



37           **WHEREAS**, the 1928 Contract further provides that MRGCD “hereby recognizes  
38 these water rights now appurtenant to the said area of irrigated Pueblo Indian Lands . . . as  
39 prior and paramount to any rights of the district or of any property holder therein;” and

40           **WHEREAS**, the New Mexico Office of the State Engineer issued Permit No. 1690 to  
41 MRGCD allowing for the appropriation of 198,110 acre feet of storage of Rio Chama water in  
42 El Vado Reservoir to supplement MRGCD’s natural flow right; and

43           **WHEREAS**, the State Engineer approval for Permit No. 1690 stated “[t]his application  
44 is approved provided it is not exercised to the detriment of any others having prior valid  
45 existing rights to the waters of said stream system,” and the “accepted priority date of the  
46 filing is September 4, 1923;” and

47           **WHEREAS**, in 1931, the State Engineer issued Permit No. 0620 to MRGCD for  
48 MRGCD’s diversions from the Rio Grande; and

49           **WHEREAS**, in its application for Permit No. 0620, the MRGCD asserted water rights  
50 appurtenant to 123,267 acres of land, including 80,785 acres of land irrigated prior to the  
51 Conservancy Project and well before 1923; and

52           **WHEREAS**, MRGCD’s right under Permit No. 0620 includes diversions to carry water  
53 to the Six Middle Rio Grande Pueblos’ “prior and paramount” and newly reclaimed lands; and

54           **WHEREAS**, MRGCD began principal construction on El Vado Dam in 1933, and El  
55 Vado Reservoir filled by 1936; and

56           **WHEREAS**, from initial construction until approximately 1956, MRGCD operated El  
57 Vado Dam and Reservoir pursuant to Permit No. 1690; and

58           **WHEREAS**, in 1938, the States of New Mexico, Colorado, and Texas entered into the  
59 Rio Grande Compact (“Compact”) (53 Stat. 785); and

60           **WHEREAS**, the Compact apportions the natural waters of the Rio Grande among the  
61 States of Colorado, New Mexico, and Texas; and

62           **WHEREAS**, under Article VI of the Compact, if New Mexico is in debit status, New  
63 Mexico must retain water in storage at all times to the extent of its accrued debit; and

64           **WHEREAS**, under Article VII of the Compact, whenever Usable Water in the Rio  
65 Grande Project storage account at Elephant Butte and Caballo Reservoirs is less than  
66 400,000 AF, New Mexico and Colorado may not increase the storage of natural Rio Grande  
67 Basin water in upstream reservoirs constructed after 1929; and

68           **WHEREAS**, Article XVI of the Compact provides that “[n]othing in this Compact shall  
69 be construed as affecting the obligations of the United States of America to Mexico under  
70 existing treaties or to the Indian Tribes, or as impairing the rights of the Indian Tribes;” and

71           **WHEREAS**, MRGCD records show that the estimate for the area of lands within the  
72 Six Middle Rio Grande Pueblos under cultivation in 1928 changed from 8,346 acres to 8,847  
73 acres in approximately 1939; and

74           **WHEREAS**, Congress passed the Flood Control Act of 1948 (“1948 Act”) (62 Stat.  
75 1171) to appropriate money to prepare a “comprehensive plan” to rehabilitate MRGCD’s  
76 irrigation structures; and

77           **WHEREAS**, the 1948 Act recognizes that the plan was not intended to affect or  
78 abrogate “in any way the laws of the State of New Mexico in which the Middle Rio Grande  
79 Valley lies, relating to the control, appropriation, or distribution of water used in irrigation or  
80 for municipal or other uses, or any right vested therein;” and

81           **WHEREAS**, Congress passed the Flood Control Act of 1950 (“1950 Act”) (64 Stat.  
82 163) to appropriate money for “completion of the plan approved in the Flood Control Act of  
83 June 30, 1948, for the Rio Grande Basin;” and

84           **WHEREAS**, pursuant to the 1950 Act, MRGCD executed Contract 178r-423, Contract  
85 Between the United States and the Middle Rio Grande Conservancy District for Rehabilitation  
86 and Construction of Project Works, and Repayment of Reimbursable Construction Costs  
87 Thereof (“1951 Contract”); and

88           **WHEREAS**, the 1951 Contract provides that MRGCD shall transfer “water filings  
89 including filing for storage and use of water in the El Vado Reservoir” to the United States “for  
90 beneficial use in the project and for Indian lands in the project area;” and

91           **WHEREAS**, the 1951 Contract further provides that “[t]he status of the Indian lands  
92 and water rights in relation to the Conservancy District and the Bureau of Reclamation shall  
93 not be changed whether the works of said District are operated by the District or by the Bureau  
94 of Reclamation;” and

95           **WHEREAS**, MRGCD executed Amendment No. 3 to the 1951 Contract in 1956; and

96           **WHEREAS**, Amendment No. 3 to the 1951 Contract provides that the United States  
97 shall assume “operation and maintenance of El Vado Dam and Reservoir;” and

98           **WHEREAS**, in 1957, the Bureau of Indian Affairs promulgated 25 C.F.R. § 172.1  
99 designating the total irrigable area of the Six Middle Rio Grande Pueblos as 20,242.05 acres,  
100 of which 8,847 acres are “[l]ands with recognized water rights not subject to operation and  
101 maintenance or betterment changes by the District and designated as ‘now irrigated’” for the  
102 purposes of the 1928 Act; and

103           **WHEREAS**, beginning in 1958, MRGCD executed several operation and maintenance  
104 contracts with the Bureau of Reclamation; and

105           **WHEREAS**, MRGCD executed in 1980 the Agreement By and Between the United  
106 States of America Acting by the Secretary of the Interior, and the Middle Rio Grande  
107 Conservancy District, Political Subdivision of the State of New Mexico, Providing for the  
108 Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands  
109 in the Rio Grande Valley, New Mexico, and for Other Purposes (“1980 O&M Contract”); and

110           **WHEREAS**, the 1980 O&M Contract incorporates terms from the 1928 Contract  
111 whereby MRGCD agreed that water rights for 8,346 acres are “prior and paramount to any  
112 rights of the District or of any property holder therein;” and

113           **WHEREAS**, The 1980 O&M Contract provides that MRGCD agrees “to implement and  
114 protect such storage rights” of the Pueblo as they “have enjoyed . . . since [El Vado]  
115 [R]eservoir was placed in operation;” and

116           **WHEREAS**, in 1981, the Six Middle Rio Grande Pueblos Irrigation Committee, Bureau  
117 of Indian Affairs, Bureau of Reclamation, and Secretary of Interior’s Designated Engineer  
118 executed the Agreement: Procedures for Storage and Release of Indian Water Entitlement  
119 of the Six Middle Rio Grande Pueblos (“1981 Procedures Agreement”); and

120           **WHEREAS**, MRGCD is not a party to the 1981 Procedures Agreement; and

121           **WHEREAS**, the 1981 Procedures Agreement provides, “the [Bureau of Reclamation]  
122 shall annually store, or designate for storage, the quantity of water in the El Vado Reservoir  
123 necessary to satisfy the prior and paramount water rights of the six [Middle Rio Grande]  
124 Pueblos, as determined by [Bureau of Reclamation] and Designated Engineer,” regardless of  
125 whether such storage operations may impair senior downstream rights, including MRGCD’s  
126 water right; and

127           **WHEREAS**, the Bureau of Reclamation continues to operate El Vado Dam and  
128 Reservoir pursuant to the 1951 Contract, as amended, and Permit No. 1690, including  
129 storage operations according to the 1981 Procedures Agreement for the Six Middle Rio  
130 Grande Pueblos’ “prior and paramount” rights; and

131           **WHEREAS**, during maintenance and reconstruction operations at El Vado Dam, the  
132 Bureau of Reclamation, Albuquerque Bernalillo County Water Utility Authority and the  
133 MRGCD have reached an agreement to allow the storage of up to 100,000 acre-feet of water  
134 for the Six Middle Rio Grande Pueblos, Rio Grande Compact debit water, and MRGCD usable  
135 irrigation water, in the water authority’s allotted space in Abiquiu Reservoir;

136           **WHEREAS**, the Bureau of Reclamation now stores water in and makes releases from  
137 Abiquiu Reservoir for “prior and paramount” operations; and

138           **WHEREAS**, storage operations in either El Vado Reservoir or Abiquiu Reservoir  
139 pursuant to the 1981 Procedures Agreement and Permit No. 1690 may, depending on timing  
140 and hydrological conditions, result in decreased stream flow at MRGCD’s diversion points;  
141 and

142           **WHEREAS**, the exercise of the junior right under Permit No. 1690 for storage  
143 operations in either El Vado Reservoir or Abiquiu Reservoir may, depending on timing and  
144 hydrological conditions, impair MRGCD’s senior water rights under Permit No. 0620,

145 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors that:

- 146 1. MRGCD recognizes that natural flow water rights appurtenant to the lands of the  
147 Six Middle Rio Grande Pueblos under cultivation in 1928 are prior and paramount  
148 to the natural flow water rights of the district; and
- 149 2. MRGCD submits that its diversion right and other water rights for lands under  
150 cultivation prior to September 4, 1923, including its diversion right to serve lands  
151 of the Six Middle Rio Grande Pueblos, has priority over any storage right under  
152 Permit No. 1690, including storage for “prior and paramount” operations; and
- 153 3. MRGCD has not waived or otherwise disclaimed its right to seek priority  
154 administration against any storage right, including the storage right under Permit  
155 No. 1690; and
- 156 4. The Chief Engineer / Chief Executive Officer of the district shall have the power,  
157 discretion, and responsibility to do all things necessary or advisable to assert and  
158 protect the priority of MRGCD’s water rights, including the right to divert water to  
159 serve the prior and paramount rights of the Six Middle Rio Grande Pueblos or  
160 protest any water right applications or other administrative actions; and
- 161 5. The Chief Engineer / Chief Executive Officer of the district shall supervise, direct,  
162 coordinate, and control studies and monitoring efforts necessary or advisable to  
163 determine if and when storage operations impair MRGCD’s water rights, and if the  
164 Chief Engineer / Chief Executive Officer determines that storage operations are  
165 impairing or imminently will impair MRGCD’s water rights, then the Chief Engineer  
166 / Chief Executive Officer may, in his / her / their discretion, request that the State  
167 Engineer perform priority administration or alternative administration, make a call  
168 on the river, or take such other necessary or advisable actions to demand that  
169 junior water rights holders curtail their use to protect MRGCD’s senior rights; and
- 170 6. MRGCD generally supports efforts to review the 1981 Procedures Agreement,  
171 including discussions of carryover storage, as necessary to allow the Six Middle  
172 Rio Grande Pueblos to receive the benefit of water stored in priority for lands with  
173 prior and paramount water rights, without impairing or compromising MRGCD’s  
174 rights.

175 Passed by the District Board this \_\_\_ day of \_\_\_\_\_ 2026.

176

177

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

178

179

180 \_\_\_\_\_  
181 John P. Kelly, Chairman  
182 MRGCD Board of Directors  
183

184

185 **ATTEST:**

186

187

188 \_\_\_\_\_  
Pamela Fanelli, CMA, CGFM

189 Secretary-Treasurer/CFO

DRAFT