

Exhibit "L"

BK70-121

MINUTES OF THE TWO THOUSAND & SECOND REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT June 11, 2012

Directors having been duly notified, Chairman Lente called the meeting to order at 3:02PM at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS:

Derrick J. Lente	Chair
Eugene Abeita	Vice-Chair
Adrian Oglesby	Director
Karen Dunning	Director
John P. Kelly	Director
Chris Sichler	Director
Johnny L. Paiz	Director

STAFF:

Subhas K. Shah,	Chief Engineer/CEO
Charles T. DuMars	Chief Water Counsel
Lorna M. Wiggins	General Counsel
Steven L. Houser	Secretary/Treasurer
Jeanette Bustamante	Administrative Officer
Leonard Utter,	Engineer Associate
Ray Gomez	Assistant Engineer
Mary D'Ornellas	HR Director
Tom Thorpe	Public Information Officer
Eric Zamora	Belen Division Manager

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

JoAnn Van Der Geest Patrick Sanchez Michael Lundmark Toni Barrow Jess Franks Myra Sanchez-Chavez Thompson Claudio Gonzales Jerry Ginsburg, TVNA Paula Sichler, Snake Ranch Jessica Tracy, Pueblo of Sandia Ric Umbrago	Sonya Vigil Jonathan Garcia Harvey Crowley Charles Riley, Bureau of Indian Affairs Emily Mechenbier James Maestas, SVRAA Mike Hamman, Bureau of Reclamation Che Nyamboli, Pueblo of San Felipe Bruce Wiggins, Wiggins, Williams & Wiggins Frank Chavez, Pueblo of Sandia
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AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chairman Lente requested that Director Oglesby lead the Pledge of Allegiance.

Chairman Lente welcomed the guests and declared a quorum.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairman Lente called for approval of the agenda. Director Abeita requested that an item be added to Reports from the Board regarding the Ditch Break/Overflow Report form and this will become agenda item 12f. Mr. Houser requested an item regarding LRPA start dates and that will become 4e. Mr. Shah requested an item on the Fire Policy and that will be agenda item 10i. Chairman Lente said he would like to add an item as agenda item 12 g regarding the Sandia Pueblo Feast Day on Wednesday June 13th.

Director Kelly made the **MOTION TO APPROVE THE AGENDA AS MODIFIED**. Director Paiz seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 3 – REORGANIZATION OF THE BOARD (Lorna M. Wiggins, MRGCD General Counsel)

Ms. Wiggins said in accordance with the Board's Resolution BD-05-23-11-45, the Board must elect a Board Chair and Vice Chair at its first meeting in the month of June. She said the process that will be used will be to call for nominations or self nominations, a second and then a vote by hand if that meets with the Board's approval. The Board nodded in consensus.

Ms. Wiggins said the first nomination would be for the position of Board Chair. Director Dunning nominated Chairman Lente and Ms. Wiggins asked if there were other nominations or self-nominations and there were none. Ms. Wiggins declared the nominations closed. She called for a vote and for all those in favor of nominating Chairman Lente to serve a second term, and all Board members voted affirmative; there were no oppositions.

Ms. Wiggins said the next nomination or self nomination would be for Vice Chair. Director Paiz nominated Director Abeita. She asked if there were other nominations or self-nominations and there were none. Ms. Wiggins declared the nomination closed. She called for a vote and all for all those in favor of nominating Vice Chair Abeita to serve a second term, and all Board members voted affirmative; there were no oppositions.

Ms. Wiggins said that Chairman Lente and Vice Chair Abeita would serve for a second term.

AGENDA ITEM NO. 4 – APPROVAL BILLS AND PAYROLL RATIFICATION

a. **Payment Ratification – June 1, 2012**

Chairman Lente called for approval of the Bills and Payroll Ratification for June 1, 2012.

Director Sichler **MADE THE MOTION TO APPROVE THE BILLS AND PAYROLL RATIFICATION FOR JUNE 1, 2012 AS PRESENTED.** Director Paiz seconded the motion. The **MOTION CARRIED** unanimously.

b. **April 2012 Financial Review**

Steve Houser, MRGCD Secretary/Treasurer gave a review of the Revenue & Expense Statement July 2011 through April 2012 and the third quarter Department of Finance & Administration financial reports.

Director Kelly had questions regarding the Reserve Contingency Funds and its reconciliation and MRGCD inventories and Mr. Houser responded. Director Sichler had questions regarding Water Bank funds and the General Fund and Mr. Shah and Mr. Houser responded. Director Sichler said he thinks they need to think, at some point, about placing the Water Bank monies into the General Fund to help pay expenses. Director Oglesby asked about the increases in the Water Bank fund and Mr. Houser and Mr. Shah responded.

c. **Approval of April 2012 Invoice for Wiggins, Williams & Wiggins**

Chairman Lente called for approval of the April 2012 Invoice for Wiggins, Williams & Wiggins.

Director Kelly made the **MOTION TO APPROVE THE APRIL 2012 INVOICE FOR WIGGINS, WILLIAMS & WIGGINS AS PRESENTED.** Director Oglesby seconded the motion. The **MOTION CARRIED** unanimously.

d. **Approval of April 2012 Invoice for Steven L. Hernandez, PC**

Chairman Lente called for approval of the April 2012 Invoice for Steven L. Hernandez, PC.

Director Kelly made the **MOTION TO APPROVE THE APRIL 2012 INVOICE FOR STEVEN L. HERNANDEZ, PC AS PRESENTED.** Director Paiz seconded the motion. The **MOTION CARRIED** unanimously.

e. Approval of Interim Agreement for Law & Resource Planning Associates.

Mr. Houser explained the need for amending the Law & Resources Planning Associates Interim Agreement. After discussion of the dates and wording in the agreement Director Sichler made the **MOTION TO APPROVE THE AMENDED INTERIM PROFESSIONAL SERVICES AGREEMENT FOR LAW & RESOURCE PLANNING ASSOCIATES.** Director Abeita seconded the motion. Director Oglesby requested wording be changed to say "the work under this Amended Interim Agreement shall be extended through April 9, 2012". Director Sichler said he would accept this amendment to his motion. The **MOTION CARRIED** unanimously.

f. Approval of April 2012 Invoice for Law & Resource Planning Associates

Chairman Lente called for approval of the April 2012 Invoice for Law & Resource Planning Associates.

Director Kelly said there is a bunch of work from Patrick Redmond regarding the Bureau of Reclamation Biological Assessment and Biological Opinion and he trusts the MRGCD ESA Committee has reviewed the billing and approves of the process. Director Sichler said he appreciates having Mr. Redmond in this process and he thinks that LRPA is doing ok. Director Oglesby said it might be helpful to get a briefing from LRPA on all the research that has been done and Dr. DuMars agreed. Director Oglesby requested an explanation of the Neas' Statement of Issues and Dr. DuMars gave those details and said he would share the information with General Counsel.

Director Dunning made the **MOTION TO APPROVE THE APRIL 2012 INVOICE FOR LAW & RESOURCE PLANNING ASSOCIATES AS PRESENTED.** Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 5 – APPROVAL OF THE MINUTES

a. Regular Meeting May 14, 2012

Chairman Lente called for approval of the minutes for the Regular Meeting of May 14, 2012. Directors Oglesby and Kelly had corrections.

Director Oglesby made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF MAY 14, 2012 AS REVISED.** Director Paiz seconded the motion. The **MOTION CARRIED.**

b. Budget Workshop – May 29, 2012

Chairman Lente called for approval of the minutes for the Budget Workshop of May 29, 2012. Director Oglesby had one correction. Director Kelly asked if there should be a reference to the other two budget workshops that were held prior to the May 29th meeting and Ms. Wiggins responded that it is discretionary with the Board if they feel that it makes a more complete record. She said those meetings were duly called and noted in accordance with the Open Meetings Act. Director Paiz said he feels there should just be the one where the budget and resolution were approved. It was the consensus of the Board that only minutes of the May 29th workshop should be noted.

Director Oglesby made the **MOTION TO APPROVE THE MINUTES OF THE BUDGET WORKSHOP OF MAY 29, 2012 AS REVISED.** Director Paiz seconded the motion. The **MOTION CARRIED.**

AGENDA ITEM NO. 6 – FY 2012/2013 BUDGET – AMENDED BUDGET RESOLUTION BA-06-11-12-62.1

Steve Houser, MRGCD Secretary/Treasurer explained an error on the reconciliation of the spreadsheet which resulted in an overstatement of the budget by \$189,000. He said the good news is the budget is actually \$189,000 less than what was originally approved. Mr. Houser said he sent an e-mail to the Board on the evening of June 1st thinking this may result in an audit finding. He said in speaking with Susan M. Rodriguez, Budget & Finance Analyst with the Department of Finance & Administration the e-mail was

received timely and was within the timeframe and there would be no audit finding. Mr. Houser is requesting the Board resign an amended budget resolution recognizing the overstatement and correction. He read the resolution into the record.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

AMENDED BUDGET ADOPTION FISCAL YEAR 07-01-12 TO 06-30-13

BA-08-11-12-62.1

WHEREAS, the Governing Body of the Middle Rio Grande Conservancy District, State of New Mexico, has developed a budget for fiscal year 2012-2013; and

WHEREAS, said budget was developed on the basis of need and through cooperation with all user departments and department supervisors; and

WHEREAS, at Special Meetings of the Board held May 15, May 16 & May 29, 2012 were called for the purpose of evaluating the budget; and

WHEREAS, at the Special Meeting of the Board held May 29, 2012 the Board approved Resolution for Budget Adoption for Fiscal Year 2012/2013.

WHEREAS, it was discovered after the May 29, 2012 adoption of Budget Resolution No.BA-05-29-12-62, the Fiscal Year 2012/2013 budget was inaccurately calculated; and

WHEREAS, the inaccurate calculation resulted in the overstatement of Fiscal Year 2012/2013 budget in the amount of \$189,049; and

WHEREAS, the Fiscal Year 2012/2013 budget was appropriately reduced by the amount of the overstatement; and

WHEREAS, the Governing Body determined that the assessed property tax mill rates to meet the Middle Rio Grande Conservancy District's fiscal 2012-2013 budget needs should be neither increased nor decreased, when compared to fiscal year 2011 and shall remain at 3.97 mills for residential property and 4.96 mills for non-residential property, and

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Middle Rio Grande Conservancy District, having adopted the fiscal year 2012-2013 budget hereinabove described, and respectfully requests approval from the Local Government Division of the Department of Finance and Administration to continue to levy mill rates as previously assessed. Those rates will be 3.97 mills for Residential Property and 4.96 mills for Non-residential Property; both to be effective for FY2012-2013.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2012.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

Derrick J. Lente, Chairman

ATTEST:

Steven L. Houser, Secretary/Treasurer

Eugene Abelta, Vice-Chairman

Chris Sichler, Director

Adrian Oglesby, Director

John P Kelly, Director

Karen Dunning, Director

Johnny Paiz, Director

Director Oglesby **MADE THE MOTION TO APPROVE THE AMENDED BUDGET RESOLUTION BA-08-11-12-62.1**. Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 7 – ITEMS FROM THE FLOOR

Pat McCraw said she feels the Board is not reflecting the true minutes of what goes on at the Board minutes by not including comments from the public.

Claudio Gonzales said the Board left out the election of the Secretary/Treasurer under the Reorganization of the Board. He said his homeowner's association would like the MRGCD to consider cameras and lighting along MRGCD easements and crossings where the speed limit is in excess of 35 mph.

JoAnn Van Der Geest, Michael Lundmark, Patrick Sanchez, Myra Sanchez-Chang-Thompson and Jess Franks all had comments regarding a pipe gate that was recently constructed and placed on the Los Chavez Drain. Chairman Lente and other Board members requested that staff resolve this issue and get a report back to the Board.

Toni Barrow said she is hoping that the Board will put a lot of teeth in the Water Allocation policy they will be voting on at this meeting. She inquired about land that remains fallow for several years and Mr. Shah, Director Oglesby and Dr. DuMars gave explanations and she has been told by her Ditch Rider that she will be on a 21 day rotation and her crops will not survive that rotation.

Sonya Vigil said she would like the Board's help in resolving an issue with her neighbor and they have tried to work with him, but the neighbor has buried the ditch and her Ditch Rider has chained the relief gate. Director Sichler requested staff to research this issue.

AGENDA ITEM NO. 8 – DISCUSSION/APPROVAL OF WATER ALLOCATION POLICY

Chairman Lente asked the Recording Secretary to advise the Board that the draft resolution regarding the approval of this policy cannot be considered because it had not been published on the agenda and she complied.

Dr. DuMars reviewed the redline changes that were made to the policy. Discussion followed regarding the number of days that illegal irrigators would have to provide written notice of proof (paragraph "q") The Board was in consensus that fifteen (15) days would be sufficient notice for those irrigators. Director Kelly said that he liked the suggested increase for the first year in the Water Bank lease fees to those illegal irrigators that decided to use the Water Bank and was that a comment from anyone in particular or staff. Director Sichler said it was a comment he received from a constituent and he recommended that it be placed in the policy. Director Dunning had a question regarding pumping and Mr. Shah answered her question and she also requested that he/she be placed before irrigator.

Director Dunning asked about the last paragraph (Item 4) regarding Appeal of MRGCD decisions. Discussion followed and was specifically on the verbiage in the paragraph stating "In the absence of specific evidence to the contrary, the Board must give deference to the decisions of its staff". Dr. DuMars also asked about the length of time the Board would have to make a decision on the appeal and it was a consensus that fifteen (15) days was appropriate.

Director Sichler asked if the Board was looking at postponing approval of the policy for another two weeks and Dr. DuMars said he felt the Board could react to the policy and approve it, but not the resolution and the Board could make the choice. Director Sichler said he would like to see the Board approve the policy at this meeting. Chairman Lente agreed that it is time to put something in place to protect the irrigators. Director Oglesby said he feels pretty good about the policy and that the Board is in general agreement, however, a policy does not become policy until it is adopted by resolution. He said the policy is not real until the Board approves the resolution. Director Dunning requested that a "whereas" be placed into the resolution regarding the effort made for public comment to this policy.

Director Kelly asked that this item be tabled until later in the meeting and that would allow Dr. DuMars to modify the policy and then the Board could revisit this agenda item. Chairman Lente said it will be tabled and come back as agenda item 10j.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

- a. Bureau of Reclamation – Mike Hamman, Area Manager gave the summary and bucket reports.

- 1. Heron Summary
Content = 266,483 ac-ft (06/10)
Azotea tunnel has flow of ~100 cfs at present

Total SJC inflow year-to-date: 45,217 a.f.
 Currently releasing 50 cfs (native)
 Current MRGCD storage: 32,900 ac-ft (2012 allocation + 12,000 remaining 2011)

2. El Vado Summary

A. Total storage (all contractors and natural) in El Vado as of 06/10:
 108,248 ac-ft.

B. Native in El Vado

0 ac-ft. plus 1,664 ac-ft EDWA minnow carryover, plus 15,052 ac-ft MRGCD EDWA,
 and 32,453 Prior and Paramount

C. MRGCD's SJ-C storage in El Vado
 59,080 ac-ft

D. All other SJ-C contractors:
 0 ac-ft

Current release is 950 cfs Natural inflow is 100 cfs

3. Storage in Abiquiu

Content = 167,980 ac-ft (06/10)
 MRGCD's SJ-C storage= 2,212 ac-ft

Snowpack Data

All SNOTEL sites have melted out

May Streamflow Forecast

Rio Grande @ Del Norte CO	290,000 ac-ft (55%)
El Vado Reservoir Inflow (Mar-Jul)	115,000 ac-ft (49%)
Rio Grande @ Otowi	315,000 ac-ft (42%)
Jemez R. below dam	13,500 ac-ft (30%)
Rio Grande @ San Marcial	141,000 ac-ft (25%)

Article VII restrictions still in effect which precludes storage of native in El Vado.

Mr. Hamman said the Board will recall that the BOR requested that 12,000 ac-ft be left in Heron while they investigated the split in the face plate at El Vado Dam which has been successfully repaired; for the most part. He said the District can now take delivery of any of its 2011/2012 water and they are free to do so.

Mr. Hamman said they are now operating under the 2003 BO and what is formally a designated dry operating period. He said they are supposed to keep a continuous flow requirement for the minnow through June 15th and then they will be winding down. He said he wanted to thank the District for their fine work in operating the river and after the June 15th date they can manage the drying of the San Acacia Reach.

Mr. Hamman said the BOR has been meeting with the subcommittee of the Board on a fairly recurring basis to talk through the language they will be placing in the Biological Assessment (BA) and he wants to thank Chairman Lente and Directors Sichler and Oglesby, Mr. Shah and David Gensler as well as Patrick Redmond of Law & Resource Planning Associates for their continued time and efforts in this process. He said he feels they are at a good point now and they are in the home stretch in putting it together to transmit to the Fish and Wildlife Service (Service) by July 31st. Mr. Hamman said he will be sharing the final comments at the meeting of the 7th and it will be clear what they will be putting in the final BA.

Mr. Hamman said a letter of invitation was sent to the District to participate in the Rio Grande Project Environmental Assessment for the Operating Agreement that is currently being done. He said he would like the District to be part of this process along with several other agencies.

Director Sichler inquired as to plans the BOR has to clean up the low flow conveyance channel in Socorro County and when it might happen. Mr. Hamman said they do have plans and he went on to explain BOR priorities and processes for doing maintenance on the river.

Dr. DuMars asked Mr. Hamman his realistic date when there will be a Biological Opinion (BO). Mr. Hamman said the schedule they have knocked out with the Service is there will be a draft of the BO in early October or November and that is at the discretion of the action agency if they will share that draft with the other collaborators and partners. He said they will then allow sufficient time to review the BO, negotiate changes, and hopefully there will be enough time to get a BO in place in February 2013; prior to the expiration of the 2003 BO in March 2013. Dr. DuMars said time is getting close and they have been working on this project for the past nine years.

b. Bureau of Indian Affairs – Charles Riley, Designated Engineer

Mr. Riley presented the Board with a handout graph regarding the 2012 Prior and Paramount (P&P) Water Supply and Demand. He said he was speaking with the Coalition earlier and he has informed them they may be making a call for P&P very early this year and it may be in the next two or three days. He said he will coordinate this with the BOR and Mr. Gensler. Directors Abeita and Sichler asked several questions regarding P&P water and how will Mr. Riley ensure it gets to P&P lands. Director Oglesby asked if the '81 agreement tied to P&P releases to Rio Grande flows and he is curious that the District, overall, was going to be more short than they have been in the system and he is curious why Mr. Riley is calling for P&P now as opposed when the District is shutting down El Vado later on. He asked why Mr. Riley is calling for P&P now when the District is currently delivering water to P&P lands. Mr. Riley said the model that is used by the Bureau is based on a 1956 demand curve that was a pretty harsh year for the Pueblos and he then went on to describe the factors that are placed into the model and said once the supply dips below the demand curve there should be a call for water. He said he will call the Coalition to notify them of the situation to place the call for P&P and it is truly up to them to say ok there is a need. Mr. Riley said he is basically giving technical advice based on the information they need to consider in making the call. Discussion followed on the supply and demand factors in the coming weeks. Director Paiz asked who makes the call when the P&P water is no longer needed, and Mr. Riley said the Coalition will make that call based on the water remaining and/or the rain that has fallen.

Pueblo of Santo Domingo Governor Sisto Quintana said at the Six Pueblo Water Coalition meeting this morning the first discussion item was P&P water. He said he asked the Governor of the Pueblo of Isleta if they were hurting for water and his response was no; they were fine. Governor Quintana said they want the whole Six Pueblo body to concur and say yes they want to call for the P&P water. Governor Quintana said there is 32,000 ac-ft that is stored for P&P and his question is there enough water to get through June, July, August, September and October and is that amount going to last and there was no answer. He said the Six Pueblos would have to concur to call for the P&P water and it isn't going to be next week and it will be determined when they sit down as a whole body.

Director Sichler said when the graph does fall below that blue line, he feels the Pueblos do need to call for the P&P water. He said if they don't call for it at that time, then the rest of the irrigators will be making up that difference with the releases from El Vado. He said if they don't call for it, then either the rest of the irrigators will be short of water or the District will have to release more water than there is in storage to make up the difference. He said if the Pueblos are sitting on 32,000 ac-ft of water, he would encourage them, once they get below the blue line, to call for it.

Mr. Riley presented a PowerPoint presentation showing work performed under BIA/BOR contract on List A facilities on the Pueblo of Santo Domingo. He also showed slides on Proposed Upper and Lower Community Pipeline Projects at Santo Domingo.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE CHIEF ENGINEER (Subhas K. Shah)

a. Approval of Financial Auditing Services – Jeanette Bustamante, Administrative Officer

Steve Houser, MRGCD Secretary/Treasurer requested that he would like to present this agenda item. He said a Request for Proposal (RFP) was solicited to conduct a fiscal and compliance audit for fiscal year ending June 30, 2012 with an option to extend for two additional one year terms. He said

the RFP was advertised in compliance with the State Procurement Code, and the deadline to submit was May 4, 2012 and seven (7) proposals were received. Mr. Houser said of those seven proposals the selection Audit Committee determined there were two highly qualified firms, three qualified firms and two firms that were not qualified to conduct the District's audit. He said they asked the two highly qualified firms to return for best and final offers. He said after careful consideration and thorough review of each proposal and best and final offers submitted by Mackie, Reid & Company, PA and Accounting and Consulting Group, LLP, staff is recommending that the District contract with Mackie, Reid & Company, PA. Mr. Houser said the feeling was they have the technical experience, they know the District; they have performed nine audits for the District and are highly qualified. He said the amount of the contract for fiscal year ending June 30, 2012 will be \$39,590 and he would recommend the option to extend for two additional one-year contracts at the specified contract amounts.

Director Abeita made the MOTION TO ACCEPT STAFF RECOMMENDATION FOR FINANCIAL AUDITING SERVICES TO MACKIE, REID & COMPANY, PA IN THE AMOUNT OF \$39,590 AND THE OPTION TO EXTEND FOR TWO ADDITIONAL ONE-YEAR CONTRACTS AT THE SPECIFIED CONTRACT AMOUNTS. Director Kelly seconded the motion. The MOTION CARRIED unanimously.

- b. Approval of General Liability, Automobile, Property, Equipment, Professional Liability, E&O and Workers Compensation Insurance – Jeanette Bustamante, Administrative Officer

Jeanette Bustamante, MRGCD Administrative Officer presented the Request for Proposal (RFP). She said the full package for General Liability and Workers Compensation Insurance was solicited for a July 1, 2012 inception with an option to extend the contract in increments of one year renewals, not to exceed a total term of four (4) years. She said the RFP was advertised in compliance with the State Procurement Code, and the deadline to submit was May 23, 2012 and three (3) proposals were received. Proposals were received from Hub International Insurance Services, NM Self Insurers Fund and Brown & Brown Insurance.

Ms. Bustamante said that after careful consideration and thorough review of each proposal, Best and Final Offers from the finalists, and a final legal opinion, staff is recommending the award for insurance for one year with the option to renew or re-bid. She said the recommendation is for a complete General Liability package to be awarded to NM Self Insurers Fund with specified deductibles for each line of coverage in the amount of \$266,522 and Workers Compensation with \$1,500 deductible to Hub International Insurance Services in the amount of \$213,810. She said the total cost for insurance coverage for MRGCD for RFP requirements is \$480,332.

Director Sichler asked if this was within in budget and Mr. Houser and Ms. Bustamante responded that is was and gave the parameters.

Director Kelly made the MOTION TO APPROVE STAFF RECOMMENDATION FOR GENERAL LIABILITY INSURANCE TO NM SELF INSURERS FUND IN THE AMOUNT OF \$266,522 AND WORKERS COMPENSATION INSURANCE TO HUB INTERNATIONAL INSURANCE SERVICES IN THE AMOUNT OF \$213,810 FOR ONE YEAR WITH OPTION TO RENEW OR RE-BID. Director Paiz seconded the motion. The MOTION CARRIED unanimously.

- c. Approve Position Classification, Total Compensation Survey & FY 2013 Compensation Plan – Mary D'Ornellas, HR Directors

Ms. D'Ornellas said on May 14, 2012 a presentation of this plan was given to the Board by Kay Titzer, Consultant with Public Sector Personnel Consultants. She said there are several recommendations within the Plan that Board members should consider very carefully. Director Dunning asked if they were accepting the report or the recommendations at this meeting and at a future meeting the Board should have a discussion on the specific recommendations and Ms. D'Ornellas said the Board is just accepting the report only.

Director Dunning made the MOTION TO ACCEPT THE REPORT FROM PUBLIC SECTOR PERSONNEL CONSULTANTS ON POSITION CLASSIFICATION, TOTAL COMPENSATION SURVEY AND FY 2013 COMPENSATION PLAN AS PRESENTED. Director Oglesby seconded the motion. The MOTION CARRIED unanimously.

Chairman Lente left the meeting at 5:50PM.

d. MRGCD 2012 Emergency Operations Plan

Mr. Shah said the Board has the 2012 Emergency Operations Plan in their packet and this document contains all of the necessary contact information in the event of an emergency. He said it also contains all the contact information for the District and each of the Divisions. Director Abeita asked if Tom Thorpe, MRGCD PIO would disseminate this information and Mr. Shah responded that he would.

e. Resolution M-06-11-12-120 – Amending Land Sale to Dennis & Barbara Williams on 12/13/2010

Mr. Shah gave a brief review of the land sale that occurred in December 2010 and discrepancies that were found at a later date on the right-of-way encroachment. He said a subsequent survey, by a licensed surveyor, revealed the larger encroachment and the appraisal amount. Mr. Shah said the New Mexico Board of Finance agreed to approve the sale subject to a review by the Board and their approval.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE**

**AMEND BOARD ACTION AND QUIT CLAIM DEED OF REPLAT OF
TYLER SUBDIVISION MAP 25**

M-06-11-12-120

WHEREAS, in December 2010 the Kenneth and Kathleen Corwell Trust through their representatives, The New Mexico Bank and Trust, requested the MRGCD to sign a replat of Tyler Subdivision Map 25 to correct an illegal subdivision of land created in 1974.

WHEREAS, the MRGCD agreed to sign the replat after the owners of Lot 4, Tyler's Subdivision, Dennis and Barbara Williams, corrected an encroachment of their property on the right-of-way of the Griegos Lateral owned by the MRGCD.

WHEREAS, the New Mexico Bank and Trust initiated the purchase of the right-of-way encroachment on the Griegos Lateral on behalf of the Williams to facilitate the replat of the illegal subdivision, with the intention that the right-of-way encroachment be sold to the adjacent landowners of Lot 4 Tyler Subdivision, Dennis and Barbara Williams, as per the MRGCD's land sales policy.

WHEREAS, an appraisal was ordered based upon an estimate of the encroachment made by MRGCD staff of approximately 4500 square feet, which was approved for sale by the MRGCD Board of Directors on December 13, 2010.

WHEREAS, a subsequent survey by a licensed surveyor of the actual encroachment revealed that the encroachment, with corners squared appropriately for sale, was approximately 8031 square feet, raising the value of the land above \$25,000 and, therefore, requiring New Mexico Board of Finance approval. At that time there was a sale of land in the Tyler Subdivision pending the correction of the encroachment on MRGCD right-of-way and the approval of the replat.

WHEREAS, these discrepancies in the size of the encroachment and the parties to the sale were reviewed by the MRGCD Board Chairperson, who signed the quitclaim deed to Dennis and Barbara Williams on April 11, 2011 for 8031 square feet at a price of \$30,116.25 using the appraised value of the land.

WHEREAS, the New Mexico Board of Finance agreed to approve the sale of the right-of-way of the Griegos Lateral adjacent to Lot 4 Tyler Subdivision, Map 25 conditioned on an MRGCD Board of Directors resolution formally acknowledging the discrepancy between the amount of land approved for sale in the Board minutes of December 13, 2010 and the land actually sold, that the MRGCD's intention was for the land to be sold to the owners of Lot 4, Dennis and Barbara Williams, rather than the New Mexico Bank and Trust, as was reflected in the Board minutes, and, finally, that the approval would be conditional on issuing a new quitclaim deed to Dennis and Barbara Williams after the New Mexico Board of Finance approval date of May 21, 2012 and this MRGCD resolution.

NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the Middle Rio Grande Conservancy District, hereby acknowledges, clarifies and confirms the terms of the land sale as described in this resolution reflects the true interest of the parties, and agrees to re-issue the Quit Claim Deed as required by the New Mexico Board of Finance to Dennis and Barbara Williams for 8,031 square feet of right-of-way on the Griegos Lateral.

PASSED AND APPROVED ON THIS 11TH DAY OF JUNE, 2012.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

Derrick J. Lente, Chairman

ATTEST:

Steven L. Houser, Secretary/Treasurer

Eugene Abeita, Vice-Chairman

John P. Kelly, Director

Chris Sichler, Director

Karen Dunning, Director

Adrian Oglesby, Director

Johnny Paiz, Director

Director Sichler made the **MOTION TO APPROVE RESOLUTION M-06-11-12-120 AMEND BOARD ACTION AND QUIT CLAIM DEED OF REPLAT OF TYLER SUBDIVISION MAP 25.** Director Oglesby seconded the motion. The **MOTION CARRIED** unanimously.

f. Water Availability Report – David Gensler, MRGCD Hydrologist

Mr. Gensler reported that unfortunately it has been a tough year so far and it is only the second week of June. He said the river is very low, the lowest he can recall seeing this early in the year. He said the Colorado is sending about 100 cfs across the State line and Chama is down about 50 cfs of natural flow above El Vado, and these are flows that are typically seen in August, late summer conditions. Mr. Gensler said the District has been releasing water from storage for about two weeks and used approximately 15,000 ac-ft so far. He said there have been a lot of problems getting water down the river this year and there is about 1,500 cfs coming out of Cochiti and it went up again today and is over 1,500 cfs. He said out of that they are only seeing about 750 actually arriving at Isleta Dam and between the Cochiti Reservoir release and Isleta Dam there is roughly 750 cfs disappearing, some of that is being diverted – 350 cfs at Cochiti and Angostura, plus there is still about 400 cfs that is just missing. He said it could be soaking into the ground, evaporating, the Bosque trees through the Valley use a tremendous amount and the City of Albuquerque is now diverting. Mr. Gensler said the City of Albuquerque, over the last couple of years, has come on-line and this year they are diverting much closer to their capacity from what they have in the past. He said they are diverting about 100 cfs diversion on average every day and that could be part of the problem as to why it is so difficult to get water down the river. Mr. Gensler said Mr. Hamman spoke about the Silvery Minnow stuff going on and the BOR has been releasing a certain water supply and the District has to make sure it gets where it needs to go and they have been doing that, which at times, is a great burden on the District and is a target that has to be met. He said that everyone's target has to be met, however, the District must meet its requirements and if there is a shortfall among all the other entities, the District makes up the difference. Mr. Gensler said the minnow stuff will change on June 15th and after that date, the District can begin to have the drying of the river; there are restrictions on how fast it can be dried, but everyone is in agreement, given the water situation this year, that it can be dried fairly quickly and minimize the release of what little stored water is still upstream. He said that Socorro has been suffering a lot the last two weeks, 80-75%, and they have been very patient. He said as of Thursday they will begin diverting more water and on Friday, it will pick up substantially. Mr. Gensler said there is about 88,000 ac-ft still in storage available this year and pulling through at the rate of about 1,400 ac-ft per day right now and that means about sixty days, in the absence of any rain, before the storage is exhausted.

Director Abeita asked about the P&P water and Mr. Gensler responded he thought that Mr. Riley gave an accurate description of what will happen with the P&P this year. He said they have established a demand curve and when the demand curve is reached, there is justification for release and the Pueblos can call for it. He said he's not sure that it will happen as quickly as Mr. Riley is speculating; he heard that Colorado has gotten a little behind in their Compact deliveries and might be sending a little more water across the State line and maybe the natural flow will increase. He said it is quite likely that sometime during this summer there will be a release of P&P water called for by the Pueblos. Director Abeita asked the last time the Pueblos did call for P&P water and Mr. Gensler responded there have been a few years they have called, but it has not been released; the demand curve did not justify the release. He said he believes the last time it was actually released was in 2004.

Director Kelly said the last couple of meetings the Board has discussed what is the District's Drought Management policy and he was told they react as things go along. He asked at what point does the District cut off the Water Bank users, who should be the first to be cut and maybe that's a question he should be asking Mr. Shah. He said if the District is going to be running out of water in mid July, based on everyone's crystal ball, with or without rain, the District will run out some time in August and when does the District enforce the regulations that are in effect. Mr. Shah said the Board will decide when that happens and the Water Bank users will go first. Director Sichler said this is a complicated question and he thinks the Board needs to look into that before next year comes along. He said the Water Bank policy does require some changes and just cutting the Water Bank users off is a lot more difficult than what it seems and it has never been done before. He said the Water Bank needs about 4,000 ac-ft to get them through the year and that is not a huge amount of water. Director Sichler said personally he doesn't think he could vote to cut them off this year because the Board raised the rates and they were told there was enough water for them. He said next year could be a different story. He said it's going to take Board action to do, but it's not something that can be taken

lightly and just tell staff to cut the Water Bank users off and expect them to go out and have it done in a week or two. Director Sichler said the Board needs to look at the Water Bank rules and find a way that is going to make it as simple as possible. He said the Board Water Bank Committee has several items they need to look at that have been discussed in past meetings. Director Kelly said he concurs that this is something that shouldn't be taken lightly, but he does appreciate having the discussion because when El Vado is empty, there will be a lot of people sitting in the audience wondering where all the water went and the Board needs to be able to address that as best they can.

Director Kelly asked what triggers a request of the Water Utility Authority to borrow water; it has happened in the past and is it even an option any more. Director Sichler says there is an agreement with the City and the District has been paying them back every year with 7,000 ac-ft of water and it is his understanding, the reason for doing this is, according to the agreement, the District can ask for more water at any time. He said they are not required to pay back the water if the District doesn't have it, but they have been doing it trying to be current with the agreement. Director Sichler said the District should ask to borrow the water for next year and if they don't want to loan it, then he doesn't feel the District should continue repaying the 7,000 ac-ft if they don't have it. He thinks they should test it out. Director Oglesby asked if the City is following the same pattern as in the past and Mr. Gensler said they do have a consistent pattern in their operations, but this year is a little different. He said he thinks they are still in the process of adapting their operations and finding what works and what doesn't. He said there is a distinct pattern; they run at a pretty steady rate through the day and then just about midnight every night they shut off for a couple of hours and then they come back on-line. Director Oglesby asked if Mr. Gensler was seeing an increase or decrease in the amount they are taking. Mr. Gensler said overall they are steadily increasing the average amount they are taking. He said they have been releasing water from their storage to make up for it. Director Oglesby asked if there are any open lines of communication with them in terms of their operations and Mr. Gensler said their Water Ops call every morning, but it is pretty hard to make those 20 cfs adjustments.

Director Oglesby asked Mr. Shah if he knew how many people are irrigating illegally and is there an acreage amount. Mr. Shah said he didn't know. Director Oglesby said he understands the complexities of the Water Bank and the due process issues of cutting off people, but illegal irrigators are illegal at the end of the day. He said that when they have the Water Allocation Policy and resolution approved, he hopes that staff will develop a list of illegal irrigators and then go out and red tag and put these people on notice. Dr. DuMars said that when this policy is approved, staff will need a directive from the Board as to what they want done. He said he is not sure the Water Utility Authority would not lend the District water, and there has been a relationship over time and he doesn't think it is a foregone conclusion they would turn the District down, at this point and it's worth a try.

Director Sichler said there was a study done by Balleau & Associates and he's not sure if it was conclusive or not, but he thinks that maybe it is something that should be looked into and concluding the study. Mr. Gensler said it is worth resurrecting, but it was never finalized. Dr. DuMars said they did find some correlations between the rates of diversion at the diversion points and the releases and these were at Isleta. Director Sichler said as far as P&P water, if the District gets to August or early September and it is clear that the Pueblos are not going to need all that water, will the District be able to get some of the water with the District's water credits, before it can be used. Mr. Gensler said he thinks there is a good possibility of that. He said it is a three-way issue right now between the District, the Interstate Stream Commission and the BIA. Director Sichler said if the District wasn't in Article VII, then it would just revert into El Vado, but since the District is in Article VII, it needs to be released and since the District has Compact credits that can be stored, then the District can keep the water. Director Sichler asked Mr. Gensler if a 21-day rotation was being effected and Mr. Gensler said no that is not the general policy and there is no set rotation across the District. He said individual Ditch Riders might enforce that, but it is not a set policy. Director Sichler expressed his thanks to Mr. Gensler for the good job he is doing.

Director Paiz said they've discussed a lot of important issues and does some sort of communiqué need to be sent to constituents with this information. Discussion followed on what might be done through the MRGCD Public Information Office for these issues. Director Abeita said he feels the illegal water use will take care of itself. He said the farmers are going to rat on those that are irrigating illegally and when push comes to shove, it will happen.

g. Status Report on Solution to the Culver Crossing at Umbrage Mini Farms

Mr. Shah said this is an issue left from the last Board meeting and since then a crossing has been installed and the contractor did a wonderful job. He said it was paid for by residents of the neighborhood, but there are other crossings that need attention. Lorna Wiggins, MRGCD General Counsel said from the May 14th discussion under the license granted to the Umbrage Company they are required to repair the culvert and that is true whether the licensee still owns the property or not. She said it is clear that the current land owners are also liable because they are the individuals using the crossing as defined in MRGCD regulations. Ms. Wiggins said they also have a duty to maintain and replace the crossings. She said it is her firm's suggestion that, should the situation come up again, that the MRGCD issue notices of financial responsibility to the affected parties and the parties can decide how best to be responsible for the cost of repair. She said she believes it is up to the MRGCD to repair the issues and to then bill the entity that holds the license as well as seeking reimbursement from the landowners. She said if the District is unable to be reimbursed through the invoicing process, then ultimately the recourse is through the Courts. She said it is fortunate in this situation because Umbrage Corporation continues to be an active corporation.

Director Dunning asked what is the ultimate solution to this. Ms. Wiggins said her firm doesn't recommend that the District consent for the license relationship to be terminated unless it suits the MRGCD's interest. She said as a part of that commercial transaction, Umbrage Corporation could have addressed this, and taken care of it, and in her view it was the failure of Umbrage Corporation to do just that. Ms. Wiggins said older licenses didn't address what would happen in these situations, but the issue has since been rectified in the license agreement. She said she thinks it would be to the District's disadvantage to let these licenses be revoked or, unless that person says, the beneficial users are willing to agree to the terms of the license. Director Dunning asked if the licensee no longer exists and in cases like that what happens and Ms. Wiggins said the District will look to the individuals that are using the property. Director Kelly asked about the possibility of placing liens on properties for collection and discussion followed with input from Bruce Wiggins of the Wiggins, Williams & Wiggins.

Vice Chair Abeita said that it was getting near 6:30PM and the Board would have to approve extending the meeting. Director Oglesby said he would be willing to defer agenda item 12a until the next meeting and Director Sichler suggested that they do Reports from the Attorney and the Executive Session, if necessary, and defer Reports from the Board until next meeting. Dr. DuMars said the Executive Session can be deferred until the next meeting, and he has given all of the necessary information to the Board in a memo.

Director Oglesby made the **MOTION TO EXTEND THIS MEETING UNTIL 7:30PM AND DEFER AGENDA ITEMS 12 AND 13 UNTIL THE NEXT MEETING.** Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

Director Kelly requested that the remarks of Chairman Lente regarding his invitation to Pueblo of Sandia Feast Day on Wednesday, June 13th be included in the minutes.

Mr. Umbrage said he has heard things in the discussion that doesn't necessarily pertain to him, but the District has all of these old licenses and there are dead people attached to these licenses. He said the Umbrage Company is in the position of having the license, and there are also licenses with dead people, and the if the District policy becomes going after the people with licenses, then they dilute their ability to focus on the beneficiaries because they are setting a policy in place that says let's go after people that are no longer affected. He said he doesn't have enough money to do the crossings so this could come up again. He participated in the Williams crossing and he can do the other, but he cannot on the Barr Interior Drain and they could all be back discussing the same issue. Ms. Wiggins said this is why the District should look at the individual landowners who are using the crossing; the beneficial users. Mr. Umbrage said if it was up to him, he would say to pull out the crossings because he no longer owns the property. Director Oglesby asked if the residents in this neighborhood have been advised of this decision because it may motivate them to try and resolve the issue and Mr. Shah said they have been advised.

h. Memo on MRGCD Approved Licenses for May 2012 (Informational Purposes Only)

i. MRGCD Fire Restriction Policy

Mr. Shah said that last week there was a meeting of agencies from all four counties; the City of Albuquerque, Open Space, Sandoval, Bernalillo, Sandoval, Valencia & Socorro counties. He said every year they meet to discuss closing of the Bosque and what the procedure would be. Mr. Shah said each year the Board reviews the situation and has a chance to close the Bosque by themselves. He said they ask staff to work with local agencies and make sure they are all in agreement when the Bosque should be closed. Director Oglesby said the Board has already given that authority to Mr. Shah and isn't sure they need to do it again formally, but he certainly believes the need is there and all Board members concurred.

Tom Thorpe, MRGCD PIO said he is involved in a telephone conversation each week with the other agencies involved to ensure they have a concerted public information effort so that everyone is on the same page and disseminating the same information. Mr. Thorpe said he spoke with the Village of Corrales this morning and they would like to close their Bosque this week and if not, then early next week after their Council meeting. He said Bernalillo County is following along with the City of Albuquerque and going into Stage II Fire Restrictions, Valencia County did not respond and the Socorro County Fire Marshall's office would like the Bosque closed the week before the 4th of July holiday; unless there is appreciable moisture and State Forestry and Sandoval County said they will support anything the District wants to do. Mr. Thorpe said it will be up to Mr. Shah and the Board as to the moisture content when they want to close the Bosque and where. He said all the agencies are working well in tandem to disseminate the information.

j. Revisit of the Water Distribution Policy

Dr. DuMars read to the Board the relevant revised sections. He said Item 4 – Appeal of MRGCD Decisions will read – “The affected party has the burden of providing specific evidence contradicting the position of staff regarding the matter. Otherwise, the Board must give deference to the decisions of its staff. The Board shall make a decision on the appeal no later than fifteen (15) days from the date of the presentation before the Board”. Dr. DuMars said the Board could approve the policy at this meeting and he will prepare a specific resolution for the next meeting.

Vice Chair Abeita asked the Board members if they wanted to approve the policy or how they wanted to move forward. Director Paiz said he would like to approve it now and he made the **MOTION TO APPROVE THE WATER DISTRIBUTION POLICY AS AMENDED**. Director Sichler seconded the motion. Director Oglesby said he is still on the fence about the appeals paragraph and he would like to make one suggestion. He said that right now it says the “Board must give deference to the decisions of its staff”. Director Oglesby said he would like to replace the word decisions with factual determinations. Discussion followed on the suggestion. Director Oglesby made the **MOTION TO AMEND THE MOTION TO CHANGE THE WORD DECISIONS WITH FACTUAL DETERMINATIONS**. Director Dunning seconded the motion. Ms. Wiggins said a vote will occur on the amendment first. The **MOTION CARRIED** unanimously. Vice Chairman called for a vote on the first motion which was to approve the policy itself with the changes noted. Director Kelly said he finds it troublesome to adopt the policy when their own Governance Handbook says they adopt rules and regulations via resolutions. He said he would like to approve the language and he would like to make it conditional approval subject to a proper resolution brought to the Board in two weeks and he's not quite sure the motion stated that conditional approval. Dr. DuMars said the Board is approving the language of the policy, but subject to the final language of the resolution adopting this policy is a different thing. Director Oglesby said he calls the question. Vice Chair Abeita called for a vote. The **MOTION CARRIED** unanimously.

Director Kelly said he would like to thank the Committee, staff and those that made comments to the policy and there will be directives for staff after the resolution is approved regarding going after illegal irrigators.

AGENDA ITEM NO. 11 – REPORT(S) FROM THE ATTORNEY (Charles T. DuMars – Chief Water Counsel)

a. Review of Federal and State Water Litigation

Dr. DuMars distributed a confidential memo to the Board that he said he was going to discuss in Executive Session regarding the status of pending litigation. He said the memo contained updated information on the NM vs. United States and Coors vs. ABCWUA. Dr. DuMars asked the Board to review the memo and they will discuss it in the Executive Session at the next regular meeting.

b. Review of White Paper on ESA Issues for Congressional Delegation

Dr. DuMars distributed a memo to the Board updating them on the Middle Rio Grande Consultation and Recovery Implementation Program (RIP). He said the memo was self explanatory, but gave some relevant dates of what is going on. Dr. DuMars asked the Board to look at the attached agenda for the Middle Rio Grande Endangered Species Collaborative Program Executive Committee for June 21, 2012. He said there are a lot of really important issues and they are at the stage where there are two critical documents; the Recovery Implementation Plan and the Recovery Action Plan. He said the criteria of these documents will be critical to whether there is coverage and the coverage depends on what the action plan requires. Dr. DuMars asked the Board to look at item 13 on their agenda which says that on July 20, 2012 RIP Management?, Endorse RIP and Related Documents as the ESA Coverage Vehicle. He said that's it; there will be coverage or not. Dr. DuMars asked the Board to review the attached documents and said this is critical and he thinks the information will be useful information for the Board. Director Oglesby said after the last negotiating session Director Sichler made a suggestion that there needed to be a discussion of the full Board on this regarding decisions that need to be made prior to July 20th and he requested that it be placed on the next Board agenda. Director Oglesby asked Dr. DuMars if the Board could receive information from Patrick Redmond on his findings during this process. He said as a member of the subcommittee, he would appreciate it if members of the subcommittee could get copies of all the correspondence and formal dialogue for future discussions. Director Sichler said that Director Oglesby is correct regarding discussion this issue with the full Board, but he feels the subcommittee needs to meet prior so they can form a recommendation.

c. Emerging Federalism Issues

Dr. DuMars said there is a case in the Lower Rio Grande right now and it is the position of the United States that not only surface water rights, but also all the ground water rights to the mines and the City of Las Cruces is very upset about that. He said it seems like a unique Federal position by Interior except that in the latest newsletter of the West States Water Council that there's another NM case they have referenced. He said the Bureau of Land Management (BLM) has taken the position that any damage to groundwater under BLM lands is subject to damages because they are the owners of the water under the ground on BLM lands; even though they don't have water rights.

AGENDA ITEM NO. 12 – REPORT(S) FROM THE BOARD

All agenda items deferred until the next regularly schedule Board meeting.

AGENDA ITEM NO. 13 – EXECUTIVE SESSION (NMSA 1978 Open Meetings Act, Section 10-15-1(H)7)

Executive Session deferred until the next regularly schedule Board meeting.

With no further comments, questions or concerns, Director Oglesby made the **MOTION TO ADJOURN THE MEETING**. Director Paiz seconded the motion and the **MOTION CARRIED** unanimously.

The meeting was adjourned at 7:12PM.

Approved to be the correct Minutes of the Board of Directors of June 11, 2012.

Attested:

Steven L. Houser
Secretary/Treasurer

Derrick J. Lente, Chairman
MRGCD Board of Directors