

**MINUTES OF THE
2,172nd REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

FEBRUARY 8, 2021

**COVID-19 Response: This meeting was held telephonically.
The Office is Closed to the Public for General Board Meetings**

Directors having been duly notified; Madam Chair Dunning called the regular meeting to order at 3:10 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS		STAFF	
Karen Dunning, Madam Chair	Present	Mike Hamman	Chief Engineer/CEO
Joaquin Baca, Vice-Chair	Present	Dr. Chuck DuMars	Chief Water Counsel
John Kelly, Director	Present	Lorna Wiggins	General Counsel
Valerie Moore, Director	Present	Jason Casuga	Chief Operations Officer
Michael T. Sandoval, Director	Absent	Pamela Fanelli	Secretary-Treasurer
Barbara Baca, Director	Present	David Gensler	Water Operations Manager
Stephanie Russo Baca, Director	Present	Mike Lopez	Water Distribution Div. Manager

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

Viola Sanchez, BIA	Thomas Padilla, MRGCD
Jennifer Faler, BOR	Rick Altenberg, MRGCD
Michelle Olsen, OSE	Judy McSweeney, MRGCD
Philips Johnson	Francesca Shirley, MRGCD
Michael Padilla, MRGCD	Daniel Arquero, MRGCD
Adrienne Martinez, MRGCD	Estella Gamboa, MRGCD
John Thompson, MRGCD Lobbyist	Casey Ish, MRGCD
Jeff Greenwood, MRGCD	Rebecca Thompson, MRGCD
Scott Medina	Mike Apodaca, MRGCD
Renee Robichaud	Dan Clouser, MRGCD
Phil Bredfeldt	Marta Moerch, MRGCD
Matt Henkels	Justin Becker, MRGCD
Marcia Fernandez / Mr. Anderson	Lorenzo Benavidez, MRGCD
Dennis Lucero	Anthony Turrietta, MRGCD
Brittany Chavez	Yasmeen Najmi, MRGCD
Duana Draszkievicz	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Director Moore led the Pledge of Allegiance at today's meeting.

Madam Chair Dunning declared a quorum and noted that the meeting was publicly noticed. She noted that MRGCD is following the New Mexico Governor's health and safety guidelines. The meeting was held telephonically (telephone and on Zoom), with some Board Members and some staff present at the MRGCD main office and some Board Members on telephone/Zoom, and other speakers and the public on the phone. Members of the public that called in were asked to identify themselves, identify their phone numbers, as well as note if they intended to address the Board under "Items from the Floor."

Since today's meeting is being held telephonically, all votes taken by the Board for today's meeting will occur via rollcall vote.

Director Sandoval is engaged in traditional Pueblo duties today, and he may call in later to join the meeting.

Madam Chair Dunning reflected that this meeting marked one year since the District had an in-person meeting and how we've all dealt with the COVID crisis; saying it's impacted all of us and especially the family of Mike Montano, one of the longest serving District employees, who passed away due to complications from Covid-19. She expressed, on behalf of the Board of Directors, their sincere condolences to his wife and his daughter. MRGCD employees raised a generous amount of donations for the family. Also announced the memorial services to be held February 22nd at the Evangel Christian Center at 4501 Montgomery Blvd where one could send flowers. She called on the Board or employees who would like to say anything.

Director Kelly expressed his sincere sympathies to the family and his daughter. He shared that when Mike would deliver the Board package, he always made time to have a quick visit with him and his wife, Susan. He learned much about the intangible things that the MRGCD did, that it helped him to be a better Board member, knowing some of the background and who was who. Saying that Mike will be dearly missed.

Alicia Lopez, the Engineering and Mapping Manager, said that she personally worked with Mike for about five years here. She attested to his love of teaching; that she learned so much from him. And speaking for all of us here, his deep love of the District and the protection of our right-of-ways was his number one concern. She expressed her condolences for his wife and family at this time.

Yasmeen Najmi, the MRGCD Planner, said it best, "Mike, we're gonna miss you, buddy." She worked with Mike Montano since starting as an intern with the District over 20 years ago seeing Mike through many phases of his life, getting married, birth of his daughter. She said he was a very unassuming, gentle soul and cared very deeply about the District and all of us who work here and was always very generous with his time. She shared one of her strongest memories of Mike, seeing him in the breakroom over break or lunch, and always associating the smell of Barelás Coffee House and El Modelo with Mike because those were his favorite lunches. She hoped when things are better, we can, as co-workers, go and have lunch and remember Mike and celebrate him. She wished him well on his journey and sent her love to his family.

Jason Casuga, the Chief Operations Officer, stated he had worked with Michael directly for the last five years. He wanted to, one, tell his family how much Mike will be missed, not just only his wife and his daughter, but the MRGCD family. He felt Yasmeen really said it well about how he was a gentle soul and about a man who was desired to teach, desired to invest. He knows that there are many employees on here listening that have echoed that sentiment to him, have echoed that sentiment to Mike (Hamman), and it's very hard for many of them. Saying, "we will miss you, Michael."

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Mike Hamman corrected the title of Item 8.h. on the Agenda, which should read "Review and Approval of the BIA/MRGCD Operations and Maintenance Contract for 2021 with One Option Year."

Director Baca made the **MOTION TO APPROVE THE MEETING AGENDA WITH THE ABOVE CORRECTION**. Director Kelly seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

AGENDA ITEM NO. 3 – CONSENT AGENDA

- a. Consideration/Approval of Payment Ratification - February 8, 2021
- b. Consideration/Approval of January 2021 Invoice for Wiggins Williams & Wiggins
- c. Consideration/Approval of January 2021 Invoice for Law & Resource Planning Associates, PC
- d. Consideration/Approval of Minutes for Regular Board Meeting - January 11, 2021
- e. Draft of Belen Wasteway - Outfall Control Structure Request for Proposal - Casey Ish, Water Resource Specialist
- f. Memo on MRGCD Approved Licenses for January 2021 (For Informational Purposes Only)

Director Moore made the **MOTION TO APPROVE THE CONSENT AGENDA**. Director Kelly seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

AGENDA ITEM NO. 4 – REPORT FROM THE SECRETARY/TREASURER - Pamela Fanelli and Christine Nardi, HR Director. REPORT OF THE PERSONNEL COMMITTEE MEETING FEBRUARY 4, 2021 - Madam Chair Dunning and Directors Kelly and Russo Baca

- a. **Discussion and Review of Proposed Changes to the Premium Contribution/Retiree Reimbursement Program**

Madam Chair Dunning gave the Personnel Committee Report. She noted that Director Kelly could not attend the Personnel Committee meeting; however, she wanted to note that Director Russo Baca did call in for the meeting while she was in the hospital in labor with her new baby boy. The Personnel Committee discussed the Retiree Reimbursement Program for medical insurance (details below). She noted that staff worked very diligently at coming up with the resolution and hired an actuarial firm to investigate the financial impact of this. If the changes were not brought up, MRGCD was facing an unsustainable future. She noted that even after the changes, MRGCD will still have one of the most generous retiree reimbursement programs in the state. The other item discussed at the Personnel Committee meeting was the donated annual leave pool, which came up partially as a result of the death that the MRGCD family experienced. Director Russo Baca thought that Madam Chair Dunning captured everything for the report.

Pam Fanelli, the Secretary/Treasurer, reported that as of June 2020, the premium contribution reached the 5% of the total budgeted salaries, which is the trigger and the resolution that required the District to reevaluate the program. MRGCD recognizes that we have a financial responsibility to maintain the District's financial stability on behalf of our constituents. The District's liability, as of June 30, 2020, was \$10MM. The actuarial projections, based on our most current census, would have increased our liability to \$11.3MM as of June 30th, FY2021. It

would have increased by over \$1.3MM in one year. In addition to that, if no changes were made to this program, the District's liability would have grown to almost \$27MM by FY2050. It was an unsustainable program. We believe that we came up with a fair and equitable plan for the District and for our employees.

Christine Nardi, the HR Director, reported on the proposed changes/updates to the MRGCD premium contribution/retiree reimbursement program. The current program has reached the point of 5% of total budgeted salaries and therefore needed to be re-evaluated. The costs of the program have been analyzed and the annual administrative fee has been increased to \$200 to maintain the Districts' legal fiduciary responsibility on behalf of its constituents.

The program has been split into four levels: (1) current retirees, (2) current employees with 10 or more years of service, (3) current employees with less than 10 years of service, and (4) new hires. A clause was also added throughout all four levels to protect spouse/dependent benefits should the retiree pass on prior to the retiree's eligibility for Medicare.

1. For **current retirees** (Section A): nothing is changing. Reimbursement will continue at 80% of the monthly premium cost for both the retiree and his/her eligible spouse and dependents.
2. For **current employees with 10 or more years of service** as of the effective date of the Resolution (Section B): Reimbursement will remain the same for the retiree at 80% however spouse and dependents reimbursement levels will drop to 40% of the monthly premium cost.
3. For **current employees with less than 10 years** as of the effective date of the resolution (Section C): Reimbursement for the retiree will MAX out at 70% based on a sliding scale of how many years they worked prior to retirement, and spouse and dependent reimbursements will be at 30% of whatever level the retiree was able to obtain at time of retirement.
4. For **all new hires** going forward (Section D): Reimbursement at time of retirement will MAX out at 50% based on a sliding scale of how many years they worked prior to retirement, and spouse and dependent reimbursements will be at 25% of whatever level the retiree was able to obtain at time of retirement. One change is increasing the administrative fee to administer the program from \$100 to \$200. The program has been split into four levels: Current retirees, employees that have already retired, current employees with ten or more years of service, current employees with less than ten years of service, and new hires. A clause was also added throughout all four levels to protect the spouse and/or dependent benefits should the retiree die prior to the retiree's eligibility for Medicare.

All reimbursements will end for all parties once the retiree reaches Medicare eligibility age, which at this time is 65 years.

Ms. Nardi noted that the plan is generous particularly in comparison to other state and local agencies in New Mexico. She encouraged employees to call, email, or set up a meeting if they have questions or concerns regarding their particular scenario.

Director Kelly noted that this item is just for review and discussion today. Once staff has reviewed, it will come back before the Board at next month's meeting for the actual change in policy.

b. Consideration/Approval of Resolution #M-02-08-21-169, Donated Annual Leave Pool Program

Christine Nardi explained that the intent of this new program works is to expand the current donated leave policy.

Currently, donation of annual leave policy provides paid leave for a non-work-related illness or injury. It permits employees to donate to a specific employee when that specific employee has exhausted all their paid leave. This donated pool program actually provides an additional opportunity if an employee experiences a medical emergency for either themselves or an immediate family member (spouse, child, or parent) that requires a prolonged or extended absence from work that could result in a substantial loss of income.

Currently, employees who have over 240 hours of annual leave at the end of each calendar year loses those hours. This program will permit employees to voluntarily donate any excess leave into this "pool", up to a maximum of 80 hours, for use by employees who have exhausted all their paid leave, including from donations from the current donated annual leave policy.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT
ADOPTING A DONATED ANNUAL LEAVE POOL PROGRAM**

M-02-08-21-169

WHEREAS, the Middle Rio Grande Conservancy District (the "MRGCD" or the "District") has in effect a Donation of Annual Leave Policy, Policy 11.5 in the MRGCD Personnel Policies and Procedures Manual;

WHEREAS, the District recognizes that its employees may have a medical or family emergency resulting in a need for additional time off in excess of their available annual/sick/personal time;

WHEREAS, the District desires to address this need by permitting eligible employees to donate accrued paid annual hours from their unused balance to their co-workers in need of additional paid annual leave in accordance with the guidelines of a Donated Annual Leave Pool Program; and

WHEREAS, a Donated Annual Leave Pool will be a central reserve sustained by voluntary employee donations of annual leave hours that will operate in conjunction with the District's Donation of Annual Leave Policy No. 11.5;

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board of Directors of the MRGCD hereby adopts the Donated Annual Leave Pool Program effective upon the date of adoption of this Resolution. The Donated Leave Pool Program shall continue in effect until such time as the Board of Directors amends, adopts or otherwise changes its terms and conditions.

PASSED, ADOPTED, AND APPROVED THIS 8TH DAY OF FEBRUARY 2021.

Director Kelly made the **MOTION TO APPROVE RESOLUTION M-02-08-21-169, DONATED ANNUAL LEAVE POOL PROGRAM.** Director Moore seconded the motion. Rollicall vote was administered, and the **MOTION CARRIED UNANIMOUSLY.**

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes

Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

NOTE: No vote was taken for the Personnel Committee Meeting.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR (Comments are held to six (6) minutes)

There were no individuals who wished to speak during Items from the Floor.

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

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Jennifer Faler reported on the hydrology report that the District has 169-acre feet stored in El Vado. The snowpack doesn't look great saying we're below average for this time of year. BOR is bracing alongside MRGCD for a tough water year. She thanked the District for the outreach and coordination it does with us and others in the basin.

BOR and MRGCD are still working the phase one of title transfer. It has been a good partnership to navigate some tricky issues on title transfer, the phase one piece being all MRGCD facilities below Isleta Pueblo except the Drain Unit 7 and the Low Flow Conveyance Channel. BOR is hopeful they can get phase one across the finish line and then start working on the next phase; however, she thinks phase two may require its own legislation. BOR and MRGCD will do required public outreach. She believes Reclamation and the District are on the same page with the title transfer.

Ms. Faler replied to the Chair's question on new positions at the BOR; that Wayne Pullan has been selected as the new Regional Director; and Camille Touton is the Acting Commissioner.

Chuck DuMars added that Ms. Touton is a very talented person; being rational and very objective and has a fair view of how things should run. With Tanya Trujillo (water and science), Dr. DuMars feels we are very well represented.

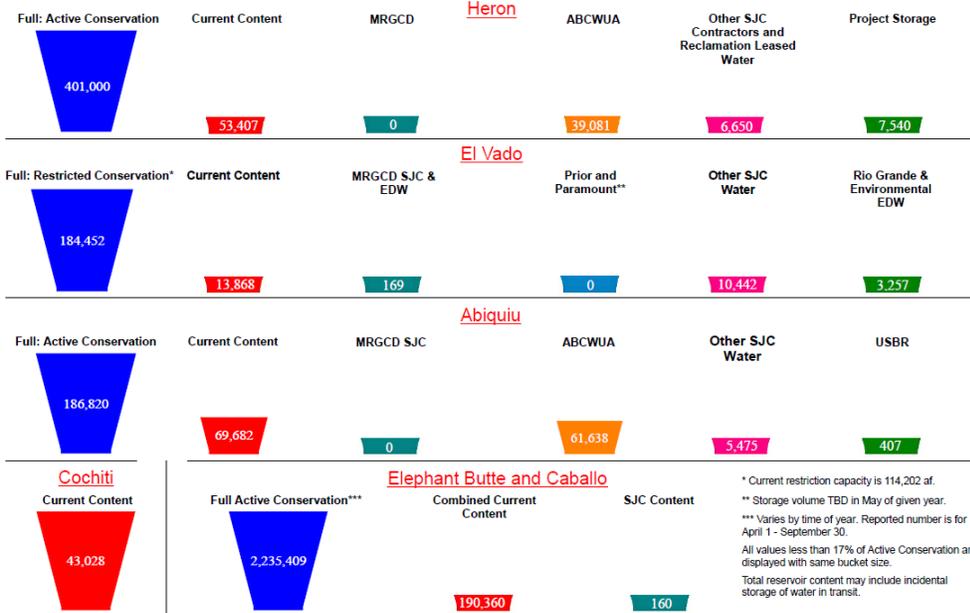
RECLAMATION

Managing Water in the West

U.S. Department of the Interior
Bureau of Reclamation

Reservoir Storage Status

Drafted 2/8/2021 with 02/04/2021 data.



MRGCD BOARD MEETING (02-08-21)

1. Heron Summary
 - Content = 53,407 ac-ft (2/4)
 - Azotea tunnel: 0 cfs
 - Total SJC inflow year-to-date: 0 a.f.
 - Currently releasing 0 cfs
 - Current MRGCD storage: 0 ac-ft

2. El Vado Summary
 - A. Total storage (all contractors and natural) in El Vado as of 2/4:
13,868 ac-ft.
 - B. Native in El Vado
3,257 ac-ft.
 - C. MRGCD's SJ-C storage in El Vado
169 ac-ft.
 - D. P & P: 0 ac-ft
 - E. EDWA: 0 ac-ft
 - F. All other SJ-C contractors: 10,442 ac-ft

Current release is 100 cfs RG Inflow is 40-50 cfs

3. Storage in Abiquiu
 - Content = 69,682 ac-ft (2/4)
 - MRGCD's SJ-C storage= 0 ac-ft

Total water released for minnow to date in 2021: 0 ac-ft

Snowpack Data:

As of 2/8/21 (% of median)

Rio Chama Basin.....	84%
Upper Rio Grande Basin.....	64%
Rio Grande Headwaters.....	104%
Jemez Basin.....	58%
San Juan River Basin.....	84%

February Streamflow Forecast (50%)

Rio Grande @ Del Norte CO	400,000 ac-ft (78%)
El Vado Reservoir Inflow (Mar-Jul)	145,000 ac-ft (64%)
Rio Grande @ Otowi	425,000 ac-ft (59%)
Jemez R. below dam	11,000 ac-ft (32%)
Rio Grande @ San Marcial	210,000 ac-ft (41%)

b. Bureau of Indian Affairs - Viola Sanchez, Designated Engineer

Viola Sanchez reported that it is still too early to know who the head of BIA will be; however, Scott de la Vega assumed the office and will remain in an interim capacity until Biden's Interior nominee, Deb Haaland, is confirmed. Ms. Sanchez noted the O&M contract will remain the same (as a continuance) due to the Pueblos being shut and not having personnel to work on a new contract, due to COVID 19. This topic will be discussed later in the agenda, under Item 8.h.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE 2021 ELECTION DIRECTOR - Ernie Marquez, Automated Election Services (AES)

a. Approval of Amended Resolution BD-12-14-20-48.4 for 2021 Election of Directors - Ernie Marquez, Election Director

Ernie Marquez reported that Resolution BD-12-14-20-48.4 was passed with an incorrect date in Section C regarding when qualified candidates shall file their Declaration of Candidacy and

petition signatures. The original Resolution noted a deadline of March 10, 2021, and it should be April 9, 2021. Director Kelly noted that he would like to add a time deadline as well of 4:30 p.m., so there's no assumption that it's a typical 5 o'clock close of business.

Chair Dunning confirmed the language will be changed in the Resolution to read: "... no later than April 9, 2021, at 4:30 p.m."

Director Kelly made the **MOTION TO APPROVE AMENDED RESOLUTION BD-12-14-20-48.4 FOR 2021 ELECTION OF DIRECTORS**. Director Baca seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

b. Consideration/Approval of 2021 MRGCD Election Supply Catalog - Ernie Marquez, Election Director

Mr. Marquez reported that the Election Supply Catalog also listed the incorrect deadline date, as noted above in Item 7.a. Mr. Marquez has corrected it to read as April 9, 2021 at 4:30 p.m.

Madam Chair Dunning inquired about the postcard that was going to be sent out to remind voters regarding absentee voting. Mr. Marquez reported that the details of that postcard have still not been worked out but it is an ongoing discussion. Director Kelly noted that the postcard can be dealt with later (up to the May Board Meeting).

Director Kelly made the **MOTION TO APPROVE 2021 MRGCD ELECTION SUPPLY CATALOG, AS PRESENTED WITH THE DEADLINE DATE CHANGE**. Director Baca seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

AGENDA ITEM NO. 8 – REPORT(S) FROM THE CHIEF ENGINEER - Mike A. Hamman, PE

a. Update on COVID-19 Business Continuity Plan and Related Impacts - Mike Hamman, CE/CEO

Mike Hamman reported that MRGCD continues to reiterate the importance for us not to let our guard down, particularly in light of the new variant issues. MRGCD continues to be vigilant, and we are providing all masks and various requirements to staff.

We are working on developing the appropriate structuring of the essential worker categories, established through the Department of Health. We have been made aware of a program that Bernalillo County that has identified 1B workers being vaccinated. Since MRGCD is a cooperating agency of Bernalillo County, MRGCD has been added to the list. We are hopeful that the majority of MRGCD's 1B-classified employees will be vaccinated soon.

We are continuing to allow all staff that can work from home as much as they possibly can, and we are keeping our meetings down to the absolute minimum. Our work out in the field is still designed to prevent multiple employees from being in close quarters for any length of time. We are catching up on other work that can be done with smaller crews and single individuals and machines.

Madam Chair Dunning asked what if an employee does not want to get the vaccine. Mike Hamman responded that it is a concern in both the government and private sectors. The individual will be placed on leave for further investigation. There are already regulations that allow removal of employees if they refuse to be vaccinated. Lorna Wiggins agreed and added that, of course, it is subject to our compliance with the Americans with Disabilities Act and Title VII. If an employee has some disabling condition that makes that employee unable to be inoculated, we will look and carefully analyze those issues, as well as any employee who would have a sincerely-held religious belief under Title VII (of the Civil Rights Act). The District is poised to deal with those specific issues as it confronts employee concerns.

b. Report on Water Supply Conditions - David Gensler, Water Operations Division Manager

David Gensler reported that following on the heels of the January forecast, the February forecast is not significantly improved. We have a 59% of average at Otowi expectation and a 64% average inflow to El Vado. We are in Article VII restrictions with no likelihood of emerging from them in time the store water this spring. We have an outstanding debit to Elephant Butte and the Rio Grande Project of 96,800-acre feet (the State of New Mexico's debit, but it winds up being the District that shoulders the burden of paying that back for the most part). If we did store water, we would have to store 96,800-acre feet first for the Compact debit before we could start storing for our own purposes, which, especially given the limited capacity of El Vado now with the restrictions for the rehab project coming up, it makes it almost certain that we are not going to store any Rio Grande water this year for normal purposes.

There is a small chance that we could have the option of storing some credit water. New Mexico has some outstanding credits yet, and some of those have been allocated to the District. However, there are a number of issues to settle with the State Engineer and the New Mexico Interstate Stream Commission before that is a reality. Mr. Gensler is not banking on it at this time.

We also expect San Juan-Chama delivery to be less than a full allocation this year, possibly considerably less. Those little tributary basins that provide that water every year are sitting at about 50% of average now for their runoff forecast.

In summary, the water availability for 2021 is very poor, probably the poorest that we've ever had in Mr. Gensler's 25 years at the District. It appears almost certain that we will experience periods of shortage this year for some or all of our users. It is almost impossible that we would deliver to any water bank contracts this year, which should be a consideration for people with what they are doing with their farming options this spring.

c. Report on the 2021 Legislative Session - John Thompson, MRGCD Lobbyist

John Thompson reported that the legislature has convened, and it has been most definitely very, very interesting. Mr. Thompson has not received language from Senator Ivey-Soto as far as the language that he is going to introduce in regard to the District's elections and its process. There's been a shell of Senate Bill 284 introduced; however, the language in that bill is not the

language that will be advanced or put forth. That language will be substituted via committee substitute in the Senate Indian and Rural Affairs Committee. This Bill is actually scheduled for a hearing tomorrow; however, Senator Ivey-Soto does not believe it will be heard tomorrow. Mr. Thompson should have the language sent via email from Senator Ivey-Soto this evening to share.

MRGCD's capital outlay requests are out. Outreach has been started, and we have some positive reception on projects. Capital outlay forms (from the legislative side) are due on February 11th by 3 p.m., so Mr. Thompson will be busy with that this week.

Mr. Thompson wanted to thank Rep. Baldonado, who helped him at the last moment with a snafu that occurred wherein money from the Whitfield Bridge last year was sent to the State Engineer's Office instead of to MRGCD. He felt it was due to some of the new technology implemented last year where some projects got sent to different agencies but assured everyone that the bridge is still good to go.

d. Consideration/Approval to Delay Implementation of the One-Acre Minimum Water Service Charge Until 2022 - Mike Hamman, CE/CEO

Mike Hamman reported that changes were made to Rule 19, which is the Water Distribution Policy. One of the changes that was made had to do with smaller properties (one acre or less) that we spend an inordinate amount of time on in managing the irrigation to those areas. The Board agreed to allow us to pull all of those properties into a minimum service charge (like what is done on utility bills and reading meters). However, staff has run into snags that have to do with MRGCD's database with field verification and various things about whether a particular parcel is irrigable or not irrigable. It is going to take more research and work on our part to bring everything into alignment. In addition to that snag, we are also dealing with COVID and the water availability issue. Mr. Hamman is recommending delaying implementation of this change for a year.

Director Kelly made the **MOTION TO APPROVE TO DELAY IMPLEMENTATION OF THE ONE-ACRE MINIMUM WATER SERVICE CHARGE UNTIL 2022**. Director Moore seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

e. Discussion and Review of Proposed Changes to MRGCD Water Bank Rules, Rule 23, and Associated Draft Resolution - Mike Hamman, CE/CEO, David Gensler, Water Operations Division Manager, and the Irrigation Committee (Directors Moore, Sandoval, and Russo Baca)

Mike Hamman reviewed the copy of changes to the Water Bank Rules that were sent out in the Board packet. MRGCD is attempting to finetune water bank curtailment policy to address the overarching and confounding status we find ourselves in under the Article VI of the Rio Grande Compact. We wanted to add a couple different components to allow us to manage the water bank accordingly.

Change (line 12): Curtailment should be expected in any year, and possibly the entire year, when NM is in an accrued debit status according to the articles of the Rio Grande Compact. This change discusses the curtailment policy that we currently have, and it points to two conditions, and we are adding a third. The two conditions that preceded this is the stream flow conditions and the storage conditions. We are now adding a compact curtailment condition as well.

March 1:	91,000 AF**
April 1:	91,000 AF**
May 1:	91,000 AF**
June 1:	91,000 AF
July 1:	89,000 AF
August 1:	54,000 AF
September 1:	20,000 AF
October 1:	1000 AF

These volumes are shown in Acre Feet (AF) 1 AF=325,850 gallons.

Change (Line 52): Whenever New Mexico is in an accrued debit status, as defined in Article VI of the Rio Grande Compact, and whenever New Mexico is required to retain water in storage and upstream reservoirs equivalent, that accrued debit required sufficient storage levels to allow water bank delivery as listed above (as listed above) shall be increased by the amount of water required to be stored as a result of the Rio Grande Compact debit water status. In other words, we are in debit status of 96,800-acre feet. For it to be in effect on March 1, take the 91,000 plus the 96,800-acre feet, resulting in 187,800-acre feet. We don't even have that much storage available in El Vado; however, if El Vado was fixed and we had a great runoff, we might get close to it this year.

Change (Line 57): All Water Bank deliveries will be curtailed whenever NM does not have native Rio Grande water retained in storage greater than or equal to the amount required by Article VI of the Rio Grande Compact. Whenever NM is in an accrued debit status, both the streamflow and minimum storage requirements*** described in the previous sections must simultaneously occur before Water bank delivery may be allowed.

Water Bank leases may be issued by the MRGCD, but only if they provide that no water bank water can be delivered so long as New Mexico is in debit status under Article VI of the Rio Grande Compact. Delivery of water to a Water Bank lessee may be allowed if a) the water delivered is not water bank water, b) if when the water bank lease is paid, an Alternate Curtailment Location (ACL) is specified, and determined by the District to be acceptable. If the above conditions; a) and b) are met, the Water Bank Lease fee and administrative fee will apply, but no water service charge will be assessed for Water Bank land. For example, if a water bank farmer previously had identified an alternative curtailment location in a previous contract with the District, or for some reason has the ability to dedicate an alternative curtailment piece of property that has already been receiving District water or pre-1907 water (or whatever the case may be), that individual can come in and sign up for a water bank lease. We can move the normal District water to the water bank property, if he or she chooses to do so, from the previous land. They are already paying a water service charge on that land by rule. There is no reason to charge them a second water service charge on the water bank land, but they will pay the lease rate and fee if they don't already have that in place, to go ahead and move that water from one lesser productive field to a higher productive field or for other reasons.

Change (line 69): An ACL is acceptable to the District only if the water service charge for the ACL has been paid and is up to date, and only if all other District assessments have

been paid , and if the ACL is irrigated and cultivated land which would receive water normally from the District if not specified as an ACL, and only if the water user agrees that the ACL will not receive water from any source, including groundwater, throughout the entire calendar year.

Change (line 89) The asterisk (*) refers to an option the Board has utilized in the past, and we wanted to make it clear in this policy. * MRGCD San Juan-Chama stored in Heron Reservoir may be included in the calculation for any one year, on conditional on water supply presented to and approved by the MRGCD Board of Directors. In other words, if we're right on the ragged edge, going back to the storage requirements and the schedule on page three, say we only have 80,000 in March 1, but we already have 30,000 of San Juan-Chama water in Heron reservoir, the Board has the option to add that in, in a given year, as an opportunity to allow for the water bank to be used that year.

Change (line 91) the triple asterisk ***Should Article VI of the Rio Grande Compact be in effect, the required storage volumes shown in the schedule will be increased by the amount of NM's accrued Rio Grande Compact debits to the State of Texas. That was the example shown earlier, where we'd have to add the 96,800 to the 91,000 in March for us to be in a position to authorize the water bank and store that water to that extent.

Director Kelly would also like the end of line 101 to say "...debit to the lower Rio Grande users."

f. Report on Efforts to Seek and Administer Drought Relief and Land Fallowing Program - Mike Hamman, CE/CEO, and Casey Ish, Water Resources Specialist

Mike Hamman reported that during the holidays and subsequent weeks, he worked on several letters which spoke of MRGCD's impending doom associated with the middle Rio Grande water supply situation, that we just got by last year, and that it cost us in the debit status that we now face. The Governor's office has given New Mexico a drought designation, so MRGCD could possibly receive aid to utilize excess appropriations that have been pulled back from other projects to reallocate for drought impact utilization and other emergencies that come from drought.

MRGCD has submitted a letter of request to be considered, which could be up to \$750,000 dollars per entity, per event. We have also shared that same letter with the New Mexico Department of Ag with the State Engineer . We have also been working with the Department of Interior to seek funds, and they have been able to allocate for us through funds that Jennifer Faler received from her normal budget appropriation process to add funding into the NFWF program. The Program will have about \$1.3MM that we can directly allocate for the use of the drought mitigation for ESA and fallowing programs that we are looking to implement.

Mike Connor is working for us behind the scenes, trying to advance our requests for additional drought relief here in the middle Rio Grande. If we have as severe of a water situation that we expect, we need many farmers to essentially be idle this year. A lot of them will be idle by necessity just because there is not any water, but to be idle in a way that kind of keeps them somewhat whole so that if there is any excess water in the system, we may be in a position to keep the silvery minnow in decent shape, or at least from extrication in certain parts of the river. MRGCD has taken every step we possibly can to do our part in meeting the obligations that we have in Compact and the Biological Opinion with our partners. If we fail to do everything we can, there is always a possibility we may see some legal action, but we can't worry so much about that when we're in this kind of condition. We are looking for all the resources we can bring for as much flexibility to deal with this situation as possible.

Casey Ish reported that we are working diligently to get the full season leasing program up and running for this coming irrigation season within all four counties. As of right now, we have developed a white page with a recommendation to Mike, and we are also continuing to do some outreach to irrigators to hone in on what we think the optimal price would be for irrigators that maximizes the funds available but also allows for irrigators to get through with what is likely to be a pretty tough year. We are hoping to have final recommendations for the Board by the end of February so that we can start the enrollment process as soon as possible.

Vice Chair Baca asked how these things will be socialized to the community. Casey Ish reported that they will communicate via the District's website, specifically, the conservation program individual tab, mailout flyers, paper ads, and possibly radio ads. He noted that there is a potential to work with New Mexico First, who did some of the outreach and marketing for the lower Rio Grande leasing program. He stated that he and Mr. Hamman met with ISC earlier this month and sounded like New Mexico First was a really great asset for getting the word out to irrigators. Mr. Hamman added that the MRGCD office will also be sending a letter out to every diverter or irrigator about the water supply situation and our programs to help ameliorate it as much as we can.

g. Report on the Discussion with Coalition of the Six Middle Rio Grande Pueblos - Mike Hamman, CE/CEO

Mike Hamman reported that MRGCD is working with all of the pueblos on the timing of startup. Originally the Pueblos had committed to a March 15th start date; however, MRGCD set the start date for April 1. Three of the six pueblos have given Mr. Hamman verbal assurance that April will be fine. Mr. Hamman will reach out to the other three up north.

He will also speak with the Pueblos about how we are going to store P&P in a more strategic way. We want to take the peak off at the right time, so that we're keeping the channel inside its banks and not allowing for depletions as the rivers in its most efficient mode of shifting water down to Elephant Butte through April.

The State of New Mexico and Interstate Stream Commission are interested and concerned about the timing of everything. Jennifer Faler and Mr. Hamman were invited to talk about the water situation, as well as the Isleta Diversion Dam settlement. The Pueblos are equally concerned about the water supply situation because several of them (i.e., Isleta and Sandia Pueblos) have a large block of newly-reclaimed lands which will be impacted. P&P water is strictly for the P&P lands only and not necessarily available for use on the newly reclaimed lands; they will be suffering some shortages along with the rest of the valley. Mr. Hamman said he's receiving good feedback from the discussions with the Pueblos.

h. Review and Approval of the BIA/MRGCD Operations and Maintenance Contract for 2021 with One Option Year - Mike Hamman, CE/CEO

Mike Hamman reported that MRGCD and the BIA have been working on the O&M contract for quite some time. Mr. Hamman is recommending approval of the new contract, which uses the same language as the old contract for the first year. He stated the only real significant difference is under payment options. We had negotiated a lump sum of approximately \$722,000 (base payment) in the first five years of this contract. Since we did not increase ad valorem taxes, the threshold of \$722,000 was not crossed until recently (by roughly \$50,000). We are now using the Table Two payment method of the contract.

Madam Chair gave kudos to the previous Board who was involved in the negotiations as there were not many changes to the contract. Mr. Hamman added that the Pueblos are satisfied with the arrangement. He commended the MRGCD Division Managers that work closely with the Pueblos, staying in communication and responding to requests as well as to Mr. Casuga who put together a standing work list.

Viola Sanchez added that the Pueblos are happy, and things have gone well. The fact that the Pueblos are comfortable going forward with essentially a duplicate contract speaks highly of the effort that was done five years ago to put this contract in place.

Director Moore made the **MOTION TO APPROVE THE BIA/MRGCD OPERATIONS AND MAINTENANCE CONTRACT FOR 2021 WITH ONE OPTION YEAR**. Director Kelly seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

i. Notices of Virtual 2021 Meetings - Mike Hamman, CE/CEO

1. Family Farm Alliance Virtual Conference 2021, February 18-19, 2021
2. Land & Water Summit, February 23-26, 2021
3. 20th Annual Conference Law of the Rio Grande, April 22-23, 2021

Mike Hamman reminded the Board and discussed each of the three briefly. He encouraged attendance and suggested the Board who wished to attend any of the conferences to please let DeAnna (Philips) know as soon as possible.

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

Chuck DuMars noted that the New Mexico Office of the State Engineer was willing to provide MRGCD a series of retroactive extensions of time for 37 years in order to allow us to put together a proof of beneficial use and work with them. Wild Earth Guardians challenged that the State Engineer did not have the discretion to grant the retroactive extensions, and recently we received a decision from the State Engineer Hearing Examiner, finding that the State Engineer had the discretion to grant retroactive applications. Wild Earth Guardians has now appealed the decision of the State Engineer for a Trial de Novo in District Court. Dr. DuMars thinks it will be done in conservancy court with Judge Clay Campbell sometime in May.

Dr. DuMars' other topic will be covered in Executive Session today.

Lorna Wiggins noted that her two items will also be covered in Executive Session today.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

a. Report on the NM Water Dialogue's 27th Annual Meeting, January 13-14, 2021 - Madam Chair Dunning and Director Russo Baca

Director Russo Baca thought it was a great conference. She appreciated the diversity of the attendees, who had many different perspectives. She noted that at the breakout session of the 50 Year Water Plan she noticed that there was news about the drought, but it wasn't quite clear how the Rio Grande Compact interacts with MRGCD. She spoke up during the breakout and suggested that there needed to be better outreach in the future.

Madam Chair Dunning was happy she attended, as she felt it was a great conference as well; that the keynote speaker, Eric Perramond, did a nice job and recommended all to view their website for his and the other talks. She noted that Casey Ish did a great presentation on the following program, and it was well received.

Director Moore made the **MOTION TO APPROVE THE REPORT ON THE NM WATER DIALOGUE'S 27TH ANNUAL MEETING, JANUARY 13-14, 2021**. Director Kelly seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

b. Report on the Conservation Advisory Meeting, January 21, 2021 - Vice Chair Baca and Director Moore

Vice Chair Baca was not in attendance of this particular meeting. Director Moore reported the different topics discussed, i.e. a review of 2020 and the completion of the Durand Lateral; the pilot leasing program, touched on the sampling of the minnow and found that they are using the outfalls during critical low periods of the river.

Director Moore would like to have a conference call or a site visit with Gary (Esslinger) from Elephant Butte to get a better understanding of how their program works.

Director Kelly made the **MOTION TO APPROVE THE REPORT ON THE CONSERVATION ADVISORY MEETING, JANUARY 21, 2021**. Director Baca seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

c. Report on the Irrigation Committee Meeting, February 3, 2021 - Directors Moore, Sandoval, and Russo Baca

This report was given earlier under Item 8.e., above.

Director Kelly made the **MOTION TO APPROVE THE REPORT ON THE IRRIGATION COMMITTEE MEETING, FEBRUARY 3, 2021**. Vice Chair Baca seconded the motion. Rollcall vote was administered, and the **MOTION CARRIED UNANIMOUSLY**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

AGENDA ITEM NO. 11 – EXECUTIVE SESSION

- a. **NMSA 1978 Open Meetings Act, Section 10-15-1(H)7**
 1. Threatened or Pending Litigation

Madam Chair Dunning requested a motion to move into Executive Session.

Director Kelly made the **MOTION TO MOVE INTO EXECUTIVE SESSION PURSUANT TO NMSA 1978 OPEN MEETINGS ACT (SECTION 10-15-1(H)7)**. Vice Chair Baca seconded the motion. Rollcall vote was administered with all members voting yes. The **MOTION CARRIED**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

Madam Chair Dunning adjourned the meeting at 5:14 pm.

Madam Chair Dunning reconvened the meeting at 6:13 pm.

Madam Chair requested a motion to move back into the regular Board meeting. Director Moore made the **MOTION TO RETURN TO REGULAR SESSION**. Vice Chair Baca seconded the motion. Rollcall vote was administered with all members voting yes. The **MOTION CARRIED**.

Director Kelly	Yes	Director Moore	Yes
Director Baca	Yes	Chair Dunning	Yes
Director Russo Baca	Yes	Director Sandoval	Absent
Vice Chair Baca	Yes		

During Executive Session, updates were given on threatened or pending litigation. No decisions were made, nor any votes taken during Executive Session.

With no further comments, questions or concerns, Madam Chair Dunning adjourned the meeting at 6:15 pm.

Approved to be the correct Minutes of the Board of Directors of February 8, 2020.

ATTESTED:

 Pamela Fanelli, CMA, CGFM
 Secretary/Treasurer

 Karen Dunning, Madam Chair
 MRGCD Board of Directors