

Exhibit "M"

BK70-135

**MINUTES OF THE TWO THOUSAND & THIRD
REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
June 25, 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
David Gensler	Hydrologist
Tom Thorpe	Public Information Officer
Eric Zamora	Belen Division Manager
Johnny Mounyo	Socorro Division Manager

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

Susan White	Carlina Harris
Pat McCraw	Claudio Gonzales
Joe Sanchez	Jessica Tracy, Pueblo of Sandia
Andrew Leo Lopez	Jericho Sanchez
Felipe Smith	CT Sanchez
Joe McGinn	Michael Layton
Daniel P. Lopez	Mike Hamman, Bureau of Reclamation
Dales Jones	Clint Bridges
Robert Torres	Bruce Wiggins, Wiggins, Williams & Wiggins
Paul M. Torres	Che Nyamboli, Pueblo of San Felipe
Travis Harris	Matt Schmader, City of Albuquerque

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chairman Lente requested that Director Dunning 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 Sichler requested an update on the water situation from Mr. Shah and it will become agenda item 7d.

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

AGENDA ITEM NO. 3 – APPROVAL BILLS AND PAYROLL RATIFICATION**a. Payment Ratification – June 13, 2012**

Chairman Lente called for approval of the Bills and Payroll Ratification for June 13, 2012.

Director Abeita **MADE THE MOTION TO APPROVE THE BILLS AND PAYROLL RATIFICATION FOR JUNE 13, 2012 AS PRESENTED.** Director Paiz seconded the motion. The **MOTION CARRIED** unanimously.

b. Approval of May 2012 Invoice for Wiggins, Williams & Wiggins

Chairman Lente called for approval of the May 2012 Invoice for Wiggins, Williams & Wiggins. Director Dunning has a question and Ms. Wiggins answered accordingly.

Director Paiz made the **MOTION TO APPROVE THE MAY 2012 INVOICE FOR WIGGINS, WILLIAMS & WIGGINS AS PRESENTED.** Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

c. Approval of May 2012 Invoice for Law & Resource Planning Associates

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

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

AGENDA ITEM NO. 4 – APPROVAL OF THE MINUTES**a. Regular Meeting June 11, 2012**

Chairman Lente called for approval of the minutes for the Regular Meeting of June 11, 2012. Director Dunning had one question and Mr. Shah and Dr. DuMars answered the question.

Director Oglesby made the **MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF JUNE 11, 2012 AS REVISED.** Director Dunning seconded the motion. The **MOTION CARRIED.**

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR

Claudio Gonzales said he feels the Board should be upgrading to and operating by the NM Administrative Code. He then explained a complaint he had regarding how the water in his area is being distributed and Director Sichler said the Water Distribution Policy the Board is approving at this meeting may address Mr. Gonzalez's problems.

Pat McCraw said she is pleased there are comments from the public in the minutes, at the last meeting, the Board took a stand on illegal irrigators, and she wanted to thank the Board for their assistance in the Corrales fire.

Andrew Leo Lopez said that transparency is all over the place and he said the District is not in compliance with what the public wants posted on-line. He also said there is a lack of creativity on the part of the District in financing levees and he would like mandatory campaign finance reporting in the next Board election and will work for it in the next legislative session.

Clint Bridges said the Board will be discussing fire restrictions later in the meeting and he is urging the Board to place fire restrictions on the Bosque as soon as possible.

Jericho Sanchez asked about rumors he has heard about the Water Distribution Policy and the date for cut off of water being pushed from August 15th to August 1st and July 15th will be used as cutoff for Water Bank users. Chairman Lente said these are rumors and Director Sichler said the only date that has been discussed is August 15th. Director Sichler went on to say that the District's Hydrologist has explained that at the current rate of releasing water from El Vado and if there is no relief through rainfall, then the District would be out of water on August 15th. He said everything depends on Mother Nature.

AGENDA ITEM NO. 6 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation – Mike Hamman, Area Manager

Mr. Hamman said there are no water reports being provided to the Board because his staff has been involved with other priorities. He said his quick verbal report is there is little change from the last meeting report. Mr. Hamman said there is a release of about 1,000 cfs from El Vado to try to keep everything in balance and they are slowly reducing the drying through the river. He said they are backing off on the minnow release water and managing the system to the 2003 Biological Opinion. He gave his compliments to Mr. Gensler and his staff for their help in managing the system. Mr. Hamman said the situation is dry, dry and dryer as far as it goes up on the San Juan Chama side and they ceased diverting off the Oso River Dam which is situated on the Navajo and they are complying with the 100% bypass right requirements right now and only diverting 6-10 cfs on the Blanco and he imagines, at some point, the Blanco bypass there as well which is unprecedented except maybe in the 2002 situation. Mr. Hamman said they have diverted just over 35,000 ac-ft. He said they have looked at projections and with normal monsoons, they might be right at the cusp of not being able to make the full allocation next year; if there is unseasonably low runoff as well. He said in looking at averages, they should be able to make the full allocation for San Juan Chama water. Director Oglesby asked if the District had ever had short allocations on San Juan Chama before and Mr. Hamman said this would be the first possibility of not meeting the full allocation of San Juan Chama. Director Oglesby asked if that was related to the Colorado River shortage and discussion followed on the San Juan Chama agreement and allocations.

Mr. Hamman said the other thing he wanted to report is Secretary of the Interior Salazar has determined that July 12th will be the date that he will come back to New Mexico to discuss the Middle Rio Grande Conservation Initiative that the District has participated in with Chairman Lente and Director Oglesby serving on the committee and comments from Director Kelly. He said the Board has the latest draft and this will be the last week for revisions; they will finalize so they can get it up through the chain so it will be ready when the Secretary visits. Mr. Hamman said it still hasn't been determined if it will be a broadly attended event, but he thinks it will be similar to the event that happened when he was last in Albuquerque and Mr. Hamman will keep the District informed.

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

Mr. Riley was not present for this meeting.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE CHIEF ENGINEER (Subhas K. Shah)

a. Report on Fire Restrictions

Mr. Shah said a meeting is planned for 1:30PM tomorrow (Tuesday) at the District offices and those that are invited are fire officials from Sandoval, Bernalillo, Valencia and Socorro counties, local law enforcement officials of each of the counties, State Forestry and others. He said fire conditions are extreme in the Bosque right now and at the meeting they will review the current moisture content in the Bosque and other conditions and possibly make a decision on closing the Bosque. Director Dunning said that during the fire in the Corrales area that a dozer was used and that Mr. Shah had mentioned that it requires a certain certification to be used in fire conditions. She asked if the District has staff that have that certification and Mr. Shah said they did have, but not at the present. Mr. Shah said they are working on getting more staff certified so they can continue to give assistance. Chairman Lente said at the press conference held with Governor Martinez last week that he spoke with the City Fire Chief and he mentioned that he was thankful that the MRGCD was part of the efforts during the Romero fire and that he was willing to put District staff through some training.

b. Status Report from Public Information Officer – Tom Thorpe, MRGCD PIO

Mr. Thorpe said the majority of his time has been taken up with fire issues. He said he continues to sit in on two phone conferences each week; one with PIO's and the like and they discuss how to keep their messages similar and the other is with all agencies. He said during the conversation this morning it was conveyed that the moisture content stands at 97% and there hasn't been much fluctuation over the past week. He said they also conducted a depth study and found the water was about six inches down. Mr. Thorpe said the fire restrictions for the agencies is at Stage II; which is the normal restrictions for the District. He said the Forest Service said this morning that they didn't anticipate going to a full closure for them because it takes two to three weeks to get approval to close. He said there are others that are very interested in closing the Bosque and that will be discussed at the conference tomorrow. Director Oglesby asked if those areas in the District that are outside of Albuquerque and Corrales should there be a full closure and is it appropriate at this point. Mr. Thorpe said some of the counties do not have the funds for a full closure and Director Oglesby said he's not sure that he is fully on board with not shutting down the Bosque just because there is not enough money or patrol people at the gates. Mr. Thorpe said they may hear tomorrow that all agencies want to close the Bosque and Chairman Lente said he would rather have the District close the Bosque as opposed to not doing anything. Discussion followed on full closure and how the District might assist in this effort in the future both financially and with physical improvements.

c. NM Water Law Conference – Santa Fe, NM September 10-11, 2012

Mr. Shah informed the Board of the NM Water Law Conference being held in Santa Fe in September 2012.

d. Status Update on Water Issues

Mr. Shah said that Mr. Hamman furnished some information on water conditions, but the District has already used all of the drought storage water. He said they are now getting into the San Juan Chama water and he based on the current need, he is projecting they have 33 days of water left. Mr. Shah said there is 150 cfs out of Cochiti, Albuquerque 195 cfs and Socorro is diverting 90 cfs for the minnow and 245 cfs total. He said at San Acacia is bypassing 75 cfs and most of the area in the Bosque del Apache area is dry. The San Acacia area it has been below 100 cfs for the last couple of weeks and the District has received some complaints from Socorro irrigators, however, there is water available in that area now.

Director Sichler said so the rumors are right and the District could be out of water by mid August and he asked what was going on with the Prior & Paramount (P&P) releases. He said he thinks from last meetings discussion that they are probably below the natural flow of the river where the Pueblos can call for P&P water and it would help the rest of the irrigators if they would call for it. Mr. Shah said they are waiting for the BOR to make a determination and at this time they are not calling for the water. Chairman Lente said all six Pueblos need to agree to the release and at this time they are not in agreement for the release. Director Oglesby said it is his recollection that the Pueblos are allowed to call for the water when it dips below the blue line, but it's not an automatic trigger. He said it would be a good idea for the Board to have a presentation on the rules for P&P water. Director Sichler said if they get to that point, maybe in August, and it's evident the Pueblos don't need the P&P water, then the District can use the water to irrigate and Mr. Shah responded that is correct. Director Abeita asked David Gensler, MRGCD Hydrologist if the Pueblos call for the P&P water, how will the District know they don't lose it after Isleta. Mr. Gensler said they dealt with this in 2003 & 2004 and it is easier than it seems because the Pueblos are up stream and those diversion points are low on the curve and it works out all right.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE ATTORNEY (Charles T. DuMars – Chief Water Counsel)

a. Approval of Water Distribution Policy Resolution M-06-25-12-121

Dr. DuMars said the Board has received the last revisions of the Water Distribution Policy as well as the Resolution for approval of the policy.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT
WATER DISTRIBUTION POLICY**

M-06-25-12-121

WHEREAS, the Middle Rio Grande Conservancy District ("MRGCD") Board of Directors, after a careful review of its water distribution operations and based upon recommendations of its staff and those of an MRGCD Board subcommittee developed a Draft Water Distribution Policy (Policy) and,

WHEREAS, in order to ensure irrigator and community input, this Policy was published for a period of twenty seven (27) days and again for a period of seventeen days (17) and comments were received and integrated into this Policy; and,

WHEREAS, this Policy is intended to promote conservation of water and the effective, efficient and equitable distribution of water to irrigators within the boundaries of the MRGCD without encroaching upon the rights of Pueblo irrigators; and,

WHEREAS, this Policy is also intended to prohibit the waste of water and the illegal use of water; and provides sanctions for these unlawful activities, and,

WHEREAS, it is in the interest of all of the water users within the MRGCD to implement this Policy,

NOW, THEREFORE, BE IT RESOLVED, the Middle Rio Grande Conservancy District Board of Directors hereby adopts the attached "Water Distribution Policy" dated June 25, 2012 and upon adoption shall be binding upon the MRGCD in carrying out all functions described in this Policy.

DATED AND RESOLVED this 25th day of June 2012.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

Derrick J. Lente, Chairman

ATTEST:

Steven L. Houser, Secretary/Treasurer

Director Dunning made the **MOTION TO APPROVE RESOLUTION M-06-25-12-121 WATER DISTRIBUTION POLICY**. Director Abeita seconded the motion. The **MOTION CARRIED** unanimously.

Director Kelly said within the new policy there are provisions to take action on illegal irrigators and they have spoken about this subject quite a bit. He said he would like to take that action within the next couple of weeks. Discussion followed on how the Board and the District would go about doing this. Director Sichler asked if staff could go back through the initial list of illegal irrigators and send another letter with a copy of the portion of the policy that details illegal irrigation and if they don't respond, then lock their gates. Director Oglesby said he concurs with Director Sichler and at a minimum if they don't respond, then at a minimum red tag their gates and he said his patience is wearing thin on this issue. He said he understands the complexities and the data inconsistencies, but the Board has been talking about this for a couple of years. He said he would like to see at the next meeting a list of those people that staff believes are illegally irrigating. Director Oglesby said Mr. Shah has been given the authority to go out and find these people. Mr. Shah said the list is comprised of those people that transferred or sold water rights from OSE data. Director Oglesby asked if Mr. Shah could tell him those people on the list that are not on the Water Bank and Mr. Shah said that information could be provided. Director Oglesby said a message needs to be sent to these people that are irrigating illegally and especially in a water short year and the District needs to act on this. Chairman Lente said the Directors are stewards of making sure constituents are getting the water and conserving water and not giving water to those that are irrigating illegally. He said they need a process to enforce this policy and they are here to get results. Mr. Shah said that the data provided by OSE is incomplete, inaccurate and not dependable. He said staff must verify with the Ditch Rider logs, individual parcel field inspections, and recertification of OSE information. He said the District just cannot accuse anyone of illegal irrigation without proof. Director Paiz ask if the Ditch Rider's list would be useful in determining those irrigators and he thinks the District needs to step up and challenge them. Chairman Lente said he would like to see for the next meeting a list of those irrigators that staff feels are irrigating illegally so the Board can start making decisions on how to implement the policy. Director Kelly said if there was additional contract support that Mr. Shah needed to implement the policy, to let the Board know so they could evaluate the cost of checking State Engineer records against leaseback agreements with various organizations. He said if they are not going back to the Water Bank users as the first line of cutting people off, they need to at least, go after the illegal irrigators. Director Sichler said he feels the Board is coming down hard on staff and

maybe there's not as many illegal irrigators as they think and he feels they need to look into it and figure it out and if there are illegal irrigators out there, then cut them off. He said he has spoken to the Socorro Division Manager about this issue and he knows everyone that irrigates around him and he can honestly say that he doesn't know of any illegal irrigators. Director Sichler said he suspects that if there is someone on a community ditch that is irrigating illegally; their neighbors all know about it and they will be the first to complain about it.

b. Summary of Issues Regarding Surface Diversion by ABCWUA and State of Appellate Litigation on This Issues

Dr. DuMars said this assignment came from Director Sichler and he requested an update on the status of the Surface Water Diversion Project. He passed to the Board a handout on the Carangelo Case which was the one where the Court of Appeals ruled that the City of Albuquerque, now the ABCWUA, had not properly obtained nor applied for an appropriation of water, albeit a non-consumptive appropriation, so they simply divert water and there was a hearing. He said what finally happened was they were granted a re-hearing and issued an opinion and on June 18th the Court of Appeals agreed to re-hear it again. He said this is significant because it implicates directly the operations of the District. Dr. DuMars said he's giving to the Board a copy of the relevant decision describing the duty of the ABCWUA regarding the diversions of the MRGCD. He said an excerpt from the opinion reads "the requirement of simultaneous return flows should ensure that the flow of native water in the Rio Grande below the SWRP will be the same as if the Drinking Water Project (DWP) diversion did not exist".

Dr. DuMars then shared with the Board the Agreement between the City of Albuquerque and the MRGCD Resolving Protest to Application NO. 4830 date June 2002. He said on page three of four in paragraph 8 the language of the agreement reads "This Agreement shall bind the parties irrespective of the final outcome of the decision in Permit Application No. 4830, and irrespective of whether the City of Albuquerque Drinking Water Project is ever constructed....." He said the District agreed to not protest this application, but it also says "The MRGCD did not have an opportunity to fully evaluate the hydrological impacts of the diversion on its drains and other facilities. The data has been made available to the MRGCD, but requires extensive analysis. During the development of the Joint Powers Agreement, the MRGCD and the City experts will confer and determine the impacts, if any, on the District facilities and arrange for solutions to mitigate these impacts, should such be determined to occur". Dr. DuMars said the District has the ability to negotiate and require they mitigate the impacts on the District. He said what the District did was to retain Balleau Groundwater in 2010 to evaluate the effects of small diversions and their finding was that the DWP diverted about 21,000 ac-ft in 2009 and the same in 2010 and the median 2010 diversion rate is 50 cfs and a peak rate is 120 cfs and the DWP can impact MRGCD Isleta diversion during low river flows of 550 cfs or less. Dr. DuMars said those numbers are much higher now. He said the District had a dispute with Balleau Groundwater and the project didn't go any further. Dr. DuMars said that Mr. Gensler will give the Board some and current research information on the diversions.

David Gensler, MRGCD Hydrologist said last week he and his team began taking measurements above and below the ABCWUA diversion site and the spreadsheet the Board has is a summary of those four measurement events. He said this is over a span of 2.8 river miles and they would measure just above the Alameda Bridge and then down just above the Paseo Bridge. He said on one of those days they found a difference, downstream and upstream, of 206 cfs, another time 218 cfs, 233 cfs and the most recent was 149 cfs. Mr. Gensler said they compared these measurements with the diversions that the ABCWUA reports on their website. He said when the District measured 206 the ABCWUA reported 133, District 218 ABCWUA 148, District 233 ABCWUA 172 and District 149 ABCWUA 86. He said based on those measurements, they estimate missing water of somewhere between 81 and 73 cfs in this very short stretch of river. He said for comparison, during the time the District was making these measurements and found these rather large losses, the ABCWUA released from storage on three of those days 89.5 cfs and on one 80 cfs. He said to some degree this would explain the difficulties the District is experiencing getting water through the Albuquerque Reach and down to Isleta Dam this year. Director Kelly asked if these measurements were taken from the USGS gauges or did they physically survey the cross section of losses. Mr. Gensler said this was MRGCD staff dragging across the river multiple times and they had permanent stations set up. He said the USGS operates these stations upstream and downstream, but are known to be influenced by the operations of the Water Utility structures there. Director Kelly said there is a infiltration plant at Alameda and do they report what's being pumped out of there and Mr. Gensler said that he hasn't been able to find that anywhere and is a mystery. Director Kelly asked if Mr. Gensler has spoken to

the Water Utility Authority about this and Mr. Gensler responded he has, but is usually met with a non-committal response. Director Oglesby said the District has been seeing big losses in this Reach for a long time now and has this increased. Mr. Gensler said he, Mr. Shah and Dr. DuMars reviewed a comparison of losses the District saw from Cochiti Dam to the Central Avenue Gate in 2008 before the ABCWUA structures came on line, and 2008 was also similar hydrological year. He said they typically saw missing between the Cochiti release and Central Avenue, something in the order of 150 cfs and making the same situation in 2012, based on the gauge data, they are seeing on the order of 350-375 cfs difference. He said he doesn't know what this is attributable to he said he can't say.

Dr. DuMars said the 350-375 cfs, in his personal opinion, is a huge difference. He said Mr. Shah's point has been that in looking at the run of the river, the idea was to divert water out of the river and that is the goal of native water. He said in a normal river situation, right now, the river itself, the main stem, virtually all of the water is not there and they are actually diverting MRGCD stored water. He said when the Pueblos begin to release P&P water, and they continue to divert, then suddenly they are taking stored water from the Pueblos. Dr. DuMars said they started looking at this issue in a small way in 2009 and he thinks it needs to be researched further. Director Sichler said what it really boils down to is the agreement says the District has a right to do a hydrological study and they need to do that study so the District has their facts lined up. He said they started the study with Balleau and MRGCD staff should recommend if the study needs to be completed and he asked Mr. Houser if there was funding available. Steve Houser, MRGCD Secretary/Treasurer said if the Board would come up with a cost, he will look for money to fund the project. Mr. Shah will research and get back with the Board with the scope of work. Director Kelly said his preference would be to negotiate with Balleau about completing the project and if they come up with a reasonable scope of work to complete it, then the existing procurement can be used.

Director Oglesby asked about the Joint Powers Agreement mentioned in the agreement with the City of Albuquerque and Dr. DuMars said it is still in process. Director Oglesby said he would like to suggest it be accelerated because he has heard through the grapevine that the environmental community has begun negotiation for their storage space agreement.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE BOARD

a. Ditch Break/Overflow Report – Director Abeita

Director Abeita said he asked this be on the agenda because back in April there was a ditch overflow in Veguita. He said the constituent came to him and he told them to file a report with the District. He said he feels both the District and the constituents should have concurred on the report that was filed. Director Abeita said the constituent was denied on the insurance claim and he asked staff how does the District's insurance get processed. Leonard Utter, MRGCD Engineer Associate explained the process that staff follows on the Ditch Break/Overflow Report. Director Abeita said he thinks the landowner should look over the report and make sure that both parties agree. Mr. Utter said he takes all of the information, from both the claimant and what he collects and then it goes to the insurance company to make the decision. Director Sichler asked what rights the claimant has if they are denied. Mr. Utter said if the claim is denied, in some cases they will make a request to come before the Board and present their case or file a lawsuit against the District seeking compensation. Discussion followed on the reporting and investigation process and information provided to the insurance company. Ms. Wiggins said there are two issues; one is causation and one is liability and if all the people affected have an opportunity to provide their view as to the causation, then liability is the second question and those issues can be sorted out. She said the report doesn't determine liability and sometimes doesn't even determine causation and is really a record of what is found. She said she understands there is an opportunity to take photographs and all of that information becomes available and the issues are sorted out separately. Director Kelly asked if she would recommend that the affected party have an opportunity to sign off or have another box on the form that they agree or revisit the form for revising. Ms. Wiggins said she would recommend revisiting the form to see if it meets current needs. She said the idea of the constituent reviewing the form is appropriate, but she is concerned about requiring or insuring that both parties concur because, unfortunately, in most things there are different views as to what happened. Director Oglesby said it makes sense to tell constituents, if they are denied a claim, to come before the Board rather than sue. Ms. Bustamante said there is an appeal process. She said the Board has approved a new insurance carrier and they will be providing an orientation and Ms. Wiggins is invited to be present. Director Oglesby asked if there should be some formal policy that lets people know they can speak to the Board before filing a

lawsuit. Ms. Wiggins said to the extent that the District has contact with the carrier and there are opportunities to work together and staff will work with the claimants on the issues, but there are times when it is an Act of God and constituents can come to the Board meetings to present their case to the Board.

b. San Augustine Plains Appeal – Director Oglesby

Director Oglesby said he asked for this agenda item and he gave a brief background on the San Augustine Plains application to the State Engineer and the District's involvement. He said the application was denied and has now been appealed to the courts. He said the lawyer that represented the District and others in the community are curious if the District wants to be involved in the appeal process to the courts. He said his thought on the matter is that the State Engineer is the one who rejected the application and the District could join the case as an interested party or wait for the court to make the decision of a) the State Engineer was right and that application is no good or b) the application is still valid and comes back to the District as protestants again. Director Oglesby said if the courts decide the application is no good, then it is anticipated they will re-file a new application that the District will have an opportunity to protest. He said his inclination is that the District not get involved in this lawsuit, although it should be monitored carefully. Mr. Shah said the attorney wants to know the Board's decision on this issue. Director Sichler asked if Director Oglesby was recommending that for the time being the District do nothing and Director Oglesby said it's not necessary to be a participant at this point. The Board was in consensus and Mr. Shah will advise Mr. Hernandez. Director Kelly asked who would be monitoring this issue. Dr. DuMars suggested the easiest solution would be that Mr. Hernandez would let the Board know the outcome of the case and whether there is a case after that.

c. Comments on Secretary Salazar's Middle Rio Grande Conservation Initiative

Chairman Lente said back in January 2012 Secretary Salazar came to the Middle Valley and met with a lot of stakeholders in the Valley and appointed an eight member committee look at and brainstorm over what the Valley should look like and what they care about. He said the Board has a draft of report of what the committee worked on and he feels it brings to light what is happening in the Middle Rio Grande Valley, who the people are that live here and what's important to those people. He said his intent, as a participating member of the committee, was not to change the landscape, but rather to help preserve and protect. He said the Secretary will be out again to receive the report on July 12th, but there is time left that the Board can provide input.

Director Dunning said she is the one who requested this be on the agenda and she was very impressed with what she saw. She said she felt the authors were very careful in trying to word things in such a way that there is a lot of wiggle room; it doesn't commit anybody to anything they can't live with. She felt that if members of the Board have issues with the report, they should be able to explain them now rather than wait until later and she wants to get a sense of the Board and if they want it to go forward. Director Abelta said his only disappointment was they left out the agricultural community and how are they going to keep the farmers farming. Mr. Shah said staff had several comments as well and they are preparing them to submit to the BOR. Director Sichler said he absolutely cannot support the report. He said he understood, when they first had conversations about the initiative, that there would be recreation on the trails and the river which he thinks is great and he supports that. He said he read the Executive Summary of the report and agriculture is not considered in any way. He said agriculture developed the water rights in the Valley and the BOR did not come in and develop the water rights. He said generations of families have been farming in the Valley and there is no mention of agriculture at all. Director Sichler said some of the language is flat out irresponsible and he read into the record some of the items in the Executive Summary. He said he cannot and will not support the document. Director Kelly said the report is scoped down as a conservation initiative and misses a big element on agricultural interests, but he also sees it as presenting many opportunities for the MRGCD to integrate its work up and down the Valley with a whole bunch of people they can rub shoulders with and they need to work on those relationships. He said the Bureau was given a short window to come up with something like this and the Secretary said to get it done and Mr. Hamman had to. Director Kelly said the City has the only ongoing project that fits the mold of the report with the Mayor's River Initiative. He said he thinks the Board needs to make comments to the report that address Director Sichler's concerns. Director Oglesby said he hears where Director Sichler is coming from and he said since there is no money nor formal planning process behind this document and they don't know what the Secretary is going to do with the report and he thinks the hole in the report is agriculture, but he has faith in the Secretary, given what he said when he was in Albuquerque for the

first meeting regarding agriculture. He said he thinks it is the right thing for the Board to speak up and get more of agriculture in the report. Chairman Lente said that as the sitting member of the committee it was never his intent to not include agriculture. He said if the District has other comments for the report, then they should be directed to Reclamation representatives. Dr. DuMars said all of this report is against the backdrop of the Rio Grande Compact, the appropriation doctrine, the private water rights and the water rights of the District in its statutory mission. He said he asked Mr. Hamman when he says conservation, what does he mean and Mr. Hamman responded in the sense of conserving that which is and making it better, not that they are going to squeeze water out of the irrigators and seeing the District as wasteful. He said, at a minimum, the document needs to have a disclaimer that simply says that it is not a suggestion to abandon agriculture and/or legal rules, but to step outside the set of rules and see the common ground. He said they have to be careful with all the endangered species litigation that the District does not endorse, even though it is a principle that everyone agrees, and he recommends his firm review for comments.

Chairman Lente asked Mr. Hamman if he could express to the Secretary the Board's concerns and Mr. Hamman said that Dr. DuMars is correct and if they read through the entire report, one of the goals is preserving the various communities in the Valley. He said the intent was to build on what is going on in the Valley from a conservation/preservation perspective and not diminish in any way the current culture and economy that the agricultural community provides to the Middle Valley. He said he thinks a disclaimer or establishing a major goal in the body of the introduction would be appropriate and he will make that happen. Director Sichler said until agriculture gets its day in court in the document that he withholds all support for it.

Director Dunning said the Board will have a meeting before Secretary Salazar comes back and at that time she would like to have the disclaimer in that gives the legal coverage and also if it could more specifically address agriculture as well as staff comments. Mr. Hamman said the intent is to give the report to Secretary Salazar on July 12th and so an opportunity to address the Board's concerns. He said he thinks that it was everyone's assumption that the backdrop is the existing communities and their cultures and he thinks they can put it up front in the document so it is very clear so this is not a proposal to change the underlying socioeconomic fiber of the community and it can be done before the document is finalized. He said they need the support of the MRGCD in the report.

Director Oglesby said he would point out that this is an aspirational document that includes things in it that may never happen and things that probably never can happen. He said there is no way the document changes the District's legal authority or priorities that are set out in the Conservancy Act and they need to keep that in mind. Director Oglesby said the primary goals are not recreation and that is a secondary goal and the Board needs to keep the document in proper context. He said there were a lot of people at the Secretary's initial meeting and recreation, conservation and education are what came out of that meeting and, in a way, he sees that as a tribute to the District. Director Sichler said he thinks it is important that staff review the document and whether it is aspirational or not, if the Board endorses it, then they are basically endorsing what's in it and he doesn't want to do that.

Director Dunning said it's not that the MRGCD doesn't support agriculture, but more and more ratepayers who are protecting agriculture in the Valley come from Bernalillo County and they don't engage in it directly. She said for those people it is really important that they be able to enjoy what the river is; which is not their livelihood, and it is a give and take. Director Sichler said he doesn't have any problem with recreational use of the Bosque and he encourages it, but when there is a document that talks about a continuously flowing river and the Board endorses it, they can't do that, because then it becomes a burden on agriculture and that's what his issue is. He said the Board and District have been discussing this for over a decade since they got into the issue with the Endangered Species Act. He said there isn't enough water to meet everyone's aspirations. Dr. DuMars said they will work with the language and address some of the issues that Director Sichler is raising, while keeping the concept in tact and Chairman Lente said yes.

- d. Report on Meeting w/BOR & Fish & Wildlife Service Regarding ESA Issues – May 24, 2012 – Directors Sichler & Oglesby
- e. Report on MRGCD ESA Committee Meeting – June 19, 2012 – Directors Abeita, Sichler & Oglesby
- f. Discussion of Biological Assessment/Biological Opinion Issues – Directors Sichler & Oglesby

Director Oglesby said at the last committee meeting was positive although it lacked the full positivity of the former meetings. He said they talked about the State's position that they weren't coming to the table with as much information as Reclamation needed to include in the Biological

Assessment (BA); primarily related to questions about management of the Recovery Implementation Program (RIP), the level of coverage they wanted and how sufficient progress will be measured under recovery programs. He said they talked a bit about what a Water Management Agreement might look like, alternatives if the new Biological Opinion (BO) doesn't have flow targets and management plans being a component of that and dry years habitat below San Acacia Dam. Director Oglesby said they negotiated on how big and how necessary it would be to have a storage pool set aside for Silvery Minnow use and the number of 80,000 ac-ft of storage space has been thrown out by Reclamation and he thinks they will continue to discuss this. He said they discussed the potential use of pre-1907 water rights as supplemental water if farmers want to lease them for Silvery Minnow use, and how that water would be delivered to the river. He said they also discussed how the District would store San Juan Chama water in plus years and the need to secure storage space from the City of Albuquerque. Director Oglesby said he raised a concern about what would happen in the good/wet years and he went on to explain. He said they also discussed what an education program might look like.

Director Sichler said his take of the meeting was they have done pretty well to this point and they have now gotten down to the details and the problem, as he see it, is they don't have the details to discuss. He said they keep talking about target flows and he explained some of those they are considering. Director Sichler said until they see what Fish & Wildlife decides and what will be required it will be difficult for the District to agree. Director Oglesby said he sat in on Executive Committee meetings and his observation is they haven't come that far in the last ten years; the same discussions by the exact same people ten years ago. He said one important thing that helped him to understand the District's position is what would a Water Management Agreement look like and there are a lot of other agencies asking that same question and he said these are things that the BOR and FWS understand have to be firmed up before anyone is going to jump on board whole heartedly.

Director Oglesby said the Board has a copy of an e-mail from the BOR that contains language of what will go into the BA based on discussions and the tentative agreement so far. He read into the record the language for the New Conservation Measure. He said he thinks the last line in the first paragraph where it says "both irrigation and in-river conditions" is where the District has made a step forward since the 2003 BO and managing the water for both the farmers and the fish and not one taking priority over the other. Director Sichler said the system was developed by the farmers and it is not project water, that came later. He said there are a lot of things the District can do to help the minnow and he thinks they should do those things to provide the habitats. He said he thinks the whole situation needs to be looked at realistically and he thinks they will work it out.

Director Oglesby said in the meeting where the MRGCD committee met they voiced their concerns about what the Water Management Agreement would look like and there are alternatives to giving up existing water i.e. creating efficiencies in the system that create/make water available that is otherwise lost and that would be the more appealing route to providing supplemental water. He said part of the discussion was also on funding of the \$7 million. Dr. DuMars said he, Mr. Shah, David Gensler, Patrick Redmond and Dr. Goodman are preparing a response and they will share that with the committee to get their reaction. Director Abeita said that Directors Oglesby and Sichler have covered all the information.

Director Dunning made the **MOTION TO APPROVE THE REPORTS FROM DIRECTORS ABEITA, OGLESBY & SICHLER ON MEETINGS REGARDING ESA ISSUES**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

g. **Report on Meeting w/LRPA & Henry Coors – May 17, 2012 – Directors Dunning & Oglesby**

Director Dunning said she and Director Oglesby met and there is not much they can say in open session because it is confidential and they will apprise the Board during the Executive Session. She said she thinks this is fairly common to have a meeting, outside the depositions, to lay things on the table to see if there is movement on either side. Director Oglesby said he will have to save details of the meeting to be discussed in Executive Session.

Director Kelly made the **MOTION TO APPROVE THE REPORT FROM DIRECTORS DUNNING & OGLESBY ON THE MEETING WITH LAW & RESOURCE PLANNING ASSOCIATES AND HENRY COORS**. Director Paiz seconded the motion. The **MOTION CARRIED** unanimously.

h. **MRCOG Transportation Board Meeting – May 18, 2012**

Director Dunning said during this meeting an election was held for Chair and Vice Chair and the current officers were retained for another term. She said most of the meeting centered around Valencia County and its growth and do they want to go out on their own and direct their own transportation funds and she understands that Valencia County will make the decision on how they want to proceed in the future.

Director Abeita made the **MOTION TO APPROVE THE REPORT FROM DIRECTOR DUNNING ON THE MRCOG TRANSPORTATION BOARD MEETING – MAY 18, 2012**. Director Kelly seconded the motion. The **MOTION CARRIED** unanimously.

i. **Report on Press Conference – Fireworks & Fire Restrictions – June 22, 2012 – Chairman Lente & Director Abeita**

Director Abeita said the press conference was held at Elena Gallegos Park and Governor Martinez was in attendance. He said she gave her viewpoints on controlled fireworks and urged everyone to be careful. He said there were a lot of dignitaries from the Forest Service, BLM, State, City and Open Space. Chairman Lente said it was great to have the Governor's support in terms of protecting lands from fire and other agencies jumped on board to enforce Stage II fire restrictions. He said it certainly was a collaboration of governmental agencies to help prevent another forest fire. He said the District is part of a core group of agencies that are proactive to prevent fires in both the forest and in the Valley.

Director Dunning made the **MOTION TO APPROVE THE REPORT FROM CHAIRMAN LENTE AND DIRECTOR ABEITA ON THE PRESS CONFERENCE – FIREWORKS & FIRE RESTRICTIONS – JUNE 22, 2012**. Director Sichler seconded the motion. The **MOTION CARRIED** unanimously.

Mr. Shah asked Chairman Lente if the Board could form a committee to assist with the illegal irrigators issue. Chairman Lente said he would participate as well as Directors Oglesby and Kelly on this committee.

Director Oglesby made the **MOTION TO MOVE INTO EXECUTIVE SESSION FOR THE PURPOSE OF DISCUSSION OF HENRY COORS, MRGCD ON-GOING LITIGATION NMSA 1978 OPEN MEETINGS ACT, SECTION 10-15-1 (H)7)**. Director Dunning seconded the motion. Chairman Lente called for a roll call vote.

Director Oglesby	Yes	Director Dunning	Yes
Director Abeita	Yes	Director Kelly	Yes
Director Sichler	Yes	Director Paiz	Yes
Chairman Lente	Yes		

The Board adjourned into Executive Session at 6:08PM.

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

- a. **Attorney Client Privilege Pertaining to Pending Litigation**
 1. **Discussion of Henry Coors, MRGCD On-Going Litigation**

The Board reconvened at 6:50PM.

Chairman Lente called for a roll call vote to reconvene into Open Session.

Director Oglesby	Yes	Director Dunning	Yes
Director Abeita	Yes	Director Kelly	Yes
Director Sichler	Yes	Director Paiz	Yes
Chairman Lente	Yes		

Chairman Lente reported that no decisions were made and it was for discussion purposes only.

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

The meeting was adjourned at 6:52PM.

Approved to be the correct Minutes of the Board of Directors of June 25, 2012.

Attested:

Steven L. Houser
Secretary/Treasurer

Derrick J. Lente, Chairman
MRGCD Board of Directors