

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
May 10, 2006**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, May 10, 2006. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Willie Koenig. All members were present.

EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; EAC Co-Chairs Tom Hansen, Human Resources Director and Linda Armijo, Accounting Assistant; Henry Magallanez, Engineer; Sherryl Smith, Land Specialist; and James Narvaez, Hydrology Director.

Also present were Wayne Treers, BOR; Rasool Ahadi and Calvin Chavez, OSE; Beatrice and Henry Avalos, constituents; Diana Alba of Las Cruces Sun News; and Marvin Tessner, LC Bulletin.

Also present were Steve Hernandez and Lee Peters, Hubert & Hernandez, P.A; Phil King, Engineering Consultant; and John Hernandez, Water Quality Consultant.

Jerry Franzoy motioned and Bill Gary seconded to approve the minutes of the April 12, 2006 Board meeting. Motion carried.

Bill Gary motioned and Willie Koenig seconded to approve the minutes of the April 12, 2006 Water Transfer Hearing. Motion carried.

Willie Koenig motioned and Bill Gary seconded to approve the minutes of the Boundary Expansion public hearing held on April 12, 2006. Motion carried.

Willie Koenig motioned and Bill Gary seconded to approve the minutes of the special closed session board meeting with the Office of the State Engineer held on April 18, 2006 in Albuquerque. Motion carried.

Jerry Franzoy motioned and Willie Koenig seconded to approve the minutes of the special closed session board meeting with the Office of the State Engineer held on April 20, 2006 in Las Cruces. Motion carried.

The water supply outlook was presented. The storage totals on May1, 2006 with a comparison for last year are as follows:

	<u>05/01/2005</u>	<u>05/01/2006</u>
Elephant Butte	279,280	385,760
Caballo	<u>56,510</u>	<u>35,350</u>
	335,790	421,110

The water supply outlook was discussed. The reservoirs stand at 21.9% of a full supply. Depending on the total at the June meeting, the Board may discuss increasing the allotment. The Board asked Dr. King if he would predict a two foot allotment this year. He said that 18-20 inches will be about the most we should expect this year. The allotment stands at 14 inches as of this meeting. A memorandum or letter will be posted on the web regarding the allocation and allotment procedure. Many constituents are questioning how the new billing affects their allotment. April 13th is the date that all upstream reservoirs will release water since the RG Compact requires that when Elephant Butte goes below 400,000 ac/ft, no water can be stored in upstream reservoirs. It was predicted that in early September Elephant Butte Reservoir would be at 51,000 AF which is the lowest since 1971. In 1929 the reservoir went below 10,000 AF. The irrigation districts are trying to schedule their releases so as **not** to impact the summer recreational activities at the lake, but also regard their fiduciary obligation to deliver water to their

Roll Call

Minutes Approval

Water Supply

constituents.

Items on the calendar were discussed. Dates include: May 11, a meeting with the OSE on AWRM and Metering Order; May 24-26, Utility Management Institute – Module II Financial Planning – San Antonio, TX; May 29, Memorial Day observance; May 30, another meeting with the OSE on AWRM and Metering Order. The next meeting of the Board will be June 14th.

Calendar

Henry and Beatrice Avalos came before the board to discuss a problem with their property purchased in Hatch, NM following the David Holguin bankruptcy. The Avaloses purchased the property from the Steinhaus estate with money owing for 2003-2006 taxes. The Avaloses felt that since EBID did not lay claim to these delinquent taxes during the bankruptcy, that they should not be responsible for payment of the back taxes for 2002-2005. The board agreed to drop the taxes for the 2003-2004 taxes and that the Avaloses would pay for the 2005-2006 assessment. The money not owed to EBID would need to be handled privately between Avalos and Steinhaus.

Avalos Tax Dispute

Henry Magallanez presented the following special use permits:

Special Use Permits

Under Moratorium:

1. 06-L-031 – City of Las Cruces; To construct, operate and maintain a new sidewalk from approximate station 202+45 to 307+65 and maintain existing sidewalk curbs and street lights on the left bank of the Las Cruces Lateral. Assessment, \$8,068.11. Request to waive all fees.

Non-Moratorium:

2. 06-L-032 – El Paso Electric Co.; To construct, operate and maintain a new aerial three phase electric power line for an irrigation well for Salopek Foundation crossing a portion of the Del Rio Lateral at approximate station 192+78. Assessment, \$1,547.79. Request all fees be waived \$1,547.79.
3. 06-L-032 – El Paso Electric Co.; To construct, operate, maintain and convert an existing aerial electric power line from a single phase to a new three phase crossing the Park Drain at approximate station 46+55 and the middle lateral at approximate station 81+88. Assessment, \$6,658.31.

Total Assessments: \$6,658.31.

Upon recommendation of the District Engineer Henry Magallanez, Bill Gary motioned and Ramon Alvarez seconded to approve license numbers 1, 2, and 3 with fees waived on license numbers 1 and 3. Willie Koenig opposed the motion. Motion carried.

Henry Magallanez discussed the stacking applications for the month of May, 2006. Applications to stack 39.61 acres were on the agenda and Mr. Magallanez recommended approval. Jerry Franzoy so moved and Bill Gary seconded to approve the stacking applications. Motion carried.

Stacking Applications

Mr. Magallanez discussed a request for a variance to allow the stacking of water rights on 2.00 acre land parcel with 1.96 water righted acres owned by Hilton Alexander and Kerry Dickson. The stacking of water rights will change the status of the parcel from small tract to farm tract. If the variance is allowed, 1.10 water righted acres will be transferred from JS&S Investments, LLC parcel 124000 via the volitional transfer of water rights process. Mr. Magallanez recommended approval of the stacking variance. Willie Koenig so moved and Bill Gary seconded. Motion carried. This matter will be shown as a stacking application at the June 2006 meeting

Variance for Stacking Water Rights

Wayne Treers of the Bureau of Reclamation discussed the water allocation for the 2006 irrigation season. Mr. Treers reported that storage in the reservoirs was 20 percent of normal for this year. The snow pack is melting out rapidly due to extremely

Water Allocation Update

dry conditions. Tom Simpson asked about the data on the 1950s drought. Wayne Treers will supply this data. It is estimated that the Butte will hit its lowest point of 55,000 acre/feet on August 26th of this year. Caballo should reach its lowest point of 10,000 AF on August 31st. There was discussion on the fact that the BOR was able to operate Caballo successfully with the decreased amount of storage of below 50,000 AF without diminishing the flow to the river. Caballo will never be above 50,000 AF again.

Linda Armijo and Tom Hansen gave the Employee Advisory Committee (EAC) update.

EAC Report

Linda reported that the ice machines in the central and north yards had been installed and were putting out good capacity ice.

She also reported that the well at Chamberino was putting out good odorless water. There is still a little sand in the system which could take up to one month to clear out of the lines.

Ms. Armijo reported that the boot rebate has been implemented and some employees have already taken advantage of the new rebate amount. The next meeting of the EAC representatives will be held on May 17th.

The Operations report for the month of April, 2006 was as follows: Farm Deliveries, 2,104; Acres Irrigated, 34,283; AC/FT Charged to Farmers, 15,292; Actual Total Diversion, 37,140; Allotment Balance, 161,605; Breaks, 3; Run over, 0; 2006 Diversion Efficiency 41% as compared to 2005 at 47%.

Operations Reports

The Hydrology report is as follows: Orders totaled 54,902; Actual Diversion was 55,215; Using 313 AC/FT; Estimated Carriage Losses were 9,855; Adjusted Diversion 45,330; Diversion vs. Order was 0.6%; Total Spill was 1,956, % of Diversion Spilled was 6.6%, Charged to Farmers, 6,950; and Delivery efficiency, 39.0%. We should finish the 2006 irrigation season in mid to late August, 2006.

Hydrology Report

Discussion on the allotment increase was tabled to closed session.

Allotment Increase

A growers workshop will be scheduled for pumping in and pumping out.

Pump Meeting

Dr. John Hernandez gave a report on State Action Limiting Non-Point Pollution Under The Clean Water Act.

CWA Report

Gail Norvell, Controller, presented the financial fact sheet for the month of April, 2006. The fact sheet is as follows: Cash in the bank totaled \$496,444; assessments receivable totaled \$537,286; and investments totaled \$4,941,477 for a grand total of \$5,975,206. This figure reflects an increase in assets of \$1,550,381 over April of 2005. Extraordinary costs were to H&H, PA for legal fees, \$27,947. Special use fees collected were \$4,143.

Financial Report

Also presented were the financial statements for March, 2006.

Ms. Norvell discussed capital expenditures for the 2005/2006 budget. Items approved on the budget totaled \$694,000. Actual expense for purchased items is \$687,186.

Capital Expenditures

Ms. Norvell presented a list of obsolete equipment and asked if it could be sent to auction at Dickerson's. Willie Koenig motioned and Tom Simpson seconded to dispose of the obsolete equipment. Motion carried. Ms. Norvell will send the list to DFA for approval prior to disposing of the equipment.

Obsolete Equipment Disposal

Ms. Norvell discussed the ISC Reloan Program to be used by constituents for the purchase of meters. Funding will be available starting July 1. Ms. Norvell has sent an inquiry to the ISC and had received no answer to date. The District has applied for

ISC Reloan Program

money and the loan will be considered in July.

The item of liability and indemnification issues with the City of Las Cruces was discussed. Lee Peters is working on a letter to our insurance company explaining the Attorney General's opinion on not indemnifying public entities.

Liability and
Indemnification
For City of
Las Cruces

Jerry Franzoy motioned and Willie Koenig 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

Threat of Texas/NM Supreme Court Action; LRG Stream Adjudication Case, AWRM; Metering Order; EBID vs. United States, Operating Agreement, Amended Complaint; EBID vs. BOR No. CIV 90-95-HB, Mediation w/State Parks – Subsection I Credits; Anderson vs. EBID, Dona Ana Dam, Fillmore Dam; SHPO MOU (tabled); and Telecommunication Act and Qwest Fees Dispute.

Tom Simpson motioned and Willie Koenig seconded to return to open session for lunch. 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.

Tom Simpson motioned and Bill Gary seconded that the Board break for lunch. Following lunch, Jerry Franzoy motioned and Bill Gary seconded that the meeting be reconvened. Motion carried.

Lunch Break

Jerry Franzoy motioned and Willie Koenig seconded to return to closed session to continue discussing the above-noted legal matters. Motion carried.

Closed/
Open Session

Ramon Alvarez motioned and Willie Koenig 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 closed session, the following motions were made:

Tom Simpson motioned to allow the Executive Committee of the Board of Directors to review information on EBID computer queries and develop a letter to constituents regarding a date to use or lose water to the conservation pool. Bill Gary seconded the motion. Motion carried.

Conservation
Pool

On the subject of farmers who place an order bigger than what they actually have left in their allotment, Bill Gary made a motion to allow the farmer to water his crop, and then to transfer water from another account to cover the overage. The ditch rider will have the discretion to finish out an irrigation rather than stopping it because the farmer has used his allotment. The overage will be billed at \$10 per acre/foot. Jerry Franzoy seconded the motion. Motion carried.

Allotment
overages

Phil King stated that the District needs to work hard to get its internal efficiency up and that to do this, the metering patrol would need to be re-instated.

Metering Patrol

There being no further business, Jerry Franzoy motioned and Bill Gary seconded to adjourn the meeting. Motion carried.

Adjourn

The next meeting of the Board will be held on Wednesday, June 14, 2006

Next Meeting