

**MINUTES OF THE
2,151st REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
JULY 8, 2019**

Directors having been duly notified, Madam Chair Dunning called the regular meeting to order at 3:05 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS		STAFF	
Karen Dunning	Madam Chair	Mike Hamman	Chief Engineer/CEO
Joaquin Baca	Vice Chair	Tanya Scott	Chief Water Counsel
John Kelly	Director	Patty Williams	General Counsel
Valerie Moore	Director	David M. Ferguson	Secretary-Treasurer
Michael T. Sandoval	Director	Jeanette Bustamante	Administrative Officer/CPO
Barbara Baca	Director	David Gensler	Water Operations Manager
Stephanie Russo Baca	Director	Becky Burnham	Budget Analyst
		Jason Casuga	Engineering Manager
		Alicia Lopez	Engineer 1
		DeAnna Phillips	GIS Technician
		Christina Nardi	Human Resources Director
		John Thompson	District Lobbyist
		Rebecca Thompson	Assessment Clerk II
		Doug Stretch	GIS Manager
		Willie West	Asst. Division Manager

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

D.R. Anderson	Toby Romero, Romero's Farms
Bill Turner, Waterbank	Tony Bridgmen
Theresa Davis, Albuquerque Journal	Gerald Snelling
Santiago Maestas, SVRAA/CESOSS	Heath Kull, NM Boys & Girls Ranch
Larissa Gordon, Farm Credit of New Mexico	Richard Calamusso

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Patty Williams, who is a soccer player (and in honor of the USA Women's Team winning the World Cup), led the Pledge of Allegiance.

Madam Chair Dunning welcomed the guests, declared a quorum, and noted that the meeting was publicly noticed.

AGENDA ITEM NO. 2 – APPROVAL OF THE MRGCD BOARD MEETING AGENDA

There were no changes to the draft meeting agenda that was presented for approval.

Vice-Chair Baca made the **MOTION TO APPROVE THE MEETING AGENDA**. Director Baca seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 3 – APPROVAL OF BILLS AND PAYROLL RATIFICATION

a. Consideration/Approval of Payment Ratification - June 24, 2019

Madam Chair Dunning asked about item 131966, which was a conservation specialist position advertised in the *Albuquerque Journal*. She presumed that conservation refers to water efficiency conservation and asked if that was a grant-funded position. Mike Hamman responded that two Bosque patrol officers resigned, so those two positions were reclassified to conservation specialist.

Madam Chair Dunning also asked that a correction be made to her name on the last page of the ratification, to read Karen Dunning (instead of Duggins).

Madam Chair Dunning commented about item 131997, the payment to the City of Socorro for the swim pass program. She thought that the payment made last year for swim passes was a one-time occurrence and did not realize it was a recurring payment. She gave a history of the swim pass topic to the new board members. She wanted it noted on record that, while she agrees that helping save children's lives is important, all children from all four districts are important, not just the children in Socorro. She agrees with an educational program of keeping children out of ditches (encouraging swimming in city pools rather than ditches); however, she does not feel that the pool pass program for the City of Socorro was handled correctly last year (i.e., she believes it assisted in underwriting a recreation program rather than being an educational program). Director Moore asked if the City of Socorro was the only county to receive the swim pass program from MRGCD. Mike Hamman responded that the assignment was to expand the program to all four counties; however, Mr. Hamman has reached out to all four counties and has not yet heard back from the three other counties. Mr. Hamman did note that the swim pass program is a promotional thing for the District, if it is set up correctly.

Director Kelly asked about the assessment for the Riverside Drain. Mike Hamman responded that it is the preliminary work in developing the MOU with the Corps of Engineers to prepare an estimate of what it will take to rehab the Riverside Drain as part of MRGCD's contribution in kind for the Bernalillo to Belen Levee Project. Director Kelly asked if the work done this spring can be claimed retroactively as part of the work in kind local cost-share, to which Mr. Hamman responded no.

Director Moore made the **MOTION TO APPROVE THE PAYMENT RATIFICATION - JUNE 24, 2019**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

b. Consideration/Approval of June 2019 Invoice for Wiggins, Williams, and Wiggins

While there were no questions about the invoice, Director Kelly noted that Patty Williams was sitting in for Bruce Wiggins and Lorna Wiggins (due to travel) and asked how much of her caseload was devoted to MRGCD. Ms. Williams responded that it was hard to give a ballpark currently. Director Kelly asked if she was up to speed on MRGCD's litigation issues, to which she responded in the affirmative.

Director Kelly made the **MOTION TO APPROVE THE JUNE 2019 INVOICE FOR WIGGINS, WILLIAMS AND WIGGINS**. Director Moore seconded the motion. The **MOTION CARRIED** unanimously.

c. Consideration/Approval of June 2019 Invoice for Law & Resource Planning Associates

While there were no questions about the invoice, Madam Chair Dunning noted that Tanya Scott was sitting in for Chuck DuMars today (due to his unavailability). Ms. Scott noted that any questions regarding the protest of a new water transfer would be covered in Item number 9 of today's agenda.

Director Sandoval made the **MOTION TO APPROVE THE JUNE 2019 INVOICE FOR LAW & RESOURCE PLANNING**. Director Moore seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 4 – APPROVAL OF MRGCD BOARD MEETING MINUTES

a. Consideration/Approval of Minutes for Election Canvassing Meeting - June 7, 2019

It is noted that Director Kelly and then-Director Baca (now Vice Chair) were absent from the June 7th meeting. It is also noted that Directors Baca and Russo Baca will abstain from voting to approve the June 7th meeting minutes as they were not Board members at that time.

Director Moore made the **MOTION TO APPROVE THE MEETING MINUTES FOR THE ELECTION CANVASSING MEETING, JUNE 7, 2019**. Director Kelly seconded the motion. The **MOTION CARRIED (Directors Baca and Russo Baca abstaining)**.

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

Toby Romero

Mr. Romero lives and farms in Veguita. He is here today after writing a memo to board regarding inability to get a hold of his ditch rider, receiving water later than expected (by two weeks), not receiving enough water, inadequate time to water, and fluctuating water levels. He reported that he was directed by Dan Clouser not to call his ditch rider, to only text him, and those texts went unanswered. When the texts were answered he was given inadequate quantity of water (he has seven turnouts, and he was given water for one to one-and-a-half turnouts), as well as not given enough days to water his acreage. He reports that people are stealing water in the nighttime, which leads to fluctuating water levels when he is watering. Mike Hamman reported that there is a new ditch rider that is "somewhat green," and they are trying to get him up to speed on operations. Mr. Hamman and David Gensler had come up with a plan to push water down to Mr. Romero first and then backfill with the smaller farmers; however, Mr. Hamman does not believe that has started yet. Mr. Hamman will continue to work with Mr. Romero to get him adequate water.

Director Kelly asked if there was a bottleneck on MRGCD's part of the system that needs upgrade in size, culvert crossing, etc., that would help the situation, or if it was a matter of scheduling and people taking their water in turn and in order. Mr. Hamman responded it is both. West Consultants has identified bottlenecks in some areas and some things MRGCD can do to improve the system. There is also a scheduling problem as well. Minor things will be addressed in the upcoming construction season (more automation and better checks); however, the major things, like re-regulation ponds, etc., will have to come later.

Vice-Chair Baca asked Mr. Romero if he was satisfied with the way things are being handled and if he is comfortable with the direction everything is headed, to which Mr. Romero said yes.

Director Moore was extremely upset when she heard about this issue. She believes it was disrespectful to tell a farmer (or any constituent) that texting was the only method of communication, as well as to not respond to the farmer. She asked what the standard operating procedure was of David Gensler. Mr. Gensler commented that he was surprised as well when he heard about this. MRGCD's policy is the opposite. In fact, an Albuquerque ISO had been requested by an irrigator to text, and the ISO was specifically told not to do that. So, Mr. Gensler is still looking into the matter. He believes that it was just a miscommunication of some sort. He will let Director Moore know the outcome.

Director Russo Baca asked if Mr. Romero would share the other farmers' names that were having the same issues; however, she soon learned that they were in the audience of today's meeting as well. Director Russo Baca commented that she would like the irrigation committee to address the situation of individuals irrigating when it is not their turn, along with Mr. Gensler and Mr. Hamman.

Heath Kull

Mr. Kull is president of the New Mexico Boys and Girls Ranches, which is located adjacent and south of Mr. Romero. Mr. Romero farms the Ranches' 2,000 acres. He reports the current ditch rider drives 40 mph when kids are present and believes this problem with the current ditch rider (see above comments from Mr. Romero) is being made out to be less of an issue than what it really is. He also has a major issue with the ditch rider's only method of communication with Mr. Romero to be via text. Mr. Kull, his ranch worker, and Mr. Romero have all tried unsuccessfully to work with the ditch rider, and he feels this is just a political game (the point of which he does not know). He explained how much time has been spent on working with this ditch rider to no avail. He appreciated Mr. Romero's tact and dignity with which he presented the issues with the ditch rider and appreciates MRGCD staff saying they will take care of it. However, he would like to see this employee dealt with the same level of accountability that he is held to. Director Kelly asked Mr. Hamman to promptly investigate this issue and deal with it.

Santiago Maestas

Five years ago, Mr. Maestas was on the Corte de Las Aguas de Valle de Valencia. It is a court that meets for the past 2,000 years to resolve water disputes. Every Thursday, they hold court on the steps of the Cathedral in Valencia. Any irrigator can come forward with complaints of not receiving water or not getting their fair share. The *Mayordomo* will investigate the complaint and have a response to resolution by the following Thursday. Mr. Maestas was just offering another avenue to Mr. Romero and Mr. Kull to bring their issues forward. Mr. Maestas believes this is part of everybody's legacy.

Rich Calamusso

Mr. Calamusso is from Las Nutrias. He was told the opposite of Mr. Romero. He was told not to text at all because the ditch rider did not read the texts. He has one day off, and he needs to know that his water will be there. He schedules his water about seven days prior to needing it. He says it turns on, and then about an hour later, there's no water. He reports it takes 24 hours to irrigate his 30 acres, which should be done in four hours. He is done with this and wants something done. If it is not fixed, he and the other irrigators are going to band together for action. Director Baca asked Mr. Gensler to follow up and let the Board know the action that has been taken in this matter. Director Moore asked Mr. Romero, Mr. Kull, Mr. Maestas, and Mr. Calamusso to please make sure she has their contact information so that she can follow up with

them. Director Russo Baca reiterated the importance of the irrigation committee knowing about these issues.

Bill Turner

Mr. Turner is here to speak to the protest issue (agenda Item 9). These are water rights that belong to Adan and Ruby Salas. Mr. Salas is currently deceased. Their primary assets are their home, property, and water rights. They found a buyer for the 80-acre feet, which has now been protested by MRGCD. He wants to reserve his comments for the time this topic comes up later in the meeting; however, he did state that his comments have nothing to do with the process but the manner in which the application was protested. It was his understanding from Mr. Hamman that following a settlement agreement being signed that there would be no more protests beyond that point. The Salases published the sale of their 80-acre feet for three weeks, as the law requires, under which time there was ample opportunity to protest it prior to the settlement agreement. He also states that the Board must approve the protest, and he believes, in this case, the Board did not approve it. Madam Chair Dunning noted his comments and said that he will have the opportunity to address the Board when agenda item 9 comes up in today's meeting.

AGENDA ITEM NO. 6 – DISCUSSION/APPROVAL OF NEW BOARD PROCEDURES FOR MEETING SCHEDULES, MANAGEMENT, AND CONSTITUENT RESPONSE - MADAM CHAIR DUNNING

Board members received a proposal in the Board packets for how MRGCD might conduct meetings for the rest of the year. Mr. Hamman reviewed that it's been discussed to pull together a consent calendar that would help smooth the process in terms of routine business. There is a list of seven different bullet items there that fall into what we consider to be a routine business item. Of course, any member of the Board can advise the Chair that they wish to pull any one of those consent items into the general agenda at any time to have a broader discussion. Items that are routine in nature and don't raise any questions of the Board, they would be voted on block consent item, as a matter of business.

In terms of the meeting schedule, which will begin in August, there will be one regular meeting a month, to be held on the second Monday of the month. November will need to be addressed as Veteran's Day is currently on the day of the regularly-scheduled meeting.

Insofar as constituent response, currently most issues are addressed and taken care of relatively quickly through staff response. The second avenue is taking it to the Board (as we've seen today). A new step would be added, which would be to hold a meeting in place (at the constituent's choosing - could be their office, MRGCD division offices, etc.). MRGCD would respond to the constituent within two days for the initial request and then would need a week to get with a meeting time, place, and date. Mr. Hamman also wants to improve communication to constituents via the website, mail outs, etc.

The three above recommendations would be given a trial period for the remainder of 2019. If everyone agrees with the recommendation at this meeting, the next meeting would require a change to the Open Meeting Act resolution which was passed in January. With that, Madam Chair Dunning opened it up for discussion.

Director Russo Baca ran some of these ideas by a few of her constituents. They seemed to be fine to go to the one meeting per month schedule but also preferred that there be a floating meeting (which is being currently done) in the four different counties of the District.

Discussion ensued with all Directors insofar as having one or two monthly meetings (during irrigation season and non-irrigation season); frequency, duration and location of those meetings; structured meeting plans, field office coverage once a month by division staff and Board members, and structure (or policy) of the current meeting structure.

It was decided that there would be a new proposal at the next Board meeting outlining the new scheduling and process of meetings, as well as a draft of an amendment to the Open Meetings Act Resolution.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Jennifer Faler was not in attendance of today's meeting.

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

Viola Sanchez was not in attendance of today's meeting.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE MRGCD CHIEF ENGINEER - Mike Hamman, CE/CEO

a. Discussion/Approval of Concrete and Shotcrete Bid - Jeanette Bustamante, Administrative Officer/CPO

No discussion ensued regarding this topic.

Director Kelly made the **MOTION TO APPROVE THE CONCRETE AND SHOTCRETE BID**. Vice-Chair Baca seconded the motion. The **MOTION CARRIED** (all Directors voted aye with the exception of Director Moore, who was out of the room).

b. Water Availability Report/Levee Status - David Gensler, MRGCD Operations Manager

As mentioned at the last meeting, the 2019 runoff is definitely winding down. All of the highest elevation SNOTEL sites are fully melted out. The basin is still producing pretty impressive flows though. The main stem of the Rio Grande is making over 5,000 CFS up in Colorado. Colorado is only allowing about 2,800 of that to make it across the state line. The Rio Chama is producing about 500 CFS, down a lot from what it was a month ago but still very impressive for mid-July flows. The way things are shaping up, they will stay strong all the way through July and into August.

All flood storage is now out of Abiquiu and Cochiti. The Cochiti release is currently about 4,300 CFS, and it will be reduced this week by several hundred CFS as things start to change upstream. Things are coming down, starting to take more and more of the pressure off the levees.

No releases of water from MRGCD storage will be needed for some time, possibly not even until very late this fall, if at all. The Water Utility Authority in Santa Fe has been able to resume their normal operations now that flood storage is out. They have started releasing San Juan-Chama from Abiquiu for diversion. Inflow to Heron remains strong. Azatea Tunnel is still making close

to 600 CFS. Storage at Heron continues to climb. It is now well past the point required for a full 2019 allocation. Elephant Butte today was over 566,000-acre feet. It is climbing at 2,000-acre feet per day, even though they're releasing 5,000-acre feet per day out of there. Combined with storage in Caballo, there's about 600,000-acre feet of Rio Grande water down south now. Part of that is available for this year's 2019 project delivery, and part of it is for this year's New Mexico water delivery into Elephant Butte.

This brings up continued worries over our end-of-year Rio Grande Compact status. As of the end of June, we were running about 20,000-acre feet behind where we should be in terms of keeping up with our Compact obligation for the year. Total flow at Otowi is now well over a million acre foot. So, from here on out, every gallon that passes Otowi, a gallon is owed to the Butte. It makes it very difficult for us in these wet years. It is one of the challenges for us and why our continued efficient operations become so critical in these wet years. Although we now have a lot of water in storage, there's a high likelihood, we will have to release it at the end of the year to meet our obligations to the Compact. The only thing that could really prevent that now is really good summer monsoons, and those monsoons must enter the river downstream of the Otowi gauge. We don't want them to ring the bell at Otowi.

Irrigation is going on pretty well. Really have no concerns this year over water availability. There's plenty of water out there to work with, too much still really. Due both to natural flow and water in storage being well above our curtail triggers, there should be no water bank curtailments expected this year.

The one thing we have noticed is an increase in complaints. Several of the MRGCD ISOs reported the same thing. Irrigators are upset if they have to wait for water, even an hour or two this year. They cite the volume of water in the river and that there's just so much water out there, they should be able to get whatever they want, whenever they want, at a moment's notice. Last year, people were calling us with gratitude for every drop we delivered, even if they had to wait a week or two to get it. This year, if it's not on their doorstep three minutes before they've ordered it, they're upset with us. It just goes to show how rapidly things change and the challenges we face managing water in the desert.

Madam Chair Dunning noted that it will be difficult, now that there is quite a bit of water, for people to understand that we are sticking with our process regarding scheduling of water. She asked if Mr. Gensler had noticed an increase in water bank applications due to it being a good water year. Mr. Gensler responded that water availability does not seem to influence the water bank applications. He believed it was more noticeable last year because it was the first year that the gamble did not pay off for many constituents.

Director Kelly asked Mr. Hamman if we have to dump 20,000-acre feet of water for El Vado to meet the Compact delivery requirements this year, if consideration be given to do so in September instead of November for the recreationists on the Chama. Mr. Gensler responded that he believes much more than 20,000-acre feet (closer to 80,000 to 100,000) will need to be dumped, which will take about 3½ months to move it all.

Regarding the levee status, Mike Hamman reported that the Corps heard MRGCD and responded. They cut about 1,000 CFS out, and they are willing to wait to let the dropping of the inflows catch up to the combination of Abiquiu and Cochiti operations.

Jason Casuga reported that MRGCD staff are still working on repairs. The emergency rock has come to a conclusion. We haven't seen the need to address additional rock than what was

budgeted at the end of last fiscal year. The levees took a good hit this year with a lot of water for a long time.

Director Kelly wanted to express his thanks to Jason Casuga, Mike Hamman, and the engineering staff for keeping a true flood fight out of the newspapers. The focus has been on maintenance and delivery of water in the irrigation system. However, Director Kelly believes next year will be an eye-opening numbers for the program to adequately maintain the standard that MRGCD should have. Directors Moore and Russo Baca reiterated their thanks and appreciation to Jason Casuga and the field workers for their hard work and dedication.

c. Review of Memorandum of Agreement with the Center for Social Sustainable Systems (CESOSS) - Mike Hamman, CE/CEO

This Agreement somewhat mirrors the Rio Grande Agricultural Land Trust Agreement with MRGCD. This Agreement is designed to complement conservation community work wherein we will look at various initiatives to manage water. It is something that could be expanded as an outreach and educational effort. It contains a similar funding arrangement of \$25,000 split in half throughout the fiscal year. Mr. Hamman believes it is a well-placed investment and is recommending approval.

Madam Chair Dunning noted that on Exhibit A, it says CESOSS will work with "Sandoval, Valencia, Socorro, and ?" She would like the question mark either removed or properly filled in. Mike Hamman noted that due to CESOSS not being able to make today's meeting (they will be at the next Board meeting), they used the question mark as kind of a holding point for discussion purposes.

Madam Chair Dunning also asked Mike Hamman to ask for a schedule of their acequia walks and encouraged all board members to go on at least one.

Director Moore asked if MRGCD has a direct contact with New Mexico State University with someone that might be doing research or work improving irrigation standards. Mike Hamman responded that he is in direct contact with at least two of the county extension agents that are directly tied to NMSU, and they have a number of forums. Mr. Hamman is hoping to recruit Newt McCarty to the conservation committee so that we can take advantage of that connection with NMSU. He reported that the sessions are well attended by Socorro and Valencia County farmers.

Director Kelly noted that he has some concerns that CESOSS is targeting a small group of MRGCD constituents. He believes that Exhibit A should be more specific regarding starting off with Bernalillo County and expanding into the other service areas of the District. He thinks a bullet point 7 should be added to include making efforts to preserve the last farm on the ditch because that is the most important farm to keep the ditch alive. He also believes there should be a bullet point 8 that emphasizes small scale, high value farming and coordinates MRGCD scheduling with the needs for those types of crops. Director Kelly then asked Patty Williams if on a grant the term limit is five years or four on a multi-year contract. Patty Williams responded that she knows they have looked at this issue but she will look into it and report back.

Vice-Chair Baca wants this to be promoted even more, whether it is website, news releases, flyers, etc. It is important to get the word out that MRGCD does more than just irrigating and does so much for so many areas. Vice-Chair Baca really wants to know about all of the successes and status from all groups that are doing work with MRGCD. He strongly believes in celebrating the successes and also holding groups accountable for their work as well.

d. Report on the Six Middle Rio Grande Coalition Meeting, July 2, 2019 - Mike Hamman, CE/CEO

Mike Hamman reported that during the meeting the focus was on the water situation. They discussed title transfer extensively with both Jennifer Faler and Mr. Hamman. We are still in the options "exploring stage."

Madam Chair Dunning asked Tanya Scott if Chuck DuMars was successful in setting up the meeting that was discussed in our last meeting (while he is in DC this week). Ms. Scott responded that he was able to set up a meeting this week; however, she did not know the identity of the people involved in the meeting.

e. Scheduling of the Irrigation, Water Protection, Election and Legislative Committees - Mike Hamman, CE/CEO

Mike Hamman reported that a meeting with the Interim Water and Agriculture Committee is set for July 31st in T or C for MRGCD to make a presentation (similar to the one two years ago to the interim committee). MRGCD Legislative Committee will meet on 7/15 at 1:00 p.m. to have a dry run of the presentation.

Water Protection Committee will next meet on 7/30 at 9 a.m.

Irrigation Committee will next meet on 7/30 at 11 a.m.

John Thompson will try to get the Secretary of State and Senator Ivy Soto lined up for week of August 5th. The Election Committee would meet prior to that meeting for briefing by Mr. Hamman, and then they would drive up to Santa Fe. Mr. Hamman will let the Election Committee members know soon the definite date and time.

Finance Committee will next meet on 7/22 at 2 p.m. (prior to the July Board Meeting)

f. Memo on MRGCD Approved Licenses for June 2019 (Informational Purposes Only)

Discussion ensued regarding license number 4 regarding the DOT building a bridge across the Rio Grande. Jason Casuga reported that this is not a new bridge but is, rather, a replacement of existing New Mexico 6 Bridge. Director Kelly asked if there would be access for bike trails. Mr. Casuga responded that the bridge does not have the proper elevation to go underneath.

g. Under \$60,000 Approvals for Procurement Contracts under the CEO Contracting Authority (Informational Purposes Only)

No discussion ensued regarding this topic.

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

a. Ratification of Protest of Water Rights - Mike Hamman, CE/CEO, and Tanya Scott, L&RPA

In June, Mr. DuMars received notice through a publication that there was a new water rights transfer, transferring pre-1907 water rights up into the Buckman Wells in Santa Fe for offset purposes, pursuant to their blanket permit that they have up there to pump from the Buckman. This is a very similar situation as the Rio Rancho application, which also sought to transfer pre-1907s into their groundwater permits for offset purposes. The District filed protests to those Rio Rancho applications, and, with the assistance of Mr. Hamman, we were able to reach a very nice agreement with the City of Rio Rancho concerning global management of the Middle Valley, so that there was coordination between the MRGCD, the Pueblos, and the City of Rio Rancho as to return flows and operations, etc. Also, those seeking to transfer pre-1907 water rights would confer with the District about how they could assure the district that they weren't leaving behind a problem when they move their pre-1907 water rights.

So, this new application that goes into the Santa Fe Buckman well field came to Mr. DuMars' attention. Mr. DuMars and Ms. Scott conferred with Mr. Hamman, decided that it was a good thing that we needed to file a protest. Today is the final day to file that protest. They don't like to wait until the last day to do something like that, particularly in view of the holiday weekend that we had last week.

So, they went ahead and filed the protest, and once it was filed, Mr. DuMars and Ms. Scott thought that it would be a good idea to come to the Board today, which is the final day to protest, and ask the Board to ratify that decision.

Because as the existing Board already knows too, as a result of the Rio Rancho transfers, Bosque del Sol, who was one of the transferors of those pre-1907 water rights, actually sued the District, challenging the authority of Mr. Hamman to authorize a protest to protect the MRGCD. That litigation went on for a couple of years, when they defended Mr. Hamman's authority to act on behalf of the Board. Incidentally, that case was dismissed by the district judge at the end of May for the failure of Bosque Del Sol to continue to prosecute it. They basically have let it languish for the last six months. When that happens, the Court will, on its own Motion, dismiss the litigation and then give them 30 days to seek reinstatement. Well, that 30 days passed last week, and they didn't seek reinstatement. So, that litigation is over now.

But, given the existence of that lawsuit, Mr. DuMars and I thought it a good idea to forestall any other litigation of that type to come before the Board and ask for the Board to ratify the protest that was filed for the MRGCD to the Santa Fe transfer on June 27th.

Mike Hamman added that he believes the Santa Fe folks will work quicker to come to agreement over this matter. He does not anticipate a lengthy protest to occur.

Bill Turner was in attendance of today's meeting for Items from the Floor. Madam Chair Dunning deferred his allotted time to occur after this agenda item was presented. Mr. Turner returns to the floor for his Item from the Floor. He reports that he and his clients understand the goals of the settlement agreement, and they are willing to sit down with Mr. Hamman and work out a solution to MRGCD's concerns. He would, however, like to bring to it hydrological principles. He is here asking that MRGCD drop the protest and allow him, the State Engineer,

and Mr. Hamman to come to a resolution. Madam Chair Dunning referred back to "Trust but verify."

Director Kelly asked for Tanya Scott's recommendations on this topic. Ms. Scott responded that these issues are time sensitive. You only have ten days to file a protest after the final publication (and today is that day). As we work through this process, the MRGCD can always withdraw its protest. It is important to have a placeholder in there because otherwise MRGCD loses all input into the process and any leverage that it might have in getting a favorable outcome. It is her recommendation that we ratify the protest.

Just for the record for Ms. Scott's response to Mr. Turner, MRGCD hired David Romero at Ballou Groundwater to assist with the updating of the Middle Rio Grande Administrative Model, which hadn't been updated in 20 years, basically. That was in conjunction with the U.S. Geological Survey who assisted in that effort, as well as Tetra Tech, which runs the URGWOM, the Upper Rio Grande Water Operations Model for the Middle Rio Grande Valley. There was extensive hydrology review using some of the most well-respected hydrologists in the state.

Director Kelly asked if this was just "belt and suspenders" for the Board to ratify the protest since Mr. Hamman has the authority to make these decisions on behalf of the Board. Ms. Scott agreed that it was belt and suspenders and added that the Board ratifying does not concede Mr. Hamman's authority. This is just a maneuver to forestall any other litigation that they would have to do to defend Mr. Hamman's authority. Ms. Scott strongly recommended the Board go ahead and ratify the protest.

Vice-Chair Baca made the **MOTION TO RATIFY THE PROTEST OF WATER RIGHTS**. Director Baca seconded the motion. No vote was taken as there was discussion from Mr. Turner (from the audience). Mr. Turner handed the Board a copy of the protest and read the first paragraph aloud. He stated that boilerplate language was used in the protest and requested it be clarified. Ms. Scott responded that an amendment of protests cannot be made.

Since there was discussion, Director Kelly wanted a little more clarity in the motion. Vice-Chair Baca and Director Baca agreed to rescind the first motion made (listed above) and replace with Director Kelly's motion (listed below).

Director Kelly made the **MOTION TO CONFIRM MR. HAMMAN'S AUTHORITY TO DECIDE TO FILE A PROTEST AND RATIFY THE PROTEST THAT WAS FILED ON JULY 8, 2019, CONCERNING BLUE BUFFALO TRANSFER**. Director Baca seconded the motion. The **MOTION CARRIED** unanimously.

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

a. Report Regarding Legislator Tour of Valencia County Levee System - Directors Baca and Russo Baca

Director Russo Baca and Baca learned how the levee system worked while on the tour with Senator Baca and Representative Gayle Armstrong. The tour was amazing. They were grateful that they had a chance to meet with the legislators to discuss common problems and common solutions.

John Thompson reported that Representative Baldonado and Representative Fajardo were invited but could not make the tour. He asked Mr. Hamman if something could be set up so that one more invitation could go out to them for the same tour.

Director Kelly made the **MOTION TO APPROVE THE REPORT REGARDING LEGISLATOR TOUR OF VALENCIA COUNTY LEVEE SYSTEM.** Vice-Chair Baca seconded the motion. The **MOTION CARRIED** unanimously.

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

The meeting was adjourned at 5:50 p.m.

Approved to be the correct Minutes of the Board of Directors of July 8, 2019.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

Karen Dunning, Madam Chair
MRGCD Board of Directors