

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
October 14, 2009**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, October 14, 2009. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Ramon Alvarez. Motion carried. Joe Nelson was absent.

Roll Call

EBID personnel present were Ricardo Bejarano, Water Master; Henry Magallanez, Engineering Supervisor; James Narvaez, Hydrology Director; Gail Norvell, Controller; Jean Hinsley, Eng. Resource Specialist; Anjeanette Carlson, Land Water Analyst; and Leo Barrett, Maintenance Projects Director; Valerie Beversdorf, CR-GIS Manager; and Dustin Leonard, GIS Specialist II.

Also present were Steve Hernandez, Steve Hubert and Josh Smith, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; Rasool Ahadi and Calvin Chavez, OSE; Adrienne Widmer, City of Las Cruces Legal; Lorenzo Arriaga and James Powell, US BOR; Bud Starnes, NM Dept of Ag.; Scott Adams, Constituent; Betsy McDonald, Constituent; Sammie Singh, Constituent; Richard Lara; Constituent; and Marvin Tessner, the Bulletin.

Robert Sloan motioned and Ramon Alvarez seconded to approve the minutes of the September 9, 2009 meeting. Motion carried.

Approval of Minutes

Ramon Alvarez motioned and Bill Gary seconded to approve the minutes of the Water Transfer hearing, 2009-S&T-9, as presented. Motion carried.

The water supply outlook was presented. The storage totals for October 1, 2009 with a comparison for last year are as follows:

Water Supply

	10/01/08	10/01/09
Elephant Butte	626,130	448,370
Caballo	<u>56,340</u>	<u>29,810</u>
Total Storage	682,470	478,180

Items on the calendar were discussed: The WRRRI conference in Albuquerque, October 14-15, 2009.

Calendar of Events

The fact that the November meeting date is the same as the Veterans' Day holiday was discussed. Additionally, it was stated that the December meeting must be held on Monday, December 14th per state statute for the purpose of counting votes of the December 8th election. Jerry Franzoy motioned to cancel the November meeting and to hold the December meeting on the 14th. Motion carried.

Cancellation of November Meeting and change of December Meeting Date

Bill Gary addressed the board and said that he would be resigning at the end of the meeting. Scott Adams was appointed by the Board to fill the remainder of Bill's term which ends December 31, 2009. Mr. Adams was at the meeting as an observer and will be sworn in at the end of the meeting. Robert Faubion motioned and Robert Sloan seconded to accept Bill Gary's resignation. Motion carried. It was mentioned that there had been a Gary on board since the 1950's starting with Bill's grandfather, W.H. Gary and also his father, Woodrow Gary.

Resignation of Bill Gary and Introduction of Scott Adams

Janice Neaves updated the board on the election to be held on December 8th. Scott Adams, Precinct 2; Tom Simpson, Precinct 4; Robert Sloan, Precinct 6; and Ramon Alvarez, Precinct 8 were given petitions to begin the process of signatures. One other person from off the board has asked for a petition to run against Ramon Alvarez. Mr. Gerald Smith will run in Precinct 8.

Election Update

Condolences were given to Robert Faubion on the death of his brother Charles.

The formation of three Special Water User Associations were passed by resolution. The entities are La Mesa Mutual Domestic SWUA, Vado Mutual Domestic SWUA and Lower Rio Grande Water Works Authority. Robert Faubion motioned and Jerry Franzoy seconded to accept the Associations. Motion carried.

Formation of SWUA's

Henry Magallanez, Engineer presented adjustments to the EBID voting precincts and indicated that there were no major changes in the precincts. The precincts were adjusted to equalize the precincts as to acreage since the expansion of the boundaries of the district have been made in the last year. Equitable division of board representation is required by NM State Statute. Motion to accept the redistricting plan as set forth today was made by Robert Faubion, seconded by Tom Simpson. Motion carried.

Voting Precinct Adjustments

Henry informed the board that there would be an adjustment in rates to the Rio Grande Natural Gas blanket agreement and the staff will be meeting to discuss the adjustments to the blanket agreement.

RGNGA Blanket Agmt.

Henry Magallanez, Engineer, presented the special use permits for the month of October, 2009.

Special Use Permits

Non-Moratorium:

09-L-0440-0EI Paso Electric; to construct, operate and maintain the removal and re-installation of existing powerline crossing the Kerr Lateral at approximate station 19+50, the Hare Lateral at approximate station 4+00, the Arrington Lateral at approximate station 7+00 and the American Bend Lateral at approximate station 72+50. Assessment, \$11,916.67.

09-L-045 – Ronnie Franzoy; to construct operate and maintain a new buried irrigation well PVC discharge pipe crossing under the Hatch main at approximate station 858+94. \$1,166.67. Waive all fees for farm use.

09-L-046 – Alfredo Vigil; to operate and maintain an existing vehicle culvert crossing on the Del Rio Drain at approximate station 876+20. Assessment, \$1,766.67. Waive all fees, Farm Use.

Total assessments for all permits = \$14,850.01
Total fees requested to be waived = \$ 2,933.34
\$11,916.67

Bill Gary motioned and Willie Koenig seconded to accept the permits as presented. Motion carried.

Henry updated the Board on the ongoing maintenance projects in Leo Barrett's absence. He said that the crews were working on the Mesilla Lateral, Laguna Lateral, in-line storage restoration on the Selden drain, and improvements to the Lucero dike. He reported the Board that they were continuing work on Westside Drop 8 and that they had tested another turbine prototype to create 6 to 10 kilowatts of electricity. This is the 4th prototype of the turbine design and is a 23" diameter a 5 bladed propeller. R and D will continue to try to achieve 40 kW at this one site. The 4th turbine cost \$150 to build as compared to \$1,800 to buy. At \$7,500-\$10,000 for multiple turbines, the District can recoup the cost in 2 years at Drop 8. Further investigation and publicity are going to gain momentum to produce low-head power generation. Steve Hernandez is developing language to create exemption for FERC licensing for low-head power. This language will be tacked on to Senator Bingaman's energy bill. There are three contemplated at this time with a cap up to 1.5 MW collectively. Energy credits generated by renewable energy are a great value and could be profitable to the district.

Maintenance Projects Update

James Narvaez gave the Hydrology Department update. He said that the District plans to take advantage of the river return flows post irrigation season. Hydrology will coordinate with Maintenance to assure it will not interfere with construction jobs. The plan is to divert all return flows into the Leasburg canal, returning it through designated spillways. The opportunity for farmers to use this water will be on a first come-first serve basis. Water will run through the system until construction jobs are necessary or until water runs out. The same will apply at the Mesilla Dam Diversion.

Hydrology
Department
Update

EBID's ending balance for the season was -9,577 acre feet, which included a 20,000 acre feet carryover from EP#1's account. EBID is still expecting a potential 40,000 acre feet transfer once EP#1 finalizes its irrigation season. This will leave EBID with potential carryover this season which will carryover in the 2010 irrigation season.

Lorenzo Arriaga and James Powell, Bureau of Reclamation presented repairs to the balance valves on Elephant Butte Dam. The valves were worn down since the original dam was built and one of the shafts sheared off. Anticipated repair expenses were \$88,873.52 which will be split between the BOR and the Districts and will be broken out to be shared in FY 09 and in FY 10

BOR Repairs to
Balance Valve
on EB Dam

Valerie Beversdorf, Communication Resources and GIS Director, gave the Information Technology update. The new Information System provider is Qwest. The bandwidth is now twice the speed as the old provider. Changes were also made to the firewall and security appliances to alleviate spam corruption. An upgraded version of Solomon was also installed to enhance the aspect of the financial system. Most recent release. Field service dispatch and project management are also under way to install with staff input. GIS is working with operation and hydrology to develop comprehension district maps. The maps can include efficiency studies, remote sensing, and overview of types of crops grown, and the parcels being watered.

IT Update

The recent programming projects to transition to fusion to replace Hylax is underway. The IT consultant is rewriting the code to a more modern program language. IT plans to run the new program and convert year end reports to the new format.

Gail Norvell, Controller, gave the financial report. The Financial Fact Sheet for the month of September, 2009, is as follows: Cash in the bank totaled \$576,672; assessments receivable totaled \$356,092; and investments totaled \$1,578,422 for a grand total of \$2,511,186. This amount reflects a decrease in assets of \$(37,424) over September, 2008. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$3,949. Also presented was the financial statement for the month of August, 2009.

Controller Report
Financial Fact
Sheet

Gail reported that she is still working on the FEMA reimbursement requests with the FEMA representative.

FEMA
Reimbursement

Gail discussed the contract renewal for Washington DC lobbyist Kris Polly. The board had previously approved a 6-month contract to see how Mr. Polly would work out. Gary reported that he is pleased with Mr. Polly's efforts. Robert Faubion motioned and Bill Gary seconded to approve the renewal of the contract. Motion carried.

Lobbyist Contract
Renewal

Steve Hubert gave the legal update and discussed the following topics:

Legal Update
LRR Report

- LRR 259 – Revocation of Withdrawn Land – Mesilla Valley Bosque State Park- Remains open for pre-trial consideration of a future retention pond.
- LRR - 302 – City of El Paso/Montoya Drain – remains open.
- LRR - 303 – Partly resolved. Section that no one wants to claim. Samantha researching to see who owns the land. QC deed. Hatch is researching - Remains open.
- LRR 304 – Lion's Gate Water vs. NM OSE. Oral ruling against OSE, Can be Closed.
- LRR 305 – Past and Present Private Dam Maintenance. Remains open.
- LRR 323 - Policies, Relinquishment of Easement, Excess Real Property.

Remains open.

- LRR 325 – Deposition of Jim Kirby – will consult as needed – remains open.
- LRR 329 – Product of Service (Copyright Policy). Low-head power copyright – work on this has been completed and passed to Gary. To be closed
- LRR 330 – Vendor Payment Problems – Steve Hubert is working with Gail on this matter. Remains open.
- LRR 333 – Enforcement of violators taking water illegally. Legal Opinion has been done. Remains open.
- LRR 334 – Setting up Small Flood Control Districts. Remains open.
- LRR 336 – FERC Exemption – Low-head power plants. Working with Bingaman’s office on the low-head power exemption to the FERC. Remains open.
- LRR 337 – EPEC Contamination Study – Memo sent. EPEC is responsible for clean up. Remains open.
- LRR 339 – Easement agreement between CINCO, LLC and EBID. Board approval exchanging the easement was requested. A motion to allow to sign the easement agreement between CINCO and EBID was made by Robert Faubion, seconded by Willie Koenig. Motion carried. Matter can now be closed.
- Steve Hernandez updated the board on the sink hole from a brine well in Carlsbad. It threatens to collapse part of Carlsbad’s system.

Motion to break for lunch by Tom Simpson, seconded by Robert Faubion. Motion carried. Robert Faubion motioned and Ramon Alvarez seconded to return to open.

Lunch Break

Scott Adams was sworn into office by President James Salopek. He was welcomed and Bill Gary was thanked for his years of service on the EBID Board of Directors. It was pointed out that there had been a ‘Gary’ on the Board of Directors since 1964 when W.H. Gary served, followed by his son, Woodrow O. Gary coming on in 1984, and Bill Gary coming on the Board in 1997.

Swearing in of Scott Adams

Tom Simpson motioned and Robert Faubion 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:

Open/Closed Session

- A. State ex. rel. D’Antonio vs. EBID CV 96-888 (Stream Adj.)
- B. AWRM Amicus Appeal Brief
- C. Intervention on Parasol Dairy NMED Permit (LRR 289)

Following closed session, Bill Gary motioned and Ramon Alvarez seconded to return to open session.

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

Adjourn

The next meeting of the Board of Directors will be held Monday, December 14, 2009. The regular meeting date has been changed per NM State Statutes to count the ballots from the December 8th election.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary