

**MINUTES OF THE
TWO THOUSAND NINETY FOURTH REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
August 22, 2016**

Directors having been duly notified, Vice-Chairman Duggins called the regular meeting to order at 3:00 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS:

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

STAFF:

Michael A. Hamman	Chief Engineer/CEO
Charles T. DuMars	Chief Water Counsel
Lorna Wiggins	General Legal Counsel
David Fergeson	Secretary-Treasurer
Jeanette Bustamante	Administrative Officer
Christine Nardi	HR Director
David Gensler	Hydrologist
Tom Thorpe	Public Information Officer
Doug Strech	GIS Supervisor
Joe Brem	Albuquerque Division Manager
Lorenzo Benavidez	Socorro Division Manager
Yasmeen Najmi	Planner
Alicia Lopez	Engineer Technician

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

Pat McCraw, South Valley Ink David Jordan, INTERA Katherine Yuhas, ABCWUA Greg Gates, CH2M Rick Shean, ABCWUA Ron Storey, Valencia County Michelle Milam, Valencia County P. Gabriel Lunas, Valencia County John Stomp, ABCWUA	Santiago Maestas, SVRAA Gary Stansifer, Office of the State Engineer Harvey Crowley, Mesa Verde Farms Elaine Hebard Jennifer Faler, USBOR Pablo Padilla, JR, Pueblo of Isleta John Thompson, MRGCD Lobbyist Bill Turner
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AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Vice-Chairman Duggins requested that Director Kelly lead the Pledge of Allegiance.

Vice-Chairman Duggins welcomed the guests and declared a quorum. He told the guests that Chairman Lente would be late to the meeting.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Vice-Chairman Duggins called for approval of the agenda. He reported the BIA would not be in attendance at the meeting and to remove agenda item 8b.

Director Oglesby made the **MOTION TO APPROVE THE AUGUST 22, 2016 AGENDA AS AMENDED**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO.3 – APPROVAL OF MRGCD PAYMENT RATIFICATION & ATTORNEY INVOICES

- a. Consideration / Approval of Payment Ratification – August 22, 2016

Vice-Chairman Duggins called for approval of the August 22, 2016 Payment Ratification. Director Kelly had one question and it was answered accordingly.

Director Kelly made the **MOTION TO APPROVE THE PAYMENT RATIFICATION OF AUGUST 22, 2016 AS PRESENTED.** Director Oglesby seconded the motion. The **MOTION CARRIED** unanimously.

- b. Consideration / Approval of July 2016 Invoice for Law & Resource Planning Associates

Vice-Chairman Duggins called for approval of the July 2016 Invoice for Law & Resource Planning Associates.

Director Oglesby made the **MOTION TO APPROVE THE JULY 2016 INVOICE FOR LAW & RESOURCE PLANNING ASSOCIATES AS PRESENTED.** Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 4 – APPROVAL OF THE MINUTES

- a. Consideration / Approval of Minutes for Regular Board Meeting – August 8, 2016

Vice-Chairman Duggins called for approval of the minutes for the Regular Board Meeting August 8, 2016.

Director Oglesby made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING AUGUST 8, 2016 AS PRESENTED.** Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

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

Santiago Maestas of the South Valley Regional Acequia Association distributed a flyer regarding the Drought/CC Cycle. He gave a brief explanation of the diagram and reported that it was part of a presentation entitled Drought/Surface Water Shortages Fourth Consequence: Decline of Groundwater and Underground Flows by J. Phillip King, PE, PhD, who is a Professor and Associate Department Head in the Department of Civil Engineering at NM State University.

Chairman Lente arrived at 3:15 pm.

AGENDA ITEM NO. 6 – ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (ABCWUA) 100 YEAR WATER PLAN UPDATE – John Stomp, PE, COO

Mr. Stomp said the Albuquerque Bernalillo County Water Utility Authority (Water Authority) wanted to provide the MRGCD Board with information on their 2120 Plan (Plan). He introduced his staff that attended the meeting with him. Mr. Stomp said a key element of the Plan is a proposed policy which will prohibit acquisition of pre-1907 water rights by the Water Authority and another key element is to collaborate with the MRGCD to develop and implement a plan to support and promote local agriculture in the Middle Rio Grande. He said the Plan needed to be updated to incorporate new technical information, to update existing data and to consider a 100 year planning horizon. He said the public process began about two years ago and has been through a number of customer conversations, neighborhood meetings and a number of board presentations and they are moving to a September 21st date and hoping to get support and feedback from

this Board. Mr. Stomp showed a slide of the Water Authority's 1997 and 2007 strategy and detailed the findings of those strategies, showed a slide on the decreasing demand and population growth, the rising aquifer, integration of surface water and the implementation of the Drinking Water Project. He then spoke on reuse projects and the implementation of Aquifer Storage & Recovery (ASR) in Bear Canyon. Mr. Stomp reviewed the development of the Plan and said there are three different supply scenarios, low, medium and high and three different demand scenarios, low, medium and high. He said he wanted to focus on the medium/medium alternative and he went on to explain the demand under different conservation alternatives and the six current sources of supply; they also incorporated climate change into this supply scenario. Mr. Stomp then went into groundwater reserve management and the current projected supply for future generations in the Valley. He said the Water Authority considered 31 supply alternatives, all alternatives were considered initially and these alternatives were ranked based on 11 criteria. Mr. Stomp said the portfolio they selected was to continue to use existing supplies and reduce groundwater over time, conservation measures to go from 130 to 110 gallon per capita per day in twenty years, additional reuse when there is excess, connect existing reuse systems together, storm water capture, indirect potable use and watershed management. Mr. Stomp gave a brief overview of the Plan and summary of his presentation.

Mr. Stomp then responded to questions from the Board that included storm water use, surface water vs. ground water, conservation goals with regard to rate structure, domestic wells, watershed management and other types of water acquisitions other than pre-1907. Mr. Hamman said he would like to offer a couple of observations on the current condition of climate change and watershed issues with the San Juan Chama project, possible shortages and offsets in the river, the diversion permit and wastewater return. Dr. DuMars asked about the growth in Rio Rancho, Los Lunas/Belen and the increased demand and how does that effect the Water Authority's groundwater management strategy. He also asked about the big variable of declining supplies in use of Colorado River water through the San Juan-Chama Project. Mr. Stomp said if the Water Authority starts to see challenges, they will revisit this plan every ten years and go back and re-analyze if necessary.

AGENDA ITEM NO. 7 – NRCS REPORT – WATERSMART ON-FARM EFFICIENCY IMPROVEMENT PROGRAM – Kristin Graham-Chavez, Assistant State Conservationist for Programs

Ms. Graham-Chavez said she would like to give the Board an overview of the NM Natural Resources Conservation Service (NRCS) programs. She said the first is the Environmental Quality Incentives Program (EUIP) and is one of the largest programs in the State and provides financial and technical assistance to private landowners on conservation issues. She said the next program is the Conservation Stewardship Program (CSP) that provides financial assistance to farmers and ranchers to actively manage/maintain existing conservations systems; the next is (ACEP) Agricultural Conservation Easement Program and the Conservation Innovation Grant (CIG) which is the only true grant. Ms. Graham-Chavez said the next is the RCPP program that promotes coordination between the NRCS and its partners to deliver conservation assistance to producers and landowners. She said the NM NRCS has many driven initiatives that include tribal, acequias, watershed, burned lands, energy and organic and then she went on to detail the NRCS national initiatives. She said the national WaterSMART program came to them pretty late the season and was one of the last programs to receive allocated funds. Ms. Graham-Chavez then the explained WaterSMART program and said they were able to utilize the program to work for on-farm tasks i.e. sprinkler and water delivery systems, constructing structures, brush management, concrete ditch lining and anything to increase farm efficiencies. She then detailed criteria for receiving monies, eligibility, conservation planning and deadlines. Ms. Graham-Chavez fielded several questions from the Board and staff. Director Sichler said that Socorro County uses the least amount of water and since he moved to Socorro over thirty years ago, the NRCS has been very active in Socorro County. He said he believes without the cooperation of the NRCS, that Socorro County wouldn't have that level of efficiency and other counties that use a lot of water should be involved with NRCS and it would be beneficial to everyone.

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

- a. Bureau of Reclamation – Jennifer Faler, Area Manager

The following summary report was received electronically from the Bureau of Reclamation.

1. Heron Summary

Content = 132,297 ac-ft. (08/18)
 Azotea Tunnel: 10-20 cfs
 Total SJ-C inflow year-to-date: 87,062 ac-ft.
 Currently releasing: 500 cfs
 Current MRGCD storage: 19,336 ac-ft.

2. El Vado Summary

- A. Total storage (all contractors and natural) in El Vado as of 08/18:
55,231 ac-ft.
- B. Native in El Vado
24,706 ac-ft.
- C. MRGCD SJ-C storage in El Vado
15,189 ac-ft.
- D. MRGCD EDWA:
0 ac-ft.
- E. NMISC EDWA:
1,155 ac-ft.
- F. P&P:
13,444 ac-ft.
- G. All other SJ-C contractors:
737 ac-ft.

Current release is 950 cfs RG Inflow is 60-100 cfs

3. Storage in Abiquiu

Content = 114,408 ac-ft. (08/18)
 MRGCD SJ-C storage = 1,691 ac-ft.

Total water for minnow released to date in 2016: 9,809 ac-ft.

Snowpack Data

Melted Out

Ms. Faler reported that on the water front the recent rains have helped considerably and they are at about a 92-93% allocation on the San Juan Chama Project and they are moving the Water Authority's water in and out of Heron and there is nothing too interesting at El Vado other than releasing a bit of P&P storage through a BIA request and currently releasing 950 cfs. She said Reclamation has released approximately 10,000 ac-ft. of minnow water this year. Ms. Faler said there was the expectation of the release of the Biological Opinion (BO) last week and she understands there were a lot of internal comments and this was a setback and she is hopeful there will be a BO in the next couple of weeks.

Ms. Faler said Reclamation has shifted their philosophy regarding fish passages and she feels it is probably a good shift because it takes them away from having to keep the river wet at all times and more towards letting the fish follow the water through the system. She went on to give additional information on this subject.

Ms. Faler said the Federal government has stepped up in a big way to assist with the sediment resolution and the long standing dispute regarding trespass at Isleta Diversion Dam. She said there are still on-going discussions and they will be able to get through the process to resolve the issues hopefully for the next 100 years. Ms. Faler said that Reclamation will be providing a chunk of funding for pass/trespass and future use. She said they are hoping to get through the sediment discussion and they are going to shoot for a formal signing on September 23, 2106 and so it's all "hands on deck" working towards this date. Director Oglesby had a question regarding the fish passage and fish habitat situation above Angostura Dam and Ms. Faler answered that although there is sub-par habitat in that part of the river, if fish have the option to move north they may.

b. Bureau of Indian Affairs

The Bureau of Indian Affairs advised Chairman Lente they would not be at today's meeting and this item was removed from the agenda.

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

a. Water Report – David Gensler, MRGCD Hydrologist

Mr. Gensler said water over the last two weeks has been interesting, but very low key. He said there has been rain, nothing major, however adequate. He said the rains have been mostly in the middle Rio Grande; not so much up north and it has allowed the reduction of storage releases to a moderate level. Mr. Gensler said as of today, the MRGCD has approximately 58,400 ac-ft. in storage and with the present rate of release the month of August will be finished with approximately 52,000-53,000 ac-ft. in storage and possibly some of this can be saved for next year. He said he would like to end the irrigation year with something around 35,000 ac-ft. still in storage and this would allow some payback to ABCWUA and possibly start next irrigation season with something on the order of 30,000 ac-ft. in the bank. Mr. Gensler said that current operations are about the same; diverting 125 cfs at Cochiti, 90 cfs at Angostura and about 480 cfs at Isleta, thanks to last night's rain, and about 40 at San Acacia and roughly 180 at the Socorro Main.

Mr. Gensler said also of interest is the Rio Grande Silvery Minnow ops. He said that Reclamation has now reduced its release of supplemental water to 50 cfs; and had been bypassing 75 cfs below Isleta Dam, He said there was a plan that today there would be a cut to 50 cfs and last night's rain changed that. Mr. Gensler said that once the drying happens, the MRGCD has several wasteways set up through the Isleta Reach to augment flows in the river and will begin delivering San Juan Chama water using the Audubon Society's account at Abiquiu.

b. Update – Isleta Diversion Dam Negotiations – Mike Hamman MRGCD CEO & Dr. Charles T. DuMars, MRGCD Chief Water Counsel

Mr. Hamman reported the MRGCD has been participating with Reclamation and directly with the Pueblo of Isleta to discuss all the various options to try and itemize and button up in terms of a total package. He said they want to get everything settled in one agreement that will allow the MRGCD, the Pueblo and the United States to an appropriate settlement going forward with some of the challenges i.e. a fish passage and some habitat work. Mr. Hamman said they are putting it all on the table for one package and the MRGCD cost share amount is \$2.5 million. Dr. DuMars said his firm has taken the same position as the MRGCD which is in problem solving and not in litigation. He said that Reclamation and the Pueblo are looking at final resolution for September 23rd and so they are going to be meeting twice a week until then. He said all the participants are interested in problem solving and not finger pointing. Director Kelly had a question regarding the \$2.5 million cost share and Dr. DuMars answered his question accordingly. Director Oglesby asked about what kinds of structures are being envisioned in terms of sediment control and discussion followed.

c. Update – WaterSMART Grants – Mike Hamman, MRGCD CEO

Mr. Hamman reported that of the two grants the MRGCD has received from Reclamation, one is the Drought Contingency Plan grant which requires the MRGCD taking the lead with Reclamation to set up a drought task force and develop a regional drought contingency plan. He said it is a required document that meets the criteria to be eligible for future funding through the WaterSMART program. It will also serve as a tool to have some kind of drought contingency laid out for water users. Mr. Hamman said the other grant is a drought resiliency project in Socorro County which is a pumping station that will salvage water from drains for irrigation and will have the ability to put water in the river and also might create a new habitat at the outfall. He said for both projects, the MRGCD has their internal team already working on the environmental documents for the construction project. Mr. Hamman said the schedules are also being developed and a timeline established.

d. Status Report from Public Information Officer – Tom Thorpe, MRGCD PIO

Mr. Thorpe said he wanted to update the Board on the event of last Saturday; the Bosque Chili Festival. He said it was a very successful event with approximately 5,000 people attending with sixty vendors, six bands and dance groups. He said there were contests and demonstrations, fruits and vegetables for sale, chili roasting, as well as other vendors and came from as far away as Socorro. Mr. Thorpe said there were about 500 visitors to the MRGCD booth and a lot of MRGCD products were given away. He said there will be a post mortem on the event in the next week and he will provide a more specific accounting at next month's meeting.

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

a. Discussion – Review of Proposed Changes to Election Rule 20, Declaration of Candidacy Form & Candidate Qualifications – Lorna Wiggins, MRGCD General Counsel

Ms. Wiggins reported that she, Mr. Marquez, Automated Election Services Election Director and Evelyn Bennett, MRGCD, Election Officer have been working through Rule 20 and supporting documentation. She said that Mr. Marquez was working with another election and would not be available for this discussion. She said they were primarily interested in addressing the issues that were dealt with in the 2015 election; specifically the Aragon vs. MRGCD litigation. She said there were a couple of other issues they felt needed additional clarification and today's goal was to also see if the Board had any other issues they thought required addressing.

Ms. Wiggins said the first revision makes it clear "that as of the date the candidate completes the Declaration of Candidacy, the candidate is qualified to hold office." She said the MRGCD won't be in the situation where someone does not have the ability to cast a vote or hold an office of public trust when filing for candidacy. Ms. Wiggins said the next revision is to ensure that Election Judges return the transfer case and election materials – not the actual election voting machines. She said the next revision is the time when the Provisional Ballot Precinct Board would begin looking at Provisional ballots. Ms. Wiggins said the next substantive revision occurs with recounts and what they tried to do was to make clear that as soon as the MRGCD can determine what it will cost for a recount, that information will be posted on the MRGCD website. She said there is also clarification that if there is a request for a recount, that the person asking for the recount; makes a deposit of sufficient cash or posts a bond to cover the cost and the MRGCD will have the money up front. Ms. Wiggins then covered the Qualifications for MRGCD Board of Directors and said the revisions mirror those of Rule 20 as well as in the Declaration of Candidacy form. She said this form requests that at the time the candidate prepares the Declaration of Candidacy that all of the eligibility requirements are met including the requirements to hold public office. She said they also included for the Board, the NM State Statute 31-13-1 which covers felony convictions and restoration of citizenship. Ms. Wiggins said she would suggest the Board reviews the changes and if there are questions or concerns to get back to them. Director Kelly said that on the recount paragraph that it should be either estimated or actual and needs to be revised. Director Duggins asked if there was any occasion where the

MRGCD would pay for the recount and Ms. Wiggins and Ms. Bennett said that has not happened in their tenure. Director Oglesby asked about the full rights of citizenship and what would happen if a non US citizen requested to run for a Board position and is there any limitation and Ms. Wiggins responded there is nothing that she has found. Director Sichler said if a candidate asked for a recount and they prevailed in that recount would they still have to pay. Ms. Wiggins said they could probably come to the Board, but there is nothing that says what would happen in that instance. Ms. Bennett asked if this was something that Director Sichler wanted addressed in Rule 20 and he said in other elections when there is a recount and the candidate prevails, they are not required to pay for the recount. Director Sichler said he feels this should be consistent with what the State elections are. Ms. Wiggins said they could place language in Rule 20 that would retain the Board's flexibility should the outcome of the election change and the Board was in consensus. She said she would work on that revision in Rule 20 and the documents would be presented for approval at the next Board meeting.

- b. Update – Endangered Species Act (ESA) Issues – Dr. Charles T. DuMars, MRGCD Chief Water Counsel

Dr. DuMars said the Board will recall the MRGCD is currently involved in two lawsuits; one in Federal Court being named in the WildEarth Guardian suit, Fish & Wildlife Service, the Corps of Engineers and the Corps of Engineers has been set aside and a separate issue where the Bureau of Reclamation is involved and good progress has been made on that. He said the way this will work is the decision will be made on the record; that is to say whether they will prevail is on the record and moving so closely with the United States to ensure that WEG does anything in the record that isn't germane and everything the MRGCD wants is in the record. He said much of that case may become moot on the issuance of the new Biological Opinion. He said that 2003 Biological Opinion, in theory, is going to be replaced with the new one and when that happens, much of that case will be moot.

Dr. DuMars said the second lawsuit in the Mandamus case in the Court of Santa Fe. He said his firm has filed all the necessary pleadings and has moved to dismiss and the United States has said it should be dismissed because they are an indispensable party and cannot be sued in State Court, and has concurred with the MRGCD arguments.

Dr. DuMars said the real action involves the Biological Opinion and it was said for sure that it would be out a week ago. He said David Gensler, Patrick Redmond of LRPA and the State has all worked together to make a whole series of points about the correctness of the numbers, about the issues that were raised. Dr. DuMars said he has a White Paper that he will e-mail to the Board and was signed by the Assistant Attorney General, Mr. Redmond on behalf of the MRGCD and the United States collection of arguments that was placed into the record during the recovery process. He said there are some other issues that are going on right now and until there is a Biological Opinion and he thinks it is fair to say that everybody wants to see a document that the MRGCD, Fish & Wildlife Service, the State, Reclamation can defend; not one they have to attack. He said everyone has worked very hard to ensure this Biological Opinion is more rational and tied to things other than flow targets and utilizing all the information that was offered.

AGENDA ITEM NO. 11 – REPORTS FROM THE BOARD OF DIRECTORS

The Board members present did not have reports.

AGENDA ITEM NO. 12 – EXECUTIVE SESSION

- c. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)7)
 1. Threatened or Pending Litigation
 d. NMSA 1978 Open Meetings Act, (Section 10-15-1(H)2)
 2. Limited Personnel Matters

Chairman Lente requested a motion to move into Executive Session.

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

Chairman Lente requested a roll call vote:

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

The **MOTION CARRIED** unanimously.

Chairman Lente adjourned the meeting at 4:50 pm.

Chairman Lente left the meeting at 5:00 pm.

Vice-Chairman Duggins reconvened the meeting at 5:20 pm.

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

Vice-Chairman Duggins requested a roll call vote:

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

The **MOTION CARRIED** unanimously.

Vice-Chairman Duggins said discussion was had and no decisions were made.

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

The meeting was adjourned at 5:22 pm.

Approved to be the correct Minutes of the Board of Directors of August 22, 2016.

Attested:

David M. Fergeson
Secretary/Treasurer

Derrick J. Lente, Chairman
MRGCD Board of Directors