

**MINUTES OF THE  
THREE THOUSAND FIFTEENTH REGULAR MEETING  
OF THE  
BOARD OF DIRECTORS OF THE  
MIDDLE RIO GRANDE CONSERVANCY DISTRICT  
SEPTEMBER 25, 2017**

Directors having been duly notified, Chairman Kelly called the regular meeting to order at 3:01 pm at the MRGCD General Office. The following Directors and Staff were present:

**DIRECTORS:**

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

**STAFF:**

Mike A. Hamman	Chief Engineer/CEO
Chuck DuMars	Chief Water Counsel
Lorna Wiggins	General Legal Counsel
David M. Fergeson	Secretary/Treasurer
Jeanette Bustamante	Administrative Officer
David Gensler	Water Operations Manager
Ray Gomez	Engineer Supervisor
Doug Strech	GIS Supervisor
Yasmeen Najmi	Planner/RRA
Alicia Lopez	Engineer 1
Adrienne Martinez	Engineer 1
Joe Brem	Albuquerque Division Manager

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

Jeff Willis, AMAFCA  
Michael T. Sandoval, Pueblo of San Felipe  
Julio Gutierrez, Lemitar, NM  
Gary Stansifer, OSE  
Martin Haynes

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

Chairman Kelly led the Pledge of Allegiance.

Chairman Kelly welcomed the guests and declared a quorum.

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

Chairman Kelly called for approval of the Agenda.

Mr. Hamman added item 5g for an Announcement to the Board.

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

**AGENDA ITEM NO. 3 – APPROVAL OF THE MRGCD MEETING MINUTES**

- a. Consideration / Approval of Minutes for Regular Board Meeting – September 11, 2017

Chairman Kelly called for approval of the minutes for the Regular Board Meeting September 11, 2017.

Director Moore asked for clarification of what is “Green Belt” and Directors Dunning and Duggins provided Director Moore some background, and in summary it is a classification for properties that have requested this classification because their property is agriculture and/or raise animals on the property. Director Duggins also stated that there are tax credits with the Green Belt classification.

Chairman Kelly made a slight amendment under the Reports of the Legislative Committee.

Director Moore made the **MOTION TO APPROVE THE MINUTES AS AMENDED OF THE REGULAR BOARD MEETING SEPTEMBER 11, 2017**. Director Dunning seconded the motion. The **MOTION CARRIED**. Director Lente abstained.

#### **AGENDA ITEM NO. 4 – ITEMS FROM THE FLOOR**

Mr. Julian Gutierrez stated he farms approximately 350 acres in Socorro County and was here to discuss with the Board his concerns on the following issues

- Over Scheduling Irrigators,
- Use of “wing boards” prohibited and MRGCD policy
- Better scheduling and not having to wait a month to be scheduled, new crops being impacted
- Amount of water in the system to provide enough pressure

Director Duggins thanked Mr. Gutierrez and stated he uses wing boards in certain ditches, but there are a lot of areas where the ditch banks have eroded and wing boards can’t be used. Director Duggins commented he was not aware of a policy regarding the use of “wing boards”.

Mr. Gutierrez responded that a 40 acre parcel of farmland took 4 days to irrigate and that is not an acre an hour. Mr. Gutierrez indicated it used to take him 1.5 days because he was able to use the wing boards and check it higher.

Mr. Gutierrez advised the board because of over scheduling irrigators, it is now taking him much longer to irrigate because of over scheduling. Mr. Gutierrez will be irrigating 140 acres, and with good pressure and checked up it will take 24 hours, but without pressure it will take 3 to 4 times longer

Director Lente sympathized with Mr. Gutierrez, expressing he encountered this same situation this summer himself, and remarked the District needs to schedule people and provide enough water and the time to let the farmer irrigate and get it done and get out. Farmers work independently as Director Lente indicated he does, and we are the only ones who are trying to make things work, all you want to do is to get in and get it done and move on to another task. He suggested that Mr. Hamman and Mr. Gensler meet with Mr. Gutierrez and discuss his situation. No farmer wants to risk the drying of crops, stressing or in the worst case lose their crops. He strongly recommended for the farmer to be in contact with their ISO or the Division Manager and resolve the issues at that level so that the farmer does not have to come to the Board.

Director Moore questioned if there was silt built up in the ditch, and Mr. Gutierrez responded I’m getting enough pressure when there is enough water. The problem is that the ISO does not want us to use that radial gate, and it has been locked, but they finally unlocked it, but they don’t want us to use it because they don’t want us to cut Socorro off. I start irrigating and then 4 farmers above him also start irrigating and they take the water and it impacts everything downstream.

Mr. Hamman committed that they will go out and look at his farm and evaluate and if needed take shots of the ditch banks and see if the banks can be raised. We will also be having a post season review. The District is here to improve the system and obtain information and review that information at the end of the season and see if there are things that can be done during the off season to improve the operations.

Chairman Kelly thanked Mr. Gutierrez. He also commented that Director Lente provided him a Face Book comment stating when Glen Duggins and his Cinco Estrella Farms has quality chile, you buy extra for the winter, and it had 194 likes posted, and asked to pass the comment around.

**AGENDA ITEM NO. 5 – REPORT(S) FROM THE CHIEF ENGINEER - (Mike Hamman, MRGCD CEO/CE)**

- a. Bid Abstract – Jeanette Bustamante, Administrative Officer
  - 1. Waterman Gates – District Wide



# Memorandum

**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:** September 21, 2017

**Re:** ABSTRACT FOR WATERMAN SLIDE GATES FY2018

Bid for Waterman Gates & Replacement Parts was advertised on September 8th and September 10th, 2017, five (5) Bid packets were issued to Irrigation Gate Suppliers, and one bid was received as follows:

VENDOR	<u>SCHEDULE I</u> ALBUQUERQUE DIVISION	<u>SCHEDULE II</u> BELEN DIVISION	<u>SCHEDULE III</u> SOCORRO DIVISION	<u>SCHEDULE IV</u> COCHITI DIVISION	GRAND TOTAL ALL SCHEDULES
Waterman Industries	\$46,915.46	\$47,140.97	\$12,429.91	\$7,660.89	\$114,147.23

After thorough review, staff recommends award to Waterman Industries for Schedules I, II, III & IV for a grand total amount of \$114,147.23.

Chairman Kelly stated since Waterman Industries is the only bidder why don't we classify them as a Sole Source and negotiate pricing. Ms. Bustamante responded that sole sourcing still requires the entity to annually use due diligence to validate that no other source is available, and also stated she would further review the statute for Sole Source.

Director Romero made the **MOTION TO APPROVE CONTRACT TO WATERMAN INDUSTRIES**. Director Lente seconded the motion. The **MOTION CARRIED** unanimously.

- b. Water Report – David Gensler, MRGCD Water Operations Manager

Mr. Gensler apologized for not being in the room when Mr. Gutierrez was providing comment from the floor. Listening to the end of the conversation we need to go down and look at some of Mr. Gutierrez's situation. We do have policies in place, specifically on the modifications of structures, regarding the boards that people place on top of them. Placing boards can and does cause problems, causing structures to begin to fail. Failures are not usually catastrophic, it is slow and you begin to see spider web cracks in the concrete and they eventually fail, and that is why that policy is in place. Mr Gensler said that Chairman Kelly, as an engineer, should be familiar with the problem of structures experiencing greater forces than they were designed for. He offered the specific example of a large check structure on the San Juan Main canal that is

failing, cracked extensively and shifting because it has consistently had 18 inch boards placed on top by irrigators. It will fail, and cost the district a great deal of money to replace. It does not need to be checked to that level, but the irrigators naturally think that more water is better, and the ISOs in that area used to ignore the policy.

The other policy relevant to Mr Gutierrez's situation states that check structures are to be operated by District staff, unless specifically directed otherwise by their ISO and checks are supposed to be locked. We understand that the ISO cannot be present everywhere all the time, so irrigators are allowed to operate checks specifically as directed by the ISO. The ISO should unlock it in advance for these situations. If Mr. Gutierrez has a scheduled irrigation and the radial check needs to be dropped in the Main Canal, it is the responsibility of his ISO to come and do that for him. Mr. Gensler stated he will look into this, but that it should not be a problem for the ISO to adjust the check for Mr Gutierrez so he can irrigate properly without cutting off supply to the Socorro Acequia.

In regards to the Water Report September has been a very dry month. Natural flows in the river have continued to be very low, and the District has been releasing a very significant volume of storage to augment the river. Recently releases have been in excess of 1,200 acre feet a day over the last two weeks.

Fortunately we got some cooler weather over the weekend, and a few light rains scattered around the valley have calmed our demand a little. Our storage release from El Vado today is down to about 800 ac. ft. a day. Generally late September or early October we are not releasing very much water, often times, none at all. Hopefully that will be the case soon as rains are in the forecast, along with cooler temperatures.

No change in the river drying, the river has been very stable. Reclamation continues to release about 75 cfs of "Minnow Water" and we continue to bypass that water at Isleta and San Acacia Dams.

Chairman Kelly thanked Mr. Gensler for his report.

- c. "Draft" Talking Points to present to NM Legislative Water & Natural Resources Committee and Logistical Matters – Mike Hamman, MRGCD CEO

Mr. Hamman commented that the information that will be provided to the Water and Natural Resources Committee will educate them on the Middle Valley operations in general and all of the commitments and issues that we have, that we are working together.

Individual presentations will be made by Mr. Hamman, Chairman Kelly, and Vice-Chair Duggins will provide the closing comments to the committee. Dr. DuMars and Mr. Hamman are working on introductory talking points that we will be presenting. After the presentation and the questioning period the Committee Members will be invited for a social hour that the District will be hosting.

Mr. Hamman then highlighted the priorities, with a power point presentation that will be presented to the Committee:

- Hydrology for this difficult time – 2010 to 2017 Hydrology
- Water Operations – Run of the River
- MRGCD Priorities
- Partnership with NM Interstate Stream Commission and Office of State Engineer
- ESA Considerations
- MRG Levee Task Force Update

There was discussion on the presentation and Chairman Lente commented that there will be questions in regards to the Water Bank, and suggested to include a detailed slide on the Water Bank and the history of the Bank.

- d. Schedule meeting with Personnel Committee for Update on District 2017 Pay and Classification study – Mike Hamman MRGCD CEO

Mr. Hamman advised the Board that the Consultant has completed the 2017 Pay Classification Study and would like to schedule a meeting with the Personnel Committee, and go through the detail of the Study. The Personnel Committee scheduled the meeting for 1:00 p.m. Monday October 9, 2017 with Director Dunning participating via teleconference.

- e. Final Review and Approval of the Grant Memorandum of Agreement between MRGCD and the Nature Conservancy – Mike Hamman, MRGCD CEO

Mr. Hamman introduced Mr. Martin Haines, Nature Conservancy Executive Committee Member. Mr. Hamman has been working with Ms. Laura McCarthy to finalize the Memorandum of Agreement with the Nature Conservancy. The District has budgeted \$50,000 for this upcoming year to assist in land improvement in the upper water sheds, above the San-Juan Chama Project. This work will prevent catastrophic wild fires, if we get enough of it done over the next decade. The District will make two (2) equal installments one in March and the last installment in October. The agreement also identifies specific requirements for reporting, deliverables and how the money is to be spent.

Director Dunning stated this is a grant application and it stipulates a certain amount payable in October and March, and we cannot increase any more than the \$25,000. Mr. Hamman responded that the Agreement is set up as a four-year agreement, and if the Board chooses to continue our grant process over the next four years or subsequent years, it is set up to be paid on those to dates, no matter what the sum is. If it happens to be less due to budget constraints it is set up to be 50% percent of whatever we designated in future grant years.

Director Dunning made the **MOTION TO APPROVE GRANT MEMORANDUM OF AGREEMENT BETWEEN MRGCD AND THE NATURE CONSERVANCY DISTRICT WITH MODIFICATIONS**. Director Romero seconded the motion. The **MOTION CARRIED** unanimously. Director Moore Abstained

- f. Report on Alameda Drain Trail Hydrology and Hydraulics Meeting, September 21, 2017 – Mike Hamman, MRGCD CEO

The local governments involved in negotiating a Hydrology and Hydraulics (H&H) Agreement back in 2006/2007 got together to review the agreement and further refine it. The study area was discussed at length, and the study would be to look at the capacity of the system, from the boundary of Sandia Pueblo all the way down to where the Alameda Drain enters into the Riverside Drain near Central.

The focus initially will be for gathering data. The local governments will collectively look at the available funding and supply and see if some funding can be under the Bernalillo County's lead to survey all points of tributary inflows across all the culverts and crossings and all things that hydraulically impact the flow of storm water and District return flows. Everyone is committed to the possibility of cost sharing.

The first phase the County will get an on-call engineering firm to start the data collection, and the group will reconvene in two weeks to review. The MRGCD does not have budget for us to help, we are part of a collective local government cooperating agency and we want to see what we can do to make it a successful study and also provide the information to make it a good survey result.

Chairman Kelly commented the Alameda Drain is one of the primary storm water outfalls for the entire North Valley area; it picks up water from the Village of Los Ranchos, Bernalillo County, and City of Albuquerque, and makes its way down through the Valley to come out on the Riverside Drain by the Country Club. A component of this H&H study needs to look at maximizing the Alameda Pump Station, Storm Water Pump Station at Paseo Del Norte and the one at Montano to take load off the drain.

We have typically not participated in the local drainage management plans, but two years ago we elected to participate in the master plan for the Alameda Drain.

Mr. Hamman stated the District is concerned about the water quality, that water is used in the South Valley and other places.

Chairman Kelly stated this is an important project for the District to follow as the District continues to urbanize, and we have similar requests to put water into our drain.

Director Moore questioned if this is used for flood control. Chairman Kelly responded yes the Alameda Drain serves to pick up storm water from detention basins, and it's the only route to the river. Director Moore commented this is timely that we are addressing this matter at the right time, after seeing what happened in Houston and the catastrophic failures they had.

Mr. Hamman explained most of the planning is focused on the 100-year storm event as far as the capacity, design and those types of issues. What happened in Houston was probably a 5,000/10,000-year event, so even out of the best planning, sometimes events occur, and we may see some of that, even here in the Middle Valley.

Ms. Wiggins, MRGCD Legal Counsel reminded the board that when you are talking about flood control you are talking about the river.

Mr. Hamman added it is a storm water routing assistance.

g. Announcement – Mike Hamman, MRGCD CEO

Mr. Hamman advised the Board that a photographer has been arranged to come and take photos of the newly elected Directors and also retakes for any of the existing Directors on Monday October 9, 2017. The photographer will set up and Directors can come in at 2:00 or so.

**AGENDA ITEM 6 - REPORT(S) FROM THE MRGCD ATTORNEY(S) – Chief Water Counsel and General Counsel**

a. Report on Additional Protests of Water Rights and Transfers of the City of Rio Rancho – Dr. DuMars, Chief Water Counsel

Dr. DuMars advised the Board that five more applications were filed for transfer by Rio Rancho. Dr DuMars indicated that one of the transfers had taken place a while back and it has already been granted, and the request was simply to continue to have a lease-back on the properties and we did not want to protest that one. In regard to the other four protests we added paragraph seven which I believe makes it clear; *The MRGCD does not deny that an individual irrigator holding a pre-1907 water right has a property right and that the seller is entitled to transfer it to a non-agricultural user through an "arms length" transaction with a willing buyer. However, the transfer of that water right outside the MRGCD causes the MRGCD and the remaining irrigators to bear externality costs that are not compensated in the sale between the buyer and seller. This Protest requests that the buyer and seller of the water right pay those externality costs. This Protest does not propose an absolute prohibition on the transfer. Rather it proposes that those costs be paid as a condition of the transfer.*

Chairman Kelly expressed he is pleased for being consistent with these new permit applications, paragraph seven addressed the concerns that were raised by this Board.

Director Dunning asked if it has been determined; what those externality costs are?

Dr. DuMars stated no, but we are looking at hiring an economist, who is committed to evaluate and take a look at all these issues and come up with the quantification of the externality costs for the major hearing that's coming up.

Chairman Kelly remarked this will set policy for this Board on what the Water Service Charge is supposed to capture and what it actually captures.

Director Moore asked how much water they are going to take out.

The first one was 500 ac. ft. and these are small numbers, but the reality is that this is beginning to have an effect on the District in each of the areas. Mr. Hamman and Dr. DuMars have met with the parties and we are hopeful that negotiations will come up with a mechanism to address this issue.

**AGENDA ITEM 7 - REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS**

- a. Report on Environment, Sustainability and Resources Panel Discussion at Albuquerque Mayoral Candidates Forum, September 13, 2017 – Director Baca

Director Baca advised the Board that it was an interesting experience; candidates would rotate around from table to table. There were approximately 8 at our round table, which included Director Baca, AMAFCA, and a couple of non-profits and a few private citizens. There were two topics; making recycling mandatory and making solar mandatory. This forum was helpful to find out what the candidates knew, and if they actually understood the topics.

Some candidates had no idea about the MRGCD, our regulations, water rights, the river or agriculture, but some were knowledgeable. It was a good opportunity to make that connection.

Director Moore made a suggestion to possibly have a luncheon and invite the new Mayor to meet with a couple of Directors and provide the Mayor information on the MRGCD. Chairman Kelly thought it was a good idea.

Director Dunning made the **MOTION TO APPROVE REPORT ON ENVIRONMENT, SUSTAINABILITY AND RESOURCES PANEL DISCUSSION AT ALBUQUERQUE MAYORAL CANDIDATES FORUM, SEPTEMBER 13, 2017.** Director Romero seconded the motion. The **MOTION CARRIED** unanimously.

**AGENDA ITEM NO. 8 – EXECUTIVE SESSION**

- a. NMSA 1978 Open Meetings Act Section 10-15-1-(H)2
  - 1. Threatened or Pending Litigation

Chairman Kelly requested a motion to move into Executive Session at 4:20 pm.

Director Dunning made the **MOTION TO MOVE INTO EXECUTIVE SESSION PURSUANT TO NMSA 1978 OPEN MEETINGS ACT (SECTION 10-15-1(H)7).** Director Duggins seconded the motion.

Chairman Kelly requested a roll call vote:

Director Dunning	Yes	Chairman Kelly	Yes
Director Baca	Yes	Director Lentz	Yes

Director Duggins	Yes	Director Moore	Yes
		Director Romero	Out of the Room

The **MOTION CARRIED** unanimously.

Chairman Kelly requested a motion to move back into the regular Board meeting.

Director Dunning **MADE THE MOTION TO MOVE BACK INTO REGULAR SESSION.** Director Moore seconded the motion.

Chairman Kelly requested a roll call vote:

Director Dunning	Yes	Chairman Kelly	Yes
Director Baca	Yes	Director Lente	Out of the Room
Director Duggins	Yes	Director Moore	Yes
		Director Romero	Yes

The **MOTION CARRIED** unanimously.

Chairman reconvened the regular meeting at 4:37 p.m.

Chairman Kelly said for the record that only discussion was had and no action was taken.

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

The meeting was adjourned at 4:38 p.m.

Approved to be the correct Minutes of the Board of Directors of September 25, 2017.

**Attested:**

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David M. Fergeson  
Secretary/Treasurer

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John P. Kelly,  
Chairman, MRGCD Board of Directors