

**MINUTES OF THE  
TWO THOUSAND NINETY SIXTH REGULAR MEETING  
OF THE  
BOARD OF DIRECTORS OF THE  
MIDDLE RIO GRANDE CONSERVANCY DISTRICT  
September 12, 2016**

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

**DIRECTORS:**

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

**STAFF:**

Michael A. Hamman	Chief Engineer/CEO
Charles T. DuMars	Chief Water Counsel
Bruce & Lorna Wiggins	General Legal Counsel
David Fergeson	Secretary-Treasurer
Jeanette Bustamante	Administrative Officer
Christine Nardi	HR Director
David Gensler	Hydrologist
Ray Gomez	Engineer Supervisor
Tom Thorpe	Public Information Officer
Doug Strech	GIS Supervisor
Joe Brem	Albuquerque Division Manager
Sarah Avallone	Assessment Officer
Estella Gamboa	Assessment Clerk
Jason Casuga	Engineer I

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

Bob James Frank Chaves, Pueblo of Sandia	Gary Stansifer, Office of the State Engineer Sandra Lucero, US BIA
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**AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE**

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

Vice-Chairman Duggins welcomed the guests and declared a quorum.

**AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA**

Vice-Chairman Duggins called for approval of the agenda. Mr. Hamman said he would like to add an agenda item as 9d Announcements; he has two announcements and an award recognition. Vice-Chairman Duggins reported the BOR would not be in attendance at the meeting and to remove agenda item 8a.

Director Kelly made the **MOTION TO APPROVE THE SEPTEMBER 12, 2016 AGENDA AS AMENDED**. Director Oglesby seconded the motion. The **MOTION CARRIED** unanimously.

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

- a. Consideration / Approval of Payment Ratification – September 12, 2016

Vice-Chairman Duggins called for approval of the September 12, 2016 Payment Ratification.

Director Oglesby made the **MOTION TO APPROVE THE PAYMENT RATIFICATION OF SEPTEMBER 12, 2016 AS PRESENTED**. Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

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

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

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

**AGENDA ITEM NO. 4 – APPROVAL OF THE MRGCD MEETING MINUTES**

- a. Consideration / Approval of Minutes for Regular Board Meeting – August 22, 2016

Vice-Chairman Duggins called for approval of the minutes for the Regular Board Meeting August 22, 2016.

Director Romero made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING AUGUST 22, 2016 AS PRESENTED**. Director Oglesby seconded the motion. Director Dunning abstained. The **MOTION CARRIED**.

**AGENDA ITEM NO. 5 – CONVENE BOARD OF EQUALIZATION**

- a. Reclassification Hearing – Sarah Avallone, MRGCD Assessment Officer

Vice-Chairman Duggins called for a motion to convene the Board of Equalization. Director Oglesby made the **MOTION TO CONVENE THE BOARD OF EQUALIZATION**. Director Dunning seconded the motion. The Recording Secretary requested a roll call vote.

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

The **MOTION CARRIED** unanimously.

Vice-Chairman Duggins introduced Sarah Avallone, MRGCD Assessment Officer. Ms. Avallone said this meeting is for all constituents that have submitted a protest for this year with regards to water service charges. She said she has provided each Director with a list of each constituent that submitted a protest and staff has completed research on each location. Ms. Avallone said this meeting provides the constituent an opportunity to speak with the Board regarding their protest. Vice-Chairman Duggins asked if there were any constituents present to protest their water service charge to the Board.

Robert James presented details of his protest on 1.86 acres of land in Bosque Farms. Mr. James said he is requesting the Board declare the total of 1.86 acres as non-irrigable and to set

aside the \$250 assessment fee. Mr. Hamman said he and staff have met with Mr. James on a couple of occasions and staff has taken this as far as they can go in working this out with the current MRGCD policy. He said with Chief Engineer discretion, staff has reduced the total billing to approximately \$38, granted a 1.4 acre exemption and to keep the .46 acre in play until such time as staff can address the current policy overall. Additional questions and discussion followed. Mr. Hamman said the current policy will be revised to address some issues that were experienced this year and he made the suggestion to table a decision today and address it again after further research of the well and permit issues and revision of the current policy or go forward with staff recommendation. Additional discussion followed. Director Kelly made the **MOTION TO TABLE THIS ONE INDIVIDUAL CASE ITEM 12 IN VALENCIA COUNTY UNTIL SUCH TIME AS MR. HAMMAN AND MS. AVALLONE HAVE FURTHER INFORMATION FOR THE BOARD TO CONSIDER ON THIS WITH REGARDS TO THE WELL PERMIT ITSELF AND THE UTILITY CONFLICTS IN TRYING TO SERVE THIS INDIVIDUAL PROPERTY.** Director Dunning seconded the motion. The **MOTION CARRIED** unanimously. Director Kelly said that the Board has charged Mr. Hamman with taking a look at MRGCD processes, procedures, policies and he feels it is important to keep the separation of implementing policy as adopted versus the Board's obligation to set or revise policy as things come before them.

It was determined there were no other Protestants in the audience.

Director Dunning made the **MOTION TO APPROVE THE SUMMARY OF PROTEST FINDINGS & CONTRACTS AS DISCUSSED.** Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

#### **AGENDA ITEM NO. 6 – RECONVENE REGULAR BOARD MEETING**

Vice-Chairman Duggins called for a motion to adjourn the Board of Equalization and reconvene the regular Board meeting.

Director Oglesby made the **MOTION TO ADJOURN THE BOARD OF EQUALIZATION AND RECONVENE THE REGULAR MEETING.** Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

#### **AGENDA ITEM NO. 7 – ITEMS FROM THE FLOOR (Comments are limited to three (3) minutes)**

There were no Items From the Floor.

Director Kelly said he received a text from a constituent, Barbara Baca, regarding property the Board dedicated in honor of her father Pat Baca on the Atrisco heading. She said she wanted to send kudos to the great MRGCD crew doing an excellent job on cleaning of the ditch east of Atrisco and North of Central; the Riverside Drain. Director Kelly requested that Mr. Hamman and Joe Brem pass this along to their staff.

#### **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 = 113,610 ac-ft. (09/08)  
 Azotea Tunnel: 20-30 cfs  
 Total SJ-C inflow year-to-date: 93,443 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 09/08:  
48,971 ac-ft.
- B. Native in El Vado  
12,861 ac-ft.
- C. MRGCD SJ-C storage in El Vado  
15,160 ac-ft.
- D. MRGCD EDWA:  
0 ac-ft.
- E. NMISC EDWA:  
1,153 ac-ft.
- F. P&P:  
13,413 ac-ft.
- G. All other SJ-C contractors:  
6,384 ac-ft.

Current release is 500 cfs      RG Inflow is 60-100 cfs

## 3. Storage in Abiquiu

Content = 124,423 ac-ft. (09/08)  
MRGCD SJ-C storage = 1,681 ac-ft.

Total water for minnow released to date in 2016:    11,079 ac-ft.

Ms. Faler sent a message that she would not be available to give the BOR report and agenda item 8a was deleted.

### b. Bureau of Indian Affairs

Sandra Lucero, Acting BIA Designated Engineer reported a total of 550 ac-ft. of P&P water was released from July 22<sup>nd</sup> to August 1<sup>st</sup>. She said the second quarterly payment for the the current O&M Agreement was made on September 6, 2016 and the next payment will be due in December 2016. Ms. Lucero said a BIA/MRGCD quarterly meeting is scheduled for September 19, 2016 at the BIA offices and the Board is welcome to join the meeting and it begins at 9:00 am. She said the BIA continues to work with MRGCD staff to develop the winter work plan for the six Pueblos and she and Ray Gomez, MRGCD Engineer Supervisor will be meeting with the individual Pueblos this week. She said the goal is to have a final list of projects selected for winter work before the end of this irrigation season. Ms. Lucero said interviews for the Designated Engineer position have been conducted and are now pending approval of final selection from DC.

Director Kelly asked if the winter work plans were similar to those of past years and she responded that right now she is trying to keep it the same as last year; when she can. She said there may be some additional projects, however, nothing too large. Director Kelly asked that the BIA keep the work plan in perspective and the projects are doable with the capacities the MRGCD has over a four month construction window. Ms. Lucero said that is the goal of her and Mr. Gomez. Vice-Chairman Duggins said there has been talk over the last ten months regarding the money paid to the MRGCD and the difference will be divided amongst the Pueblos. He said there was an idea that maybe the money could be lumped together and do more good on the Pueblos if spent one year on Isleta, the next year Sandia and so on and by not watering it down so much it could be able to do

more projects and is there any talk of that. Ms. Lucero said the first money that comes down is taken out for administrative support and after that, it goes to whatever obligations there are to the O&M agreement for betterment work and all of that goes back into MRGCD facilities. Vice-Chairman Duggins said it seems if each Pueblo had \$50,000 after all was said and done, that amount of money could really get something done, it might be worth thinking about; Ms. Lucero said that would be up to the individual Pueblos and they each have their own wish list. Vice-Chairman Duggins said this is something the MRGCD would have to bring to the Pueblos themselves, but it seems that if there were a five year project and each Pueblo could be assured that the next year would be theirs and no one would be left out. Ms. Lucero said there are stipulations within the OM&B contract for the Pueblos to contract with the MRGCD for projects.

**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 reported that there is not a lot going on right now and it has been quiet over the past couple of weeks. He said there have been scattered showers around the Valley, which is nice, however the showers are happening in the Middle Valley and not upstream and it is hit and miss. He said the MRGCD is still having to release water from storage to maintain the flows to the Middle Valley. Mr. Gensler said as of today there is a little over 47,000 ac-ft. still in the reservoirs for the MRGCD. He said the MRGCD will finish up the year somewhere between 35,000-36,000 ac-ft. still in storage and he's banking on getting by with 12,000 ac-ft. for the month of September. Mr. Gensler said the current diversions today are Cochiti 135 cfs, Angostura has been cut back 85 cfs, Isleta is up to 450 cfs; over the last several days it has been running around 375 cfs, and in the Socorro Main Canal has been bouncing around 120-170 cfs and diverting anywhere between 30-70 cfs. He said the MRGCD is bypassing approximately 70 cfs at San Acacia Dam, bypassing 40 cfs at the Isleta Dam for the fish and getting some help from the outfalls. He said Audubon is providing water to the MRGCD to be delivered and released at these outfalls.

b. NM Department of Finance & Administration Budget Approval FY17 – David Fergeson, MRGCD Secretary/Treasurer

Mr. Fergeson said this is strictly for informational purposes to let the Board know that the MRGCD completed the second phase of the budget process which requires Department of Finance approval by September 1<sup>st</sup> and was received with no stipulations.

c. Report – NM Interstate Stream Commission Tour – Mike Hamman, MRGCD CEO

Mr. Hamman reported that he and Mr. Gensler were invited by the Endangered Species Act (ESA) Committee of the Interstate Stream Commission (ISC) and Mr. Buford Harris is the Chair of that committee. He said that Mr. Harris had requested Mr. Hamman make a presentation to their committee of the relative ESA related impacts and processes that the MRGCD is engaged in starting from the complex process of developing the Section 7 Biological Assessment (BA). He said they discussed a lot of the nuances of how the MRGCD operates and how it has conducted the changes in operations from 1996 to continue to meet irrigation demands, but also minimize diversions in the river and to keep as much direct flow in the river as possible. Mr. Hamman said this is a major change in the way the MRGCD has operated to address the ongoing needs of the ESA and the river in its general ecological context. He said they are now engaged in working directly with the ISC and being a partner in trying to finalize the Biological Opinion; they talked about all the nuances that the MRGCD has put on the table relative to their commitments under the new BA in the throes of negotiating with the Fish & Wildlife Service (Service) and explaining the role of the MRGCD and helping the Service understand the hydrology. Mr. Hamman said they did this in a tour context beginning at Angostura, viewed the operations there and found a nice shade tree and talked about the policy procedures that would be created when the BO is issued. He said the main questions they received from the ISC were along the lines of how the MRGCD sees this playing out for the future. Mr. Hamman said they continued the tour by traveling to their Rio Rancho site, just upstream from

the Corrales Siphon, to view the ESA habitat development site and they talked about the way the MRGCD has been able to use the reservoirs as a way to develop operations for spawning releases in an Article VII situation. Mr. Hamman said Mr. Gensler took responsibility for the second day of the tour in the lower part of the river in the context of how the MRGCD operates for the minnow in the spawning period and then the downstream part of the tour was regarding developing refugia and habitat for low water conditions. He said he thinks they were able to show the ISC how the MRGCD is proactively developing outfall areas where they can get water to. He said they also discussed the grant the MRGCD received from the BOR to build the water salvage project at the Neil Cupp site which is the north boundary pumping station and he went on to give details on the grant. Mr. Hamman said it was a good tour and there was a lot of discussion about partnerships going forward with the ISC under the new BO and he thinks it helped the ISC better understand, and hopefully support funding and cost share in the future. He said Mr. Gensler also discussed in some detail a fish passage concept at San Acacia. Director Kelly had questions regarding the fish passage idea at that point in the river and depletion offsets for habitat and Bosque restoration projects and Mr. Hamman answered accordingly. Director Oglesby and Dr. DuMars added additional discussion to the depletion offset issue. Vice-Chairman Duggins asked for an update on the La Joya to Socorro Unit 7 Siphon and the Corrales Siphon and Mr. Hamman complied.

Vice-Chairman Duggins said on Sunday morning a canal broke that came into his farm and he made a phone call to the Socorro Division and they arrived within ten minutes and worked all day Sunday to fix the arroyo and he wants to say thank you and it is important and very much appreciated.

d. Approved Licenses for August 2016 (For Informational Purposes Only)

There were no questions or comments from the Board.

e. Announcements – Mike Hamman, MRGCD CEO

Mr. Hamman said that the MRGCD was the recipient of a MRCOG 2016 Public Partnership Award for the work done on South Valley Flood Damage Reduction Flood Control Project. He invited Ray Gomez, MRGCD Engineer Supervisor to address the Board. Mr. Gomez said he has been working on this project for many years and gave a brief history on the project. He then introduced Brad Bingham, AMAFCA PE and said they worked closely with AMAFCA and Mr. Bingham gave additional remarks. Director Kelly said USCOE Lt. Colonel Kimberly Colloton presented this idea to the Board and the Board accepted and every USCOE engineer since then was actively involved in this project and he would like them to be aware of this award and Mr. Bingham said that several members of the USCOE were in attendance at the reception.

Mr. Hamman reminded the Board of the NWRA conference in November. He said he and the Chairman will be attending and if any other Board members would like to attend to let staff know to make arrangements.

Mr. Hamman said he would like the Board to be aware that the Valencia Soil & Water Conservation District has requested that he make a presentation regarding the MRGCD's priorities on the outlook on water and the role as a collaborator for success of conservation initiatives at their Conservation Celebration on September 23<sup>rd</sup> at the Whitfield Wildlife Conservation Area. He said Board members are invited to attend.

Mr. Hamman said the Board has also been invited to a Completion Ceremony for ESCAFCA's Canon del Agua East Stormwater Detention Facility on September 20<sup>th</sup>. He then gave some background on the MRGCD project partnership with ESCAFCA.

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

- a. Consideration / Approval - Revisions to Election Rule 20, Declaration of Candidacy Form & Candidate Qualifications – Lorna Wiggins, MRGCD General Counsel

Ms. Wiggins reported since the last Board meeting of August 22<sup>nd</sup> there are further revisions to Rule 20 and she is requesting that if the Board has comments or additional revisions that they make them so Rule 20 can be processed for public review. She said the revision is primarily focused on recounts and the cost of a recount proceeding and she explained the revision and she said the sentence about the estimated cost was cleaned up a bit to reflect the likely cost rather than actual cost of a recount.

Director Kelly said he would make a **MOTION TO ACCEPT THE CHANGES AND AUTHORIZE STAFF TO PUBLISH THIS IN ACCORDANCE WITH MRGCD POLICY FOR ESTABLISHING NEW PROCEDURES.** Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

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

There were no reports from Board members present.

**AGENDA ITEM NO. 12 – EXECUTIVE SESSION**

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

Vice-Chairman Duggins requested a motion to move into Executive Session.

Director Dunning **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.

Vice-Chairman Duggins requested a roll call vote:

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

The **MOTION CARRIED** unanimously.

Vice-Chairman Duggins adjourned the meeting at 4:30 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 Dunning made the **MOTION TO MOVE BACK INTO REGULAR SESSION.** Director Kelly seconded the motion.

Vice-Chairman Duggins requested a roll call vote:

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

The **MOTION CARRIED** unanimously.

Vice-Chairman Duggins said for the record that only discussion was had and no action was taken.

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 September 12, 2016.

**Attested:**

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David M. Fergeson  
Secretary/Treasurer

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Glen Duggins, Vice-Chairman  
MRGCD Board of Directors