

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
March 14, 2007**

| <p>The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, March 14, 2007. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Jerry Franzoy. Motion carried. All members were present.</p>   | <p>Roll Call</p>               |                  |                  |                |         |         |         |        |        |  |         |         |  |
|---|--------------------------------|------------------|------------------|----------------|---------|---------|---------|--------|--------|--|---------|---------|--|
| <p>EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; Richard Bejarano, Water Master; Valerie Beversdorf, CRS and GIS Director; and Leo Barrett, Maintenance Project Director; EAC Co-Chair Linda Armijo, Accounts Payable Clerk; and Assistant Water Masters Ray Barela, Sammy Gonzalez and Arturo Armenta.</p>   |                                |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Also present were Steve Hernandez, Hubert &amp; Hernandez, P.A; Dr. Phil King, Water Quantity Consultant; Dr. John Hernandez, Water Quality Consultant; Les Owen, NMDA; Sophie Evitt, World Wildlife Fund; Marvin Tessner, the Bulletin; and EBID Constituents Enrique and Dan Lucero.</p>   |                                |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Jerry Franzoy motioned and Bill Gary seconded to approve the minutes of the February 14, 2007 Board meeting as presented. Motion carried.</p>  | <p>Minutes Approval</p>        |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Bill Gary Motioned and Robert Faubion seconded to approve the minutes of the water transfer and suspension hearing from February, 2007-S&amp;T-02</p>  |                                |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>The water supply outlook was presented. The storage totals on March 1, 2007 with a comparison for last year are as follows:</p>  | <p>Water Supply</p>            |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>3/01/2006</u></th> <th style="text-align: center;"><u>3/01/2007</u></th> </tr> </thead> <tbody> <tr> <td>Elephant Butte</td> <td style="text-align: center;">297,720</td> <td style="text-align: center;">599,600</td> </tr> <tr> <td>Caballo</td> <td style="text-align: center;">33,280</td> <td style="text-align: center;">46,530</td> </tr> <tr> <td></td> <td style="text-align: center;">331,000</td> <td style="text-align: center;">636,130</td> </tr> </tbody> </table>  |                                | <u>3/01/2006</u> | <u>3/01/2007</u> | Elephant Butte | 297,720 | 599,600 | Caballo | 33,280 | 46,530 |  | 331,000 | 636,130 |  |
|   | <u>3/01/2006</u>               | <u>3/01/2007</u> |                  |                |         |         |         |        |        |  |         |         |  |
| Elephant Butte  | 297,720                        | 599,600          |                  |                |         |         |         |        |        |  |         |         |  |
| Caballo   | 33,280                         | 46,530           |                  |                |         |         |         |        |        |  |         |         |  |
|   | 331,000                        | 636,130          |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Items on the calendar were discussed. Dates include: RGCC Conference, Alamosa, Colorado, March 22; and the NWRA Conference, Washington, DC, March 26-28. The next meeting of the Board of Directors will be held on April 11, 2007.</p>  | <p>Calendar</p>                |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Enrique and Dan Lucero came before the Board to express their appreciation for help from the District repairing flood damage in their area. The District performed emergency work to minimize further flood damage as well as replacing an old 2-foot drain culvert that was clogged from storm debris with a more appropriate 4-foot drain culvert in preparation for the next rainy season. The Lucero's brought a letter of appreciation for the men who worked on the job.</p>   | <p>Constituent Compliments</p> |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Henry Magallanez, presented the special use permits.</p>   | <p>Special Use Permits</p>     |                  |                  |                |         |         |         |        |        |  |         |         |  |
| <p>Non Moratorium:</p> <ol style="list-style-type: none"> <li>1. 07-L-011 – Salvador Nunez; To operate and maintain a new vehicle crossing on the La Union East Lateral at approximate station 140+60. Assessment, \$1,033.16. Request to waive admin fee, \$666.67</li> <li>2. 07-L-012 – Leon Wosika; To construct, operate and maintain the installation of (2) harvest gates (for crop protection) on the west bank of the Anthony Drain, at approximate stations 173+50 to 182+00. Assessment, \$769.28. Request to waive all fees, farm use. \$769.28</li> <li>3. 07-L-013 – Rio Grande Natural Gas; To construct, operate and maintain a new ¾" poly gasline extension crossing the right bank only on the Chamberino East Lateral, at approximate station 187+79. Assessment, \$1,614.55</li> <li>4. 07-L-014 – Vincente Rodarte: To operate and maintain a new vehicle crossing on the La Union East Lateral, at approximate station 235+43. Assessment, \$1,033.16. Request to waive admin fee, \$666.67.</li> <li>5. 07-L-016 – Qwest Comm.; To construct, operate and maintain a new buried Telco cable line crossing the Garfield Lateral at approximate station 48+80. Assessment, \$1,106.46.</li> </ol> |                                |                  |                  |                |         |         |         |        |        |  |         |         |  |

6. 07-L-107 – Victor Reyes; To operate and maintain a new vehicle crossing on the Chamberino East Lateral, at approximate station 273+90. Assessment, \$1,106.46. Request to waive admin fee, \$666.67

Total assessments all permits: \$8,119.04

Total fees waived: \$2,769.29

Mr. Magallanez recommended approval of all permits as presented. Willie Koenig motioned and Robert Faubion seconded to approve the permits as presented with fees waived on and 07-L-011, 07-L-012, 07-L-014 and 07-L-107. Motion carried.

Henry Magallanez discussed a stacking variance request tabled from the February meeting. The matter was tabled in February over questions of giving flat raters who see the water moving through the ditch the temptation to take water illegally. There still being many questions about the delivery requirements, the matter was tabled once again.

Mr. Magallanez discussed a stacking variance for Eddie Rodriguez. Mr. Rodriguez requests the stacking variance for a 1.95 acre tract. Motion to approve by Bill Gary, seconded by Joe Nelson. Motion carried.

Mr. Magallanez discussed a DAC planning and zoning adjustment to the process for zoning change to require the applicant to make the zone change on property owned by EBID. Mr. Magallanez asked for permission to proceed with the process. Willie Koenig motioned and Robert Faubion seconded. Motion carried.

A request for the release by Ronald Thielman for a flood control easement for a portion of flood control easement behind the Dona Ana South flood control dam was discussed. Mr. Thielman is offering a 50 foot building setback from the top of dam elevation on the property that would be released from the flood control easement. Upon the attorney's recommendation to deny the request due to the fact that the property would not be deeded to the district, a motion to deny the request was made by Jerry Franzoy, seconded by Willie Koenig. Motion carried.

Discussion on EBID vs. Anderson – Dona Ana North Settlement was heard on a request by the Katherine Zech that EBID send acknowledge in written form to the Wiese Family Partnership that the land deeded to EBID by them had a certain value. The Board decided to follow the attorney's recommendation to deny the request based on the fact that the matter was finalized by the court in the form of a settlement agreement and this was not a part of that settlement. Willie Koenig motioned and Bill Gary seconded to deny the request. Motion carried.

The Manager introduced Leo Barrett as the Maintenance Project Director. Mr. Barrett fills the newly developed department which came about following the retirement of Ted Horner a year ago. Mr. Esslinger informed the Board that Leo brought the District through the Hatch disaster last fall and managed to do so through all the stress of his own home being flooded in the process.

Sophie Evitt of the World Wildlife Fund, Chihuahuan Desert Program, gave a presentation for an On-Farm Metering Pilot Project. EBID has been collaborating with the WWF on the project for the past two irrigation seasons by measuring irrigation volume delivered to study fields on four farms. Ms. Evitt will be demonstrating the program at these farms and the Board was invited to attend the next demonstration.

Phil King discussed the water situation for the start of the 2007 irrigation season. He reported that as of March 1 there was 435,000 ac/ft available for release. Of that, 172,361 ac/ft was available to EBID, a difference of over 4,000 ac/ft that will be disputed with the BOR. The El Paso Field Office of the BOR has not responded to Dr. King's concerns about the implementation of carryover with D3 allocation to the two districts..

The problem of the Bureau not coordinating releases or diversions with the District was also discussed. The Bureau makes releases at times that no one is available to pick up the water. Dr. King will work with EPCWID, Richard and James to standardize

Stacking  
Variance – Klein

Stacking  
Variance -  
Rodriguez

Zoning Change

Release of  
Easement –  
Thielman

EBID vs.  
Anderson

Maintenance  
Project Director  
Introduction

On-Farm  
Metering Pilot  
Project

2007 Irrigation  
Season Start-Up

release times, and to get a statement of what a gate change is and their reason for doing so. Dr. King recommends that downstream regulating capacity is needed. The water supply for the year was looking promising, but began declining in February. It is now below average. The allotment remains at 18 inches until the official runoff begins to affect storage.

Jerry Franzoy proposed a policy change that water would be available the first of February if we had a three ac/ft allotment and at the middle of February if we had only a 2 ac/ft allotment. If the allotment was less than 2 ac/ft, the release date would be set by percentage of orders on the books. No further discussion was had.

Dr. King said that we need to try to run a leaner system of operational spill. A major factor is farmers not taking water that was ordered when scheduled for delivery. The Board will consider a policy to make it easier to find a home for water not taken when ordered and ready for delivery. Ditch riders should be able to put in a new order right then and deliver it to the farmer who can take the water. More motivation to take water and to find others to take it will be up to the Assistant Water Master to work with ditchriders to find farmers.

Dr. King discussed the option of charging farmers who order water but don't take it for half of the order, and if another farmer is willing to take it, he would be charged the other half. Dr. King pointed out that undelivered and uncharged water reduces the conveyance efficiency, and therefore the allotment.

Several board members stated that the primary reason that farmers don't take water they order is that the water comes too late to use. The arrival date is unreliable, and farmers pump their irrigation if the water doesn't show up. When the water does show up, they can't use it, so it is not charged.

The ditch riders need to be able to "find a home" for uncharged water without going through a lengthy process.

Engineering, Operations, and Hydrology will develop a strategy for engineering and management solutions to the problem of uncharged water.

Bill Gary said that the Board would have to be hard core when farmers add to their current orders and extend the irrigation time of an existing order. A policy to shut the gates may have to be enacted if a farmer tries to add to an existing order.

Robert Faubion said that he didn't feel that we were ready to change the policy at this time. Rather, the ditch rider in each area should be focused on the problems in his own particular area. Ditch riders should know who can take water and that communication is key.

Gail Norvell updated the Board of hours for the water records office. The new telephone system includes voice mail and constituents can place orders by email or fax if water records is closed or the phone lines are busy. Water records is open Monday through Friday from 6:00 a.m. to 8:00 p.m. and Saturday and Sunday from 7:00 a.m. to 3:00 p.m.

New Dispatch  
Hours

Gail Norvell, Controller, presented the Financial Fact Sheet for the month of February, 2007. The fact sheet is as follows: Cash in the bank totaled \$669,651; assessments receivable totaled \$1,288,876; and investments totaled \$5,275,081 for a grand total of \$7,233,608. This amount reflects an increase in assets of \$626,813 over February, 2006. Extraordinary costs were: Legal Fees, \$32,364. Extraordinary receipts were: Special use fees \$43,986. Also discussed were the financial statements for the month of January, 2007.

Financial Report

FEMA has reviewed the project worksheets for emergency and permanent work for the Hatch flood as prepared by EBID. FEMA disallowed some costs relative to labor, equipment and materials upon submitting the reports to Office of Emergency Management (OEM). OEM has been notified that the disallowed expenses have not been discussed or agreed by EBID. A meeting for review of these costs is scheduled with OEM and a process of appeal to recover some of these costs is available for

FEMA Update

EBID

The matter of bonds for board members was discussed. Ms. Norvell said the investigation is in progress and she is working with NM Self-Insurers. She will have more information in April.

Board Member  
Bonds

Ms. Norvell is also looking into where we stand on having to purchase additional flood insurance for EBID facilities. Rio Grande levies from Caballo to El Paso are not adequate and deficient by federal standards under the Katrina Act. This matter will come back before the Board at a later date. IBWC will be invited to the next board meeting to report on this problem.

FEMA Flood  
Insurance

Ms. Norvell reported that she continues to work on the Reloan program for meters. Review is in process for implementing the loan program for the meter program. There could be over 700 constituents who might apply for meters through the reloan program. Jerry Franzoy suggested that the District drop its attempt to get back into an ISC water conservation reloan program. He felt that the District should not get involved again? Robert Faubion asked if it would be necessary to hold a special meeting on the meter reloan program and invite Estevan Lopez and Bruce Fredrick and other ISC officials to attend. The reason to pursue the reloan program is that if a farmer is on the list for a meter reloan, it stops them from being harassed by the OSE. This matter will be discussed further at a future meeting.

Water Conservation  
Reloan

Ms. Norvell presented an amendment to the professional services contract for John Hernandez, Water Quality Consultant. The professional service contract was amended to add the services of a subcontractor, Mr. Fred Phillips. Mr. Phillips is an expert in salinity problems in the Lower Rio Grande. Robert Faubion motioned and Bill Gary seconded to renew the contract to add the services of a subcontractor. Motion carried.

IT Consultant  
Contract  
Renewal

The Executive Committee met and gave the Manager the go ahead to hire a lobbyist to serve the District in Santa Fe through the 2007-2008 Legislative session. Mr. Robert Rivera was hired to perform this work. Ms. Norvell presented a draft contract for Professional Services Lobbying Contract. She will work with Mr. Rivera to get the contract finalized.

Legislative  
Lobbyist Contract

Ms. Norvell discussed the status of the bank account and performance regarding service charges and fees and interest earnings to our accounts. The Bank of the West has presented the documents for signature to make the changes to the bank account to eliminate the fees and allow interest earnings.

Service Charges  
And Fees On  
Bank Accounts

Linda Armijo, Accounts Payable Clerk and the Employee Representative for the Employee Advisory Committee (EAC) reported that the representatives had met in March. Topics discussed were the request by employees to be able to buy from auction items prior to them being taken to be auctioned. It is understood that due to state procurement laws this cannot be done, so that subject is closed. The EAC had planned to submit budget proposals, one per meeting, for the next few months, but were asked to hold all of the proposals until July when the new budget was being prepared. The EAC plans to submit the following proposals: Continue 3% across the board increases, evaluation increases, PERA increase, and Christmas bonuses. Ms. Armijo asked that the EAC be allowed to meet with either the budget committee or the full board to be able to make their proposals, rather than submitting them to management to be placed as a budget item. The committee feels it was left out of the process last year and was not informed that their requests had been denied. Ms. Norvell clarified that no requests are left out, and all are a component of the budget proposals for the Budget Committee review and Board approval. Ms. Armijo asked that the Board not close the door to the EAC. Gary Esslinger stated that the EAC would have a seat at the table when their budget proposals were discussed. Ms. Armijo reported that the EAC will participate in a health science fair to be held in May. They will use Otto Otter and coloring books to educate the children. Ms. Armijo reported that this spring will mark the end of the term for some of the representatives. These representatives will be replaced by new employees to the committee.

EAC Report

Motion to break for lunch by Robert Faubion, Willie Koenig seconded. Motion carried. Following lunch, Motion to reconvene by Bill Gary, seconded by Ramon Alvarez. Motion carried.

Lunch Break

Dr. John Hernandez, Water Quality Consultant, reported on E.Coli bacteria in Lower Rio Grande. Dr. Hernandez will prepare a letter to send to Bill Hume and Steve Harris regarding the inadequacies in the report and request that NMED rescind the report based on bad science.

Water Quality Concern

Gary Esslinger gave an update for the month of March, 2007. Topics discussed include:

Manager's Update

Orlando Tirre and Ron Mears represented the District at the Third Biennial Rio Grande Day held March 10<sup>th</sup> in Santa Fe. It was a good way for the District to education the state legislators on the new technologies of the EBID.

Third Biennial Rio Grande Day

New sedimentation surveys of Elephant Butte and Caballo Reservoirs (RGP) were discussed. The BOR is asking that EBID pay \$98,000 to have these surveys done. Dr King suggested that he and Al Blair submit a proposal to do the work rather than the BOR doing it. They can do the work a lot cheaper. A proposal will be sent to the BOR for EBID and EP#1 to do the work.

Sedimentation Surveys of RGP

Legal Issues were discussed.

Legal Update

- LRR 261 – An Easement for the City of Elephant Butte for a utility for sewer was requested by the BOR. EBID legal staff questions whether money should go to the two districts as part of Subsection I revenues. EBID is waiting for a response from the questions raised in the BOR letter dated January 22, 2007.

Bill Gary 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 on Rio Grande
- State ex rel. D'Antonio vs EBID (Stream Adjudication)
- Metering Order dispute
- AWRM –LRG Basin Specific Regulations Dispute
- EBID vs. United States BOR (U.S.Dist.Ct.NM) No. CIV 00-1309
  1. Operating Agreement/D-3 Curve
  2. 1920 Act Dispute
- EBID vs. US BOR and NM State Parks (U.S.Dist.Ct.NM) No. CIV 90-95
- EP#1 vs. EBID and BOR (U.S.Dist.Ct.Texas) No. CIV EP07CA0027
- Mike McNamee v. Mesilla 273 Partnership et al, No. CV-o7-263, LRR 265
- Qwest vs. EBID, 07-CIV-163, LRR 266

Bill Gary motioned and Robert Sloan 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.

Tom Simpson motion and Willie Koenig seconded that a resolution of condolence be prepared for board signature on the passing of Joel M. Arnold on March 14<sup>th</sup>. Motion carried

Resolution of Condolence

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

Adjourn

