agency they try not to use that too much.

b. U.S. Bureau of Indian Affairs – Ms. Viola Sanchez, Designated Engineer

Just a little background on the agreement that was reached. Originally, they were supposed to have a coalition meeting June 7th but could not have it because not enough governors could be present. So, the staff was working individually with each governor and managed to get all the signatures. We had to have one council meeting at Santo Domingo, and they managed to get that the day before for signatures. Every tribe really stepped up to the plate on that. Most of them just required a governor's signature, Santo Domingo at least. Possibly one or two others required a council meeting.

Regarding the council meeting, the governor and the council members were very appreciative that they were consulted and asked about it and that they were able to assent to it, instead of just having it forced on them. They want to continue that way so that any future requests would be taken back to them for their consideration. They were pretty keen on Mr. Hamman's suggestion about having some kind of PR thing with all the cooperating agencies and entities later this year, and they wanted to be part of that.

She also mentioned the meeting in Bernalillo and how only a couple people showed up. It sounds like they are fairly interested in having a board meeting at the pueblo, at least this governor is. So, maybe MRGCD might consider that for next year, instead of Bernalillo, maybe having it out at Santo Domingo. They are the biggest irrigators in the Cochiti Division, and they are actually in the Cochiti Division, whereas Bernalillo is not (Bernalillo is in the Albuquerque Division).

So, had we not had that agreement, all that did is advance the May and June storage for the Prior and Paramount to the District ahead of time. Had we not had that agreement, we would have begun releasing from the Prior and Paramount in storage on June 1st, and we would be continuing to this day with some of the releases. Then, at the end of the month, any unused for the month would have turned back to the District anyway.

So, there will be other things that we will look at doing. Mr. Hamman and Ms. Sanchez have talked about possibly advancing July's and possibly doing an exchange of native for San Juan-Chama for August and September, or even part of July's Prior and Paramount, possibly getting with Reclamation and seeing what they are going to do with any water that shows up, San Juan-Chama water at Isleta Division Dam. We might be able to use that as part of the Pryor and Paramount, and then keep some back in storage, so that Isleta is taken care of that with that instead.

There are still a lot of things that we are looking at and that will be playing out, hopefully, sooner rather than later. One important thing to remember is no matter how many tricks we try and what we agreed to and what we manage to pull off, if we don't get rain, it is really all going to be for nothing. Nothing will have changed in the end. What we are doing is we are trying to set the stage for if we get rain, and take advantage of it in a way that helps water users next year. But

if we don't get rain, things will have played out the same as they would have without all the things we have been going through anyway. So, the effectiveness of what we are doing still remains to be seen. We are doing our part, and hopefully we will get some rain.

This may be a longshot, but the highway over El Vado Dam services the Jicarilla Apache. You might look at the Bureau of Indian Affairs and the roads program to see if there's anything that might be able to help you with that, because there are different programs within the roads of BIA and perhaps something there. She realizes it's a state highway, but it does lead to the Jicarilla Apache Reservation. And so, there may be something that qualifies.

Director Dunning commended everyone for working together so well.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE MRGCD SECRETARY-TREASURER - David M. Fergeson

- a. **Discussion and Approval of Draft Resolution Number M-06-11-18-153, Setting Contracting Authority for the Chief Executive Officer – David M. Fergeson, Secretary-Treasurer**

The Contracting Authority Resolution establishes Mike Hamman's contracting authority with certain dollar amounts and abilities to adjust schedules on projects that have been looked at the finance committee. It has been looked at by the board as a draft.

Director Dunning suggested that the wording be "personal property" instead of "person property" on F.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT
CHIEF EXECUTIVE OFFICER (CEO) CONTRACTING AUTHORITY**

M-06-11-18-153

WHEREAS THE Board of Directors of the Middle Rio Grande Conservancy District (MRGCD) desires to see the daily operations of the MRGCD operate in an efficient and fiscally sound manner, and

WHEREAS, the Board of Directors recognize the need for senior management to retain a level of contracting authority that provides for said efficiency in running the day-to-day operations of the MRGCD, and

WHEREAS the level of authority would extend to items, such as small purchases, change orders to contracts, granting extension of time related to contracts, utility relocations, on-call services task orders and similar transactions, that would improve operational efficiency if handled administratively and without prior, formal Board approval.

NOW, THEREFORE IT IS HERBY RESOLVED BY THE BOARD OF DIRECTORS OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT, as follows:

1. The CEO is authorized to take the following actions, at his discretion without first obtaining formal Board approval:

- a. Make purchases and enter into contracts, in the name of the MRGCD, in an amount of \$60,000.00 or less, for any single purchase or contract;
 - b. Notwithstanding Paragraph (a) above, approve task orders for existing on-call services contracts in amounts up to \$100,000.00, with the provision that any potential on-call assignment of \$100,000.00 or greater is subject to board approval through a separate request for proposal;
 - c. Execute modifications or change orders concerning existing contracts, in an amount of 10% of the face amount of the contract or \$60,000.00, whichever is less;
 - d. Enter into contracts or agreements with companies for the installation, relocation, modification or removal of utilities (when associated with the MRGCD construction or maintenance activities), not to exceed \$30,000.00 per utility, or \$60,000.00 in the aggregate per project;
 - e. Approve, for construction project contracts bid and let on a unit price basis, any additional work or materials at existing contract bid item or unit price, provided that the additional work or materials are necessary to complete the intent of the project. This approval authorization is further limited by the condition that if the quantity of any major item of work or materials (defined as any bid item having a contract value, as bid, greater than 10% of the original contract dollar amount) is increased by more than 25%, the CEO shall negotiate in good faith for an equitable unit price adjustment. Upon reaching a negotiated price, the CEO is authorized to approve the additional work or materials at the negotiated price, to the extent that the additional work or materials are required to complete the intent of the contract;
 - f. During emergencies the CEO is authorized to purchase all materials, rent equipment necessary and enter into contracts as needed, when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions, in compliance with NMSA 13-1-127. The existence of the emergency condition creates an immediate and serious need for service, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government; the preservation of protection of property; or the health or safety of any person. The CEO shall report to the Board as defined in number 2 below.
 - g. Grant time extensions on all contracts.
2. The CEO shall advise the Board of all actions taken by him under the authority granted in this Resolution at the next regular Board meeting after the actions are taken. For the small purchases, contracts, change orders and utility relocations, emergency procurement as described in Sections 1.a, 1.c, 1.d and 1.f above; on call task orders of \$60,000 or less such advisement may take the form of inclusion of such by the CEO within his report at the next duly scheduled Board meeting monthly recap. For task orders for on-call service contracts less than **\$100,000.00 as per section 1b**, such advisement shall be in the form of an informational memo to the Board as part of the next regular Board meeting agenda.
3. The authority granted herein shall be subject to State law, including any regulations imposed by NMDFA.

PASSED, APPROVED AND ADOPTED this 11th day of June, 2018.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

John P. Kelly, Chairman of the Board

ATTEST:

David M. Fergeson, Secretary/Treasurer

Director Dunning made the **MOTION TO APPROVE DRAFT RESOLUTION NUMBER M-06-11-18-153, SETTING CONTRACTING AUTHORITY FOR THE CHIEF EXECUTIVE OFFICER.** Director Baca seconded the motion. The **MOTION CARRIED.**

b. Discussion and Approval of NMFA Resolution # M-06-11-18-155 for Authorizing Loan Agreement between MRGCD and New Mexico Finance Authority (Roll call Vote) - David M. Fergeson, Secretary-Treasurer

Chairman Kelly did not want to go over detail but wanted Mr. Fergeson to assure the Board that we can comply with everything in the Resolution and that it is the same deal that we were told at the finance committee, as well as the Board, when we discussed this with the budget. Mr. Fergeson assured the Board that that was the case. This is very similar to the water trust board when we went through that with the small loan grants. He tried to get the Resolution to a small piece, but they insisted that all of this verbiage be in it. Bruce and Mr. Fergeson talked a little bit about it, and they want what they want.

Director Moore questioned the principal amount being \$2,735,575. She thought originally we had said it was going to be 2.3 or something. Mr. Fergeson responded that it was \$2.5, but they require that we put an amount in escrow, so they have to take out more. In case we miss a payment, they've got it in escrow.

Bruce Wiggins concurred with the contents and writing of the Resolution.

**Middle Rio Grande Conservancy District
Notice of Adoption of Resolution**

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. M-06-11-18-155, duly adopted and approved by the Governing Body of the Middle Rio Grande Conservancy District, Bernalillo County, New Mexico, on June 11, 2018. A complete copy of the Resolution is available for public inspection during the normal and regular business hours of the Secretary/Treasurer, 1931 Second Street, N.W., Albuquerque, New Mexico.

The title of the Resolution is:

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT
RESOLUTION NO. M-06-11-18-155**

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT, BERNALILLO COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, IN THE PRINCIPAL AMOUNT OF \$2,735,575 FOR THE PURPOSE OF FINANCING EQUIPMENT AND RESPECTIVE APPARATUS, FUNDING A LOAN AGREEMENT RESERVE ACCOUNT AND PAYING A LOAN PROCESSING FEE, AND

EVIDENCING THE SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO REPAY THE PRINCIPAL AMOUNT OF \$2,735,575, TOGETHER WITH INTEREST THEREON; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE GOVERNMENTAL UNIT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

A general summary of the subject matter of the Resolution is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

PASSED, APPROVED AND ADOPTED THIS 11th day of June, 2018.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

By:

John P. Kelly, Board Chairman

[SEAL]

ATTEST:

By: _____
David M. Fergeson, Secretary/Treasurer

Director Dunning made the **MOTION TO APPROVE DRAFT RESOLUTION NUMBER M-06-11-18-155, AUTHORIZING LOAN AGREEMENT BETWEEN MRGCD AND NEW MEXICO FINANCE AUTHORITY.** Director Moore seconded the motion. The **MOTION CARRIED.**

c. Department of Finance and Administration Contingent Approval of FY19 MRGCD Budget – David M. Fergeson, Secretary-Treasurer

Informational purposes only that the State has accepted our budget.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE MRGCD CHIEF ENGINEER - Mike Hamman, CE/CEO

- a. Bid Abstract – Jeanette Bustamante, Administrative Officer/CPO**
 - 1) Janitorial Services Contract for FY19**

M E M O R A N D U M

**To: MRGCD Chairman Kelly and Board of Directors
Mike Hamman, Chief Engineer/CEO
David Fergeson, Secretary-Treasurer**

From: Evaluation Committee
 Jeanette Bustamante, Administrative Officer/CPO
 Richard DeLoia, Purchasing Agent

Date: June 5, 2018

Re: Janitorial Services Contract

Request for Proposal (RFP) for Janitorial Services was solicited for a one (1) year contract with the option to extend for three (3) additional one year terms not to exceed four years. RFP was advertised in compliance with the State Procurement Code, and the deadline to respond was May 31, 2018, and three (3) Proposals were received.

VENDOR	DAILY/MONTHLY/ANNUAL SERVICES
Maintenance Service Systems, Inc.	\$1,475.00/Mo - plus options
Jani King	\$2,574.60/Mo - plus options
Native Resource Development	\$2,319.74/Mo - plus options

Each proposal was thoroughly reviewed and evaluated.

The Evaluating Committee hereby, recommends award of contract for Janitorial Services for the General Office to Maintenance Service Systems, Inc., Maintenance Service is experienced, highly qualified, and meets and exceeds the requirements that were outlined in the Request for Proposal.

Contract services amount plus gross receipt tax shall be as follows:

SERVICES	UNIT	ANNUALLY
All Daily, Monthly, Quarterly and Semi Annual Tasks	\$1,475/Mo.	\$17,700.00
Skyline Windows – Annually		300.00
“OPTIONS”		
a. Steam Clean Carets	\$ 400.00	
b. Hot Water Extraction Cleaning of Carpets	\$ 350.00	
Hours Required Per Week – 20 hours		

2) Mower Bid – One Year Price Agreement

M E M O R A N D U M

To: MRGCD Chairman Kelly and Board of Directors
 Mike A. Hamman, CEO/CE
 David Fergeson, Secretary-Treasurer
 Jeanette Bustamante, Administrative Officer

From: Richard DeLoia, Purchasing Agent *RD*

Date: June 7, 2018

Re: ABSTRACT FOR MOWERS, PRICE AGREEMENT

Request for Bid was advertised on 5/26 & 5/28; four (4) bid packets were issued and two (2) bids were received as follows:

VENDOR	2018 4X4 TRACTOR	60" SIDE MOWER	ROTARY MOWER	2 YEAR EXTENDED WARRANTY	COMMENT	TOTAL
TITAN MACHINERY	2018 JD 6110M	Alamo Maveric 24	Alamo 96			
	\$92,939.00	\$80,827.00	\$9,536.00	\$5,670.00	MEETS ALL BID SPECIFICATIONS / IF 3 OR MORE UNITS ARE PURCHASED EXTENDED WARRANTY'S WILL BE AT NO CHARGE	\$188,972.00
SOUTH PLAINS	2018 JD 6110M	DIAMOND DBMCJ	JD MX8	Tractor "Only"	*DOES NOT MEET BID SPECIFICATIONS; MOWER DOES NOT MEET MIN DOWNWARD MOWING SPEC, ALSO FAILED TO INCLUDE TECHICIAN DEALER INFO W/BID AS REQUIRED**	
	\$93,454.23	\$52,000.00	\$5,356.64	\$5,148.00		\$155,958.87

After thorough review staff is recommending award for a one (1) year price agreement to the lowest responsible bidder, Titan Machinery.

3) Albuquerque Division Motorized Yard Gate

M E M O R A N D U M

**To: MRGCD Chairman Kelly and Board of Directors
Mike A. Hamman, CEO/CE
David Fergeson, Secretary-Treasurer
Jeanette Bustamante, Administrative Officer**

From: Richard DeLoia, Purchasing Agent RD

Date: JUNE 7, 2018

Re: ABSTRACT FOR POWER GATE FOR ALBUQUERQUE DIVISION

Request for award to CES Contract vendor Scott's Fencing for fabrication of a 30' motorized double gate to be installed on north side of Albuquerque Division Yard. Contract services will include a key pad entry, all electrical work, labor, materials, and accessories for complete installation.

30' DOUBLE GATE POWER OPERATED W/ ELECTRICAL WORK

CES VENDOR	TOTAL COST
SCOTT'S FENCING	\$23,958.29

Director Dunning made the **MOTION TO APPROVE ALL ITEMS ON THE BID ABSTRACT.** Director Moore seconded the motion. The **MOTION CARRIED.**

b. Water Report and Water Bank Users Curtailment - David Gensler, Water Operations Manager

Well, it's still hot and dry, although there's been a few rain events. Unfortunately, one of them, though relatively small, concentrated its effects in one small area. And in the middle of a historic drought, we had a flood. Only in New Mexico.

Well, the Sunday before last, June 3rd, the area between Belen and Los Lunas, along the west side of the valley, got a couple of inches of water in an hour or so, much like last September arroyos washed off the west mesa, plugging and breaking the Belen highline canal. It's still being repaired.

The big news today is our water bank. Sometime over the weekend, we fell below the storage curtailment trigger. Although we have not yet gotten the official numbers from Reclamation, they actually came out just before the meeting, and I didn't have time to work through them. It was clear this morning that we had released enough water since Friday afternoon that we were well below the storage trigger, and a curtailment order was required. So, we issued the order to curtail water bank, effective this morning at 8:00 AM. We contacted all ISOs and requested their schedules. Per policy described in Rule 23, Water Bank Rules, deliveries already scheduled as of the time of the curtailment order may continue through the week, but no new deliveries will be scheduled. And at the close of the week, late Friday night or early Saturday morning, no more water deliveries, period, will be allowed.

As of Friday morning, I was computing about 92,500-acre feet of water in storage for the District's use remaining. Of that, about 24,500-acre feet was Rio Grande storage and the remainder was San Juan-Chama water. There was a little bit of Rio Grande water stuck in Heron, Abiquiu and Cochiti Reservoirs through water ops that I also included in my calculation, because that water has to come out, and it is water that we get to use.

You can see that we're going through our water fairly quickly this spring. We're not quite yet in the summer. Although I'm happy to say we are still staying a little bit ahead of the curve and not using it quite as quickly as some had predicted. Our demand is what guides our storage releases, 825 cubic feet per second, which allows, after losses, for us to divert about 145 CFS at Cochiti, 150 cubic feet per second at Angostura, between 360 and 400 cubic feet per second at Isleta Dam, and still leave us roughly 150 cubic feet per second leftover for the Socorro main canal.

From what I hear from our ISO's out in the field, things are working all right. There has been a lot of effort with scheduling and rotation this year. We have had some areas that have run short on water for brief periods. People had to wait occasionally, but generally people think it's working all right. We're getting water to them. We are running somewhat less water than we would normally be running in early June, but so far the runoff is still taking care of our needs. A little bit of belt tightening is necessary this year to get us through.

About the river itself, there's about 970 cubic feet per second coming out of Cochiti Reservoir today entering the valley. Really not much changed since last report. Reclamation still releasing supplemental water for the fish. We are bypassing that below Isleta and San Acacia Dams. We have 75 CFS bypass below Isleta, and we have roughly 40 cubic feet per second now below San Acacia. Those rain fall events of the last few weeks have stirred up the river. We get a little bit of mud, and it starting to plug off some leakage through the gates. So, we're getting closer to what our desired rate of discharge through San Acacia is. We've actually had a little bit more water there just due to leakage than was desirable.

There's been about 20 miles dry down in the San Acacia Reach, give or take a mile or two, in any given day. We have had about two miles dry now in the Isleta reach of the river, just above

Peralta main waste way, where it normally dries first in that stretch. For the time being, as long as the District and Reclamation both have water to continue releasing, I expect things will stay pretty much about like they are now.

Best news I can say right now is we still have a pretty good forecast for a decent monsoon season. We're going to be very, very dependent on rain this summer. And I'm also looking out to the southwest and seeing Bud out there in the Pacific and thinking there may be some moisture coming up our way in the next week or so. So, pray for rain.

Chairman Kelly asked as we move into the monsoon season, one may come up with transitory spikes and flows in certain canals based on urban runoff, and at that point, Mr. Gensler has the discretion to make that water available to water bank users should nobody else need it? Mr. Gensler agreed. The water bank rule allows us to evaluate local conditions. If we have an excess of flow, for any reason, rainfall events, a canal break, for example, somewhere, if we have to shut something down, we have got some extra water we have got to move around, we make sure that we don't waste it. We make it available to everybody who can take advantage of it.

Mr. Hamman added to the report that he was updated from Mr. Sloan Washburn, our Belen Division Manager. They are shooting for Thursday or Friday to have the Belen highline ready to run water again.

c. Discussion and Approval of Intergovernmental Agreement with City of Albuquerque for purchase of fuel at the City's fueling locations – Mike Hamman, CE/CEO and David Fergeson, Secretary-Treasurer

Rusty has been working on this for quite some time now with the City of Albuquerque, trying to get this pushed forward. The City of Albuquerque buys in bulk, 20,000 gallon drops at a time between four locations. Fuel right now \$2.58 a gallon. To us, gasoline will be \$2.60. Today, as an example, we fueled here in Albuquerque 610 gallons. That was priced about \$2,200. Our price through the City of Albuquerque would be about \$1,700. Locations include Fourth Street, Pino Yards, one on the east, and one on the west side but will be determined once everything is agreed upon.

Director Dunning asked if this would only be for the Albuquerque Division. Rusty responded that it would be used for the Albuquerque Division but we could also have Cochiti come down to fuel their trucks

Mr. Fergeson believes we will save money for the overall fuel budget.

Chairman Kelly asked if tanks were above ground. Rusty responded that everything is above ground or on a truck. Chairman Kelly noted that moving that liability from us or not assuming it and letting the City and the Counties deal with their underground storage tanks is huge.

Mike Hamman gave Kudos to Rusty for his enthusiasm and persistence with the City and actually got this done during an administration change.

Vice Chair Duggins asked about loss of gasoline due to evaporation in the heat and whose loss would it be. Mr. Hamman reported it would be the City of Albuquerque's loss.

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2018, by and between the City of Albuquerque, New Mexico, a municipal corporation ("City"), and the Middle Rio Grande Conservancy District ("MRGCD"), P.O. Box 581, Albuquerque, New Mexico 87103.

RECITALS

WHEREAS, MRGCD is a conservancy district as set forth in NMSA Sections 73-14-1 et seq.; and

WHEREAS, MRGCD provides irrigation, flood control, drainage, land management and ecosystem conservation services to in the Middle Rio Grande agricultural region of the state; and

WHEREAS, the Board of Directors of MRGCD has resolved that an agreement be entered into with the City whereby MRGCD purchases fuel from the City fueling stations; and

WHEREAS, the City agrees to authorize MRGCD to purchase fuel from the City fueling stations.

NOW THEREFORE the parties hereto do mutually agree as follows:

1. **Monthly Administrative Fee.** The City shall charge MRGCD a monthly administrative fee of \$125 per month for the Services provided herein.

2. **Services.** The City authorizes MRGCD to purchase fuel from and to access the City at the City's fueling locations. Upon receipt of a monthly invoice, MRGCD will reimburse the City the cost of the fuel purchased, plus the monthly administrative fee within 20 days of receiving the invoice.

3. **Liability.** Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1 et seq., NMSA 1978, as amended.

4. **Audits and Inspections.** Both parties understand and will comply with the City's Accountability in Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994.

5. **Modifications.** This Agreement may be modified by mutual written Agreement of the parties.

6. **Term and Termination.** This Agreement shall commence upon full execution by the parties. Either the City or MRGCD may terminate this Agreement at any time by giving at least thirty (30) day notice in writing to the other party.

7. **Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

8. **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

9. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque.

10. **Approval Required.** This Agreement shall not become binding upon the City until approved by the highest approval authority of the City required under this Agreement.

IN WITNESS WHEREOF, the City and MRGCD have executed this Agreement as of the date first above written.

CITY OF ALBUQUERQUE

**MIDDLE RIO GRANDE
CONSERVANCY DISTRICT**

Approved By:

By: _____
Chairman of the Board

Sarita Nair
Chief Administrative Officer

Date: _____

Date: _____

Director Moore made the **MOTION TO APPROVE THE INTERGOVERNMENTAL AGREEMENT WITH CITY OF ALBUQUERQUE FOR PURCHASE OF FUEL AT THE CITY'S FUELING LOCATION**. Director Duggins seconded the motion. The **MOTION CARRIED**.

d. Discussion and Action Regarding Bosque Wildfire Prevention – Mike Hamman, CE/CEO

The MRGCD works closely with all of the agencies on wildlife fire management here in the District. It's a cooperative arrangement, and many of those agencies are already taking dramatic fire restriction steps with their policies. Socorro County went forward and restricted use of fire and smoking and open fires. We have a perpetually in place requirements, not allowing open fires and things like that in the Bosque. We believe we need to take one more step in addition to stage 2 fire restrictions that are perpetually in place in the Bosque to actually limit vehicular traffic with in the Bosque itself and anywhere other than a levee road so that we can assure ourselves that there are not four wheelers, off-road equipment, or on-road equipment getting into the Bosque proper. Any high, dry grass touching an exhaust pipe can cause an ignition of dry grass.

We would not be restricting hiking, biking, or horseback riding, but we are restricting any open fires and smoking and vehicular traffic. If the restrictions are approved by the Board, we will move forward with an announcement via press release tomorrow. Chairman Kelly noted that he thinks the Board need not approve something like this, that it falls within Mr. Hamman's scope of authority.

Director Dunning noted that folks in Los Lunas have been concerned about this topic. She asked if we would be able to control access to that area. Mr. Hamman responded that the two things are a bit different. He further explained that these folks are upset about traffic on the levee roads. We are entering into a JPA soon. Yasmeen has been working closely with the Village of Los Lunas to come up with a joint powers agreement for them to take over, similar to what we have with the Rio Grande State Park, a management agreement that would allow for closure of certain activities. We could actually have alternative gates to allow the hunters, fishermen, and others to have access permits to go into the Bosque south of the Village of Los Lunas or north of the Village of Los Lunas but not within the Los Lunas proper. It is a different strategy that is unfolding to try to help prevent some of the concerns citizens have regarding gunfire and other illicit activities going on in the facilities in there. We will get enforcement help from Los Lunas.

Director Dunning further questioned Mr. Hamman on when he thinks the JPA would be adopted.

Yasmeen Najmi answered that we are tentatively planning to have the folks from the Village of Los Lunas come to the next board meeting. It depends on their availability. The Board will have a chance to look at the JPA ahead of time, and we can address any questions or concerns or issues at that time.

The Village's Community Services Director, Jason Duran, has been working with us and he has been involved in the JPA. We have made a few changes to it that he needs to look over, but he's been fine with it thus far.

Director Dunning noted that one individual has requested to see the draft JPA. She asked if she could send it to him. Ms. Najmi did not feel comfortable at this point giving it out since we are still working with the Village of Los Lunas. The individual can certainly be kept in the loop. He is welcome to attend meetings where the JPA is discussed.

Chairman Kelly felt that since the 4th of July is coming so quickly, we need to be ready to take action on this topic at the June 25th meeting. If the Board has any comments when you see the handout in the board package on Friday, please get them to Yasmeen as fast as you can so she can resolve them with the Village before they get here on the meeting on the 25th, at 3:00. Ms. Najmi reminded everyone that the Village attending the June 25th meeting is still tentative.

Yasmeen Najmi reminded everyone that we have a Bosque fire policy that prohibits fireworks, smoking outside of vehicles, open fires that are outside of grills that are provided in recreation areas like the Los Lunas River Park and the Socorro parks. The additional steps that we would like to take, and we have already talked to our management partners about this, is to make sure that people are not having fires, grills, and the vehicle prohibition because the vehicles are one of the main threats to the Bosque. We've got a lot of four-wheeling in the river and a lot of partying with campfires and four wheelers and trucks.

Director Moore asked for clarity on the no fires/individual grills rules. Ms. Najmi made clear that the only grills that can be used are the ones provided in the managed park. No use of personal grills. The only places we have provided grills are in Los Lunas River Park and the **River** Parks in Socorro. If anyone sees an individual not following the rules, they are asked to call enforcement. Director Moore asked if signs were posted to this effect. Mr. Najmi responded that in the different jurisdictions, there are different signs that have the rules on them. We have had special signs made in the past when we have had Bosque closures, but the signs are outdated.

Vice Chair Duggins reminded Ms. Najmi that along the river, near the Escondido Bridge, they have activities like the civil war reenactment and things like that. They shoot black powder and have old fashion guns of some kind. Are we in contact with those people? Ms. Najmi was not sure when the annual event is scheduled, but she will look into it.

e. Approval of El Vado Reservoir Storage Agreement Authorizing CEO Execution – Mike Hamman, CE/CEO

There is a priority adjudication up on the Chama, which is a rare thing in the Rio Grande Basin. They have gone through a process of working together to come up with alternative curtailment processes. The upper ditches that ordinarily have the first right on the ditch because they're at the top of the system, actually are junior to those ditches down below. They have gone through a very long negotiating process to come to some sort of alternative administration procedure

when water gets below 100 CFS, leaving El Vado, which is occurring now. As of yesterday, there was about 30 CFS of natural flow at the La Puente gates. They are already in a curtailment situation, both on the lower river and on the upper river. They are 50% curtailed on the upper river and 70% curtailed on a cyclical basis on the lower river. That is strictly to avoid utilizing storage water that is moving through the system, whether it be San Juan-Chama water destined for Albuquerque or for the minnow or to the District or the District's Rio Grande water is stored water that they cannot take. We are working closely with the State on administration of the basin there. Our water flows right by all of those head gates coming down to Cochiti Dam and down into the middle valley. This is a very important agreement for us and for the Rio Chama Acequia association.

What this will do, will give them some operating space for them to park either leased or donated San Juan-Chama water. Right now, we are looking at 1,000-acre feet under this agreement that could be stored during that 25-year period, and that's a block of water that would probably satisfy most of their years of shortage. This year, it's predicted to be somewhere around 2,000 to 3,000-acre feet because of the nature of the year and the extreme losses that the river is experiencing before they can get their water diverted. The process that we have undergone with them through discussions with legal counsels and various things were initially agreed on for the upper Acequias Nortenas, that was approved and still is in place, that would allow for Horse Lake water, wet water, to be stored in El Vado as well. That agreement actually needs to be modified and redone. This follows a similar approach, but it gives the lower ditches some storage in El Vado to offset any losses that are calculated, that are flowing by.

As much as they try to administer the water strictly, there is still a certain amount of the push water that goes through, there is a certain amount of losses that occur that are calculated by the model, and there's a certain amount of losses that have to be offset. The Rio Chama Acequia knows that. They are going to be looking to acquire that water, and, if they get it in advance, they could store it in El Vado. When they calculate the loss to the District, it reverts back to us. It is really helpful to us to work with them to get this space in place.

Dr. DuMars added that you have got the Acequias Nortenas. They are junior to the Rio Chama Acequia Association. They are constantly working with La Puente gauge to work on the guys who are in the mainstem, but much of the water is diverted on the Brazos side. There is not much they can do to get the water there. Historically, over the years, they worked with the legislature to try to get water to store San Juan-Chama water or other water that they could store in the reservoir in El Vado so that they could lessen the effect on them and protect the District because if the water's running past you, even though you have a senior priority, you know, it's going to affect the District. We have worked hard at making all that work. What this is doing is just generating the opportunity to get space, whether it's San Juan-Chama, whether it's the Horse Lake releases, if that ever happens, off the Jicarilla Reservation. It is a really good deal in order to give us an insurance policy against calculated losses through the operations of the Rio Chama.

Mr. Hamman continued there is an urgency in this matter. There was some funding issue maybe two years ago via a write-in by some legislator in the state capital improvement program, where legislators can go ahead and designate funds to help their constituents. They were able to get \$100,000 set aside to acquire water rights. Water rights cannot be purchased. It was for leasing water, but, because the language was poorly written, they cannot actually use the money to lease water because the DFA said it could not be done. The only other option they have is to buy storage. That money goes away as a June 30th this year. They have one extension on it, and that's the last extension they can get. We played around a little bit with the estimated average index for a 25-year period for 1,000-acre feet that would provide them for the

\$100,000, or in this case it says \$99,000, a period of time to store water at El Vado, only if it's available. We are senior there. The only time they can do it is called floating on top. It floats on top. It suffers the same evaporative losses as the rest of the pools in there, but if it fills, it spills out and they lose it, or they use it somewhere else downstream, if they can. So, we are very well protected. We are number one storage right there and will continue to be that way forever.

Our Chairman reviewed the numbers, and we are a little bit off in terms of trying to hit the \$99,000 accurately. So, we altered the index slightly to allow for this to calculate out because I think DFA would give us some trouble otherwise and maybe our own auditor. We raised it to 2.2, and it comes out to \$98,800. Those two numbers will be changed in the document. Mr. Hamman also made one editorial change that made it more clear in the top, not to confuse anybody about ownership or anything right now. MRGCD constructed El Vado Dam, which was placed in service in 1935 and owned, and operated until 1951, as the sole beneficiary of permit 1690. That way nobody can raise anything. It is possible that Reclamation may come back with a Warren Act contract that would allow it to come under Reclamation at no charge to us. They say we still keep the money. Just to put the book straight on their side, they may come back with that later.

Director Moore asked about Albuquerque storing water at El Vado and the agreement we have with the City of Albuquerque. Mr. Hamman responded that there are times when Albuquerque, wants to maintain winter flows through the winter at a certain rate. When we are doing those kinds of operations, we allow Albuquerque to park their space because, ultimately, it's going down to Abiquiu. Temporarily there's Albuquerque water there on occasion as we are operating the system, but we do not charge them for that because they're actually helping to manage the river with San Juan-Chama. They also do rafting releases in the summer. So, there are a lot of beneficiaries outside of us and the utility authority that this water helps. It is kind of for the good of the cause that we all worked together on all this. Reclamation is in the middle of that too. It is a pretty extensive process we go through. If somebody wants to store San Juan-Chama water for extended periods of time, we will charge them at least \$3 an acre foot to do that while it is there. We are offering that to anybody that would like to do that as well.

Director Dunning was confused by the document she read, and she thanked Mr. Hamman for clarifying it.

EL VADO STORAGE AGREEMENT

WHEREAS, the Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico ("MRGCD") constructed, owned and operated El Vado Dam until 1951 and is the sole beneficiary of Permit 1690 that allows for the storage of both Rio Grande and San Juan-Chama Project water in El Vado Reservoir located on the Chama River in New Mexico, and

WHEREAS, the members of the Rio Chama Acéquia Association (the "RCAA") own, or have the right to store, certain water rights or rights to water on the Chama River that it would like to store in El Vado Reservoir; and

WHEREAS, under Permit 1690 storage of Rio Grande is allowed in El Vado Reservoir on behalf of the MRGCD as the sole beneficiary under New Mexico State law and MRGCD is willing to make storage available to the RCAA, on terms as specified below.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. The MRGCD agrees to provide storage at El Vado Reservoir to the RCAA for up to 1,000 acre-feet of water for a period not to exceed twenty-five (25) years with the option to purchase additional storage for periods not to exceed five (5) years.
2. The MRGCD agrees that the RCAA may put into storage in El Vado Reservoir any water it has

- acquired and holds under New Mexico State law or that it may acquire and hold under New Mexico State law in the future, subject only to the limitations set forth in this Agreement.
3. right to store water in the Reservoir is contingent upon a finding on an annual basis by MRGCD that there is space to store the water in El Vado Reservoir.
 4. MRGCD will determine whether in any year there is sufficient space in El Vado Reservoir to permit part or all the storage of the water held by the RCAA.
 5. The initial price for storage shall be three dollars per acre-foot per year and an annual index of 2% that estimates an average CPI for the 25-year period is applied to the fee paid for the 1,000 ac-ft space for use by RCAA and shall be paid upon execution of this agreement by RCAA and the MRGCD, for a total purchase price of \$99,000.00.
 6. The price for additional storage space at the request of the RCAA shall be calculated at three dollars per acre-foot per year plus an annual index of 2% from the date of this agreement to the date of an agreement for additional storage space. This storage price shall be paid not later than December 31 of the year in which release of water is requested by the RCAA. The method for calculating the storage price for irrigation water from the reservoir shall remain fixed for the initial five (5) years of storage. This storage price for storage shall be re-negotiated by the parties every five years from the effective date of this Agreement. The effective date of this agreement shall be the date it is signed by the MRGCD.
 7. Once water is stored in El Vado Reservoir, it can only be released or exchanged to accomplish a beneficial use under New Mexico law. The water stored by the RCAA will be accounted as junior to any water stored deemed as priority of the MRGCD commonly referred to as "top water" and will be the first to spill and shall suffer its proportionate share of evaporation loss.
 8. The RCAA agrees to be solely responsible for all costs relating to transfer of the water held by it into El Vado Reservoir, in addition to the storage fee.
 9. The MRGCD in its sole discretion may cancel this Agreement on thirty (30) days' notice to the RCAA, at any time prior to the actual transfer of the water for storage into El Vado Reservoir. The MRGCD in its sole discretion may cancel this Agreement on six (6) months' notice after water is stored in El Vado Reservoir.
 10. The RCAA agrees to indemnify MRGCD for any damages or costs incurred by the MRGCD resulting from RCAA's transfer or storage of water to El Vado Reservoir.
 11. This Agreement constitutes the entire Agreement between the parties and shall be governed by New Mexico law.

MIDDLE RIO GRANDE
CONSERVANCY DISTRICT

RIO DE CHAMA ACÉQUIA
ASSOCIATION

By: _____

By: _____

ACKNOWLEDGMENT

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2018 by _____, Chair MRGCD Board of Directors, Middle Rio Grande Conservancy District.

NOTARY PUBLIC

My Commission Expires:

ACKNOWLEDGMENT

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ___ day of _____, 2018 by _____, Chair RCAA Board of Directors, Rio Chama Acequia Association.

NOTARY PUBLIC

My Commission Expires:

Director Dunning made the **MOTION TO APPROVE EL VADO RESERVOIR STORAGE AGREEMENT AUTHORIZING CEO EXECUTION.** Director Moore seconded the motion. The **MOTION CARRIED.**

After the vote, Chairman Kelly asked Mike Hamman to explain the situation in La Joya to the other Directors. Mike Hamman explained that La Joya Acequia Association is down in La Joya, New Mexico, down below the Bernardo Bridge on the east side of the river. They opted out of being part of the District years ago, and there was a lot of legal issues that went on forever. We are in a situation now where we are running just storage, and we have just a little over 100 CFS of natural flows from the Rio Grande and the Rio Chama coming out of Otowi. So, there is no way 100 CFS can get down to La Joya for them to divert under their senior right that they claim they have down there. He is not sure, back in those days when they had it, if they could really divert it anyways because of problems with their diversions and a lot of things. They benefit tremendously from the District's works. They get the tailwater off of the east side of the Belen division, before it goes into the river, in the drains, down to the Socorro Division. Right now, we are trying to get every drop we can down the Socorro Division, but we are also going to accommodate them, if we have a window, for them to divert for about five days, about 600 acres. We will get them watered up. At about 25 or 30 CFS, there will be windows to do that and it has to be rain and other things that are contributing. We are working with them, but we are also going to schedule a meeting with them to remind them what the situation is because when we get them to send the San Juan-Chama water, they did not help us pay on any of that. They are getting a darn good deal anyways, \$6 an acre foot, under their agreement.

There is a leadership change right now going on, the younger generations is starting to take over. Once that kind of settles out, it might behoove them, because currently between what they pay their own people to manage that system and what they pay us, they're paying more than if they were in the District.

Dr. DuMars added that if they petition and they want to get back in, we could go to the Conservancy Court. They would have to go, and either way they are bound to work on parody with the way we allocate water.

Chairman Kelly asked about an email, where we were asked to go in there and be the water boss on a neighborhood dispute. The memo said we would have nothing to do with it. We only deliver to this point and will not be involved. So, what you're talking about now is an extension of that with regard to bringing the whole area in? Dr. DuMars responded that they have some

real issues. They have stored water that has nothing to do with their priority date. They get 20 years of abandonment that they are facing down there on their own, pre-1907s. We have an agreement with them that we'll help them if they can, but they have to agree with us in terms of the way in which we deliver water throughout the system. They are in deep trouble unless they cooperate with us and we try to get them to the water, which I think we've always done in the past.

Mike Hamman said we will not short our own farmers through the process.

f. Setting of Water Protection and Irrigation Committee Dates – Mike Hamman, CE/CEO

Due to time constraints and the fact that Director Lente was not available for comment, they will take this top off-line and report back at the next meeting.

g. Report on Action of the Pueblo Coalition for 2018 P&P Operations, Mike Hamman, CE/CEO

Basically, we have been working with the Pueblo Coalition, which is a group of water managers, attorneys, and tribal officials that come together once a month typically to discuss the relationship between us, the, and the two federal agencies, BIA and Reclamation, to address water management and water operations issues. This has been an ongoing process for a number of years. Our former member, Derrick Lente, actually was the secretary of the coalition years ago.

Nonetheless, the process that has evolved over the years is that there was an agreement made in 1981 between the two Department of Interior agencies, BIA and Reclamation to actually utilize a suite of formulas, with observations to reserve a block of water as an insurance supply for the Middle Rio Grande Pueblos, based on the May 1 forecast. The only place that that could happen is based on issues associated with operations for the tribes as El Vado Reservoir.

By virtue of that agreement, and subsequent to that, every year there's a calculated amount that has to be reserved at the beginning of the irrigation season, and it ranges from low twenties or high teens all the way up to where we are in a year like this where the number is close to 46,000-acre feet. As that process has unfolded and the District, the Bureau of Reclamation, BIA, and the Coalition working together to try to maximize the opportunities to keep the District running as long as possible, which everybody agrees that's got multiple benefits for the entire basin, including the pueblos, both for their Prior and Paramount lands and their newly reclaimed lands, to have those irrigated as well, because they would be suffering curtailment if we went into P&P on those lands. There's also ESA operations. There are a lot of other factors that come into play, why it's important that whatever water supply we have from year to year is actually stretched as long as we possibly can and make sure the District is in operations. We have done a number of things over the years to change the way that P&P calculations and the quantities are our first designated. Secondly, how are they actually utilized as the irrigation year goes forward?

This year being what it is, we were out of Article Seven, when we were restoring runoff. We had carryover supply of last year's District Rio Grande storage of a certain quantity, and we were able to store somewhere south of 25,000-acre feet this year during runoff. So, there was a combined volume above 45,000-acre feet but not much above that. That was Rio Grande in storage. When the May 1 forecast came out, in accordance with the 1981 agreement, the volume was the substantial amount of the entire Rio Grande supply.

So, we have been talking to the Coalition, BIA, and Reclamation about the importance of utilizing the Rio Grande first and saving the San Juan-Chama later, as the one block of water we can carry over. There are no compact ties to it whatsoever. If we are fortunate enough to have significant summer precipitation, whatever block we end up with is not a block of Rio Grande that could have some compact tied to it, it would be just the San Juan-Chama water that we would have at the end of the year to carry over for what we believe could be a difficult year next year because we are starting the year in Article Seven. There is no doubt about that, and that won't change for a number of months unless we have tremendous runoff in the spring.

So, with that said, the Pueblos have been very cooperative and working with this for weeks now to come up with a strategy that is not following the letter of the law of the 1981 agreement. What they have agreed to do, and they have sent us a letter just the other day, essentially agreeing to a proposal that I put forward for them to consider. That is to instead of locking in 45,000-acre feet of Rio Grande not to be touched until it is needed for P&P operations and maybe turn back as the season goes along. I requested that a portion of that water be transferred ahead of time in order for us to just keep operating the way that we normally are, and they have agreed to do that under certain conditions, and the conditions are that we are not setting any precedence. This is a one-year deal, and we will convene on a week-to-week basis to see how we go forward in time because we're going to need all of the Rio Grande in storage released, if you will, the P&P label released for us, so that we can get through the end of June. Then, sometime in the early part of July, we will start using San Juan-Chama water.

What we have agreed to do is we would essentially replace the block of water that would normally be reserved under the Rio Grande label for P&P, for the remaining part of the irrigation cycle. There is a declining quantity that's needed for P&P operations because you're going farther into the year. So as that balance declines, it would be backstopped or we would exchange San Juan-Chama water to cover the lack of Rio Grande. It is a very good deal. It is very historic in a way. What Mr. Hamman is describing is a really good partnership in a cooperative venture with the pueblos, as well as Reclamation and BIA to manage the water in a way that meets all of these demanding issues, to try to keep the letter of what we need to reserve for P&P have it available in a declining balance on San Juan-Chama side but also completely use our Rio Grande upfront while we're also keeping the river wet through a large reach going forward for ESA operation. It's symbiotic, it's helpful, and it's a recognition that the pebbles have to be partners and their beneficiaries of ESA coverage, as well as other people in the basin that rely on us to meet the terms and conditions of the biological opinion, as well as the State and Reclamation.

We are very pleased that this agreement is in place. It sets the stage for us to get together a week from today to talk about the remaining natural in-storage. Hopefully, that will be turned back, and then we will manage to cover the P&P operations going forward. It is trust building too. Everybody's beginning to trust each other. We are working well together. We are covering a lot of requests that the pueblos have for operations and maintenance and things like that to their satisfaction, as well as making sure that we're giving them the service that the rest of the District enjoys, but we're not necessarily going beyond that. That's all this agreement that we have with them is requiring us to do so.

Dr. DuMars added that in working on this Amicus Brief for the Klamath case, he interacted with 10 or 12 lawyers from other districts who all were working on the same issues, and the remarkable difference between what we have here in our relationship with the pueblos and our Reclamation and the BIA, the collective of what's going on here. This is not the way it is most places in the country. They are at each other's throats. They are competitive. It is like you

turned the clock back to 2003, when we had the first Rio Grande Silvery Minnow cases. The fact that we can have this coalition and this synergy with the pueblos and we can use this water to sort of work with the species, we are very fortunate as compared to these other places.

Chairman Kelly asked if this has any impact on making late season compact deliveries, if we have to, to come in at the balance point. Mr. Hamman responded that the way that things are evolving, if there is any upside to a low runoff year, it does not ring the bell at Otowi as much. That means our required deliveries down to Elephant Butte is significantly lower than it would be in a high-water year, like we had last year. Chances are we are going to be pretty close to even. Then, if we get some decent monsoon rains below Otowi, we could end up with a partial credit, and that would be something that we would be looking forward to there. Nonetheless, Mr. Hamman thinks we are going to be okay in the compact calculations.

h. Approved Licenses for May 2018 (For Informational Purposes Only)

MEMORANDUM ENGINEERING DEPARTMENT

TO: Mike Hamman, Chief Executive Officer
FROM: Adrienne Martinez, Engineer
DATE: June 7, 2018
RE: MRGCD Licenses

The following license requests were approved by staff for the month of May 2018.

1. 2-006-2018 — License with the Public Service Company of New Mexico to install and maintain a buried power line within the Sandia Lateral right-of-way.
2. 2-030-2018— License with the Candelaria Village HOA to install and maintain a waterline parallel to the Griegos Acequia right-of-way.
3. 3-032-2018— License with the Town of Peralta to install and maintain a 2"Ø sanitary sewer within the Otero Lateral right-of-way.
4. 3-033-2018— License with the New Mexico Gas Company to install and maintain a buried gas line within the New Belen Acequia right-of-way.
5. 2-039-2018— License with the Public Service Company of New Mexico to install and maintain an aerial utility within the Summerford Lateral right-of-way.
6. 2-041-2018— License with Michael Budagher to install and maintain two traffic gates within the Griegos Lateral right-of-way.
7. 3-042-2018— License with the City of Belen to install and maintain a buried 2" PVC sewer line within the Harlan Henderson Lateral right-of-way.
8. 3-043-2018 — License with the City of Belen to install and maintain a buried 6" HDPE waterline within the Harlan Henderson Lateral right-of-way,
9. 3-044-2018 — Amendment to license 3-063-2013 with E.N.M.R. Telephone Company to install and maintain a buried fiber cable across the Feeder Ditch #3 right-of-way,
10. 3-049-2018— Amendment to license 3-052-2015 with the Village of Los Lunas to install and maintain a buried 18"Ø waterline parallel to the easterly outside 5' of the Los Lentos Drain right-of-way.
11. 3-062-2018— License with Western Spirit Clean Line LLC to install and maintain an aerial utility line and pole within the Lower San Juan Riverside Drain right-of-way.
F.Y.I.
12. 3-063-2018— License with Western Spirit Clean Line LLC to install and maintain an aerial utility line and pole within Rio Grande and Bosque the right-of-way.
13. 3-064-2018— License with Western Spirit Clean Line LLC to install and maintain an aerial utility line within the Upper Sabinal Riverside Drain right-of-way.
14. 3-065-2018— License with Western Spirit Clean Line LLC to install and maintain an aerial utility line within the Luna Drain right-of-way.
15. 3-067-2018— License with Western Spirit Clean Line LLC to install and maintain an

aerial utility line within the Bosque Interior Drain right-of-way.

16. SP-017-2018— License with Groundskeeper to install a ¾" drip poly irrigation line within the Griegos Acequia right-of-way.

17. SP-024-2018 — License with Gandy Dancer to discharge pumped ground water resulting from the installation of new utilities for the Presbyterian Medical Group Las Estancias Clinic into the Isleta Interior Drain right-of-way.

18. SP-025-2018— License with the Corrales Horse and Mule People (CHAMP) to conduct the 26th Annual Corrales Recreational Ride event within the Corrales Acequia and Sandoval Lateral right-of-ways on June 2nd, 2018.

19. SP-027-2018 — License with EA Engineering, Science, and Technology, Inc. to install and maintain two temporary ground water monitoring wells within the Harlan Henderson Interior Drain right-of-way.

20. SP-029-2018— License with Woodbridge Productions Albuquerque Studios for the purpose of filming a scene for the series "Better Call Saul" within the Rio Grande River and Bosque and the Isleta Diversion Dam right-of-ways.

Director Dunning questioned why an HOA has a water line and also questioned individuals having licensed gates.

Jason Casuga responded that what we have done with the gates is to move forward the ones that are in the pipeline. We have not firmly decided how we will move forward on gates, but we are working individually with the ones in the pipeline currently.

The waterline is a community needed a location to be able to get an irrigation line in, and they applied, and it met our policy to be able to put this small line on the outside five feet to get it in and service the small park they had for kids. We went ahead and approved that.

Jason Casuga noted that gates will allow horse access, bike access, pedestrian access. They just won't allow vehicle access.

AT THIS TIME, ALL DIRECTORS AGREED TO CONTINUE THE MEETING TO PAST 6 P.M.

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

a. Report on Amicus Brief in the Klamath Case – Dr. DuMars, Chief Water Counsel

We had got a group of irrigation districts in California and in Oregon. The group grew. We are all concerned about the outcome in the court of federal claims involving the Klamath Irrigation District, which is when the RGSM issues started back in 2000. We were working on that issue, and they were shut down. That effectively, because of the actions, destroyed that entire community. Many people lost their farms. There was a group of around 800 farmers who all filed an action in the court of federal claims, seeking compensation for the loss of their water for that period of time. A critical issue was whether or not they had the right to receive water and whether or not under the circumstances, it was an error for the U.S. Fish and Wildlife Service to cut them off. Basically, they didn't say you didn't have the authority to cut us off, but if you do, you have to pay compensation. That was the issue, the only issue in the case.

That case went up and back through the various courts. Well, we were simultaneously proceeding on the RGSM issues. In the Rio Grande, it was incredibly good process with the help of Senator Domenici and the minnow rider. We were able to reach the point where we are right now, where nobody ever lost any water.

Interestingly enough, even Judge Parker, who was really very supportive of the Fish and Wildlife Service and the Wild Earth Guardian said, "Well, obviously if you take their water, you have to compensate them." And then he ruled that every farmer who lost his water was entitled to compensation. That issue rocked along. We were not involved in that very much, the Klamath issue, but they finally got the case teed up for decision in the court of federal claims. At that point, the judge wrote an 80-page opinion, and the judge was not from the west at all. She did not really understand it. She said, "Look, it doesn't matter," because there was the Yurok and the Hoopa Tribes 122 miles downstream had earlier priority, and even though their rights were quantified, they were not quantified. They weren't ever entitled, under western water law, to ever receive any water, even if there was no call of the river and even just the mere existence of the downstream reservations which had a fishing right. They were really very small. But she said, "That was enough. So, you lose." That freaked out everybody in the western water law business.

She also said that the Bureau of Reclamation had the authority to adjudicate the water rights. As it turns out, the exact amount that they needed for the species was the amount that was available to the tribes downstream. Therefore, they could not get compensated. Well, there were numerous errors. A total of 35 different irrigation districts got involved in that case, and we were sort of with the team. But as it went along, I wasn't really able to square my views of Native American water rights and endangered species with some of the guys who are representing them on another issue. So, we just filed our own brief, because, ultimately, we could not reach consensus with them. In Dr. DuMars' opinion, it would be the worst possible thing for the Bureau of Reclamation to be able to adjudicate the water rights of tribes. Certainly, they have the authority to decide how much a species needs, and that's damned important, but they don't have the right for the Fish and Wildlife Service.

Anyway, bottom line is we filed our Amicus Brief. We've pointed out the difference between the Middle Rio Grande Conservancy District, our collaborative solutions and how horrific that was. So, I'm hopeful that that decision will be reversed and those people will get compensated. After 18 years, many have moved away. It was a very important case.

Director Dunning asked for clarity on the reason we have an interest in the case. Dr. DuMars responded that both of them had to do with western water law. We want to see those farmers compensated because these farmers had water rights under Oregon law. We did not get into the issue of whether or not it was okay for them to protect the two different species of salmon. Our position was if you take the water then you need to compensate them.

The second reason was we felt like it was horrible for the kids. It was not a good precedent to have the Bureau of Reclamation being basically a precedent, saying they could adjudicate the water rights. Finally, because it's never been the law anywhere else in the west.

b. Report on Wild Earth Guardians v. US Army corps of Engineers – Dr. DuMars, Chief Water Counsel

They say that the Corps of Engineers has discretion to release water out of Abiquiu at any time or out of Cochiti at any time to protect the species. The operating legislation, the Flood Control Act, and they have relevant legislation for the Corps, does not give that as a purpose. Wild Earth Guardian said the Endangered Species Act trumps the original legislation, so you have to go with the most recent Endangered Species Act legislation. The problem with that is the Supreme Court had ruled directly contrary to that. So, that was the issue. So, what he held was with respect to everything that the Corps is doing, they are controlled by the federal legislation that was originally passed, and that it controls them. There's no discretion to use the

reservoirs for endangered species, but he said two of the issues that were not in the record were the amount of massive water on the Jemez Dam. The other one was the fleshing action at Abiquiu sometimes on the tunnels. So, we remanded it to look at those two questions.

Basically, the Corps wanting our position, which was we are only concerned as we did not want anything out of this opinion to suggest in any way that the Corps could do something or had the obligation to do something to screw up our existing biological opinion.

Dr. DuMars further noted that the Corps went along with us for a while, and we kind of wanted them to use Cochiti to help us on some fleshing with some cold water that we could use to promote spawning. But the Corps in the middle of it said, wait a minute, we've decided that we don't really have any discretion. We do not need to do a BO. We do not have to do anything because we're not covered by the Endangered Species Act. In the middle of it, they opted out. Wild Earth Guardians sued them. Our position was we were not defending the Corps. We just wanted to make sure that whatever you do, do not mess with the 2016 BO.

Lorna Wiggins, in the interests of time, provided the Board with an update on the O'Connor litigation. This is litigation from a rain event that has been ongoing for some time from which the MRGCD was dismissed as a party, pursuant to a motion that we filed. After we were dismissed from the lawsuit, the State Highway Department filed a similar motion, piggybacking on our legal theory, and was also dismissed out. As a part of the State Highway Department's dismissal, the Court ordered all parties to the case, including the District to mandatory mediation, which is something that we were rather scratching our heads about because we were already out of the case. Nevertheless, to that end, all parties have met with engineers in tow at the O'Connor property, and, later this summer, we'll attend a mediation that's being facilitated by a senior lawyer at the Rodey Law Firm, Bruce Hall. And we will, of course, participate in good faith as we are duty bound to do it. Lorna will report back at a later meeting.

Chairman Kelly asked if the mediator has a technical background and has been exposed to engineers enough in his/her career? Lorna Wiggins responded that he is certainly senior enough to have been exposed. He does not have any particular expertise, but he will understand the legal issues which is important for the District since we are out of the case. She thinks that they are engineering issues that, with Jason's and Mike's help, we can dumb down enough

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

a. Report on Los Duranes Neighborhood Association Meeting on May 16, 2018 – Director Dunning

Los Duranes Neighborhood Association requested that a member of the MRGCD Board go and address the association. They had Yasmeen attend, and she asked her the same questions. Director Dunning gave them kind of a general update on issues that were not the questions they wanted addressed. What they really wanted was to express that if we used a compacting machine and rolled along it, that would eliminate weeds at the Albuquerque Drain. Mike says we actually have access to a machine. They also want to do some landscaping, and Yasmeen has told them they have to be involved.

Director Dunning explained to them that we are awaiting the Alameda Drain to show us what works with landscaping. So, if they can wait, to see how it works there. If it works there, maybe we can implement it on the Albuquerque Drain.

b. Report on Meeting with Mr. Scott Edeal, June 10, 2018 - Director Baca

Director Baca met Mr. Scott Edeal on June 10th in Valencia County. Mr. Edeal took Director Baca on a drive around the area to get his history of the area, which was interesting. He also mentioned some of his concerns, which were basically what he spoke about today. It was very good conversation, very much appreciative of his time

Director Dunning made the **MOTION TO APPROVE DIRECTOR BACA'S REPORT.** Director Duggins seconded the motion. The **MOTION CARRIED.**

Director Duggins had some news from Socorro. Socorro County cannot schedule the Harvest Fest that was discussed in a prior meeting. The Board had discussed the ditches are deadly campaign. Director Duggins has privately raised \$8,000 towards this cause and is asking a matching amount from the MRGCD. He would like to provide passes to the pool for children in the Socorro Division to deter them from being in the ditches.

Director Dunning was not opposed to the financial part of it but wanted some type of educational tie to obtaining the pass. It did not have to be a class or anything spectacular but somehow tie the pass to staying away from the ditches.

Discussed ensued on the history of the Ditches are Deadly campaign. All in all, everyone agreed that giving out passes to the youth was a good deterrent to them playing in ditches. Everyone also agreed there is a sense of urgency to this request because we are into the heat of the summer. Ideas were discussed about what could be done next year.

Bruce Wiggins noted that the Board should not take a vote on anything without it being on the agenda (public notice). This topic will be on next meeting's agenda for a vote on participating in this venture. In the meantime, Mike Hamman will call the Mayor of Socorro to discuss it.

AGENDA ITEM NO. 13 – EXECUTIVE SESSION

The Board then went into Executive Session.

Director Dunning made the **MOTION TO GO INTO EXECUTIVE SESSION.** Director Baca seconded the motion and the **MOTION CARRIED** unanimously (by roll-call vote)

Director Dunning	Yes	Chairman Kelly	Yes
Director Baca	Yes	Director Moore	Yes
Director Duggins	Yes		

Director Dunning made the **MOTION TO RETURN TO REGULAR SESSION.** Director Duggins seconded the motion and the **MOTION CARRIED** unanimously (by roll-call vote).

Director Dunning	Yes	Chairman Kelly	Yes
Director Baca	Yes	Director Moore	Yes
Director Duggins	Yes		

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 7:00 p.m.

Approved to be the correct Minutes of the Board of Directors of June 11, 2018.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

John P. Kelly,
Chairman, MRGCD Board of Direc