

**MINUTES OF THE
2,214th REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

AUGUST 12, 2024 - 3:00 PM

Directors having been duly notified; Madam Chair Russo Baca called the regular meeting to order at 3:04 pm. The following Directors and Staff were present:

DIRECTORS

Stephanie Russo Baca, Madam Chair	Present
Karen Dunning, Vice Chair	Present
Brian Jiron, Director	Present
John Kelly, Director	Present
Micheal T. Sandoval, Director	Present
Colin T. Baugh, Director	Present
Glen Duggins, Director	Absent

STAFF

Jason Casuga	Chief Engineer/CEO
Lorna Wiggins	General Counsel
Christina J. Bruff	Chief Water Counsel
Pamela Fanelli	Secretary-Treasurer/CFO
Eric Zamora	Chief Operating Officer
Anne Marken	Water Distribution Division Mgr.
Matt Martinez	Water Operations Division Mgr.

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

Patrick Taber, BIA	Jeff Wechsler, MRGCD	Cindy Stokes
Jennifer Faler, BOR	Joan Hashimoto	Sam Roberts
Terry Wooten	Steven Sichler	Bernadette Saavedra
Dean Carroll	Anthony Wagner	Matthew Saiz
Tony Tafoya	Rudy Perea	David Montoya
John Fleck	Norm Gaume	Chris & Paula Sichler
Martin Haynes	Craig Hoover, BHI	Daren Lewis, HUB
Bernadette Sinclair	Ronnie Sinclair	Stephanie Burbage, HUB
Thomas Abeyta	Janet Jarrett	Andrew Abeyta
Norm Gaum	Santiago Maestas	Marta Moersch, MRGCD
Rudy Gonzales	Annie Sanchez	Richard DeLoia, MRGCD
Page Pegram, NM ISC	Christine Nardi, MRGCD	Julian Avalos, MRGCD
Estella Gamboa, MRGCD	Michael Padilla, MRGCD	Doug Strech, MRGCD
LeeAnne Corwin, MRGCD	Steven Kinberger, MRGCD	Daniel Arquero, MRGCD
Scott Lee	Amanda Molina, MRGCD	Matthew Chavez, MRGCD
Anthony Martinez	Kim Ward, MRGCD	Judy McSweeney, MRGCD
Claire Conrad	Josh Gamboa, MRGCD	John Thompson, MRGCD
Casey Ish, MRGCD	Angel Madera Enriquez, MRGCD	

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Marta Moersch led the Pledge of Allegiance at today's meeting.

Madam Chair Russo Baca declared a quorum, and the meeting was publicly noticed. This meeting was a hybrid meeting. Rollcall votes will no longer be necessary for regular motions.

AGENDA ITEM NO.2 - APPROVAL OF THE AGENDA

Madam Chair Russo Baca added (j) and (k), meetings on August 02, 2024, with Ace Leadership High School, CESOSS, and Explora studio and August 09, 2024, meeting with Ace Leadership High School, CESOSS, and Explora Studio to Item 15 reports from Director Baugh.

Director Jiron asked about tabling some agenda items on the feeder pump in southern Valencia for a further meeting, but Mr. Casuga explained if those items become tabled it would be an issue of funding and potentially losing it.

Director Jiron voiced concerns about news clippings from July on a letter from the State Engineer and distribution of water for our Compact that if we fall short of it it could potentially stop pumping our wells. He suggested installing a well even if it is quite a bit of money.

Mr. Casuga explained that the pump station would be similar to the pump station in Socorro and that is not a drilled well. He stated that they are allowed to use the drain water because it's irrigation return water, so the intention of the project is not to draw water from the groundwater but to take it and make it available to farmers again.

Director Jiron asked if the pump is installed would it jeopardize the District pushing water through the Belen Highline.

Mr. Casuga pointed out that the District's ability to push water through the highline is limited based on vulnerability of storms, and the project is directly related to restoring reliability to sections below Feeder No. 3. He said they have to move water in a way that's safe, and the District has faced significant liability issues that resulted in settlements on multiple occasions to where the District can no longer receive private insurance for our general liability due to those settlements. He added that if they choose to pass on funding to move them into design and construction, it would be much longer before they can restore reliability to the area.

Director Jiron noted that there are worries from his constituents, and he is their voice, and he does not want farmers to suffer because they have a new pump there.

Ms. Wiggins clarified that Director Jiron withdrew his motion and Director Kelly made the motion.

Director Kelly made the **MOTION TO APPROVE THE MEETING AGENDA with the above changes**. Seconded by Vice Chair Dunning. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO. 3 - CONSENT AGENDA

- a. **Consideration/Approval of Payment Ratification - August 12, 2024**
- b. **Consideration/Approval of July 2024 Invoice for Wiggins, Williams & Wiggins**
- c. **Consideration/Approval of July 2024 Invoice for Law and Resource Planning Assoc. 2024**
- d. **Consideration/Approval of the Minutes for the Special Board Meeting - July 8, 2024**
- e. **Consideration/Approval of the Minutes for the Regular Board Meeting - July 8, 2024**
- f. **Memo on MRGCD Approved Licenses for July 2024 (For informational Purposes Only)**

Director Kelly made the **MOTION TO APPROVE THE CONSENT AGENDA**. Seconded by Director Sandoval. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO.4 - DISCUSSION OF THE WATER DISTRIBUTION POLICY PROCEDURES - Jason M. Casuga, CE/CEO and Matt Martinez, Water Distribution Manager

Mr. Casuga stated this is a follow up to the Board's discussion at the July Board meeting on the procedure that he and his team developed to transparently implement the existing Water Distribution Policy. He assured the existing water distribution policy has not changed, but is an operational procedure for the MRGCD staff to follow to implement the policy. He said the procedure compiles the administrative and water goals that the Board tasked him with. He stated the procedure is necessary for MRGCD employees to set out the steps they will take if staff believes a violation of the Water Distribution Policy has occurred. He shared this is the first step in doing a better job of enforcing the existing Water Distribution Policy. He reiterated this is a procedure and not a policy and it falls within his role as the CEO.

Madam Chair Russo Baca asked Ms. Wiggins to explain preponderance of the evidence and the first step taken when an ISO sees and incident.

Ms. Wiggins explained preponderance of the evidence is standard proof typically expected in a civil action where a person is looking for whether it's more likely than not something happened.


Director Kelly suggested putting this in place and train staff on it to use throughout the entire season, and then report back on outcomes or any changes to the procedure.

Director Sandoval added that this was presented to the Irrigation Committee and they believe they should get it implemented and then if it needs to be revisited then they can.

MRGCD Water Policies Enforcement Procedure

Prepared for: Middle Rio Grande Conservancy District Board of Directors
Prepared by: Water Distribution and Conservation Program Staff

August 12, 2024




Last month, a presentation to this Board provided an update and initiated a discussion on the process and procedure that MRGCD staff has implemented to uphold its water policies.

Items Discussed


- Water Bank Policy review
- Water Distribution Policy review
- Violation Process and Procedure
- Summary and Look Ahead

Items to discuss

- Timeline update
- Procedure
- Scenarios
- Appeal process




Timeline—Process and Procedure Development



The timeline shows the following milestones:

- Off-season 2021:** MRGCD is asked (at farm tours) to be transparent with water deliveries and emphasize water policy enforcement.
- Fall 2022:** Board discussion about assisting staff in the development of a procedure to enforce the Policy.
- Feb 2023:** Review and discussion of proposed procedure w/ Irrigation Committee.
- Sep-Dec 2023:** Extensive review of procedure by staff and legal counsel.
- Dec 2023:** Review and discussion of procedure w/ Irrigation Committee.
- Jan-Apr 2024:** Revisions and legal review of procedure.
- Mar 2024:** Implementation of incident reporting process.
- Apr 2024:** Implementation of incident review and violation noticing process.
- Jun 2024:** Update and discussion w/ Irrigation Committee.
- Jul 2024:** Revisions and legal review of procedure.

Procedure to Enforce the Policy



The document outlines the procedure to enforce the water distribution policy, including sections on 'MIDDLE RIO GRANDE CONSERVANCY DISTRICT PROCEDURE TO ENFORCE THE WATER DISTRIBUTION POLICY' and 'MIDDLE RIO GRANDE CONSERVANCY DISTRICT PROCEDURE TO ENFORCE THE WATER DISTRIBUTION POLICY'.



Incident Action—Scenario #1

Use of field drains to prevent crop loss



- ISO reports incident of **WASTE OF WATER**, allowing an excessive amount of water to spill or drain.
- ISO describes incident as, "chile farmer used field drains to drain rainwater from his field into MRGCD drain following a heavy rain event to prevent crop loss."
- ISS determines this would be an acceptable use of an existing field drain where there is a history of drainage issues, and the cause was not by taking delivery.
- Example—field impacted by arroyo inflows or local flooding.

Action

- ISS reject incident report
- NO action—**not a violation**

Incident Action—Scenario #2

Use of field drains while headgate is open



- ISO reports incident of **WASTE OF WATER**, allowing an excessive amount of water to spill or drain while taking delivery.
- ISO describes incident as, "farmer's field drains were running for 12 hours after water reached the bottom of the field including 3 hours while continuing to take delivery at the headgate. The incident caused damage to the embankment of the MRGCD drain."

Action for an ISOLATED INCIDENT

- The incident is determined to be due to operational negligence.
- Verbal warning from ISO and ISS to water user requesting voluntary corrections.

Action for a RECURRING INCIDENT

- Written Warning Notice issued to water user requesting voluntary corrections.

Action for a BAD FAITH INCIDENT

- Written Notice of Violation issued to water user requiring a mandatory review of irrigation practices, corrective actions, and potential suspension of delivery if problems persist.

Incident Action—Scenario #3

A field border fails due to gopher holes

- ISO reports incident of **WASTE OF WATER**, allowing water to leave land being actively irrigated, flowing onto lands not intended to be irrigated or not under the control of the irrigator.
- ISO describes incident as, "water user's border failed causing flooding of the neighbor's roadway. Per an inspection of the field, there is gopher activity and farmer could not have seen it coming. I asked the farmer to improve the border, monitor his next irrigation, and to quickly address any reoccurrence."

Action for an ISOLATED INCIDENT

- The incident is determined to be due to unforeseen events.
- Verbal warning from ISO and ISS to water user requesting voluntary corrections.

Action for a RECURRING INCIDENT

- Written Warning Notice issued to water user requesting voluntary corrections.

Action for a BAD FAITH INCIDENT

- Notice of Violation issued to water user including violation history.
- Event(s) is no longer unforeseen, reclassify event to Class 1-3.



Incident Action—Scenario #4

Water user self-reports excessive irrigation time



- Water user contacts MRGCD staff because it takes an excessive amount of time to irrigate because they do not have head pressure.
- Water user describes irrigation duration as, "taking as few as 8 hours and up to the entire day for four (4) acres depending on water in MRGCD canal."
- ISS makes a preliminary assessment of the delivery issue and a referral to the Conservation Program staff.
- Through assessment, it is determined a normal canal flow does not provide sufficient head over the turnout due to a lack of head control in the canal.

Action

- NO INCIDENT REPORTED—no violation
- MRGCD engineering review to identify possible solutions like:
 - Upsizing or adjusting elevation of a turnout
 - Installation or modification of a check or other control structure

Incident Action—Scenario #5

ISO reports excessive irrigation time



- ISO reports incident of **INEFFICIENCY**, water user is consistency not adhering to the acre/per delivery rule and preventing other irrigators from receiving water in a timely manner.
- ISO describes incident as, "water user limits turnout opening to intentionally slow the rate of application due to a defective on-farm system."
- ISS validates incident report, performs a preliminary assessment and provides a referral for water user to contact Conservation program staff.

Action for an ISOLATED INCIDENT

- Written Warning Notice issued to water user requesting voluntary corrections.
- Recommend an On-Farm infrastructure review by MRGCD staff.

Action for a RECURRING INCIDENT

- Written Notice of Violation issued to water user, requiring an On-Farm infrastructure assessment review by MRGCD staff and required corrections.

Action for a BAD FAITH INCIDENT

- Written Notice of Violation issued to water user limiting delivery to strict hour per acre if water user has not taken any good faith steps to improve on-farm infrastructure.

Incident Action—Scenario #6

Irrigator takes water and cuts off another irrigator below



- ISO reports incident of **UNAUTHORIZED IRRIGATION**, unapproved use of a turnout or check structure.
- ISO describes incident as, "water user closed a check, opened his turnout and irrigated property without my knowledge or consent, and it caused a downstream user to be cut off."

Action for an ISOLATED INCIDENT

- ISO will make a reasonable attempt to immediately contact the responsible water user.
- Verbal Warning issued to water user by ISO/ISS.
- Turnout may be closed or locked and will be tagged.

Action for a RECURRING INCIDENT

- Warning Notice issued to water user including violation history.
- Turnout must be locked except for scheduled irrigation events.

Action for a BAD FAITH INCIDENT

- Notice of Violation issued to water user including violation history.
- Turnout can be locked, welded, buried, or removed.
- Water delivery is suspended if the water user does not take any good faith steps to correct violations.

Incident Action- Scenario #7

A field with no rights is irrigated

- ISO reports incident of **ILLEGAL IRRIGATION**, irrigation of lands from which water rights have been sold, severed, or transferred according to OSE records.
- ISO describes incident as, "water user irrigated a field that was identified in my logbook as having no right and when I confronted the water user, they became irate. I referred the water user to MRGCD Mapping and Assessments staff who confirmed no right."

Action for an ISOLATED INCIDENT

- Written Notice issued to water user allowing 15 days to provide proof of water source.
- Turnout locked if proof of water source/right not provided.

Action for a RECURRING INCIDENT

- Written Notice issued to water user including violation history.
- Turnout welded shut or buried.
- Referral to New Mexico Office of the State Engineer.

Action for a BAD FAITH INCIDENT

- Written notice issued to water user including violation history.
- Referral to New Mexico Office of the State Engineer.
- Turnout removal. Water user responsible for cost of future replacement if a water right is restored.



Appeals Committee



An Appeals Committee consisting of three (3) MRGCD staff who are qualified by experience and training to pass upon matters pertaining to the Policy shall review (1) any finding of a violation of the Policy and/or (2) any action that follows the finding of a violation of the Policy. The Appeals Committee shall render a decision sustaining or reversing any finding of a violation of the Policy and/or any action that follows the finding of a violation of the Policy in writing to the appellant with a duplicate copy to the Board of Directors.

An application for an appeal must be made in writing to the CE/CEO of the MRGCD and shall include an administrative fee of \$100.00 payable to the MRGCD. The application for an appeal must be made within 15 days of the date the water user was issued a notice of violation or notice of action. The Appeals Committee's decision may be appealed within ten days to MRGCD Board of Directors, and any decision of the Appeals Committee shall be stayed until the Board of Directors' final decision is rendered.

APPEAL TO THE MRGCD BOARD OF DIRECTORS

Any appeal to the Board of Directors shall be heard and decided within forty-five (45) days of notice of an appeal, unless the water user and the Board of Directors mutually agree to extend such time.

AGENDA ITEM NO.5 - CONSIDERATION/APPROVAL OF THE MEMORANDUM OF UNDERSTANDING BETWEEN MRGCD AND LA JOYA - Jason M. Casuga, CE/CEO

Mr. Casuga explained this is an MOU outlining the steps that MRGCD would look at to be able to provide the District or the Board the pros and cons of La Joya potentially entering the MRGCD. He gave an outline on what they were going to do and the analysis that they would perform. He explained they would report the information to both the Board and to the La Joya Acequia Association so they can make an informed decision and if they want to continue or not.

Vice Chair Dunning asked if there was a time limit on when it has to be completed.

Mr. Casuga responded that the MOU will expire three years from the effective date if not previously superseded, but does not expect it to take that long. He said it's reasonable to be done within 12 to 18 months if not sooner.

Director Kelly made the **MOTION TO APPROVE THE MOU WITH THE LA JOYA ACEQUIA**. Seconded by Director Baugh. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO. 6 - ITEMS FROM THE FLOOR (Comments are limited to three (3) minutes)

Rudy Gonzales

Mr. Gonzales stated that not everyone within La Joya wants to join. He said they should stick with the agreement from 1936 to 1977, and do not threaten them that they would raise their parish fee so high that they could not afford it. He asked them to be good stewards of the water. He commented that he knows they are doing the best they can but please do not create or fabricate hardships for them. Mr. Gonzales asked that when there is water to be given north of US 60 to please deliver it to them so they can farm. He felt when that water goes into the drain that it's criminal and against God, because that resource can be used to feed families and livestock.

Mr. Casuga clarified that the action from the Board on La Joya is to study it and provide a report on that. He assured no decision has been made.

Sam Roberts

Mr. Roberts voiced that there are people in La Joya they are not giving information and own big holdings of land, so they are not being honest and forthright with what they've been doing. He said there are also people working for title companies in Socorro that also have an adverse interest that sit on the board for the La Joya Acequia. He added that he has documents that show that there has been collusion involved between title searches, and things that needs to be investigated. He said it is important that they work together and keep water where it is.

Tony Tafoya

Mr. Tafoya shared that he heard the El Vado Dam was going to be filled at 30% capacity and the water was not for farmers but to go to Los Alamos for the hydroelectric. He hopes that is not true and does not know why it's being filled if it's not able to be filled for farmers. He said farmers needing water was the main purpose for that dam. He added when there is a malfunction of the gates it takes them two to three hours to get the water pressure back up, so they have to start all over again which makes the one acre per hour policy impossible.

Rudy Perea

Mr. Perea discussed a documentary he saw on acequias, where they were losing water to evaporation and sending it to Elephant Butte, which restricts them to use the water and wastes more. He urged the Board to give the water to farmers so they can use it, and store it, and lose less. He also asked what they are going to do with the siphon and if they are going to put something dependable in there because the cages aren't working and felt it a waste of money.

Janet Jarrett

Ms. Jarrett is concerned with the OSE letter to MRGCD and wrote an opinion piece that might give an alternative view of what's going on with that (refer to Appendix I). She stated it's very hard to take threats from the State seriously when they behave schizophrenically. She's also concerned about the enforcement rules. She stated illegal irrigation is a problem for her and causes her longer to water and it's hard to get a response. Ms. Jarrett also voiced concerns about the one acre per hour policy, because it does not provide for the differences in soil types. She shared that every time her neighbor irrigates she's got standing water because of muskrat holes, and the District is not doing their part. She encouraged MRGCD to go to CSU and view some of their excellent presentations and research on irrigation efficiencies. She told them to be careful curtailing people's water rights without adequate process.

Dean Carroll

Mr. Carroll, member of the New Mexico eBikers Association, stated that the City Council of Albuquerque approved allowing eBikes on all open space and in the city of Albuquerque, but MRGCD banned all eBikes with the condition that they would entertain input from the community. He expressed he has some suggestion to bring to the Board for consideration and requested to be on next month's agenda.

Joan Hashimoto

Ms. Hashimoto, chairperson of the Corrales Bosque Advisory Commission, thanked MRGCD for their stance on prohibiting eBikes on trails, paths, roads, and other areas on MRGCD owned and controlled lands. She said this protects the safety of the current users and integrity of Bosque geography.

David Montoya

Mr. Montoya brought up to the Board that they met with Directors John Kelly and Karen Dunning to talk about the Old Chamisal a few months back, and he has been asked to come back to resurrect it. He thanked them for the work they've already done and apologized that this hasn't been taken forward sooner.

Chris Sichler

Mr. Sichler explained he was involved in forming the Water Distribution Policy as a previous board member and is concerned if they are going to look at the policy and enforce it like it is written. He suggested they look it over carefully and make sure that they are enforcing the policy. He explained it is made to work with farmers and make people become a better irrigator.

Director Kelly commented that if the District does not supply the water to meet the one acre per hour that would not be on the farmer, and he has discussed that with Jason (Casuga) and staff. He said it needs to be emphasized that they've got their responsibility on their side and there are other responsibilities on the other side of the turnout.

Mr. Casuga added that the intention of creating a procedure is not to be draconian but to create an administrative record and begin to show the public how the policy will get administered. He said they need to have processes to be able to defend themselves from attacks. He stated the

point of the procedure is to train ISOs on this to be able to identify whether or not staff should be held accountable for doing things that are wrong

Martin Haynes

Mr. Haynes expressed that he is confused because they are describing a gathering of information against the farmers and irrigators but they also need to discuss what happens on the other side of that.

Annie Sanchez

Ms. Sanchez stated that she comes from a very large family and community that has been in the same area and on the same piece of land for generations. She explained that the Chamisal Lateral was changed out and installed crooked and not entirely to their property. She said the ditch fell toward them and not toward the lateral, so they notified MRGCD and gravel was placed to stub the storm water but erosion has continued. She added that MRGCD made promises several times to repair it, and Mr. Casuga stated they could get the pipe to their property line, but any extensions would have to be paid for out of pocket. She does not understand why they should have to pay for MRGCD's faulty work.

Norm Gaume

Mr. Gaume commended the board and staff for facing the facts about hydrologic reality that the farmers and irrigators face every day. He said it's time that they quit selling lies to each other and pointing fingers and acknowledge the huge crisis that they have right now with regard to the water supply and water demands. He added that most institutions and groups of users just want to maximize their own benefits but there isn't enough water to go around to do that and the solution will not be found in litigation. He added that it's time to face the facts and cooperate. He commended MRGCD for beginning to do that and urged them to reach out to other institutions to find a common solution.

Bernadette Saavedra

Ms. Saavedra voiced that it does not take 14 hours to water 4 acres. She expressed that she knows people want their swimming pools and beauty but what comes first is survival, and if they don't have water there's no food, no chickens, no cows, no beef, and no sheep.

AGENDA ITEM NO. 7 - REPORT(S) FROM THE WATER OPERATIONS AND DISTRIBUTION DIVISIONS

a. Report on Water Supply Conditions - Anne Marken, Water Ops Division Manager

Ms. Marken gave a report on the Water Supply Conditions. She expressed that the Rio Grande Basin received rain and flows over the weekend which brought natural river flows higher in the recent days. She said MRGCD started to release from its San Juan Chama storage water on July 30th when native flows were not enough to meet agricultural and conveyance demand. MRGCD was not able to access storage San Juan Chama water when the flows were low in mid-July due to restrictions on releases from Abiquiu Dam and they were limited just to just native flows, but conditions on the Chama improved downstream of Albuquerque enough to allow MRGCD to release up to 600 CFS. She reminded that MRGCD only has the 2024 San Juan Chama water available for storage this year, but rain and flows have helped to reduce how much water they need to release to meet the demand in the Middle Valley. She now believes they will have released all their available San Juan Chama water by the end of August.

She discussed hydrographs, including 100 CFS at the La Quinta Gauge, 300 CFS at in Embudo Gauge, and 700 CFS at Otowi Gauge. She noted that the Bureau of Reclamation is releasing 40 CFS of its own San Juan Chama water to support river flows for environmental purposes through the middle valley, and after August, farmers should expect extended periods between irrigation deliveries. The National Weather Service forecast is calling for hot weather with some chances of rain and the Climate Prediction Centers three-month outlook is calling for above average temperatures and below average precipitation through October. She shared some graphs about the Rio Grande Compact and New Mexico's current debt is 121,500 acre feet.

Director Kelly asked where they saw us at the end of the year since we're now sitting at 121,000 acre-feet.

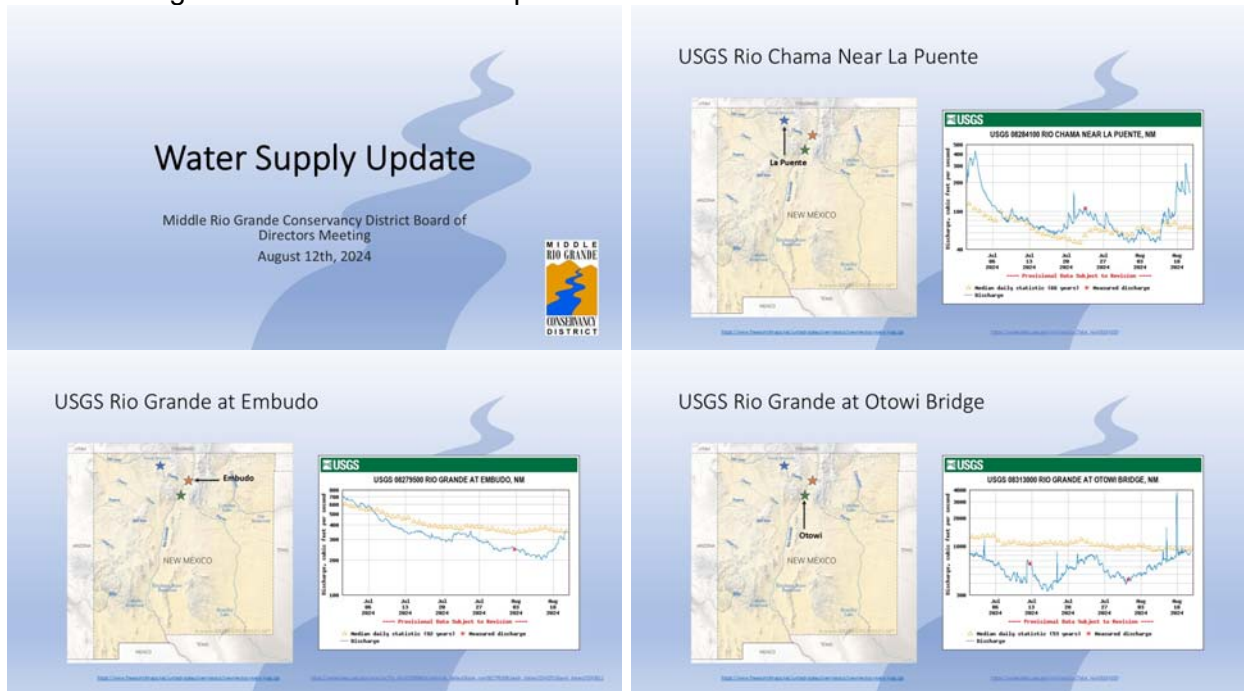
Ms. Marken expressed there was much of the year left to go but they are a little further ahead on their deliveries than they typically are at this time, so she was optimistic that they'll at least break even.

Director Kelly expressed that it seems like with all the data they have on record and the modeling techniques they should be able to keep a running total on it.

Mr. Casuga responded that the state does that and they do not publish the results of the Compact until the end of the year.

Director Jiron asked what the status is with the plug below Abiquiu.

Ms. Marken answered that BOR was contacted by the state to work on that and they were able to clear a pilot channel, but there are still capacity constraints and they are seeing sediment deposits downstream. They are continuing to try to mobilize sediment through our releases out of Abiquiu.



The chair stated the rain helped as she didn't have to irrigate for 45 days. Her crop within Los Chavez was fine. When she did call her ISO to schedule, he stated she could irrigate if she could do it at 5:00 in the morning. She appreciated and thanked all the ISOs for working with the irrigators.

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

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Jennifer Faler stated that there has been a federal assessment team working and meeting with the Six Middle Rio Grande Pueblos, and they have held government to government meetings with all six of the pueblos. They're looking into the interests of everybody and wanting to have a negotiation team as the next step in the process to see if a settlement is possible. She said they have been convinced that it is possible to have a settlement in this space, and so they are gauging the level of interest from all six of the pueblos. They seem to be interested in moving forward a negotiation team and are setting up meetings. She stated that in regards to El Vado the contractors are wrapping up and it is expected to be complete by the end of September, with the next step being a value planning study. She thanked the District for offering to provide consultants for that. She also added that they are going to have to update their repayment contract anyway, so she is optimistic that they will be able to reimburse the District, but she does not know the mechanism in place right now to do that. Ms. Faler explained that their plan is once the contractor demobilizes in September they are looking to start bringing it up to 6805 and hold it there for a minimum of 10 days to do analysis and monitor for seepage, and if all is clear they will move it up five more feet to hold for 30 days of monitoring and so on. She said they would eventually like to hold it at 6820, wait for next year's spring runoff and go from there. Ms. Faler then discussed the sediment plug and showed pictures. She said the state asked them to mobilize and get water back in the channel flowing South and that was their mission. They found out the fastest way to clear the channel is to use amphibious excavators, and now it is able to pass 600 CFS. She added that there are a lot of associates that have been impacted and are still not able to divert water up there, so there's still a lot of sediment to be dealt with and since the Federal Emergency was declared these fields will be able to get assistance. Ms. Faler noted they have five projects they have been working on in the San Acacia Reach, including River Mile 60, realignment projects.

Mr. Casuga said he was not aware they chose for the Low Flow (LFCC) to go away in that location. He said he would follow up on that and report back.

Ms. Faler noted that one of the things that would take pressure off of the river Mile 60 operations is to come up with a plan for the listed species they've been talking about because the habitat down there has been good for the birds, but Fish & Wildlife service wants them to start moving the birds north out of the reservoir pool and that is great for Reclamation because they do not want endangered species in their reservoirs.

Mr. Casuga stated that there's still hesitation from MRGCD to want to abandon the system. He said as the CEO he does believe a single channel could work and could be the most efficient solution if it can be maintained but there is also history that shows that a single channel could be difficult to maintain. He expressed that he does not believe he has received enough information to say that not reconstructing the low flow further south is a good idea yet but he will follow up.

Ms. Faler expressed that the non-governmental organizations operating down there are critical partners to them, along with the districts, and so Reclamation is not doing this because it is their mission but they are doing it for everybody to build the right project. She said it has more money than they've ever spent on a project but they are going to ask for funding and hope to meet as many needs as possible with this project. She added that they welcome input as they work through the process. She then discussed the feasibility study, and will continue to move that forward and select an alternative out of the study, with the hopes of starting construction in 2026. She explained this is a river maintenance program to make a major change and they're working through their policies and standards to hit every step along the way to be able to get funding.

Vice Chair Dunning asked what the solution was for the Rio Chama plug.

Mr. Casuga explained that if the data they are getting about their current hydrologic reality is true, the data suggest that the amount of precipitation they are going to get is going to change how it comes, and if the modeling that the state and others are doing is true then the way that they receive water is going to change, which means they would get more storm events. He said the question is if their water supply changes to even more out and more of that comes from rain, is there more potential for this to increase. So, they're also having conversations with Valencia county.

Mr. Kelly stated they have a perfectly good, efficient, and advanced channel down the Low Flow Conveyance Channel and it looks like they're proposing to get rid of that. He said having a parallel channel system down there gives a key component with high efficiency to deliver water to comply with the Compact that should be the primary goal of their project so they can continue farming in the Middle Valley. He reiterated that the primary purpose of the project is to have a long term ability to comply with the Compact and deliver water there. He noted that is a federal mandate, so he urged them to keep their mind on what they are wanting to do down there and not create more spots to spread water out and what should evaporate.

Ms. Faler stated they want to move the birds north and keep the channel that will stay wet because that is good for minnow, so the idea is to create a channel for mineral species and move the birds out. She said they do not need trees in that part of the river and they could even be mowing for water storage purposes. She added that they see huge benefits for minnow and not birds for this realignment and the vision is not that they are going to be encroached with vegetation and be right back where they are today. She said it's good for the fish to have spotty vegetated tree areas and not a continuous riparian like they have in the Middle Valley.

Mr. Casuga voiced their greatest tool to even out water through the central part of New Mexico is storage, and storage is then returned to them. He assured that he and his staff are committed to continuing to make that argument to both the state and Reclamation and they firmly believe the most positive outcome for the valley is to be able to store water again for every use.



Report from Department of Interior - Bureau of Reclamation

Meeting of the Board of Directors
Middle Rio Grande Conservancy District
August 12, 2024

El Vado Safety of Dams Project

- Demobilization continues through September
- Value Planning tentatively scheduled for September 17-19, 2024
- Current reservoir restrictions:

Summary of Key Reservoir Elevations		
Description	Elevation (feet)	Comment
Current	6785	± 1.5 feet
Construction Restriction	6875	Internal Erosion Restriction
2025-SDD-A	6875	
San Juan Outlet Works	6820	Top of intake
Power Plant	6789.25	Top of intake, min recommended operating level (E) 6790

- Post construction storage assessment plan:
 - Fill to 6805 (≈ 12,600 af) for minimum 10 days of monitoring
 - Fill to 6810 (≈ 16,300 af) for minimum 30 days of monitoring
 - If practical, fill to 6820 (≈ 25,200 af)
 - Working with SJ-C contractors to find water



Bureau of Reclamation Updates:

- El Vado Safety of Dams Project
- Rio Chama Sediment Plug – Emergency Response
- Six MRG Pueblos Assessment Team Update
- San Acacia Reach Conveyance Improvements
 - RM 60 Construction and Experimental Operations
 - Upper & Lower Bosque del Apache Re-alignments
 - Lower San Acacia Reach Improvements Project

Rio Chama Sediment Plug – Emergency Response

- On 06/20/2024 an intense rain event on Arroyo la Madera caused the Rio Chama channel to become plugged with sediment: 100 feet wide, 4-5 feet deep, 1.5 miles long
- Reclamation's Socorro Field Division (SFD), at the request of the NM Interstate Stream Commission, mobilized to excavate a pilot channel.



MRGCD BOARD MEETING (08-09-2024)**1. Heron Summary**

Content: 113,530 ac-ft (8/9/24)
 Azotea tunnel: 47 cfs
 Total SJC inflow year-to-8/8/24: 67,035 ac-ft
 Currently releasing: 410 cfs
 Current MRGCD storage: 13,138 ac-ft

2. El Vado Summary

Total storage (all contractors and natural): 2,155 ac-ft (8/9/24)
 Native in El Vado: 0 ac-ft
 MRGCD's SJC storage in El Vado: 0 ac-ft
 P & P: 0 ac-ft
 Other SJC contractors: 2,155 ac-ft
 Current release is 480 cfs RG inflow is 50-100 cfs

3. Storage in Abiquiu

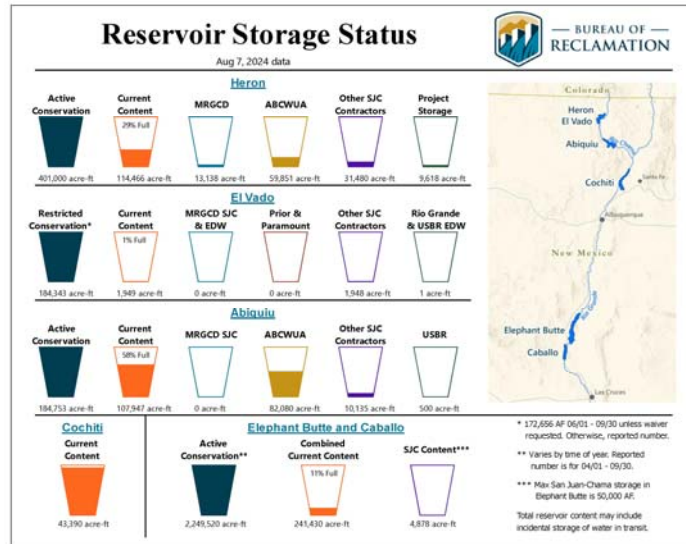
Content: 107,670 ac-ft (8/9/24)
 MRGCD's SJC storage: 0 ac-ft
 P&P: 14,022 ac-ft

Total supplemental water released in 2024: 992 ac-ft

Total Precipitation at ShoTel Sites as of 8/9/2024 (% of median)

Rio Chama Basin.....104%
 Upper Rio Grande Basin.....98%
 Sangre de Cristo Basin.....103%
 Jemez Basin.....119%
 San Juan River Basin.....92%

- Reclamation's crew has demobilized from the Rio Chama sediment plug. The area appears to be stable at 600 cfs.
- On August 9, approximately 29.5 river miles were dry in the San Acacia reach and about 3.7 river miles in the Isleta reach near Peralta wasteway.
- MRGCD is releasing its San Juan - Chama Project from Abiquiu through an exchange with the Albuquerque Bernalillo County Water Utility Authority to leave more storage space in Abiquiu Reservoir in 2025, should the opportunity to store water arise.

**b. Bureau of Indian Affairs - Patrick Taber, Acting Designated Engineer**

Patrick Taber said that the issues with the plugs have been frequent conversations between him and various staff members of pueblos and financial agencies. He said going forward he is looking at making sure that some of these agreements are in place that they need to continue to do operations and to identify where they may have efficiencies that they could make a little bit smoother for the future.

Mr. Casuga commented that he knows they've been working on a rotation plan and urged a decision from the BIA about what that might look like because they need it and there's communication that needs to happen with staff to get that implemented correctly.

AGENDA ITEM NO. 9- REPORT(S) FROM THE HUMAN RESOURCES DEPARTMENT - Christine L. Nardi, MBA

a. Introduction of MRGCD New Hires

Ms. Nardi announced new hires and promotions, including a fuel maintenance tech, division clerk, and medium equipment operator for the Albuquerque Division, a promotion from a light equipment operator to heavy equipment operator, a job change to a new service technician, and a transfer as a heavy equipment operator in Belen Division, a move from payroll to HR coordinator and a new payroll and AP coordinator in the General Office, and facility support tech in the ER&T Division. She stated the vacancy rate was at 10.04%.

Albuquerque Division

EMMANUEL	RODRIGUEZ	FIELD MAINTENANCE TECHNICIAN	07/22/2024
PAMELA	SANCHEZ	DIVISION CLERK	08/05/2024
SAMUEL	PALSCE	MEDIUM EQUIPMENT OPERATOR	08/05/2024

Belen Division

CODY	RUSSELL	HEAVY EQUIPMENT OPERATOR	07/22/2024 PROMOTION
JACOB	LOPEZ	SERVICE TECHNICIAN	07/22/2024 JOB/TITLE CHANGE
JOHN	STUMP	HEAVY EQUIPMENT OPERATOR	08/05/2024 JOB/TITLE CHANGE

General Office

ASHLEY	ZAMORA	HR COORDINATOR	07/22/2024 JOB/TITLE CHANGE
CRISTIAN	JIMENEZ MARIN	PAYROLL AND AP COORDINATOR	08/05/2024 PROMOTION

Equipment Repair & Transportation

CLU	PICARD	FACILITIES SUPPORT TECHNICIAN	08/19/2024
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b. Employee Recognition

Ms. Nardi announced the recognition of three employees: Charles Gurule who received the Key Contributor Award for providing expertise and support while performing additional critical duties in the Equipment, Repair & Transportation (ER&T) department; Steve Kinberger received the Excellence Award for MRGCD's talent acquisition and recruiting process, and Kimberly Ward also received the Excellence Award for MRGCD's homeless initiative within the Los Lunas Bosque.



Charles Gurule, ER&T & Jason Casuga, CE/CEO



Julian Avalos, Socorro Division Manager, Steve Kinberger, HR Dept, Jason Casuga & Dan Arquero, Cochiti Division Manager



Kimberly Ward, Right of Way Specialist & Jason Casuga, CE/CEO

AGENDA ITEM NO. 10- REPORT(S) FROM THE CHIEF PROCUREMENT OFFICER - Richard DeLoia

a. Consideration/Approval for Peralta Outfall Automatic Control Gates - Casey Ish, Conservation Program Manager

Mr. DeLoia presented for the approval for the Peralta Outfall Automatic Control Gates, funded through cooperative agreement with BOR and the National Fish & Wildlife Foundation. MRGCD Staff recommended award to Rubicon Water for two automated water control gates for \$74,380.81, including labor, tax, and shipping.

Director Kelly made the **MOTION TO APPROVE AWARD TO RUBICON WATER FOR TWO AUTOMATED WATER CONTROL GATES**. Seconded by Vice Chair Dunning. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO. 11 - REPORT(S) FROM THE SECRETARY-TREASURER/CFO - Pamela Fanelli, CMA, CGFM

a. Consideration/Approval of Resolution M-08-12-24-211 Authorizing Acceptance of the WaterSMART Drought Resiliency Program Grant (NOF No. R24AS00007) through the US Bureau of Reclamation for the Construction of the Feeder No. 3 Pump Station in Southern Valencia County - Westside Belen Division

Ms. Fanelli asked for Consideration/Approval of Resolution M-08-12-24-211, authorizing the acceptance of the WaterSMART Drought Resiliency Program Grant through the US Bureau of Reclamation for \$2.5 million for the construction of the Feeder 3 Pump Station in southern Valencia County. She said the grant requires a 50% match, and the total cost of the project is estimated to be around \$8.5 million.

b. Consideration/Approval of Resolution M-08-12-24-212 the Board of Directors Instructs Staff to Submit an Application for Funds through the Water Trust Board for Construction Services for the MRGCD Feeder No. 3 Pump Station

Ms. Fanelli also asked for Consideration/Approval of Resolution M-08-12-24-212, authorizing the District to apply for a Water Trust Board grant/loan in the amount of \$6.5 million and it would satisfy their match portion for the WaterSMART grant. They expect there to be a 20% match requirement for the Water Trust Board grant and the deadline to apply for that grant is in September.

Mr. Casuga added that the Board approved almost \$400,000 worth of technical work to design the pump station, and the location where this water will come from is the MRGCD drain. He stated that the stability along the Belen Highline will not occur until significant flood control infrastructure is installed, and the MRGCD is not the primary entity to install it. He voiced that the intention of this project is to allow MRGCD to not rely on the highline as much to be able to increase water delivery to a vulnerable area south of Feeder 3. He expressed that they have to make decisions with the public safety in mind. He noted the alternative analysis allows them to build a pump station that makes use of their existing facilities with one main trunk line going up to Feeder 3 that will drop the water back into Feeder 3 above the Garcia Extension, and then all existing diversions work to supplement water and bring stability to that area. Mr. Casuga shared that the point of the project is to take surface water that already exists within the drain and re-lift it to the farmers so they can use it.

Director Kelly made the **MOTION TO APPROVE BOTH RESOLUTIONS M-08-12-24-211 AND RESOLUTION M-08-12-24-212 AS PRESENTED.** Seconded by Director Jiron. The **MOTION CARRIED UNANIMOUSLY.**

c. Consideration/Approval of Resolution M-08-12-24-213 Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and between the NM Finance Authority and the MRGCD for the Phase II of the Socorro Main Canal Lining Project

Ms. Fanelli submitted Resolution M-08-12-24-213 for consideration and approval that authorizes the District to execute the loan and grant for phase two of the Socorro main canal lining project. The grant amount is \$9 million and the loan amount is \$1 million, with a match amount of \$2 million.

Director Kelly said Mr. Casuga has other ideas that he and his staff were talking about with their design consultant, and this is a huge project for water conservation in reducing our maintenance load.

Director Kelly made the **MOTION TO APPROVE RESOLUTION M-08-12-24-213 AS PRESENTED.** Seconded by Chair Russo Baca. The **MOTION CARRIED UNANIMOUSLY.**

d. Update on Insurance Search - Pamela Fanelli, Secretary-Treasurer/CFO

Ms. Fanelli gave an update on the insurance search, stating their insurance broker has been diligent in trying to find coverage although the loss ratio history is making that very difficult. She stated the primary cause of the high loss ratio history for the general liability was related to issues surrounding flooding in Valencia County where the District was sued for damages to homeowners, business owners and irrigators for storm events. She stated she contacted the State Risk Management Division and New Mexico Self-insured Fund, and the New Mexico Self-insured Fund declined to give them a quote. Although New Mexico's Risk Management was hesitant, they did provide them with a quote for general liability that only cover state limits for tort liability under new Mexico's Tort Claims Act. Therefore, the District will most likely have to defend claims using their funds at a very large cost. Ms. Fanelli asked the Board to approve and accept the quote from Risk Management Division for general liability and use the budget set aside for excess liability on attorney fees and vigorously defending the District on claims they may receive in fiscal year 2025.

Mr. Casuga added that they have suffered significant claims related to stormwater management that was not their responsibility and said it is an open question whether Valencia County will ultimately vote yes this time. He noted that this will continue to damage this community whether or not MRGCD has irrigation water in our canals or not. He stated that what they really needed is community to get to the point where they're tired of dealing with this and invest in an organization that they can go get the funding and start building infrastructure similar to what other two counties in MRGCD have already done. He expressed that he does not believe this is a legislative fix, but that Valencia county has to follow through on doing the same thing. Mr. Casuga stated they still are researching why the New Mexico Self-insured Fund chose not to give them a quote but they have not gotten an official response on that yet.

Ms. Wiggins voiced that it is important to recognize that when we have to vigorously defend, sometimes that forces us to make the hard decision about giving tort claims notices to other agencies and that should be a part of the Board's consideration.

Vice Chair Dunning asked how long they thought it might be before someone would be ready to ensure them again.

Mr. Casuga responded that they should consider it a year to year thing.

e. Notification of the 2024 MRGCD Water Service Charge Reclassification (Protest) Hearing per NMSA 73-18-8.1; hearing scheduled for September 9, 2024

Estella Gamboa announced that at the September 9th regular board meeting they will be seeking recommendations and approvals for the water service charge contracts and the protests the constituents have submitted.

AGENDA ITEM NO. 12 - REPORT(S) FROM THE CHIEF OPERATING OFFICER - Eric Zamora

- a. Report on the Valencia County Homeless Clean up**
- b. Report on the ER&T (Equipment, Repair & Transportation) Department Improvements**
- c. Update on New Equipment**
- d. Update on the Monsoon Response**

Mr. Zamora reported on the Valencia County Homeless Clean up, stating that they began issuing notices at the end of June to campers and campsites in the Bosque, LLPD was on site with them while they were contacting campers. They did not encounter any significant issues and most people were understanding about the violations. He noted that they had assistance from the Albuquerque Division down in Belen and the Village of Los Lunas and the first phase of cleanup and their focus was primarily on abandoned camp sites. He noted they have not tried to make direct contact or have any confrontation with any campers when they find these abandoned sites. He said they will continue clean-up efforts on Wednesdays and Thursdays for the rest of the month and then do an assessment to see where they're at. He said they have also made preliminary commitments to provide dumpsters for the cleanup. Mr. Zamora shared that beyond regular maintenance activities, they do look at facilities and try to take care of some upgrades where needed. He said they have received a lot of new equipment in the last few months and he spoke about some of those. He said he and Mr. Casuga met with the new Socorro County manager to discuss a potential project with BNSF.

Director Kelly asked how many million dollars in equipment did it add up to. Ms. Fanelli answered \$3.2 million.

Director Jiron voiced requests that he's had from the Pueblo of Isleta. He said they're seeing a bunch of traffic with the gates not being closed or locked once ISOs enter or leave. He said they brought it up at the governor's office meeting, but they have not seen any changes. He also asked the District about untreated sewer being dumped in the river.

Mr. Zamora said he had a discussion with Mr. Martinez, and that is something they need to follow up on to figure out who is ultimately responsible to shut the gates if it is ISOs or O&M. He noted he did receive a request today to meet and discuss O&M issues and they will set up a meeting to discuss maintenance.

Mr. Zamora said they did receive a report from the second straight treatment plant and they did a water test but the subsequent testing came up clear.

The chair requested a motion to extend the meeting as the time was approaching 6:00 o'clock.

Director Kelly made the **MOTION TO EXTEND THE MEETING PAST 6:00**. Seconded by Director Baugh. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO. 13 - REPORT(S) FROM THE CHIEF ENGINEER - Jason M. Casuga, PE

a. Presentation on the San Acacia Levee Certification Package - Craig Hoover, Bohannon Huston Inc. and Jason M. Casuga, CE/CEO

Craig Hoover presented on where they are at on the San Acacia Levee certification. He discussed the background of the certification activities that have happened today and then the next steps. He explained that the project is six segments and would be constructed in multiple phases, with phase one being the San Acacia Levee. He noted it is a long project and this is just the first segment of it, and some of the activities that have happened we're in coordination with the Corps, FEMA, Socorro, and MRGCD. He shared there's a lot of data they have to provide for levee certification, including as-builts for the levee itself, geotechnical report for the levee, operation management report, H&H hydrology, and hydraulic report for the levee. He said there was a burst that was discovered in their survey control and they had to go out and reset the survey control,

resurvey the levee, and redo the HEC-RES models, which delayed everything. He said they are putting together the package to submit to FEMA right now. Mr. Hoover went over the FEMA submittal requirements and explained one of the biggest challenges is with the upstream and downstream ends is finding another accredited levy to tie into, but they do not have that luxury here because they do not have the full system. He stated the approach they're going to take is to put together the best package they can based on the available data to submit to FEMA and then see. Mr. Hoover is also concerned with the emergency warning system which is a recent requirement of FEMA that was not in place when this portion of the levee was constructed and he understands that Socorro does not have that, so will submit to FEMA and see what they come back with in terms of comments.

b. Report on the MRGCD's Response Letter to Office of the State Engineer's Letter dated June 28, 2024 - Jason M. Casuga, CE/CEO

Mr. Casuga discussed MRGCD's response letter to the Office of the State Engineer's letter. He explained that the nature of the letter consisted questions about what is going on in the Southern Reach related to significant ponding of water. He stated that according to the state statutes and rules, they are not beloved by people that they do this, but they have reported governmental agencies nonprofits and farmers. He noted he attended meetings with the state out in the field when they were inspecting these areas and they found ponding where people are using MRGCD by opening their turnouts. He shared that they report those and the state shuts that down. So, their response in the letter was what is the difference on the southern end. Mr. Casuga voiced that the state is their big brother and they need to be advocating with them for this. He said the problem is that MRGCD and the farmers are being asked to give more, but he does not know that they need to give more because so much is going on in the bottom end.

Note Vice Chair Dunning left the meeting at 6:15 pm.

c. Report on the Six Middle Rio Grande Pueblos Coalition Meeting, July 11 & August 1, 2024 - Jason M. Casuga, CE/CEO, Eric Zamora, COO, Chair Russo Baca, Directors Sandoval and Baugh

Mr. Casuga reported on both the July 11th and August 1st Six Middle Rio Grande Pueblos Coalition Meeting. He stated the in the first meeting the crux of MRGCD's piece, outside of the general updates on O&M and water, was a conversation around the 2025 election. He said they gave an update on where they were on that with the Secretary of State and that produced a long conversation. He said they had another long conversation about it at the August meeting. He stated that the Secretary of State requested MRGCD to collect Social Security numbers from all voters and make that part of the qualified electors list but that did not go over well. He noted that Bernalillo County is also struggling with how they would implement MRGCD's election due to having a landowner or person who physically lives in Socorro, but owns property in Bernalillo County be able to vote from Socorro in a Bernalillo County election period.

d. Report on the MRGCD and Pueblo of Sandia Corrales Siphon Meeting, July 15, 2024 - Jason M. Casuga, CE/CEO & Chair Russo Baca

Mr. Casuga reported on the MRGCD and Pueblo of Sandia Corrales Siphon Meeting. He said the meeting went well and noted that the Pueblo submitted a letter supporting this project and advocated on behalf of that. He said he also just completed a letter and

had it reviewed by counsel that would be going out on this topic also. Ms. Marken has been in contact with Sandia Pueblo. He noted that the feedback they're getting from Sandia is supportive. He explained that even while the federal government is researching the state of the easement, they cannot go forward with the construction even though MRGCD and the Pueblo have already agreed that a new easement is required there is commitment to settle that. He added that all elements of the Corrales Main on tribal land is MRGCD's responsibility to maintain and that includes the siphon. Mr. Casuga said he still has not received an official letter from the federal government that there is an issue going on but it has been talked about and created a lot of chaos, and they need to eliminate that chaos.

e. Report on the Low Flow Conveyance Channel Site Visit with Senator Heinrich, July 16, 2024 - Jason M. Casuga, CE/CEO

Mr. Casuga stated they took the Senator's Office and staff on a tour and laid out their issues, and he believes they learned something and we're not expecting what they saw.

Director Baugh asked if he thought it would be a part of the Coalition of the Rio Grande Water Users to bring up and discuss.

Mr. Casuga said they are building agenda items to talk about, and they are getting letters out, so it should be covered in some form, as it is a robust conversation that must happen.

f. Report on the Socorro County Farmers/Irrigators Informational Meeting, July 18, 2024 - Jason M. Casuga, CE/CEO, Directors Duggins and Baugh

Mr. Casuga reported on the Socorro County Farmers/Irrigators Informational Meeting. He said it was the smallest attended farmers meeting in Socorro that they have had, but they still asked good questions and a lot of them were about the Low Flow Conveyance Channel.

Director Baugh added that they asked if the Board would entertain the idea of meeting later so that they could attend the meeting since they're driving up from so far.

Mr. Casuga stated that he understood that they were asking to hold a meeting later at least once a quarter, so starting at 5 instead of 3. He said he thought it was a reasonable request to consider.

Madam Chair Russo Baca suggested maybe having an alternate special meeting would be the best way to go about that.

g. Report on the Sandoval County Farmers/Irrigators Informational Meeting, July 25, 2024 - Jason M. Casuga, CE/CEO, Directors Sandoval and Dunning

Mr. Casuga gave a report on the Sandoval County Farmers/Irrigators Informational Meeting. He said this meeting was really energetic and well attended, and they had good conversations. He expressed there was a big discussion on O&M, and he believes the right approach is having staff there to put them back in the hands of those that can actually help them solve their problems. He said that Ms. Molina and the team are working on reviewing and publishing frequently asked questions from the meetings.

Madam Chair Russo Baca inquired on the data collection about outreach and the best way to connect with people.

Ms. Molina expressed that she did a very unscientific poll and a majority responded that they want to receive text messages from their ISOs, that they seem to trust their ISOs, and she is still surprised at how many really get the information from their neighbors. She stated that they are working on a text messaging e-mail campaign program but it is going to take a lot of work, because they have a lot of different databases from a lot of different sources but they hope to at some point be able to communicate with constituents specific to their area.

Mr. Casuga added they're also finding that if they go to these text messages generally people have to opt in.

Ms. Molina agreed and said that once they launch the program there will have to be at least an initial opt in text

h. Report on the City of Albuquerque Council Meeting regarding eBikes, August 5, 2024 - Jason M. Casuga, CE/CEO and Director Baugh

Mr. Casuga stated they got to interact with the biking community, and they were very kind and acknowledged and understood the need for public comment. Mr. Casuga said that it is MRGCD's benefit to engage with them and he learned that there are tiers of eBikes. For example, tier 1 does not have a throttle on it and the max speed of 18 miles an hour. He said it is worthwhile for us to engage that community and have them come in and they did not condone the bad behaviors of those doing bad things on the eBikes. Mr. Casuga offered to attend an evening eBike ride with that group, and he will report back on that. He recommended that the Board take them up on their offer and let them come and give a presentation and engage them through public process.

Director Baugh added it was a good experience and he echoed that both sides really bring good points. He believes there's a middle ground that they can entertain.

i. Information on Upcoming Events

- 1. Coalition of Rio Grande Water Users 2024 Conference, October 1-3, 2024 - Santa Fe, NM**
- 2. Colorado River Water Users Association (CRWUA) 2024 Conference, December 4-6, 2024 - Las Vegas, NV**
- 3. Family Farm Alliance Annual Conference, February 2025 - Reno, NV**

AGENDA ITEM NO. 14 - REPORT(S) FROM THE MRGCD ATTORNEY(S) - Chief Water Counsel or General Counsel

Christina Bruff stated that she and Mr. Casuga are both in touch on the pending litigation items and everything is going well and stated the executive session was not needed any longer.

AGENDA ITEM NO. 15 REPORT(S) FROM THE BOARD

- a. Report on the Farmers for Future Farmers Meeting, July 9, 2024 - Chair Russo Baca and Director Duggins**
- b. Report on the VSWCD, Summer Conservation Camp, July 10, 2024 - Chair Russo Baca**

- c. **Report on the La Joya/MRGCD MOU, July 12, 2024 - Chair Russo Baca**
- d. **Report on the Center for Social Sustainable Systems (CESOSS) Meeting, July 15, 2024 - Director Baugh**

Director Baugh stated it was a great meeting and they're really excited to hear what they had in store with how we can broaden their ability to connect to a very specific and unique beautiful culture and area.

- e. **Report on the Centennial Committee Meeting, July 17, 2024 - Chair Russo Baca, Vice Chair Dunning and Director Baugh**
- f. **Report on the Conservation Advisory Committee Meeting, July 18, 2024 - Chair Russo Baca**
- g. **Report on the Personnel & Finance Committee Meetings, August 1, 2024 - Directors Kelly, Dunning and Russo Baca**

Director Kelly gave a report where they discussed pending union negotiations and concurred with staff about the final best offer. He said they are pretty close to them dollar wise, but other great important issues need to be resolved eventually. He said they need to do what's right for the District and will do that.

Ms. Fanelli added updates on the union negotiations; that they are going to slightly change their investment strategy so funds will be available if they need them.

- h. **Report on the Middle Rio Grande Region Water Planning, August 7, 2024 - Chair Russo Baca**
- i. **Report on the Quarterly Pollinator Networking Group, August 8, 2024 - Chair Russo Baca**

The chair submitted written reports (refer to Appendix II) and encouraged others to follow suit.

- j. **Meeting with Ace Leadership High School, CESOSS, and Explora Studio, August 2, 2024 – Director Baugh**
- k. **Meeting with Ace Leadership, CESOSS, and Explora Studio, August 9, 2024 – Director Baugh**

Director Kelly made the **MOTION TO APPROVE ALL THE REPORTS FROM THE BOARD**. Seconded by Director Baugh. The **MOTION CARRIED UNANIMOUSLY**.

AGENDA ITEM NO. 14 EXECUTIVE SESSION

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

The closed session was not needed; with no further comments, questions, or concerns, Madam Chair Russo Baca adjourned the meeting at 6:47 pm.

Approved to be the correct Minutes of the Board of Directors of August 12, 2024.

ATTESTED:

Pamela Fanelli, CMA, CGFM
Secretary/Treasurer

Stephanie Russo Baca, Madam Chair
MRGCD Board of Directors

Comments in response to June 28 letter to MRGCD from State Engineer Mike Hamman
for MRGCD Board of Directors meeting August 12, 2024

My name is Janet Jarratt. I farm for a living on the farm where I was raised, and I had the pleasure of being the first woman elected Chair of the MRGCD. Having been engaged with water issues for well over 20 years, my first response is surprise at the content of this letter, particularly from a State Engineer that was previously the Chief Engineer of the MRGCD. While the overall tone of the letter is threatening, the very first paragraph shows a complete misunderstanding of the MRGCD and its constituents. The reference to "depletion-reduction" programs assumes that drying agricultural land and rerouting the water to the river results in reduced depletions. I could argue that point, but it is minor in the larger context of the letter. The perhaps most egregious error in the very first paragraph is in referring to "farmer-members of the MRGCD". Are citizens of any other subdivision of the state referred to as "members"? The MRGCD is not a club or private entity but rather a subdivision of the state with constituents that happen to own the resource the MRGCD is tasked with managing to the benefit of those constituents, with particular protections for the farmers in that the district is precluded from infringing upon or interfering with the waters of the lands of the district. Referring to "farmer-members" diminishes the constituency and ownership role, presenting them as subjugated non-entities. This is particularly disturbing in light of the authors previous role in the District.

The next several paragraphs of the letter are a basic description of the Rio Grande Compact. Mr. Hamman states "...it is in the interest of MRGCD's members to facilitate reducing depletions in the middle Rio Grande to help deliver more water to Elephant Butte and climb out of Compact debit status." Indeed, this commentary should be provided to the M&I water users as well, those that are using water beyond their permits in particular. In the Albuquerque reach alone, the ground water depletions average about 70,000 acre feet every year, sucking water out from under the river and the ditches and drains, water the city is not entitled to. Water that is owned by farmers and that is recharging a vast number of wells in the reach, including the municipal wells. When the water utility stopped using the San Juan Project water to offset those depletions the impacts to the river and to farmers was immediate, foisting the consequences of the ensuing surface water losses onto the farmers downstream. The very people the MRGCD is mandated to protect.

To bolster the fearmongering over the compact, Mr. Hamman points out a Supreme Court case stating "...a State could curtail uses by senior water users when necessary to honor interstate obligations, because no user within a state is entitled to use any greater right than the state's equitable share under the compact." That decision was more nuanced than that, and he neglects to mention that this case is between individuals, not states, the states involved were Colorado and New Mexico, and while I'm not an attorney, I certainly have questions about the applicability of not only the case, but his statement, in regards to the Middle Rio Grande, where the water rights are based on a Federal Treaty. He then bemoans the potential for curtailment of water uses such as washing cars, a waste of water compared to food production. He conveniently leaves out the fact that a compact call would likely trigger a priority call, which would certainly be a far different creature than he describes, as the first uses to be curtailed would be the newest, and it is quite unlikely that such a call would curtail water with a District right, or 1935 right, let alone pre-1907 rights. In previous presentations, Rolf Schmidt Peterson, at that time the head of the Rio Grande section of the Interstate Stream Commission, opined that a priority call to the 1980's would be more than adequate.

Mr. Hamman, as State Engineer, then frankly threatens the MRGCD with the statement "Most non-Pueblo farms could receive little, if any, surface water, and could not use wells; livestock watering

could be negatively affected; and municipalities and domestic users could see extreme water rationing and the potential loss of trees and other vegetation.” Oh, the fearmongering is thick! Not based in reality I might point out, or on law, but boy it sounds scary!

He follows the terrifying scenario with pabulum about funding for the river channel, drains, and low flow conveyance channel, while neglecting to mention that these projects have had various funding streams and been a problem for 20+ years. The state and the BoR have neglected to address many issues with getting water to Elephant Butte, including the fact that it is virtually impossible to actually get water downstream when it spreads on the delta and evaporates. How that is managed would be considered waste of water resulting in penalties if it were an irrigator in the district. The state and BoR are culpable for compact delivery issues, having completely mismanaged the delivery mechanisms.

The letter ends with a pitch for a shortage sharing plan. While that may work amongst similar uses with similar rights in a single geographic area, that is nothing but uncompensated redistribution of senior rights in the MRG. We are not talking about compact compliance because of farmers; we’re talking about it because the State Engineer has stopped publishing depletion analysis that was done for decades, and refused to require offsets to actually keep the river whole. A permit is not a right, and allowing a delay of water right acquisition while permitting pumping increases exacerbates every problem. I have to have a senior right to have a well, not so for other segments. The state will saddle the farmers with the consequences of decades of mismanagement without blinking an eye.

So the letter is scary as presented. Let me present an alternative view. While the state may indeed curtail uses to deliver water, they cannot do it without compensation. Doing so is an uncompensated takings, and regulatory takings can now be moved directly to Federal Court, cutting the costs of such a case to the plaintiffs, making it much more likely to be filed. The State tried all this on the Pecos, and admitted to many many mistakes. They had to spend tens of millions of dollars to dry land, and then had to pay farmers to farm that land because the weeds took up more water in addition to being a huge problem. But the farmers in the Rio Grande have far more protections than the folks on the Pecos did, in my opinion. First, the Treaty of Guadalupe Hidalgo, a Federal Treaty, assures the water rights of the tribes and farmers along the Rio Grande. A copy of that Treaty is included in the abstract for my property. One would have to wonder if attacking the water belonging to farmers but leaving the waters of the tribes wholly intact would bring constitutional equal protection issues to the fore. An additional consideration might be if leaving businesses in municipalities, such as Los Pablanos, or Intel, or any really, would also bring rise to questions of equal protection. The Compact is, after all, the responsibility of the State, not just the MRGCD irrigators. Apart from that, a compact call would almost certainly trigger a priority call, yielding what in my opinion we have long needed, adjudication. But the State desperately avoided a priority call on the Pecos, and I expect would do so again.

Another consequence is likely to the MRGCD itself. The MRGCD has statutory responsibilities to the farmers within its boundaries, and those responsibilities are being ignored even now. To illustrate:

73-14-47. The use of water.

A. No sale, lease, assignment, permit or other right in the waters of the district shall be made or granted which shall infringe upon or interfere with the water rights of lands in the district, or with water provided for irrigation purposes on the lands within the district for which benefits have been appraised and assessments levied under this act.

B. All the rights and property of the district in the waters and watercourses thereof, and in their use, shall be exercised in such a manner as to promote the welfare of the district and of all

the inhabitants thereof; to promote the safest, most economical and most reasonable use of such waters; to protect the water rights of the lands and landowners of the district; to encourage and promote agriculture and industry and to pay the cost of constructing, maintaining and operating the improvements.

F. Where the district acquires by purchase, condemnation or otherwise, water or water rights, or where it conserves, develops or reclaims water, it shall have the rights which go with the appropriation and beneficial use thereof; save and except such use for which benefits have been appraised and assessments levied by the district upon property for irrigation purposes; and the development, conservation or reclamation of water by the district is hereby declared to be an appropriation thereof by the district, and the disposition thereof under the terms of this act is hereby declared to be a beneficial use thereof by said district and by the lands included therein.

Section A brings into question the use of our irrigation water for “environmental” purposes (without our permission or compensation). This includes the “reclaimed” water referenced in the permit, because of the appraisal and assessments levied. Section B obligates the protection of water rights as well as the encouragement and promotion of agriculture. Section F assures that even if the water rights are not pre-1907 the district does not have rights to water used for irrigation purposes on land where benefits have been appraised and assessments levied. It also declares, in law, the district’s beneficial use of these waters, so don’t let the state try to bamboozle you into generating some proof of beneficial use nonsense. But more to the point, regardless of whether the farmers in the MRGCD can prove pre-1907 water rights, the district does not have those rights, and thus each farmer in the benefitted area would have standing to sue.

Another complication to the threats issued in the subject letter is the rejection by the US Supreme Court of the settlement agreement on the Lower Rio Grande. Regardless of whether that was a good decision, we are stuck with the outcome, namely the Bureau of Reclamation is still in the middle of the suit with their position that groundwater pumping is impacting compact deliveries. They will likely march upriver, particularly as they are fully aware of the ground water depletions in the Albuquerque reach.

The bottom line is that should draconian measures against only or primarily irrigators be undertaken by the state or by MRGCD the ensuing litigation will create a cascade of events that neither the state nor the MRGCD will benefit from. Particularly with the overturning of Chevron deference. If the constitution and law had been followed for the last 50 years, if we had adjudicated, if we’d done priority administration, if the district had used their authority to do priority assessments, we would not have a problem now. The BoR could go directly to farmers for ESA water, markets would be more efficient, reducing the impacts to municipalities and others, water could be moved in a timely manner to mitigate drought and flood. Alas, that is not what was done. So now, rest assured, threatening the farmers of the MRGCD is not a productive path to pursue; you just might wake a sleeping giant.

Chair Russo Baca Board Reports August 12, 2024

Report on the Farmers for Future Farmers Meeting, July 9, 2024

This meeting occurs on the second Tuesday of the month at 6 pm at 4 Daughters Land and Cattle in Tome. The discussion was on the El Vado and San Juan Chama works tour. Additionally, there was a discussion on irrigation water supply and other assistance for farmers throughout the district.

Report on the VSWCD, Summer Conservation Camp, July 10, 2024

The Valencia County Soil and Water Conservation District hosts a summer conservation camp yearly, and MRGCD helps by sponsoring the event. This year, MRGCD staff member Rhett presented about MRGCD and irrigation. Additionally, the students visited the NMSU campus and then visited Russo Baca Farm, where they learned about rotational grazing and livestock production.

Report on the La Joya / MRGCD MOU, July 12, 2024 – Chair Russo Baca

The La Joya Acequia Association met with MRGCD staff and counsel to continue discussing joining MRGCD's benefited area.

Report on the MRGCD and Pueblo of Sandia Corrales Siphon Meeting, July 15, 2024 – Jason M. Casuga, CE/CEO & Chair Russo Baca.

This meeting occurred with the Pueblo of Sandia Governor, War Chief, and lieutenant governor, as well as other council members and legal counsel, regarding the Corrales Siphon construction and working with the BIA.

Report on the Centennial Committee Meeting, July 17, 2024

Chair Russo Baca, Vice Chair Dunning, and Director Baugh attended this meeting regarding the next planning phases for the MRGCD's centennial. Discussions included hosting an event and screening the MRGCD's centennial film at the KiMo Theatre. Director Baugh is also working with a school and Explora to develop an educational irrigation trailer that could be brought to different events. There was also discussion about a centennial pin.

Report on the Conservation Advisory Committee Meeting, July 18, 2024

Current Hydrology Update – Ashley Veihl

Del Norte (S L Valley) – 196 (March) – 1,040 (April) – 1,900 (May) – 512 (July)

Lobatos (NM/CO Line) – 314 (March) – 203 (April) – 392 (May) – 120 (July)

La Puente (Chama) – 70 (March) – 756 (April) – 1,385 (May) – 60 (July)

Below Abiquiu (Chama) – 94 (March) – 756 (April) – 1,270 (May) – 295 (July)

Otowi (Main Stem) – 748 (March) – 1,700 (April) – 2,540 (May) - 433 (July)

Below Cochiti – 856 (March) – 1,560 (April) – 2,480 (May) – 263 (July)

|Bosque Farms – 431 (March) – 760 (April) – 1,910 (May) – 103 (July)

Narrows (Just above EB) – 652 (March) – 218 (April) – 2,090 (May) – 44 (July)

- Sediment plug in Chama restricting flows- <https://abiquiunews.com/news-and-features/chama-on-its-way-back-into-its-original-channel-plug-cleared>

- Corrales siphon turned off due to low flows

On-Farm Program Updates – Jose Contreras

2024 IDM-EWLP – Ashley Veihl and Ray Hartwell

- Outfall updates (Ashley)

Los Chavez Wasteway running at 10 cfs, Storey Wasteway running at 10 cfs, 240 Wasteway may be constrained if we enter into P&P ops, Rio Grande measured at 43 cfs at LP1 near Reinken Rd. yesterday; will measure again to see change with Los Chavez running

EWLP and IDM accounting (Ray)

Report on the Six Middle Rio Grande Pueblos Coalition Meeting, August 1, 2024 – Jason M. Casuga, Anne Marken, Chair Russo Baca, Director Sandoval

NM SOS Maggie Toulouse Oliver presented on the MRGCD elections and the Local Election Act, and what the future may hold regarding whether the elections will be returned to MRGCD to run or, if there is no legislation to change otherwise, whether the counties will have to run the MRGCD election. She has promised to consult with the tribes either way. Additionally, Mr. Casuga and Ms. Marken presented the water supply conditions, the sediment plug on the Chama, and maintenance updates.

Report on the Middle Rio Grande Region Water Planning Open House August 7, 2024

<https://mainstreamnm.org/events/middle-rio-grande-region-water-planning-open-house-in-albuquerque/>

Please visit <https://mainstreamnm.org/> for more information. There is still time to submit comments until August 18, 2024. Main Stream New Mexico is your guide to revitalized regional water planning under New Mexico's Water Security Planning Act of 2023. It is a campaign of the [Interstate Stream Commission](#) Water Planning Program.

Quarterly Pollinator Networking Group, August 8, 2024

Yasmeen Najmi also attended this meeting and gave a brief update on what MRGCD is doing to help pollinators in the Bosque and along ditches and drains. There were also updates from the ABQ Bio Park, Ciudad SWCD, Think Like A Bee, Institute For Applied Ecology, CABQ Parks and Rec, Xerces, Bernco, and EMNRD, among others.