

Exhibit "N"

BK68-211

**MINUTES OF THE ONE THOUSAND NINE HUNDRED AND SIXTY FOURTH
REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
July 26, 2010**

Directors having been duly notified, Chairwoman Jarratt called the meeting to order at 6:05PM at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS:

Janet Jarratt, Chairwoman
Eugene Abeita, Vice-Chairman
Augusta Meyers, Director
Derrick J. Lente, Director
Karen Dunning, Director
Adrian Oglesby, Director Absent
Chris Sichler, Director

STAFF:

Subhas K. Shah, Chief Engineer/CEO
Chuck DuMars, Legal Counsel
Steve Houser, Secretary/Treasurer
Leonard Utter, Engineer Associate

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

Paula Sichler, Snake Ranch, LLC Susan White Pat McCraw, South Valley Ink Lisa Robert, APA Randy Shaw, BIA Holly O'Grady, BIA	Keith Candelaria, BIA Che Nyamboli, Pueblo of San Felipe Jerry Ginsburg, TVNA Casey Cook, Balleau Groundwater, Inc. Gary Stansifer, OSE Blane Sanchez, Kewa Pueblo
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Chairwoman Jarratt welcomed the guests and declared a quorum.

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Chairwoman Jarratt requested that Director Dunning lead the Pledge of Allegiance.

AGENDA ITEM NO. 2 – APPROVAL OF THE AGENDA

Chairwoman Jarratt called for approval of the agenda.

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

AGENDA ITEM NO. 3 – BILLS AND PAYROLL RATIFICATION

a. **Payment Ratification – July 16, 2010**

Chairwoman Jarratt called for approval of the Bills and Payroll Ratification.

Director Meyers made the **MOTION TO RATIFY THE BILLS AND PAYROLL FOR JULY 16, 2010 AS PRESENTED**. Director Abeita seconded the motion. The **MOTION CARRIED** unanimously.

b. Approve May 2010 Invoice for LRPA

Chairwoman Jarratt called for approval of the May 2010 invoice for Law and Resource Planning Associates.

Director Lente made the **MOTION TO APPROVE MAY 2010 INVOICE FOR LAW & RESOURCE PLANNING ASSOCIATES AS PRESENTED**. Director Dunning seconded the motion. The **MOTION CARRIED** unanimously

c. Approve June 2010 Invoice for Wiggins, Williams & Wiggins

Chairwoman Jarratt called for approval of the June 2010 invoice for Wiggins, Williams & Wiggins.

Director Meyers made the **MOTION TO APPROVE JUNE 2010 INVOICE FOR WIGGINS, WILLIAMS & WIGGINS AS PRESENTED**. Director Sichler seconded the motion. The **MOTION CARRIED** unanimously

AGENDA ITEM NO. 4 – APPROVAL OF THE MINUTES

a. Regular Meeting July 12, 2010

Chairwoman Jarratt called for approval of the minutes for the Regular Meeting of July 12, 2010.

Director Abeita made the **MOTION TO APPROVE THE MINUTES OF THE MEETING OF THE REGULAR MEETING OF THE BOARD ON JULY 12, 2010 AS PRESENTED**. Director Dunning seconded the motion. The **MOTION CARRIED** unanimously.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR

Pat McCraw said she took the opportunity of writing a resolution for the Board that she would like for them to consider and she distributed that resolution. She said she first wanted to call the Board's attention to a newspaper article on the new commissioner for the Los Padillas Acequia and his name is Michael Gadler and the Acequia is under new management by court order. Ms. McCraw said she also wanted to comment on the AMAFCA presentation and to let the Board know that the residents of the South Valley had a lot of contact with AMAFCA. Those residents submitted their ideas and the plans that were shown to the Board at the last meeting was a compilation of those ideas. She then commented on the rain storm that recently left their neighborhood under a lot of water. She said the AMAFCA thing is really critical for the South Valley residents. Ms. McCraw then presented her resolution and said it dawned on her that the MRGCD Board should be in sync with other governmental agencies and follow the same regulations as they do and the number one regulation that should be followed is that the Board elect a Board Chair and Vice Chair every year and not every two years. She said since the MRGCD elections are in June that means they would want the election of the Chair and Vice Chair and a reorganization of the Board every June. Director Sichler said that since Ms. McCraw took the time to draft the resolution, he would like to make a **MOTION THAT THE BOARD ASK TO HAVE THIS PLACED ON THE AGENDA FOR THE NEXT MEETING**. Chairwoman Jarratt asked Legal Counsel if there would be any issues with the Open Meetings Act on this request and Dr. DuMars responded it didn't think so that it was just a request and if it was agreed by consensus then it could be placed on the agenda. Director Sichler said it is not his resolution and thought it might be more appropriate if the Board decided they wanted to place it on the agenda. Dr. DuMars said he did ask specifically whether a motion could be made that arose out of Items From the Floor and the response was that it might be pushing it a bit since there is nothing on the agenda that is close to this. He said if it is placed in the minutes that the Board by consensus agrees this will be on the agenda, even though it is drafted by a person from the public, then his view it is the consensus of the Board. He said it could be placed on the agenda by Director Sichler and he is asking for Board consensus and take action. Chairwoman Jarratt said the motion would be changed to consensus and Director Sichler agreed. Chairwoman Jarratt asked if there was consensus and they all responded yes and she requested that it be placed on the next agenda.

Susan White said she thought they could do a little history lesson this evening for those on the Board that are not farmers. She said back in 2000, 2001, 2002 as they may or may not remember they had a terrible time as there was no snowpack and no water and she said there was a person that runs that District that went to the City and made an agreement with the City to use water for the Silvery Minnow and for the farmers. She said she thought it was very well done and she doesn't think that he had a baby sitter or someone to hold his hand and she thinks that sometimes it would be wise to remember some of the things that people in the District have done and respect them for it.

AGENDA ITEM NO. 6 – BALLEAU GROUNDWATER – ISLETA/ALBUQUERQUE HYDROLOGY ISSUES

Mr. Casey Cook presented a PowerPoint presentation on the Preliminary Assessment of the Drinking Water Project. Mr. Cook said in July of 2009 the MRGCD experienced delivery shortages in the Isleta Diversion and in October of 2009 the MRGCD engaged Balleau Groundwater to undertake a study of the Drinking Water Project operations and hydrology of the river to see if there is any relationship between those operations and the shortages experienced in the District. He then showed the Board a slide of the various gages from San Felipe to Isleta and an additional slide of the gages at the Alameda Bridge and the Paseo Del Norte Bridge. Mr. Cook then showed a slide of the ABCWUA Operation Data – Diversion or Return Flow from December 2008 to June 2010. Director Dunning said it was her understanding that back in 2008 they were not mixing and they just got to 50% mixing fairly recently and were they diverting even if they weren't mixing yet and are they in an only 50% mix or is it fully blended. Mr. Cook responded they are mixing the surface water and ground water and he thinks their plan is each year to increase the amount of water they divert from the Rio Grande and lower the amount of water they take out of the wells. He said they are diverting about twice as much this year as they did last. The next slide showed some of the operations of the Drinking Water Project in 2009 and through June 2010 in terms of what they report. Chairwoman Jarratt asked if he had any information on their groundwater pumping as it relates to the Wastewater Treatment Plant returns and Mr. Cook said yes they furnished quite a bit of groundwater data and they did not take a look at that in conjunction with this. Chairwoman Jarratt asked if that would be part of the plan to look at the overall depletion. Mr. Cook said the study his colleagues did back in 2004 looked at that specifically and he thinks the plan was just to see how the new data compared to the old study which was looking at average annual depletions and now they are looking at hourly, but they had not yet completed the update to the previous study. Mr. Shah said that Mr. Cook said the return flow is 30 cfs to 70 cfs and Mr. Cook responded that every day it varies between about 30-70 cfs and the peaks tend to come in the morning and the valleys tend to come late in the afternoon. Mr. Shah said the minimum requirement is for them to provide 50% at least and if they would 50 cfs and then they take 50 cfs daily they should provide us with 50 cfs and if you have 30 and then you lose 20 cfs. Mr. Cook said that he believes that is the way the permit is conditioned is that whatever native water they take they have to return the same amount. Mr. Shah said if they don't have it to return, what do they do? Mr. Cook said that was a good question. Dr. DuMars said the condition was pretty specific and it says you have to match up the same kind – the native water you divert and the San Juan Chama you have to – you have to put, at the same time, the same amount back in as return flow, otherwise there could be a substantial lag. Mr. Cook said it is interesting; there is a lag and it is about eight hours between the Drinking Water Project and the return flow. He said if they are peaking at the same time, by the time the peak gets down to the Treatment Plant it is back down into its valley and so you actually get hit with a higher diversion at the same time you are minimizing the return flow. Mr. Cook said he should emphasize this is all a very preliminary assessment of the data that they just got and that they had to convert it from plain text. Dr. DuMars said his firm did ask the Water Utility to give them the data in electronic form and it was never received; and they are hopeful they may get more cooperation soon. Chairwoman Jarratt said this is the data that was received under the Public Records Act after months of frustration and asking for the data. Dr. DuMars said, yes, that is the case. Mr. Cook continued with his presentation of more data and slides. He said that during 2009 the Drinking Water Project diverted 25 cfs 50% of the time and this year it is about twice that. He said that in 2009 65% of the time they are diverting and the other 30% they were zeroed out or shut down; and this year it is only about 5% of the time that they are not diverting. Mr. Cook then showed and explained several slides of the successive gages down the stream of Drinking Water Project operations and the MRGCD diversions from 7/24/09 to 7/30/09 when river flows were low enough and the Project was being operated in such a way that it could be tracked. Mr. Cook discussed the effects of the pooling behind the dam on the gages. Chairwoman Jarratt asked if the pooling meant that the gages were reading a higher flow than was actually in the river, and Mr. Cook replied yes, and that USGS was aware of the problem but had not yet solved it. Mr. Cook said one of the important tasks they have is to sit down with the operators of the Drinking Water Project to find out how they operate. He said they are making a few assumptions on the basis of looking at their data, but they have not had a chance to sit down

and discuss it with the operators. He also pointed out that the data they had regarding diversions was from BOR and they would be getting the data from the District as well; that the observations were very preliminary. Director Sichler asked if the Drinking Water Project was getting any better at evening out their diversions and Mr. Cook said when they were operating during that week in July going at 20 cfs for eight hours and then shutting down to zero, he thinks that has more of an impact and therefore was easier to trace down the river than operating at a low rate and a little bit higher rate. Director Sichler said so possibly they are learning as they go along and Mr. Cook said that what he sees is they are trying to perform for efficiency. He said the only down side hydrologically is that when they ramp up their diversion, it takes eight hours for that affect to get down to the Reclamation Plant and by then the Plant is starting to taper off a little bit and they release less water; at the same time they have a higher diversion they have a lower return. Mr. Cook said the preliminary findings are that the Drinking Water Project diverted about 21,000 af in 2009 and 21,000 af in the first half of 2010. He said the median 2010 diversion rate is 50 cfs with a peak rate of 120 cfs, they find that the Drinking Water Project can impact the Isleta diversion during low river flows of 550 cfs or less and in June of 2009 the reduction in flow at Isleta diversion was 20 to 30 cfs, that number would be higher the lower the river is. Chairwoman Jarratt said the total impact is 100 cfs and what Mr. Cook is talking about is assessing 30 cfs against the District of the 100 cfs, another 70 is against flows that are past the dam and if those are Reclamation flows for example and at some point in the future if Reclamation demanded that impact not be felt by the minnow, but fully absorbed by the District what is the impact? Dr. DuMars said that once the District is using San Juan Chama water or matching up the (unintelligible) river water and the net result of the diversions is to have an effect of 20-30 cfs. He said as he understands in 2009 they only diverted about 21,000 af and the total plan when it is fully operable is going to be around 100,000 af and he can see the significance, depending on how low the flows are, he can see that number getting bigger. Dr. DuMars said he wanted to make a point and before there was a Drinking Water Project there was a lot of pumping in past years, but it was always all made up by groundwater returning flows. He said they were taking groundwater out of the ground and making up for past pumping and trying to make the deliveries. He said now the return flows that come out of the Sewage Treatment Plant are no longer groundwater flows they are simply San Juan Chama water that has been diverted and so basically the effects are being increased on the river the full amount of the groundwater that was previously committed to the river and now are not and with that his question is how much do they really know about the effects of the past pumping? He said there are two kinds of diversions, one is the physical diversion and the other is the groundwater past pumping that is hitting the river. He said he is curious to see what happens when they look at the groundwater and that has been Mr. Shah's point all along. Mr. Shah said the District is getting hit three times. He said before they use to get San Juan Chama water from Albuquerque at no cost and at the same when they take the 50 CFS which is the District native flow and the District is not getting that one plus the District is not getting the return flow credit and that is what is causing the problem for the District. Mr. Cook said whether the Drinking Water Project exists or not the river would receive 30-70 cfs from the Treatment Plant and as they shift over to the Drinking Water Project and shift away from the wells the San Juan water and native water would be in the system and returning it. He said there is a hit on the river and there is still the large groundwater deficit to be made up as they stop pumping the wells and the river replenishes that and that is what his colleagues looked at in the 2004 study. Mr. Blane Sanchez from Kewa Pueblo asked how do the return flows from the side drains affect the numbers that were shown there and how does it affect the flows up and down. Mr. Cook said that is part of the pending work that needs to be done is to add in MRGCD flows and make sure those are accounted for and they are not adding in the perturbation or misleading them on how the effects are propagated. Mr. Sanchez said at this point they don't know if the return flows could be the cause of the total cfs less flow and Mr. Cook said he doesn't believe they are because what they see in the data is a pretty clear correlation between the Drinking Water Project going on in '08 and 100 cfs is less water moving down the river. Chairwoman Jarratt said there is 100 cfs less, but if the drains are contributing to the river then the actual loss might be more than 100 cfs and Mr. Cook pointed out an example in one of his slides saying that he believes the effect would be to raise the entire hydrograph up. Director Sichler asked if they were looking at the July when the situation happened it might have been really hot, there might have been a big demand on irrigation water and the outflow from the drains was decreased and might be a cause of some of the drop and asked if they are looking into these things and said that if they are going to get to the bottom of the problem they have to look at all the data. Mr. Cook concurred and said that they would be looking at all the data.

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

- a. Bureau of Reclamation – A representative of the BOR was not present for the meeting and Mr. Shah gave a brief synopsis of the BOR Summary report.

1. **Heron Summary**
 Content = 334,350 ac-ft (07/25)
 Azotea tunnel currently has a flow of approximately 10 cfs
 Total SJC inflow year-to-date: 86,400 ac-ft
 Currently releasing 0 cfs
2. **El Vado Summary**
 - A. Total storage (all contractors and natural) in El Vado as of 07/25:
136,179 ac-ft.
 - B. Native in El Vado
78,085 ac-ft. plus 9,331 ac-ft MRGCD EDWA and 16,124 ac-ft Prior & Paramount
 - C. MRGCD's SJ-C storage in El Vado: 32,588
 - D. All other SJ-C contractors: 51 ac-ft

Current release is 600 cfs. Inflow is 60 cfs

3. **Storage in Abiquiu**
 Content = 152,210 ac-ft (07/25)
 MRGCD's SJ-C storage= 1,189 ac-ft

Mr. Shah said the currently no water being released from El Vado and the water is being saved. He said this may last for a few days and if it keeps raining, it will last longer. He said the District will be getting back the San Juan Chama water which they allowed the City of Albuquerque to use and they are paying the District back now and will be getting 13,360 af of water.

b. **Bureau of Indian Affairs – Randy Shaw**

Mr. Shaw said there have been thirteen negotiations meetings since July of 2009 and the BIA has made the decision to proceed with a contractor ending any further negotiations for a new Agreement. He said it was announced at their negotiation meeting last Tuesday and there are a whole variety of issues that come up with that. He said they will be meeting again tomorrow at 1:30PM at the District to begin dealing with some of the issues. Director Abeita asked if there was any input from the Coalition on this decision and Mr. Shaw said yes they have been talking with the Coalition about this since June. Chairwoman Jarratt asked when was this taken to the Coalition and Mr. Shaw responded that the Coalition meets once a month with the Governors and their staff and in the June meeting it was given to them as a written report. Mr. Shaw said he also met with them the first week of July and it was discussed at some length. Chairwoman Jarratt said that sometime before early June the BIA made the decision to go forward with a contractor and Mr. Shaw said they did most of the market research in June and they informed the Coalition they were headed in that direction and then made the decision in July. He said when they ran it by the Coalition, no one said no don't do it. He said one member of the Coalition has expressed concern in terms of the Cochiti Division. He said they have tried to give a realistic picture of some of things that can happen going down this path. Chairwoman Jarratt said that being on the team that it would have been nice to know that this decision had been made and some of the meetings could have been avoided and it seems to her the decision was made by the BIA and it would have been nice to put the negotiations in abeyance until the Coalition returned with an up or down because at the last negotiation meeting it was surprising. Mr. Shaw said they could have backed out depending on what the District presented at the last meeting and if the District has presented something workable they were not so far along the path that they can't turn back. Chairwoman Jarratt said they indicated that the \$683,000 was their last and final offer. Mr. Shaw said that some of the issues that are going to come up is the idea of a contractor working in the District, emergency services, doing work on newly reclaimed lands, lines of communication, layoffs, a back out plan and construction standards and they will be discussing these items at the meeting tomorrow. Director Abeita said it's going to be done for \$600,000 and Mr. Shaw said he can't say how much it's going to be done for because it hasn't gone out for bid yet. Director Abeita asked what happens to the rest of the money and Mr. Shaw said if the contractor comes in below the annual allocated amount, they will work with the Pueblos in terms of offering it to them under their 638 contracts for OM&B work. Mr. Shaw said the BIA has an interagency agreement with the BOR and the BOR has OM&B contracts and if the Pueblo indicates they want to contract that money to use the interagency

agreement and move in the existing 638 contracts with the BOR. He said there are three Pueblos that are still working on those 638 contracts and there are three that are already in place. Chairwoman Jarratt said from her perspective the Board has always been concerned with the constituents of the District which are the farmers on the ground and she thinks this could be problematic and confusing for some of the farmers. She said when you have a contractor doing maintenance work, complicating the lines of communications and how that flows, and she thinks the Board's interests will primarily be with the individual farmers and making sure they are well served. Mr. Shaw said that is the BIA's concern and they will work their hardest to provide the best service they can to the farmers. Dr. DuMars said one of the issues to be discussed tomorrow is the delineation of P&P versus newly reclaimed lands and allocations of responsibility and Mr. Shaw said that is correct. Dr. DuMars said if you have a ditch that winds down by the river where there is P&P land and then goes up above and takes advantage of the new works and there is some newly reclaimed land there and then it swings back down and how does he envision the District and the contractor dividing up the work when it involves both P&P and newly reclaimed lands. Mr. Shaw said that what he is proposing is a proration based on acreage; NRL is 57% of Indian ag lands and the P&P is 43%. He said there are different ways to go about it; it can be done geographically which becomes very challenging and another way to do it is on an activity delineation where approximately 43% of the cost of O&M would be the P&P work and they would come up with activities that would amount to about 43% of the total cost and then the BIA contractor would do 57%. Dr. DuMars said in the past the question has been what is NRL and what is P&P, but all the ditches vary in kind and type of work required and location. He said it seems that it will have to be a sophisticated calculus to figure out how to do that to make it fair. Mr. Shaw said they would like to have this contractor on board by September 1st. Director Abeita said one of his concerns is they have going to have a bunch of angry people in the Cochiti Division; angry at the BIA and he is going to be angry too if he sees any of those people laid off or their jobs terminated. Mr. Shaw said in the market research that he has done he as explained the situation to the contractors and let them know it is a big concern. Chairwoman Jarratt asked if the contractor was going to hire those people and Mr. Shaw said that he cannot mandate that into the contract that he hires laid off employees of the District. Chairwoman Jarratt asked if it could be stipulated that the contractor hire Pueblo members and Mr. Shaw responded that he believes there is an Indian preference, but doesn't mean that it's an Indian that has been laid off. Director Sichler asked what happens if the appropriation doesn't come through; that has happened in the past and what will the contractor say. Mr. Shaw said these are the kinds of things they will have to talk about. Chairwoman Jarratt said that was a great point because historically the District floated it for three years without any payment. Mr. Shaw said the way the contract has been structured it would be a one year contract with a one year option or a one year contract with four one year options. Director Abeita said there was a system that worked well for many years and Mr. Shaw said it would be a challenge and Director Abeita said they didn't need the challenge. Director Sichler asked if when the BIA has an appropriation, they will hire a contractor and when they don't have an appropriation the District will do it for nothing. Mr. Shaw said the District will continue the P&P obligations. Director Lente said that after months of negotiation meetings and even with all the hard work the District is still quite a ways off of what they wanted to be paid. He said it is unfortunate that it fell apart, but both sides were working hard to try and understand each other and make things work. He said that as a Board they need to understand this is what the BIA wants to do and the District needs to make sure they don't neglect the services to the Pueblos until the contractor is brought on board.

Mr. Shaw said that he has accepted a position with the BOR in Alamogordo, NM and his last day with the BIA is August 12, 2010. He said that he made his supervisor aware of his job change before the negotiation issue decision was made. The person that will be acting in his place is Holly O'Grady. Director Sichler said that there have been some pretty heated discussions during the negotiations, but he said that he liked him really well and wished him well in his new job. Chairwoman Jarratt said that everyone has managed to be professional and she said that she is sure he will do excellent in his new challenges just as he has here. Mr. Shaw said that he lost his cool at Chairwoman Jarratt at one of the negotiation meetings and he said that he was sorry for that and wanted to say it publicly, even though the Chair had already told him she was okay with it.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE CHIEF ENGINEER (Subhas K. Shah)**a. Memo Regarding Change in Date of Disposal of Obsolete Items Auction**

Mr. Shah reported that the disposal of obsolete equipment and miscellaneous items scheduled for auction on July 24, 2010 has been rescheduled for August 21, 2010.

b. Report on Follow-up on Situation at Alameda & Ortega

Mr. Leonard Utter, MRGCD Engineer Associate said that he met with Ms. Deborah Brown and they drove the Albuquerque Main Canal and she voiced her concerns. He said that she was not opposed to anyone fishing it was just that the individuals that were fishing for crawdads were leaving their stuff behind. He explained to her that all the District could do to try and assist in this situation was to have the Bosque Patrol Officers and Ditch Riders speak with those fishing and educate/counsel them on the impact of what happens when they leave their makeshift equipment behind. Mr. Utter said that Ms. Brown was satisfied with this effort.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE ATTORNEY (Charles T. DuMars, Esq.)**a. Board Resolution on Property Liens**

Dr. DuMars said his firm looked into this issue in greater detail and it turns out that the specific statute requiring filing a reconciliation resolution is pretty flexible in the way that it is framed. He said that as he pursued this matter it became pretty clear that the Board needs a policy as to the minimum amount they are going to lien and when do you assess the lien. Dr. DuMars said that he would like to combine this report with a discussion on how the District currently does liens and maybe come up with a formal policy which explains how it works, when it attaches and he is recommending these two be combined. Chairwoman Jarratt asked if there was a time constraint on this and Dr. DuMars said no; not given the way he reads the statute. Dr. DuMars said one is a process for starting to collect liens and when do you put them on people's property. He said if it costs more to place the lien on than the amount of the lien that is what he's speaking of. He said that once a year there would be a resolution that puts everybody on notice that this is the budget, this is what the proposed rate is and so people are aware.

b. Status on Reports from ABCWUA

Dr. DuMars said the Board heard earlier a little bit about the work his firm is doing on the data. He said they have been hoping to get back from the ABCWUA a response to their letter regarding proposed storage at Abiquiu and then working on the Joint Powers Agreement. He said they still have not received anything back from them, but the activity in the last couple of months involving storage and credits makes it clear how important it is to get the storage. Director Sichler asked about the process and are they just talking back and forth and working it out. Dr. DuMars said he has been speaking with their Legal Counsel and said the District has this agreement and it has been extended multiple times and it needs to be completed before this one runs out. He said he received an e-mail from their Legal Counsel saying he is working on the JPA and should be getting it to him at any time. Dr. DuMars said that if this doesn't bear fruit, the District is going to have to get more aggressive and have the Board speak directly with the Water Utility and try to get this thing done because it is critical and important.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE BOARD**a. Set Date for Future MRGCD Board Meeting in Socorro County – Director Sichler**

Director Sichler said that he would like the Board to schedule another meeting to be held in Socorro sometime in August. He said the people really appreciated the meeting last year and it was well attended. Director Sichler made the **MOTION THAT THE BOARD HOLD THE MEETING OF AUGUST 23RD IN SOCORRO**. Director Abeita seconded the motion. **The MOTION CARRIED**

unanimously. Mr. Shah said that in the August 23rd meeting he would like to have an agenda item honoring former MRGCD Board Chair Gary Perry.

b. Report on MRGCD/BIA Negotiations – July 20, 2010 – Chairwoman Jarratt & Director Lente

Director Lente said that he had nothing to add to the discussion that it was thoroughly discussed during Mr. Shaw's presentation earlier in the meeting. He said they just have to move forward from here and it will be an educational process and he wants to make sure the people on the ground do not feel the effects. Chairwoman Jarratt said the shift now in contract negotiations to negotiations regarding how to comply with the obligations of Prior & Paramount; so it is a shift in what their job is as a negotiating team and she said she thinks it can be done and they will get through it. She said as long as they keep the farmers in the forefront they will work it out. Director Sichler said he wanted to apologize to the Board; he intended to make the meeting, but it slipped his mind.

Director Meyers made the **MOTION TO APPROVE THE REPORT ON THE MRGCD/BIA NEGOTIATIONS OF JULY 20, 2010**. Director Abeita seconded the motion. The **MOTION CARRIED** unanimously.

c. Report on NM Water & Resources Meeting – July 21, 2010 – Chairwoman Jarratt

Chairwoman Jarratt said that she and Steve Curtice of LRPA attended the meeting. She said it was scheduled to be from 9:30AM until 12:15PM and it went until 2:30PM. Chairwoman Jarratt said most of the comments seemed to be in opposition and raised a lot of questions. She said the Legislators were somewhat confused and concerned; they usually have presentations over several meetings when there is something of this magnitude. Chairwoman Jarratt said notably that Senator Michael Sanchez is not on the committee, but as the Senate Floor Leader he was allowed to speak and ask questions and he did so at the end. She said the District did make comments; they collated the information that the District already had; the two letters and some additional comments from the Pueblos and others that the District knew about and the motion that the District opposed this, but wanted to keep working to figure things out. She said Mr. Curtice commented on the legal questions regarding the Compact. Director Dunning asked what is the next step and Chairwoman Jarratt said it was the sense of the Water & Resources Committee to ask the ISC to wait and really vet the agreement in a very public way and the public process needed to be in the front end and not after the deal was already done.

Director Sichler that he doesn't have any questions, but did listen to the live streaming of the Committee meeting. He said that he was disturbed in the fact that when the MRGCD Chairman got up to speak she stated her name and then went on to say she was there to represent – she was there as Chairman of the MRGCD and was there to represent the Board. He said she then went on to discuss the motion that was made at the June 21st meeting where the Board said they had some questions about the agreement and they couldn't support the agreement as it was written; which was a true statement. He said there was also a motion made at the July 12th meeting which the Board stated they did have some questions, but they wanted to hear more about the agreement and they wished for staff to negotiate this as if there were things that could be worked out with the agreement and the Chairman never bothered to mention that the Board had made that motion. He said frankly the Chair seems to have an ax to grind with the ISC on this issue from the very beginning and that's the appearance that he heard on the live streaming. He said it seemed like after she reported about the motion on the 21st of June that she just went on with her same point saying that the ISC has been unresponsive to the District's questions and frankly two days before at the July 12th meeting the ISC agreed to answer all the questions. Mr. Lopez said he stated that he had not answered the questions because of the direct conflict that he had with the Chairman. Mr. Lopez said that he would ask his attorney to go ahead and answer the questions in the letter the Board had sent out and he did. Director Sichler said that he received an electronic copy two days before the hearing was held and the Chairman stated that as of that time there had been no answers to the questions. Director Sichler said he guesses his biggest concern is that as a Board member and what he heard the Board say was they weren't sure if this was a good agreement or not, but they would like to hear more and the thing is apparently is just dead now; it's killed and he said he thinks that was probably the Chairman's goal from the things that he has seen and he thinks it is going to take a lot of innovative thinking in the future for the Board to deal with water issues. He said that they just heard Dr. DuMars say that the

Water Authority is going to be diverting 100,000 af in a year and that is going to be tough to deal with. He said they are going to have start thinking really innovative about the way they do things and frankly he just doesn't care for the Chairman's approach to the way she is handling these issues and he really doesn't approve of her representing the Board if she is not representing the Board appropriately and to their wishes. Chairwoman Jarratt said she would like to respond. She said the documents were given over, they were collated by LRPA and there was a specific memo written by Mr. Curtice from LRPA detailing how the ISC did not answer the questions in the letters and was a legal opinion from General Counsel that the ISC did not answer the questions in the letters. She said the electronic copy that was distributed to the Board was not answered by Legal Counsel it was over Mr. Lopez's signature and it was specifically not from Legal Counsel and it was not answered with legal citations and case law and it was not answered in a form of a legal memo which is what, she believes, Legal Counsel has asked about getting was a legal opinion of where they get the authority to do this. Chairwoman Jarratt said that she would turn this over to any member of the Board, but she said she believes she spoke in truth that they did not under MRGCD's Legal Counsel's opinion, they did not answer the questions the District had asked. She said she did outline some of the issues that had come up and the meeting minutes were also provided so everyone could see all of the comments that were made and the questions that were asked; that was part of the packet that was given. She said she did say that the District had questions and wanted to know more because the motion that was there, the active motion, the reiteration of it on the 12th and the first motion said specifically the Board wanted to have the questions answered and the Board wanted to continue to engage the ISC and that was absolutely there on the record. She said she thinks the Director from Socorro has his own ax to grind on the Board and is using every opportunity to misrepresent what was said and done and she said she thinks that is most unfortunate for the workings of the Board. She said that everything she said is backed up by Legal Counsel's opinion. Director Sichler said the question he has to ask is when did the Board ask her to attend the meeting and represent the Board and the Board's position on this item. Chairwoman Jarratt said she was asked to do this by Legal Counsel and by Mr. Shah. She said Mr. Shah had a conflict and couldn't go and she assumed that he was going to go there. She said it was also a fact that the Legislative Committee expected someone to go and speak for the MRGCD because they had the written letters that were out there just as there was someone there from EBID, CID and other major irrigation districts and a lot of other impacted water users. She said there were people there from all those groups that had questions. Director Sichler said she should have been there representing, but not the Board. Chairwoman Jarratt said she was speaking as Chairman of the Board reading from minutes. Director Sichler said she spoke as Chairman of the Board and she said I am Janet Jarratt, Chairman of the Board and I am here to represent the Board's view on this issue and that's what he heard. Chairwoman Jarratt said she read the content from the minutes. Director Sichler said this is just his opinion and others can go back and listen to the meeting themselves if they choose and Chairwoman Jarratt said that would be a terrific idea because she thinks this is a personal vendetta that he has and it is most unfortunate to the operations of the District because there are many times when the Chairman is asked to do things that fall outside of Board meetings. Director Sichler said the District is his livelihood and the District means an awful lot to him and the last thing he wants to see is the District dug down into the dirt so they don't have any friends left in the Middle Rio Grande Valley. Chairwoman Jarratt said that it wasn't any more his livelihood than it is hers. Director Sichler said it is his livelihood and they've made bad inroads with the ISC now and he's afraid if she's involved with the City of Albuquerque and he thinks that she has had a lawsuit with the City of Albuquerque so he has a concern and it may be an ongoing lawsuit on this very issue and he's not sure she is the proper person to be dealing with the issues they are coming up with here. He said that's his point for bring this up is that they could have handled this a whole lot better instead of dragging ISC through the dirt, he thinks they should have handled this as somebody that's a partner. He said Senator Sanchez threatened to cut off funding for the ISC and how did that help the District if the ISC can't cooperate in the ESA Collaborative Work Group and of all people she should know they need the ESA Collaborative Work Group. He said he was a skeptic of that group and after being on the Board, he understands how important it is. He said they are one of the only friends the District has on that Board and the District needs them and frankly he thinks they are probably reluctant to work with the District now and that's his opinion. He said he has nothing personal against anybody on this Board; there is nothing personal here. He said he is strictly here to look out for the interests of the District, the irrigators and the other constituents which he represents and that's where it ends. Chairwoman Jarratt said as am I and she said she is very familiar with ISC and they are professionals and they understand that the ESA Collaborative Program depends on all the non-federal partners; including the MRGCD. She said the ISC does not carry that bag alone and she

thinks that it is inappropriate for the ISC to come to the District and offer water to make the District go away on a deal and that is what they did. She said she thinks this is something else that is not very appropriate to do and she thinks the question comes from the District if you care about the District as she does and cares that her kids have an opportunity to continue on in agriculture then they need to be thinking about the future; not next year, but ten or twenty years from now and how they are going to be able to maintain that and that is her concern. She said the long term strategies of making sure there is wet water in the river and threats by ISC are exactly that. She said she can't tell him what the deal is, but Mr. Lopez has made it clear that he's not going to be in that position for much longer and she thinks that any indication that she is not looking out for the best interest of farmers and agriculture in this valley to the best of her ability or that she has a personal vendetta is patently ridiculous and she said she thinks Mr. Lopez would tell him quite openly that she has no personal vendetta with him whatsoever and they have worked well on a number of issues for the last eight years in the ESA Collaborative Program. Chairwoman Jarratt called for a vote on the report.

Director Dunning made the **MOTION TO APPROVE THE REPORT OF THE NM WATER & NATURAL RESOURCES COMMITTEE OF JULY 21, 2010**. Director Lente seconded the motion. The **MOTION CARRIED** unanimously.

Director Sichler said while they are on this issue he would like to make a motion as well. He made the **MOTION THAT NO INDIVIDUAL BOARD MEMBER INCLUDING OFFICERS OF THE BOARD SHALL AT ANY TIME IMPLY THE REPRESENTATION OF THE BOARD OF THE FULL BOARD ON ANY ITEM WITHOUT PRIOR DIRECTION OF THE MAJORITY OF THE BOARD TO DO SO**. Director Lente seconded the motion. Director Abelita said that last summer he was asked by staff to attend an awards ceremony and he felt he was chastised by the Chair for not letting her know and she told him that she wished he had informed her that he was going to the event. Chairwoman Jarratt said she asked Mr. Shah about it and it was fine with her anyway and she just thought it was her job. Director Dunning said this motion is not on the agenda and is wondering if this motion is ok. Dr. DuMars said he thinks it involves simply the procedural operations of the Board and is within the scope of the meeting. He said if it changes policy and to his knowledge, it has not been the Board's position that individuals go out and represent the Board without having approval of the Board and he said he doesn't think that this changes the policy at all and he doesn't think it's outside the scope of the Open Meetings Act. Dr. DuMars said if they are concerned about it then they could do it at the next Board meeting and he said she is correct that there is nothing about procedural representation for the Chairman and Board members outside the actual meeting without approval and no specific item that covers that. He said it is his view they can certainly do it next time and it is up to the Board. He said it might be wise and take a conservative approach and do it at next meeting. Director Meyers said if they do move this issue to the next meeting can they get some clarification. She said that on the prior Board there was someone that was very blatant about misrepresenting themselves and she would like to know for clarification and is there a policy. Dr. DuMars said there is a specific resolution that was directed at one Board member saying they shall not do that and that's out there, but is very specific. He said this is at the Board's discretion and they can put it on the agenda and discuss it. Director Sichler said he thought about the Open Meetings Act before he made the motion and he thinks his motion has a lot concerned with what goes on outside the Board meetings and that's why he thought it would be appropriate under the report concerning a meeting and that's what his issue is with this meeting and he thinks he would just as soon go ahead and vote on it and that is his opinion. Chairwoman Jarratt said for instance she was asked to speak and make comments at the Route 66 Ribbon Cutting about that issue and that is just one example of the things that she is asked to do. She said her question is does that mean that something like that would go before the Board or does that mean the comments would be vetted or what does that mean. Mr. Shah said he has been with the District for thirty years and has worked with different boards. He said normally the Board has allowed him to make some decisions because some of the issues that deal with the individual counties and he speaks with the Director in that County because it affects them and he does that quite often. He said it would take considerable time if he had to talk with each member on everything that he does and he wants to do what he was doing before which was to involve the Director from that particular county and then make a report. Chairwoman Jarratt said the situation that Mr. Shah was talking about was regarding the Whitfield Site and the meeting included the Soil and Water Conservation District, the Fish and Wildlife Service, and Audubon and was not very many miles from her house and that is why she requested if there is something happening in each Board members county, then he should let them know there is something happening because it is their county.

Director Sichler said his motion did not include staff; it just included individual Board members. He said in other words an individual Board member isn't to attend a meeting or event and speak on policy or issues concerning the District and claim they represent the full Board unless the Board has requested they specifically do that. He said he doesn't have an issue with the Board sending someone to do something, he doesn't have an issue with somebody attending a ribbon cutting. He said he has an issue with Board members attending very important meetings such as this one and others and making statements and people taking that statement to be meant as their speaking for the Board when they are only speaking for themselves and that is the intent of his motion. Director Dunning said her preference would be to wait until the next meeting, but if they vote on it tonight she said there is a difference between doing something that is essentially like public testimony as opposed to doing PR stuff and she wants to make sure that it is clear that it is public testimony stuff they are talking about. She said if the District doesn't have a PIO, she doesn't have a problem with Board members helping out with public relations stuff by having them present at ribbon cuttings. She said there is some way they can differentiate between something if it's public testimony, if that's the way the differentiate, but she really does think there is a difference and she doesn't really want to tie Board members. She said the reason she doesn't is because between Board meetings if there is something that Mr. Shah can't attend, you might want a Board member and that Board member says well I can't go and say anything because I'm not directed by the Board. She said she thinks they have to be careful not to tie the hands of the District in terms of their ability to do public relations. Director Sichler said he thinks he can comply with Director Dunning's request if he can withdraw the motion and restate it with the permission of the Board. Director Sichler restated the **MOTION THAT NO INDIVIDUAL BOARD MEMBER INCLUDING OFFICERS OF THE BOARD SHALL AT ANY TIME IMPLY THE REPRESENTATION FROM THE BOARD WHILE PRESENTING PUBLIC TESTIMONY OF POLICY OF THE BOARD WITHOUT PRIOR DIRECTION OF THE MAJORITY OF THE BOARD TO DO SO.** Chairwoman Jarratt asked does that mean if a Board member is at a community event and they are asked about what the policy is on say the Bridge policy, can they inform the community about that or not do that. She said there are things like that arise a lot in public meetings; they all go to neighborhood meetings and people ask questions about the District. Director Sichler said in that situation he would probably respond to his constituents that the policy as he understands it is such – not as the Board says this. Director Dunning said that she does not consider going to a neighborhood meeting as public testimony. She said she thinks by putting public testimony in there it certainly implies that something is recorded and it actually satisfies her concern. Dr. DuMars said he wanted to be clear on the motion. He asked can the public testimony, that is words describing the kind of thing that happens when you are before a legislative committee or a city council meeting, is that your intent for the motion. Director Sichler said that since he is including the Chairman in the motion that it needs to be not only public testimony, but any meetings where any negotiations or policy with other public officials. He said it's getting very complicated now. Dr. DuMars said public testimony and negotiations and Director Sichler responded yes. Chairwoman Jarratt called for a vote and the **MOTION CARRIED** unanimously.

d. Report on ISC Meeting – July 22, 2010 – Chairwoman Jarratt

Chairwoman Jarratt said that the ISC did an indefinite deferment for the motion to move forward and then there was a motion made to ask the ISC to move forward with doing allocation criteria: criteria to allocate credit water and how that's going to be done isn't clear. Dr. DuMars said he thinks the clear import of the second motion, the first was simply an orchestrated motion to postpone, the second one was to direct Director Lopez to adopt criteria for determining who gets the allocated credit water for allocation which is one of the major criticisms of everybody. He said that what he expects will happen is that Director Lopez will come up with some criteria and he is hopeful that he will involve everybody this time and then when they go before the Board, they have had the Pueblos consulted and everybody has been consulted and its not a unilateral decision, but rather a collective decision that involves consideration of everybody's viewpoint. He said at that meeting there were many, many people that were there to testify and present testimony and the District is just one of those. Dr. DuMars said he thinks they realized that to step in very quickly and take a position that there is absolute power in one person to decide who can take water without criteria is not appropriate. Director Dunning asked if it was his impression as Director Sichler was saying that it was dead in the water or is this the end and it will go away or do you think they will move forward with coming up with criteria and politically what is his sense. Dr. DuMars said that he does not have any sense of it and he was out of state when the Water & Natural Resources Committee met and he was frankly stunned

at the way in which it went. He said it was very clear that they were not pleased with the way it had been packaged and if he were a member of that staff he would be very concerned. He said that he has no idea what's going to happen, but he does know that it will not go forward until they have had a full vetting of the ownership issues and the allocation criteria and once they begin that process then the District will be a major player in determining what the criteria should be because that is the District's position; whether it is in the context of Intel or not, Intel may just be one example. Director Sichler said it is his understanding that once the ISC pulled out of this agreement that the Water Utility Authority basically picked it up and that could probably cause problems for the District. Chairwoman Jarratt asked if he meant by picked it up that they would provide water for Intel. Director Sichler said that he has been told that the Water Utility Authority said they would provide water to Intel in exchange for the 756 af of water and the Intel return credit would go to the Water Utility Authority; he said he heard this from a reliable source. Chairwoman Jarratt asked if anyone knew of this and said that one thing that did come out of the Water & Natural Resources was that the Water Utility Authority was in opposition to the Intel contract because they believe they have a claim on some of that water and there were some specific questions asked and what she heard was that the Water Utility Authority does not get credit for the return flow. So of the 2,500 or so af that is returned to the river that is return flow credits for Intel and the Water Utility Authority processes that, but gets nothing for it. She said that Jay Stein in his testimony said that the Water Utility Authority has the ability to take that 2,500 or so af and not return it to the river, but rather to use it in a Reclamation project or for surface irrigation. She said the day they did something like that all of Intel's water rights come due and so she thinks there are a lot of things in the mix because that came out of the testimony and it seemed to her that there were questions regarding the newspaper article where Mr. Stein made some of those comments that the Water Utility Authority is opposed to the contract for those reasons. She said that she doesn't doubt that what Director Sichler said may be true, but she thinks that there is a lot at work there because the ISC's agreement wasn't going to be completed for several years and the Water Utility Authority, based on Jay Stein's commentary, had a pretty good hammer over Intel to make a deal if they had stopped returning that to the river; and Jay Stein is certain that they have that power. She said she doesn't know if that is true or not and she has relayed this to Legal Counsel who had other opinions on that, but there is a lot at work in this contract besides just the irrigation districts. Dr. DuMars said that Intel is a huge company and they don't make precipitous decisions, they have to go up through all kinds of chains of command and whether Albuquerque supplies the water or that Rio Rancho might be a supplier and what they may do he doesn't think anyone can really tell at this time. Dr. DuMars said that he has not heard about Albuquerque supplying the water, but they can only speculate as to what might happen. Director Sichler said it is very possible that he misspoke and probably his remark should be disregarded. Mr. Shah said at the last Board meeting the Board authorized staff to speak with the ISC and they will continue to talk now and see if they can find more about it. Chairwoman Jarratt said her personal opinion would be certainly, particularly now if they are looking at allocation criteria it would be even more important to be discussing that. Mr. Shah said he would like to clarify that he is allowed to speak with the Directors if there is something happening in their county and he can call on them to attend that meeting or function. Chairwoman Jarratt said she didn't think that Director Sichler's motion impacted that and she asked Director Sichler if that was his intention and his response was no.

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

The meeting was adjourned at 8:15PM.

Approved to be the correct Minutes of the Board of Directors of July 26, 2010.

Attested:

Steven L. Houser
Secretary/Treasurer

Janet Jarratt, Chairman
MRGCD Board of Directors