

MDWCA Meeting – February 27, 2010 1PM

Guest Speakers: Matt Holmes, New Mexico Rural Water Association
Ron Romero New Mexico Environment Department,

Board Members: Sabine Shurter, Suzanne Star, Judy Kilburg, Kent Wolford.

Shurter introduced the purpose of the meeting. Developing ideas on how to deal with our aging water system issues in the future. Low tank levels on system 1 recently required a shut down for tank recovery. System 2 seems to be stable at this time.

After conversing with engineers, we are nearing the end of the system's useful life. We expect to receive Phase 1 of the preliminary engineering report possibly by end March. Follow on Phases will be based on findings of our work that is planned for this summer; testing for household leaks, checking and repairing isolation valves, distribution line leak detection and fixing leaks. The cost of this work has not yet been determined. In order to be prepared to finance this work we have been considering special assessments, or public funding which would require us to change our organizational structure to a Mutual Domestic.

Matt Holmes (NMRW) addressed the construct of a MDWCA:

NMRW provides free training and technical assistance. MDWA is a complicated issue. It is up to the association membership to decide how to proceed with the information that is provided. There are pros and cons to every decision.

PVC has a useful life of approximately 50 years and is dependent on the installation process. With expansion and contraction of the soil, it is not unusual to expect we may be finding problems with our main line joints after 30 to 40 years.

To run the system more effectively, one option would be to split out the water system which could have the same people on both boards. The structure could be a HOA, Coop, or a MDWA.

MDWA is a public entity and run by the state. The Board would be subjected to higher standards of accountability. There will be different laws that need to be complied with. The trade off is that we could qualify for federal and state funding at lower than market rates, or grants, although many grants are based on income level and priority is given to poverty level communities, grants will be difficult but not impossible. Obtaining grants will depend on the willingness of the board (and the membership) to look and apply for grants and loans. Many MDs have been very successful and now have working systems and sufficient reserves in their accounts while others are struggling. It will depend on the community to make the MD work.

The cost to repair/replace the system is going to be high. The fed and state funding situation is bleak at the moment but it can change and if we move ahead with the MDWA, we would be in place to take advantage of monies when they are available. One funding source is the American Reinvestment and Recovery Act (ARRA) stimulus funds designed for those communities that already have their plan in place and are ready to proceed. There is also legislature funding.

We have two choices:

- remain private and maintain total control/autonomy over our assets, subject to fewer laws, but looking at paying for our improvements by ourselves. Most likely through member's checkbooks or possibly some funding but it won't be subsidized. The infrastructure would have to guarantee the loans. or
- MDWA –

Member: what dollar amounts to upgrade the system?

A: Could be in the millions of dollars. Construction is not cheap and construction costs have risen over the past years. That is what the Preliminary Engineering report (PER) would answer. The PER will give recommended alternatives.

Member: For 1.5 million it would be approximately \$10,000 per household.

Member: If the association votes to change to a MDWA, any member could choose to drill his own well?

A: Yes. Mutual Domestics cannot compel anyone to hookup to the MDWA.

Member: If I choose not to become a member of the MDWA does the eminent domain authority go away?

A: Not necessarily, MDWAs have a weak power of eminent domain. Association can condemn a right-of-way if it's deemed a necessity for the water association. The Board will have that power.

Romero: An MDWA is all about public health and the regulations are going to continue to get more complicated and harder for water systems.

Shurter stated that conversation with Nathanson (NMRW engineer) and George Scott, engineer with USDA, suggested that if we replace the system it might be to our advantage to replace in the same path instead of moving the lines which may offer us a categorical exclusion instead of the need for a full Environmental Assessment Report (EA) which could be expensive. An EA is a requirement for Fed funding. We may succeed with a categorical exclusion in the Phase 1 report as it is expected to only include meters and isolation valves which would not disturb new land . And it is possible that a new system could be installed in areas that have already been dug up.

Member: if a person joins the MDWA and loans are secured, then it would be those that are MDWA members who would be paying it back and those that don't join and are receiving water would not have the obligation?

A: if you are not a member of the MDWA, you will not receive water.

Member: If we put the lines to the side of the road would we be subject to an EA?

A: Only for Fed funding, however it depends on the situation of the road easement and we could expect some investigation might be required regardless of lender.

Shurter stated that as we progress now with the replacement of the isolation valves, relocating them at a later time will double our costs and efforts.

Romero suggested that moving the existing infrastructure will be a delicate balance between supplying water while the improvements are being made. But it can be done.

Member: question on easements for telephone and electric.

A: situation is typical and should be investigated and reported by the engineer.

Holmes: MDWA are exempted from the PRC regulations as long as we charge our rates equally to all members.

Shurter: those who don't hook up at the onset, can they be charged to make up the past avoidance of fees?

A: yes, there are fees that can be set by the Board.

Some hookup fees for members who choose to join later, have been noted up to \$10,000 - \$15,000 (e. g. Albuquerque East Mountain area). If there are water rights deficiencies, this could prohibit additional hookups.

Holmes: rates are determined by the Board. Members have the authority to elect the Board. There will be additional requirements by the lenders to ensure payback is satisfied. Rates need to be a reasonable reflection of operational costs.

Some private non-MD systems have rates as high as \$250 per month so that they can fund their own improvements and reserves and they don't have to deal with the "red tape", but they don't have a system that is falling apart like ours. They chose not to be regulated so they opted for higher rates to raise the funds for system upgrades.

Member: We don't have much in reserves, so how do they get funded?

A: Gradually. Have to start somewhere and start the savings plan.

Holmes: We're behind 2 eight balls; our system is falling apart and we're looking to fund future expenses. Can't do it all at once. These are the issues the board will have to struggle with. These issues will be there regardless of becoming a MDWA or leaving the status quo. We're trying to make up for 15 years of past neglect as well as looking ahead 15 years.

Ron Romero (NMED) will address funding options.

The NMED doesn't care how we maintain public health. To bring the system up to date they (funding agencies) look at 3 components: management, financial and technical. The technical people can only do so much with this water system with limited funds to make improvements.

50%+ leaks mean, more chlorination, more electricity also strains the water rights allocation. You elect a board to make good solid management decisions. They make the tough decisions.

The MDWA will be a separate board from the SLP Board.

Members: Can the board be compensated? We have much difficulty trying to keep members on the board.

A: It's up to the members. Conditions can be put in the Bylaws such as giving free water to board members as a compensation for their work. Reimbursement for costs such as training and transportation are reasonable. The majority are volunteer Boards. Depends on how you want to treat your Board.

Financially, if we separate out the water system from the rest of the association responsibilities, we will know exactly what it takes to run the water system.

We have 3 options: Do nothing and start having homes without water, get positioned for funding opportunities, or do piecemeal fixing and funding.

Member: private ownership of well regulations question.

A: no regulations for wells drilled by private owners, but quality of water could be questionable which is the responsibility of the owner. The quality of water could be questionable especially with systems in areas with septic tanks (like SLP) which is the responsibility of the owner. The main concern with a private well is how much it's going to cost, what contaminants are in the water and maintenance expenses. Being on a public water system ensures accountability, and that water is safe.

Member: Are we still guaranteed 3 ac ft with a well permit?

A: No, now it is 1 ac ft and \$125 permit fee. State Engineer does not view the permit acre foot as a water right for domestic wells. You have the right to use the water but cannot sell the "water rights". The main concern with a private well is how much it's going to cost, what contaminants are in the water and maintenance expenses. Being on a public water system ensures accountability, and that water is safe.

We are getting exactly what we paid for. Not preparing for the future back 15 years ago, we are now paying the piper.

Member: What kind of response do you get from people who have converted?

A: They are happy to be able to get monies and upgrade their systems.

The Sanitary Projects Act will answer all the questions. [It is posted on the SLP website] Once you form a MDWA there is no provision to dissolve.

Ten years ago there was plenty of appropriation money. Today it is less so. There is some Fed and State grant money depending on if we can qualify. In any event, the system is not going to fix itself. Doesn't make any difference how we fix it as long as we fix it. If the SLP association is willing to do it, they are going to need rates, budgets, and show the funders we can pay it back and the big hurdle is that we are a private entity. There are 1 or 2 funding sources available for private entities. A MDWA will open it up to multiple sources. It's up to the community to decide.

Member: It would be interesting to discuss the \$10,000 per household fee as a community effort vs the cost of private ownership of a well.

A: The cost of a private well will exceed \$10,000. With septic systems and fracture flows, contamination is possible. There is no guarantee that drilling will produce potable or a good quantity of water. Many dry holes have been drilled in SLP. The SLP community pays about \$500 each year to have its water tested. The cost of testing a private well can be as much as \$3,000. As a MDWA the community can get subsidized money, which reduces the cost.

Member: concern about making the right decision because we can't back out. We are not guaranteed money.

A: Once we become a public entity (MDWA), you can't turn around and give those assets back to an individual. That violates the NM constitution Anti-Donation Clause. That is the same clause that is preventing our private association from receiving grants. We cannot be enriched with free State or Fed money. We might find a legal way around the issue, but it will cost in legal fees.

Member: How are rates set?

A: Rates are set on rate setting analysis. NMED regulates the board and water quality issues. If there is negligence found, NMED can request an investigation into the procedures being implemented.

Member: Are we required to get a 2/3 majority to vote in a MDWA and how are we going to do that?

A: Yes, we are still regulated under the SLP Bylaws.

The SLP association is going have to vote to transfer the water assets to the MDWA, and the power to run this new entity.

Member: what will be the costs?

A: That should be supplied in the PER and what the association wants and what we are willing to pay for will ultimately determine the costs.

Member: It generally appears that the membership wants something done.

A: The PER will give us an outside idea of what we need.

Member: It might take a crisis to get their attention.

There is money out there. We need to determine how much we can afford, how we have to adjust our rates to handle some debt. The longer we wait, the longer the line is to get the money.

Shurter: The reason we decided to move ahead and bring it up for vote is that around 10 years ago SLP was at the same juncture. The arguments were the same, including who is going to do all the work. The Board can't do all the work. It will take membership participation. Because it was too complicated/time consuming for the Board to consider, the issue was dropped and the money that was there we were not able to take advantage of.

Romero: Once the tools are in place we do not have to reinvent the wheel. The foundation will be in place for future boards. Going down any path to make improvements is a necessity.

Member: It's important that we be totally open and honest about this process. The PER is a good start and to have a definite plan, definite dollars and a definite timeline. Our homes have already been discounted by local realtors because of our water system situation.

Meters will be a part of the Phase 1 report. Holmes stated that we should be running like a "business" and meters are the "cash register" of our business. It's a way to raise revenue for improvements. Meters are extremely helpful for determining leaks, how much total water is used. There is no way any technical staff can determine our actual use or loss rate because there is no way to gauge the homeowner use.

Romero suggested meters are a measure to help ourselves, we don't need to have unlimited use or waste of water or leaks that can put the entire system out of water.

Member: Will the PER entail the details as posted on the sample on the website?

A: We expect this is the same set of guidelines that the engineer will be using. We can always take the engineer report to another firm and pay by the hour to procure another opinion. This report is being provided to us at no cost because it appeared we had a need. It will save the association approximately \$35,000-\$50,000. We have to be on top of our engineer report and the Board has to make the decisions.

Once Phase 1 of the PER comes out, (end of March) we plan to send it out to the membership and could possibly have another meeting for discussion with the engineer in attendance or gather questions and send to the engineer for response.

The continue-on Phases will be predicated on what we find after the valves are repaired and leak detection has been accomplished. The complete PER may take up to 2 years as it will be a work in progress; each Phase building on the former.

In the interim, we will need funds to get the system into a state to be tested. Work based on the PER will fix some of our problems and will give us more information. It is our objective to move ahead with a vote from the membership on the MDWA in a relatively short time so we can get into the funding queue. In any event we will most likely be requesting special assessment(s) to cover the beginning work.

Member: At what point can the Board decide to abandon the system. And if that could happen, could any group of people start their own MDWA?

A: Technically any group of persons could start their own MDWA. But there would be conflict with the existing water system. Starting from scratch would be difficult. It would behoove us to build the community support. To work with the existing water system everyone would incur less financial hardship. People may threaten to opt out, but being shutoff might change their opinion of smaller payments over time vs one big payment and the risks and expense of drilling a private well.

Member: Lots of people don't want to be subjected to government oversight; a problem trying to develop support for a vote.

A: The system is in disrepair and if we expected to have a viable system we should have been paying a lot more money. This type of attitude is going to seriously impact our situation. If people don't want to have anything to do with the MDWA they can opt out and drill their own well. It would be wise that we don't wait until the crisis to take action.

Meeting adjourned 3:30pm