

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

Janet Ashley

JANET JARRAT, JOE R. BACA,
MARGARET CORDOVA WRIGHT, *et*
al.,

Petitioners,

No. D-202-CV-2012-08893

v.

MIDDLE RIO GRANDE
CONSERVANCY DISTRICT

Respondent.

**MOTION BY MIDDLE RIO GRANDE WATER ASSEMBLY
FOR LEAVE TO FILE *AMICUS BRIEF***

The Middle Rio Grande Water Assembly ("MRGWA"), by and through its counsel, LASTRAPES, SPANGLER & PACHECO, P.A. (Becky A. Torres), hereby respectfully moves this Court for an Order allowing MRGWA to participate as *amicus curiae*, or as a friend of this Court, in this matter. As grounds for this Motion, and as explained in the brief conditionally filed herewith, MRGWA states that it believes it can assist the Court by offering a broader perspective on the issues in this case.

WHEREFORE, MRGWA respectfully requests this Court grant its Motion and enter an Order allowing MRGWA to participate in this matter as *amicus curiae*.

The Respondent has been notified of this motion and disapproves of its filing. The Petitioners have been notified of this motion and approve of its filing.

Respectfully submitted,

LASTRAPES, SPANGLER & PACHECO, P.A.

By: Becky Torres

Becky A. Torres

Counsel for MRGWA as *amicus curiae*

P.O. Box 15698

Rio Rancho, NM 87174

(505) 892-3607

I hereby certify that a copy of the
foregoing was mailed to the following
on this 31st day of January, 2013.

Becky Torres
Becky A. Torres

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Counsel for Petitioner Janet Jarrat et al.

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Counsel for Respondent Middle Rio Grande Conservancy District

STATE OF NEW MEXICO

**COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT**

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Respondent.

**AMICUS BRIEF OF
THE MIDDLE RIO GRANDE WATER ASSEMBLY**

The Middle Rio Grande Water Assembly is a New Mexico non-profit corporation of volunteer members and water users throughout the Middle Rio Grande ("MRG") valley. The purpose of MRGWA is to assure effective implementation of the Middle Rio Grande Regional Water Plan (the "Plan") through an open, inclusive, and participatory process so as to achieve the common interests of the people and stakeholders of the region for a sustainable water future that balances water use with renewable supply in accordance with the stated goals of the Plan. The MRGWA focuses on water-related issues for Valencia, Sandoval and Bernalillo Counties in New Mexico.

The issue presented in the above-captioned cause is whether the Respondent Middle Rio Grande Conservancy District ("MRGCD") should be directed by this Court to perform its statutory duties to "administer the water rights within the control of its jurisdiction" and whether Respondent has failed to protect the water rights of landowners in the district, as such protection

is afforded pursuant to the New Mexico Constitution Article XVI, Section 2. (See ¶¶ 1 and 4 of the Petition.)

MRGWA assumed a vital role in the development of the Plan, which was accepted by all local governments in Sandoval, Bernalillo, and Valencia Counties, including the Middle Rio Grande Conservancy District. As such, MRGWA is familiar with water rights administration within the MRG, and is in a unique position to explain to this Court how such administration could significantly impact the Plan and MRG water users. As such, MRGWA has a vital interest in the matters at issue in this litigation, and seeks to share with this Court, and the parties, its germane views regarding the MRGCD's statutory role in delivering the full amount of water due to senior water rights owners, pursuant to the relevant New Mexico law.

MRGWA's view of the issues in this matter are aligned with those of the Petitioners, and thus MRGWA files this *Amicus* Brief, the MRGWA Resolution in Support of Plaintiffs in Jarratt vs. MRGCD attached herewith as Exhibit "A".

Respectfully submitted,

LASTRAPES, SPANGLER & PACHECO, P.A.

By: Becky Torres

Becky A. Torres
Counsel for MRGWA as *amicus curiae*
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Counsel for Respondent Middle Rio Grande Conservancy District

Middle Rio Grande Water Assembly
Resolution in Support of Plaintiffs in Jarratt vs. MRGCD

WHEREAS, the Middle Rio Grande Conservancy District (MRGCD) is responsible for delivering most of the agricultural water in the Middle Rio Grande (MRG) region; and

WHEREAS, In 2004 the Middle Rio Grande Regional Water Plan (RWP) was accepted by all local governments in Sandoval, Bernalillo and Valencia Counties, including the MRGCD; and

WHEREAS, the Middle Rio Grande Water Assembly led the development of the RWP for the MRG (Sandoval, Bernalillo, and Valencia Counties); and

WHEREAS the Water Assembly is committed to encouraging the implementation of the RWP; and

WHEREAS the stated mission of the RWP is to Balance Water Use with Renewable Supply; and

WHEREAS effective water management according to law is a key ingredient in controlling excessive and inappropriate use of the Middle Rio Grande region's water; and

WHEREAS lack of effective and proper water management increases the imbalance between water use and renewable supply; and

WHEREAS, a recurring theme in the RWP recommendations, as noted in the quotes below, is for management of water to be in accord with legal priority ownership:

R2-1 "...this plan recommends that the legislature appropriate and the State Engineer direct sufficient funds to prepare the necessary information, including hydrographic surveys, to identify, quantify and resolve priority ownership rights."

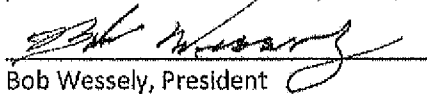
R2-5 " ... The State Engineer should establish an improved enforcement program to ensure that only the necessary and allowable water is drawn for municipal uses, agriculture, and other uses. ..."

R2-5 "... In addition, the region is increasing its draw upon water by transferring the rights from one point to another, and then continuing to consume water at the location from which the water rights were transferred. It is recommended that a program be instituted for enforcing water retirements after transfers (both permanent and temporary). It is particularly important that land whose water rights have been retired, transferred or leased not continue to use part or all wet water for which it had been previously entitled."

R4-5 "...It is further recommended that the state administer water rights according to the priority system, while considering agricultural use of junior rights equally with other junior uses of water."

WHEREAS, the Plaintiffs in the lawsuit, Jarratt et al vs. MRGCD, D-202-CV 2012-08893, are seeking to cause MRGCD to perform its water management according to priorities of legitimate water rights.

NOW THEREFORE, the Middle Rio Grande Water Assembly Board of Directors hereby resolves to express its support of the Plaintiffs in the above mentioned lawsuit, and further resolves that copies of this resolution be provided to the Conservancy Court, Second District Court of New Mexico.


Bob Wessely, President

Middle Rio Grande Water Assembly, January 22, 2013