

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
August 13, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, August 13, 2008. The meeting was called to order by President James Salopek on a motion by Robert Sloan, seconded by Tom Simpson. Motion carried. Willie Koenig and Jerry Franzoy were absent.

Roll Call

EBID Staff present were Gail Norvell, Controller; Henry Magallanez, Engineer; James Narvaez, Hydrology Director; Leo Barrett, Project Maintenance Director; Valerie Beversdorf, Computer Resources Director; and Richard Bejarano, Water Master.

Also present were Steve Hubert and Steve Hernandez, Hubert & Hernandez, P.A.; Phil King, Hydrology Consultant; John Hernandez, Water Quality Consultant; Fernie Ortiz, City of Las Cruces; Calvin Chavez and Rasool Ahadi, Office of the State Engineer; Sammy Singh Jr. and Enrique Lucero, EBID Constituents; Sergio Bejar, EPCWID#1; Kyle Mobley, Phillippous Group; Stan Ellis, NM State Parks; Diana Alba, Las Cruces Sun News; and Marvin Tessneer, The Bulletin.

Bill Gary motioned and Robert Faubion seconded to approve the minutes of the July 9, 2008 Board meeting as presented. Motion carried.

Minutes Approval

Joe Nelson motioned and Robert Faubion seconded to approve the minutes of the Water Transfer Hearing 2008-S&T-8 held July 9, 2008 as presented. Motion carried.

The water supply outlook was presented. The storage totals on August 1, 2008 with a comparison for last year are as follows:

Water Supply

	8/01/2007	8/01/2008
Elephant Butte	626,130	625,550
Caballo	<u>39,340</u>	<u>56,340</u>
	611,430	682,470

Items on the calendar were discussed. Dates include:

Calendar of Events

The NM Dam Owners Association Meeting to be held August 14-15th in Albuquerque; Blue Sucker Public Information Meeting, August 14th; Rio Grande Compact Commission tour August 28-29th; Interim Legislative Water and NRC on Funding for RWP meeting in Albuquerque, September 18-19, 2008.

The next meeting of the Board of Directors will be held on Wednesday, September 10, 2008.

Leo Barrett, Maintenance Project Director, gave the Maintenance Department Report. Leo reported that he has six spray trucks running to keep on top of the weeds. He also said that repairs on the Leasburg main are completed. Leo discussed a six-year old Volvo excavator that was vandalized and burned last month. The excavator was parked on the Dominguez farm property. Several other vehicles in that area have also been vandalized.

Maintenance Report
Vandalism

Valerie Beversdorf, Computer Resources Director, gave the CR-GIS department report. She discussed projects currently in progress. Seven new laptop computers are being programmed to replace laptops in hydrology.

CR-GIS Update

Henry Magallanez, Engineer, gave the Engineering Department report:

Engineer Report

The release of easement on Dona Ana Dam on behalf of Stan Hargraves was tabled due to the effects of the proposed new construction on the Dam which will require NRCS comments.

On the matter of Mr. Fresquez' request to excess ROW on Santo Tomas Drain, the District has received no response from SHPO, according to the MOU with SHPO, EBID will continue with the process to excess this property. Legal approved EBID continuing after no response from SHPO within the 30 day time frame.

Two variances to our reclassification criteria were presented: The first was for City of Las Cruces as a SWUA for the lands included from the boundary expansion for placing water rights on the new property and the second for the New Mexico Bosque State Park to be able to take water from the drain as a delivery point. Henry recommended approval of both variances. Robert Faubion so moved, seconded by Tom Simpson. Motion carried.

Variances

Henry presented the Special Use Permits for the month August, 2008 as follows:

Special Use
Permits

Under Moratorium

- 08-L-040—La Union MDW&SA; To construct, operate and maintain a new buried water line crossing the Little La Union Lateral at approximate station 104+01, West Drain at approximate station 340+07, La Union West Lateral at approximate station 343+19, Central Drain at station 54+18, Baker Lateral at station 71+57 and parallel the Central Drain approximately 1300 feet. Assessment, \$19,153.36.

Non – Moratorium

- 08-L-041 – Enrique Lucero: To operate and maintain an existing 48” storm water discharge pipe into the Selden Drain at approximate station 176+00. Assessment, \$1,478.35. Request to waive all fees, \$1,478.35. This permit was authorized to allow storm water to enter the Selden Drain. This permit was established due to the fact that a permit by the BOR did not exist on the original pipe installation. It was established that on a case-by-case basis those types of permits are ‘cleaned up’ when they are discovered. After the flood of 2006, the pipe was replaced with a 48-inch for existing 18-inch CMP under engineering standards. However, flood water from several wild arroyos also contributed to the excessive amount of water in the vicinity. In order to allow for the permit, it was also recommended by the Engineer that a maintenance contract be initiated with Mr. Lucero, the farmer in the area, to give the district the ability to provide maintenance if the district wished to do so. Steve Hubert addressed the Board about the tremendous amount of water due to a flash flood event in the area and caused severe flooding to several homes, including his own. EBID staff has been assigned to evaluate all the parameters of protecting the area from future flooding. Steve Hubert stated that before an O&M agreement could be finalized, EBID staff would need to establish the necessary easements, description, and ROW protections. The O&M agreement was tabled until this matter could be further investigated by legal and EBID staff. The discharge permit was approved, and the maintenance was to be evaluated, tabled.
- 08-L-042 - El Paso Electric Co; To construct, operate, and maintain a new aerial electric power line crossing the Rodey Lateral at approximate station 154+10. Assessment, \$3,166.67.
- 08-L-043 – John Flemming; To operate and maintain an existing vehicle culvert crossing on the Upper Chamberino Lateral at approximate station 452+39. Assessment, \$1,566.67. Request to waive all fees. \$1,566.67.
- 08-L-044 – Zohrab Samani: To operate and maintain two (2) vehicle crossings the West Side Canal at approximate station 555+67 and the Lewis Spur Drain at approximate station 1+50. Assessment, 3,233.33. Request to waive land use fee, \$1,900.00

Total Assessments For All Permits = \$28,598.38
Total Fees Requested To Be Waived = 4,378.35
\$24,220.03

Tom Simpson motioned and Robert Faubion seconded to approve permits 08-L-040, 08-L-041, 08-L-042, 08-L-043 and 08-L-044 with fees waived on 08-L-043 and 08-L-044. Motion carried.

Henry discussed an in-parcel transfer of water rights for NMSU due to development of the convention center and hotel. NMSU was requesting to move water from one parcel and stack it on another NMSU owned parcel. This would involve stacking water on two tracts. Motion to accept by Robert Faubion, seconded by Bill Gary. Motion carried.

Ricardo Bejarano, Water Master, gave the operations report for the month of July, 2008 as follows: Farm Deliveries, 1,657; Acres Irrigated, 42,526; AF Charged to Farmers, 16,901; Actual Total Diversion, 35,190; Allotment Balance, 96,723; Breaks, 1; Run over, 0; 2008 Diversion Efficiency 48% as compared to 2007 at 53%. Total breaks for the 2008 irrigation season to date were 18, and 0 runovers.

Operations
Report

James Narvaez, Hydrology Director, gave the Hydrology Department report for July, 2008 is as follows: Orders totaled 218,119; Actual Diversion was 219,627; Using 1,508 AC/FT; Estimated Carriage Losses were 39,308; Adjusted Diversion 180319; Diversion vs. Order was -0.7%; Total Spill was 4,589; % of Diversion Spilled was 2.1%, Charged to Farmers, 126,155; and Delivery efficiency, 70.0%. James said that the efficiency rating had dropped due to rain. Efficiencies in different areas were as follows: Arrey 69%, Leasburg 67%, Eastside 53%, and Westside 46%.

Hydrology
Report

Rain gages in various areas were as follows: Arrey 4 inches; Garfield 3.5; Hatch 8; and Rincon 4.7; LC yard 4; Mesquite 4, La Union 4, and Anthony 4. Bill Gary said that some rain gauges in Hatch had over 13 inches.

Phil reported that we had used 20,000 AF since the reports were printed, leaving the remaining allotment at 76,000 for the rest of year. Phil recommend not to increase the allotment but rather to stay at 2.5 AF for the remainder of the season. He said that if we increased the allotment, we could possibly have to shut down earlier. He stated that at this point we are comfortably over allocated and would not recommend an increase in allotment. However, weather conditions and crop demand could allow more water to become available.

Robert Sloan asked why we couldn't increase the farmers' allotment when the BOR says we are 94% of full supply? After much discussion, Robert Sloan motioned to increase the allotment to 3 AF. Bill Gary seconded the motion. There was no vote at this time. The matter will be discussed in closed session. After closed session the board reconvened to raise the allotment another 6 inches to a full 3 AF allotment and the last day to order will be determined by project water allocation availability. The motion to raise the allocation by 6 inches was made by Robert Faubion, seconded by Tom Simpson. Motion carried. The Board did not address the small tract schedule at this time.

Gail Norvell, Controller, gave the report for her department:

Controller Report
Financial Report

The Financial Fact Sheet for the month of July, 2008 is as follows: Cash in the bank totaled \$294,868; assessments receivable totaled \$374,794; and investments totaled \$3,596,890 for a grand total of \$4,266,552. This amount reflects a decrease in assets of \$(670,991) over July, 2007. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$2,715.

Gail gave an update on the well meter loan program. \$46,594.37 is the total amount of down payments received from constituents for well meter loans. Gail will continue to process the well meter transactions and review these to complete the well meter fund and recommend status of the loan proceeds from ISC.

Well Meter Loan
Program

Spill water was presented for board review. Robert Faubion motioned that if there if no mechanism to account for this water, that it be given without impact as it is better to put it on a field instead of back in the river and that the water not be charged against the farmer's allotment. Bill Gary seconded the motion. Motion carried. The board directed that a policy be established for approval in the future.

Spill Water

The matter of the Request for Interest for the Tortugas property was discussed. An executive committee and staff and consultants meeting will be set up to move forward with the process.

Tortugas RFI

On the matter of the burned excavator, Gail reported that the insurance company is reviewing the claim and has inspected the equipment and incident. More information on the insurance proceeds will be forthcoming. The Board asked staff to pursue Crime Stoppers and suggested a reward of \$5,000. The Board recommended that other entities that were vandalized with burned equipment in the same area to participate in the Crime Stoppers reward. Bill Gary motioned to offer a \$5,000 reward through any mechanism. Ramon Alvarez seconded. Motion carried.

Vandalism

Gail gave an update on EBID Safety programs. Water rescue equipment was issued to personnel and managers in the operations, hydrology, and maintenance departments with training on how the equipment would be used in a water rescue situation. Three EBID Hydrology employees are taking swift water training and will be certified when complete. The training was offered through Border Patrol's El Paso District. James asked if it would affect our liability, and the answer was 'no' and that EBID Workers Compensation would cover these employees. Many times operations personnel are out at any time, day or night, and see a vehicle submerged or a person in distress in the canal and need to be trained and able to assist themselves or someone else.

Safety Update

The safety equipment will help in that situation or might help to save an employee in a precarious situation.

Gail discussed the three-year flat rate delinquent suspensions. Notices were sent by certified mail and published in the newspaper. There are 46.81 flat rate acres available for suspension if not paid to current status. If not paid, these acres will then be available for reclassification.

Flat Rate
Delinquencies

Gail discussed a request for proposals for a new backhoe. Low bid was from Tom Growney in the amount of \$92,563. Bill Gary motioned to accept the bid from Tom Growney, and Ramon Alvarez seconded. Motion carried.

Backhoe
Purchase

Gail gave an update on the auction held in July. Ten pieces of equipment were sold for \$44,000.

Auction Update

Tom Simpson motioned and Robert Faubion seconded to break for lunch. Motion carried. Following the lunch break, Bill Gary motioned and Ramon Alvarez seconded to reconvene the meeting. Motion carried.

Lunch Break

Dr. John Hernandez, Water Quality Consultant updated the board on the Triennial Review. Changes to surface water quality classification are in the review. Dr. Hernandez reported that he will be looking at the reorganization of definitions and it will take him some time to go through them all. There is also a new description of Waters of the State which he thought could be put into better language using some of the federal language to re-write the Waters of the State of New Mexico.

WQ Triennial
Review

Dr. Hernandez updated the Board on the Parasol Dairy matter. There was soon to be an special hearing on their groundwater permit and that EBID was now a party to the appeal process.

Parasol Dairy
Update

The matter of sampling water for eColi from runoff of arroyos was discussed. Twenty-two arroyos were sampled. EBID will continue to monitor the eColi levels and determine a strategy to control contamination into District facilities.

eColi Water
Sampling in Wild
Arroyos

Gary Esslinger, Treasurer-Manager, gave the Managers update. Topics discussed were as follows:

Manager's Update

Gary discussed the New Mexico Dam Owners Coalition. This new organization was requesting membership. Dues could be derived from the LID fund. Staff will report at the September meeting.

Dam Owners
Coalition

Emergency Response Plan – Gary discussed the Emergency Response Plan which has been formulated by District staff to be used in all areas of emergency events. Bill Gary motioned to accept the resolution for Emergency Response Plan. Joe Nelson seconded the motion. Motion carried. The Resolution is attached to these minutes.

Emergency
Response Plan

NM Clean Energy Grant – Gary discussed a grant that the District received to be used for

NM Clean Energy

an energy saving alternative energy supply. Hydrology electric generator on an EBID irrigation structure at drop 8 on the Westside canal will be designed this fall. As a part of this grant, it was necessary to amend Dr. Cadena's contract to add four sub-contractors to assist with design and construction. Robert Faubion motioned and Ramon Alvarez seconded to approve the amendment of Dr. Cadena's contract to add four sub-contractors. Motion carried.

Grant

The matter of the New Mexico Department of Transportation and Montoya Drainage Issue was discussed. Gary said that staff is arranging a meeting with NM DOT to work on the Montoya Drain crossing that was installed improperly by NM DOT. The El Paso Water Improvement District No. 1 and the City of El Paso were threatening litigation if NM DOT did not resolve the matter.

Montoya Drain/
DOT Issue

World Wildlife Fund is requesting a grant in the amount of \$52,899 from EBID to evaluate legal implications, benefits and options of a safe harbor agreement under the Endangered Species Act. A safe harbor agreement will allow habitat to be restored within the Canalization Project reach with Rio Grande Project water and endangered species like the Southwestern Willow Flycatcher that occupy these sites for breeding will be protected as well as EBID surface water. Ramon Alvarez motioned and Tom Simpson seconded the motion. Motion carried.

WWF Grant

Gary discussed the Rio Grande Compact Commission Tour to take place at the end of the August. Four Board members will take the tour which covers the areas from the beginning of the Rio Grande down to Albuquerque.

Steve Hernandez gave the Legal update. On the DAC/EBID Mutual Assistance Agreement, the attorneys are working on a redraft which will be submitted to the county.

DAC/EBID Mutual
Asst. Agmt.

Bill Gary motioned and Ramon Alvarez seconded to go into closed session to discuss legal matters. Motion carried. Pursuant to Section 10-15-1-h, NMSA of the New Mexico Open Meetings Act, the following topics shall be discussed in closed session:

Closed/Open
Session

State ex. rel. D'Antonio vs. EBID (Stream Adjudication)
AWRM Amicus Appeal Brief
EBID vs. United States BOR: (U.S. Dist. Ct. NM) No. CIV 00-1309
EBID vs. United States BOR and N.M. St. Parks (U.S. Dist. Ct. NM)
Qwest vs. EBID, 07-CIV-163, (LRR 266)
Thielman v. EBID, CV-2008-1553, LRR 294
Intervention on Parasol Dairy NMED Permit (LRR 289)
Return Texas Litigation, EP#1 vs. EBID and BOR (US Dist. Ct. TX), No. CIV EP 07CA0027

Robert Faubion motioned and Joe Nelson seconded to return to open session. Motion carried by roll call vote with all members present agreeing to the motion to return to open session. During closed session the above-noted topics were discussed.

Following discussion in closed session, Robert Faubion motioned and Tom Simpson seconded to raise the allotment to a full 3 acre foot allotment. The following notice was posted on the website and at the front counter.

Small Tract
Deliveries

UPDATE – AUGUST 13, 2008

At the August 13th meeting of the Board of Directors, it was decided to add six additional acre/inches to your allotment. This makes a total of thirty-six acre/inches for a full three acre/foot allotment for the 2008 irrigation season.

Due to availability of water and current monsoon weather conditions, the Board is reluctant to release water for an additional flat rate weekend until after the September 10th meeting. There will be an announcement on our website as well as in the paper to let you know if there is an additional flat rate weekend scheduled during the month of September. Check back after the 10th of September.

The last date to order water will be determined by the Bureau of Reclamation Project water allocation availability.

There being no further business, Jerry Franzoy motioned and Willie Koenig seconded to adjourn the meeting. Motion carried. Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary