



MINUTES OF THE EMERGENCY MEETING
January 20, 2011

Supervisors Present: Felipe Lovato, Jr. – Chairman
Jerry Melaragno
J. Brian Greene
Richard Shovelin
William Caster
Dan Williams

Absentees: LeRoy Candelaria

Others Present: Dierdre Tarr, District Manager
Brent Racher, Claunch-Pinto to Core Steering Committee, Estancia Basin Watershed Health, Restoration and Monitoring Project (EBWHRMP)
Cheri Lujan, District Manager, East Torrance SWCD
Karen Lessard, US Forest Service, Mountainair
Lawrence Crane, NM State Forestry
Brenda Smythe, District Manager, Edgewood SWCD

CALL TO ORDER:

The Claunch-Pinto Soil and Water Conservation District (CPSWCD) emergency meeting of the Board of Supervisors was called to order by Felipe Lovato, Jr., Chairman, at the Claunch-Pinto office at 121 West Broadway, Suite 108, in Mountainair, NM at 7:32 p.m. Chairman Lovato welcomed those present and thanked them for taking the time to attend the meeting.

ABSENTEES:

LeRoy Candelaria

APPROVAL/DISAPPROVAL OF AGENDA:

The Board reviewed the agenda as presented. **ACTION TAKEN:** Richard Shovelin moved to approve the agenda. Dan Williams seconded the motion. Motion carried.

UNFINISHED BUSINESS:

Letter from NM State Forestry – Lawrence Crane, Special Projects Forester NM State Forestry, Bernalillo

Lawrence Crane explained the content of his letters dated January 19, 2011 to the Claunch-Pinto Soil and Water Conservation District (CPSWCD) regarding Joint Powers Agreement No. 10-521-2301-0248 and project Work Plans Nos. 10-06-817 and 10-06-829. He stated that after an extensive investigation of issues concerning the East Torrance incentive program by NM State Forestry and their attorney in Santa Fe, it was decided that there is no contractual language in our contract to require CPSWCD to deduct the amount of the incentive payments from the gross amount being paid to the land owners. Therefore, the three landowners CPSWCD paid in full without deducting the incentive payments (Robert Montgomery, Rosalinda Romo and Nancy Klemich) and then CPSWCD had to reduce their reimbursement request to NM State Forestry by the amount of the incentive payments; NM State Forestry is now willing to reimburse CPSWCD for these payments.

NM State Forestry has determined the East Torrance SWCD (ETSWCD) incentive program is not bound by the NM State Forestry contracts with CPSWCD. From a contractual legal stand point NM State Forestry does not have the right to tell ETSWCD they cannot have an incentive program. It is still the opinion of NM State Forestry and Mr. Crane that the ETSWCD incentive program is not a good idea. Mr. Crane stated that despite these decisions, it is his opinion that paying incentives violates the intent of the grants, does not work to get projects finished on time and negatively affects the quality of the thinning projects, causing harm to the land. In addition, contractual language clearly states that all activities by all three districts have to go through the EBWHRM Core Steering Committee. Paying incentives was not brought to the EBWHRM Core Steering Committee for discussion.

A question was raised as to whether CPSWCD still has a fiduciary responsibility to abide by the project rates that have been approved by the EBWHRM Core Steering Committee and included in the CPSWCD work plan with NM State Forestry. Mr. Crane said that the approved rates have to be used.

He asked if ETSWCD would have to issue 1099s to land owners who received incentive payments. These same landowners will receive a 1099 from CPSWCD for the payment on their contract for the approved cost of the project. When these two 1099s are filed on the landowners' tax return it will show the landowner received more money than the approved project costs as approved by the EBWHRM Core Steering Committee.

Mr. Crane has worked with these Federal grants through NM State Forestry for the past seven years. He knows the grant program wants to see landowner buy in on the projects.

Mr. Crane emphasized the importance of maintaining consistency among the four SWCDs and on preserving the credibility and image of the projects.

Discussion continued on the need to bring all activities to the EBWHRM Core Steering Committee and the need to follow the rules regarding the relationship of the districts to the committee.

ETSWCD District Manager stated that the Water Trust Board, Wildland Urban Interface, and Non-Federal Lands grants paid different rates and required different technical fees. Thus, the ETSWCD attempted to level the playing field for its land owners.

At this point Brian Greene called into question the legality of the emergency meeting. He stated that he did not feel that this meeting met the conditions required by the "Open Meetings Act Compliance Guide for an emergency meeting. He read the following:" An emergency refers to unforeseen circumstances that will likely result in injury or damage to persons or property or substantial financial loss." Believing that the meeting was illegal, Mr. Greene left the meeting.

Discussion followed on the potential financial losses to land owners and Claunch-Pinto resulting from the East Torrance incentive program.

Estancia Basin Watershed Health, Restoration and Monitoring Project – Direction for Estancia Basin Watershed Core Steering Committee Representative – Brent Racher

Mr. Racher stated that he wanted formal direction from the CPSWCD Board of Supervisors on the stance he should take at the EBWHRM Core Steering Committee meeting on January 24.

The CPSWCD District Manager reviewed the history of the EBWHRM Core Steering Committee and the addition of new members with their different backgrounds. Lawrence Crane pointed out the benefits of having members with a wide variety of diverse skills and backgrounds. The CPSWCD District Manager explained how practice plans are developed by districts, approved by NM State Forestry and then the contracts are written by CPSWCD. She explained the EBWHRM Core Steering Committee reviews, approves or disapproves contract extensions; approves the division of the available funding for projects; discusses and makes decisions on problems associated with the projects. Mr. Racher explained the relationship of the EBWHRM Core Steering Committee to CPSWCD. Mr. Crane stated how important collaboration is to the success of applications for grants. Mr. Racher said that he fully supports collaboration among the districts but that he was not sure that it was in the best interests of CPSWCD to continue working with the ETSWCD. Discussion followed on the possible negative effects on future funding because of the ETSWCD incentive program, on whether the ETSWCD should be allowed to continue to participate in the EBWHRM Core Steering

Committee or be allowed to participate in grants, on the fiduciary responsibility of CPSWCD, on the credibility of the districts with funding agencies, and on the professional conduct of the districts in administering the grants. Various improvements were also discussed in order to tighten procedures in monitoring grants and in refining contracts to clarify requirements.

ACTION TAKEN: Richard Shovelin moved that CPSWCD recommends to the EBWHRM Core Steering Committee that no additional payments can or will be paid to any contract administered by CPSWCD other than what the contract calls for. William Caster seconded the motion. Motion carried

Strengthening contracts, the failure of East Torrance to follow established processes, collaboration among the districts, and the amount of remaining funds were discussed by the Board. Supervisor Melaragno asked for clarification on the use of the funds for other purposes. Supervisor Melaragno asked if the ETSWCD landowners would be able to go to CPSWCD or Edgewood SWCD and obtain a thinning contract. Lawrence Crane explained how Ciudad and Edgewood SWCD work together with the landowners in the two Districts. Supervisor Melaragno explained the real strength of the program has been the cooperation and dealing with the Estancia Basin as a whole. He would like this to continue in some way in the future.

ACTION TAKEN: Richard Shovelin moved to permanently freeze the remaining funding for the ETSWCD and allocate them where they are needed. Jerry Melaragno seconded the motion. Jerry Melaragno asked for clarification on the motion. Motion carried.

NEXT MEETING SCHEDULED:

The next regular meeting will be held Friday, February 11, 2011 at 8:00 a.m. at the Mountainair United Methodist Church Fellowship Hall, Mountainair, New Mexico.

ADJOURN:

There being no further business to come before the Board. **ACTION TAKEN:** Richard Shovelin moved to adjourn the meeting at 9:00 p.m. William Caster seconded the motion. Motion carried.

FELIPE LOVATO, JR., CHAIRMAN

RICHARD SHOVELIN, SEC. – TREAS.