

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
June 12, 2013**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, June 12, 2013. The meeting was called to order by President James Salopek on a motion by Bobby Kuykendall, seconded by Robert Sloan. Motion carried. Tom Simpson and Ramon Alvarez were absent.

EBID personnel present were Gary Esslinger, Treasure-Manager; Gail Norvell, Controller; Zachary Libbin, Junior Engineer; Richard Bejarano, Watermaster; Delyce Maciel, HR/ Safety Director; Leo Barrett, Maintenance Director; Naomi Ontiveros Executive Secretary; EreK Fuchs, Groundwater Resource Manager; .

Also present were Steven Hernandez, Law Office of Steven L. Hernandez; Lee Peters, Peters Law Firm, LLC; Dr. Phil King, Hydrology Consultant; Jim Hangen, OSE; Ken Rice, BOR; Marvin Tessneer, LC Bulletin; Chrystal Enoch, Zia Natural Gas, Dave Dubois, NMSU.

The Pledge of Allegiance was read by President James Salopek followed by an Invocation given by Jerry Franzoy.

The calendar was discussed. Gary advised the Board the Stormwater Coalition meeting had been cancelled for this month and will resume on July 11th. On July 11th there will be a Irrigation Leader Workshop in Denver, CO and board approval to send Gary and Zack was requested. Jerry Franzoy motioned and Willie Koenig second to send Gary Esslinger and Zachary Libbin. Motion carried. Gary also advised there will be a 2013 Small Hydro Conference in Denver on July 23rd but he will not be attending that event this year.

Roll Call

Pledge of Allegiance & Invocation

Calendar of Events

Special Use Permits

Non-Moratorium				
License List for Special-Use-Permits for June 13, 2013 Board Meeting				
Licensee	Assessment	Term	Fees Requested to be Waived?	Approved - Denied EBID BOD
2013-L-042 La Clinica de Familia	\$4,779.92	25 years		Approved
To construct, operate and maintain 24 ft of the Right bank of the Las Cruces Lateral from Sta# 272+13 thru 281+73 (960 ft)				Fees Waived
2013-L-043 Julie Ogaz	\$1,666.67	10 years	Yes	Approved
To operate and maintain an existing vehicle culvert crossing the Picacho A Lateral at Approx. Sta# 41+50			\$1,666.67	Farm Use
2013-L-044 6U Farms	\$1,766.67	10 years	Yes	Approved
To construct, operate and maintain a new vehicle culvert crossing the Del Rio Drain at Sta# 172+84			\$1,766.67	Farm Use
2013-L-045 Gillis Farms, Inc.	\$1,766.67	10 years	Yes	Approved
To construct, operate and maintain a irrigation pipe crossing the Arrey Main Canal at Approx. Sta# 171+00			\$1,766.67	Farm Use
2013-L-046 El Paso Electric Co.	\$2,916.67	25 years		Approved
To operate and maintain an existing aerial powerline crossing the Dona Ana Lateral at Sta# 305+80				
2013-L-047 El Paso Electric Co.	\$8,750.00	25 years		Approved
To upgrade, operate and maintain 3 existing aerial powerlines crossing at "the divide" of the Three Saints East and West Laterals				
2013-L-048 El Paso Electric Co.	\$2,916.67	25		Approved

To upgrade, operate and maintain an existing aerial powerline crossing the Garfield Lateral at Sta# 48+79		years		
2013-L-049 Summit Building and Devel.	\$1,566.67	10 years		Approved
To construct, operate and maintain a culvert crossing the Three Saints East Lateral at Approx. Sta# 20+31				
2013-L-050 Zia Natural Gas	Blanket Agreement	25 years		Approved
To construct, operate, and maintain a 2" gas utility pipe crossing the Mesquite Drain at Approx. Sta# 41+50				
2013-L-051 Zia Natural Gas	Blanket Agreement	25 years		Approved
To construct, operate, and maintain a 2" gas utility pipe crossing the Three Saints Main Canal at Sta# 657+00				
2013-L-052 Las Cruces Public Schools	\$8,250.47	25 years	Yes	Approved
To construct, operate and maintain 40 ft of the Left bank of the Las Cruces Lateral from Sta# 287+60 thru 305+20 (1760')			\$8,250.47	
			Fees Waived	

Zachary Libbin presented the Special Use Permit applications for the month of June to the Board. After further discussion Jerry Franzoy motioned Robert Faubion second to approve and waive together special use permits 2013-L-042 La Clinica de Familia and 2013-L-052 Las Cruces Public Schools. Motion carried. Bobby Kuykendall motioned and Robert Faubion second to approve the additional permits presented. Motion carried.

Leo Barrett gave the Board an update on the ongoing projects. 3B and 3A infrastructure improvements have been completed. Maintenance crews are staying on top of gopher issues and mowing. Leo adds it has been observed the salt seeder is heavier in the north area.

Maintenance/
Projects
Update

Leo Barrett introduced Matt Dyer of Parkhill Smith & Copper to discuss the progress and steps on the fabrication shop. Matt Dyer presented to the board a list of bids that have been conducted and the results as well as prints of the new fabrication shop for review. Mr. Dyer advised the board that the contracted amount that was approved has almost exceeded the contracted amount. Mr. Dyer requested permission from the board to proceed with the fabrication shop with the additional contracted amounts presented. Mr. Dyer notes that there has been cost savings with bridge crane bids awarded lower than estimated in the budget. Robert Faubion motioned and Scott Adams second to proceed with the amended contract for the fabrication shop. Motion approved.

Dr. King presented the Board with the current outlook report.

Water Outlook – Bad to Worse to Worst to Worstest

- Initial release June 1, 500 cfs 8:14-12:00
- Boosted to 2,200 cfs June 1, 12:00 noon
- Increased to 2,450 cfs June 7, 4:00 PM
- Gates adjusted June 11

Hydrology
Report

River Location / Reach	River Miles from Caballo Dam	River Reach Miles	Travel Velocity (mph) 2012	Travel Velocity (mph) 2013	Cumulative Travel Time in Hours	Travel Time per River Reach in Hours	Arrival Time of Release (MDT) Updated
Rio Grande at Caballo Dam	0	-			0.0	0.0	Saturday, June 01, 2013 12:00
Percha Diversion Dam	1.2	1.2	2.00	2.40	0.5	0.5	Saturday, June 01, 2013 12:30
Haynor	33.2	32.0	1.62	1.72	19.1	18.6	Sunday, June 02, 2013 07:06
Leasburg Diversion Dam	44.8	11.6	1.04	0.86	32.6	13.5	Sunday, June 02, 2013 20:35
Picacho	59.8	15.0	0.79	0.90	49.3	16.7	Monday, June 03, 2013 13:15
Mesilla Diversion Dam	67.5	7.7	0.48	0.44	66.8	17.5	Tuesday, June 04, 2013 06:45
Anthony	88.5	21.0	0.61	0.72	95.9	29.2	Wednesday, June 05, 2013 11:55
Canutillo	94.1	5.6	0.70	0.70	103.9	8.0	Wednesday, June 05, 2013 19:55
American Diversion Dam	106.8	12.7	0.75	0.75	120.9	16.9	Thursday, June 06, 2013 12:51

As of 6/10/2013

Elephant Butte	159,242
Caballo	27,712
Total Storage	186,954
Rio Grande Compact Credit	-24,267
San Juan Chama	-33,337
Dead Storage, Evap	-6,000
Usable Storage	123,350
Release Rate, cfs	2,450
Release Rate, AF/Day	4,851
Run Time, days	25
End Date	7/5/2013

Loss rate as of 6/10

Station	Diversion	Flow
Caballo		2381
Arrey Canal	157	
Leasburg Canal	169	
Leasburg Cable		1713
Reach Loss		342
Eastside Canal	134	
Westside Canal	394	
Below Mesilla		821
Reach Loss		364
American Canal	481	
Mexico	0	
Reach Loss	LOSS	340
Total Loss		1046
Diversion Ratio		56%

James Narvaez adds that the initial expected 35 run days has been reduced to 25 days due to seepage and evaporation loss in the river. Jerry Franzoy suggested James increase the flow to help the farmers get their deliveries quicker. James advised Jerry this can be possible and may be beneficial to water out irrigations faster but it may result in shorting the season even more. After further discussion on "boosting" the flow the Board of Directors agreed that it is best to increase the flow as needed as well as try to stay within the water budget and give James Narvaez and the manager the authority to make that judgment as needed.

Dr. King presented the board with Policy 2013-ENG14 for approval. The subject of the policy is to make project water available for native vegetation habitat restoration sites along the river from Caballo to El Paso inside the Elephant Butte Irrigation District. The habitat restoration sites are within the river flood plain under the authority of IBWC and they will have to obtain EBID surface water rights as every other member of the district does. IBWC would then be considered a e-farmer. The Policy recognizes that there is no change of use and project water is for agricultural purpose only. Robert Faubion motioned and Scott Adams second to approve Policy 2013-ENG14. Motion carried.

Policy
2013-ENG14

Erek Fuchs advised the Board that he attended the USGS Mesilla Basin Monitoring Program cooperator's meeting in Albuquerque last month. Some changes in the Program have occurred over the last year/funding cycle, particularly that the NM Attorney General has gotten involved for the first time in the history of the Program by committing \$24K in funding for a seepage study. It appears they are obviously concerned with ongoing litigation against the EBID and others. Erek reported that he is skeptical of the direction the Program appears to be going, especially with the NM Attorney General's involvement which is motivated by litigation and not objective science. Erek added that because the EBID maintains its own monitoring program in the Mesilla Basin, it may be time to consider whether or not continued funding of the USGS Program can be further justified. Dr. King agreed with Erek and expressed the same concerns with the Program. Robert Faubion motion and Bobby Kuykendall second to terminate funding and to not participation for the next fiscal year. A letter will be sent to USGS by the manager. Motion carried.

USGS
Cooperators
Program

Erek updated the board on the Good Shepherd Ditch Association project to lease use of EBID groundwater rights. The project has been stalled indefinitely because the well owner expected to participate apparently did not fully understand the scope of the project and the full use of his well and has decided not to participate. Erek informed the Board that he has been in communication with the Association and advised them that if they were to find another willing well owner, the EBID will be glad to move forward with the project.

Good
Sheppard

Gail Norvell presented to the Board the financial reports for the Month of May. Cash in the bank is \$400,671, assessments receivable is \$864,990 and investments \$9,041,596 for a total increase of \$772,545 over May 2012. Grant projects are on going and in process.

Controller
Report
Financial
Fact Sheet

Gail presented the Board with a contract renewal for Employee Assistant Program (EAP). Robert Sloan motioned Robert Faubion second to approve the presented contract for renewal. Motion carried. Gail advised the board there have been new janitorial services contracted and services have begun June 1st. Gail adds the district will be partnering with the city in the up coming procurement process regarding janitorial services.

Contract
Renewal

Gail Norvell advised the Board she has requested from the EP#1 field office the the back up and information regarding the FY 2011 budget vs actual. There is very little documentation and explanation of the charges.

2014 BOR
Budget Protest

Gail advised the board approximately 100 property liens have been filed at the DAC for farm rate and LID accounts delinquent 4 years or more. There have been several debts paid off in full and releases of lien have been filed as a result of the action.

Delinquent
Accounts

Gary advised the board Steve Hernandez, James Salopek and himself will not be attending the NWRA 30th Annual Western Water Seminar in Washington due to travel expenses to the conference in Washington State. Gary updated the board on the Kit Carson Road permit and advised he has spoken with Representative Lee Cotter and he is willing to help with the situation on the Tort Claims Act problem and was unaware the district was not notified about the road being built on EBID property. DAC had not responded to the letter

Managers
Update

Steve Hernandez presented to the board the PEC P05 Irrigation and M& I Definitions flow chart created by the BOR. Steve advised that the BOR was proposing that small tracts of land within the district in the future should not be receiving a farm rate charge and they should be charged more money because the BOR will consider that a municipal use of water. Steve adds that most districts are not happy with the changes in guidelines and that the implementation of the policy will have a lot of local input from the districts in the final implementation contract under the new guidelines. Steve Hernandez, Samantha Barncastle and Lee Peters reported on legal matters.

Legal
Update

LRR #	Legal Assignment	Legal	Open	Closed per BOD	Comments
LRR 303	Hatch Easements for Work on Placitas Arroyo	SRB	x		Legal has received information that Hatch will be filing a lawsuit soon to condemn land or obtain deeds.
LRR 345	Lack/EBID Land Exchange and Flow Easement	LEP	x		
LRR 387	Drain Right of Way Use	SRB	x		Legal has requested this LRR remain open indefinitely
LRR 394	Review BLM Letter Regarding Copper Flat Mines	SRB	x		Legal is continuing to monitor and has requested LRR to remain open
LRR 399	Amend and Revise Original Document with Zia Natural Gas	LEP	x		Legal has requested this LRR remain Blanket Agreement still being worked on
LRR 406	IBWC O & M Flood Gate MOU	LEP	x		Legal has requested this LRR to remain open MOU is continuing to be negotiated
LRR 409	Transfer of Tortugas #2 Dam	LEP	x		Legal has requested this LRR to remain open
LRR 410	Kit Carson Road Permit	LEP	x		Legal has requested to remain open will discuss further in closed session
LRR 412	Bridge Crane Contract	SLH		x	Legal has advised to close
LRR 414	Tort Claims - City of Las Cruces sewage release	LEP		x	Legal has advised to close
LRR 415	Hatch High School Walk Over Bridge	LEP		x	Legal has advised to close
LRR 417	Reinstatement of water rights	SRB		x	Legal has advised to close

LRR
Report

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LRR 419	Defective Equipment-Roll Bender Model R-H45	SRB	x		Legal advised a response has been received and will close at the next board meeting.
LRR 421	LCHS Special Conditions Permit	LEP	x		
LRR 422	Illegal Dumping behind Tortugas Dam	SRB	x		Legal has requested to remain open
LRR 423	EBID General Data & Info Brochure	SRB /SL H	x		Staff and Legal have requested to remain open

Robert Faubion moved and Robert Sloan seconded to break for lunch. Motion carried. Following lunch, Scott Adams moved and Bobby Kuykendall seconded to reconvene the meeting. Motion carried.

Willie Koenig moved 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:

State ex. rel. D'Antonio vs. EBID CV 96-888 (Stream Adj.)

- SSI 101-CIR/FDR
- SSI 103-Domestic Wells
- SSI 104-US Project Water Right
- SSI 105-Expedited Inter Se-Boyd Claims

LRR 342/ Matter 150-2nd EBID Protest to Verde Realty Operating Partnership Application
 LRR 358/ Matter 151-EBID Protest to City of Las Cruces Well Application- LRG 430-S-36 and LRG 5818

Matter 155- EBID Protests to County of Dona Ana Applications LRG 3150 B and LRG 9356
 AWRM Appeal to Supreme Court

Diez Lagos Properties

LRG-3150-D into LRG-12171-S-2 and LRG-3229 Protest to Application of Sunland Park and Charles Johns

State of NM vs. US/EBID/EP#1. MP/ 11-CV-691/WDS

Janet Jarratt, et al. v. MRGCD

Texas v. NM (USSC)

Parasol Dairy Well Permit

Following closed session, Scott Adams motioned and Willie Koenig seconded to return to open session

There being no further business, Scott Adams moved and Willie Koenig seconded to adjourn the meeting. Motion carried.

The next meeting of the Board of Directors will be held on Wednesday July 10, 2013.

Open/
 Closed
 Session

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary