

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
September 16, 2015**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, September 16, 2015. The meeting was called to order by President James Salopek. Willie Koenig motioned to open the meeting and Bobby Sloan seconds the motion. Motion carried. Jerry Franzoy was absent.

EBID personnel present were Gary Esslinger, Treasurer-Manager; Zack Libbin, Operations Engineer; Erech Fuchs, Groundwater Resource Manager; Delyce Maciel, HR/Safety Director; Leo Barrett, Maintenance Director; Jean Hinsley, Resource Engineering Specialist; Patrick Lopez, Technology Director; James Narvaez, Irrigations Systems Director; Gail Norvell, Controller.

Also present was attorneys Steve Hernandez, Dr. Lisa Henne, Law Office of Steven L. Hernandez; Dr. Phil King, Hydrology Consultant; Greg Daviet, Dixie Ranch; Diana Alba, LC Sun-News; Ryan Serrano, OSE; Bernadette Fontenelle, OSE; Karen Ray, EBID Media Consultant; John Gwynne, DAC Flood Commission; Larry Vasquez, Bureau of Reclamation; Frank Ward, NMSU; Margie Vela, NMSU; Joe Delk, DASWCD; Steven Lyles, Anna Lyles, Lyles Farms; Steve Wilmeth, DASWCD; Bill Hargrove, CERM/UTEP; Sam Calhoun, DASWCD; Wen Jacobs, LRG Planning; Paul H. Gutierrez, NMSU; Tim McKimmie, small tract farmer.

The Pledge of Allegiance was led by Gary Esslinger followed by an Invocation given by Marty Franzoy.

Marty Franzoy brought up corrections to the August 12, 2015 Board Minutes stating Jerry Franzoy was not in attendance at the August meeting but in the minutes he seconded the motion to return to open session and also to adjourn. Marty Franzoy motioned and Willie Koenig second to approve the August 12, 2015 board minutes with those corrections to be made to the minutes. Motion carried. Correction to the minutes in August were made as follows: "Following closed session, Mike McNamee motioned and Bobby Kuykendall seconds to return to open session. There being no further business, Willie Koenig moved and Robert Faubion seconds to adjourn the meeting."

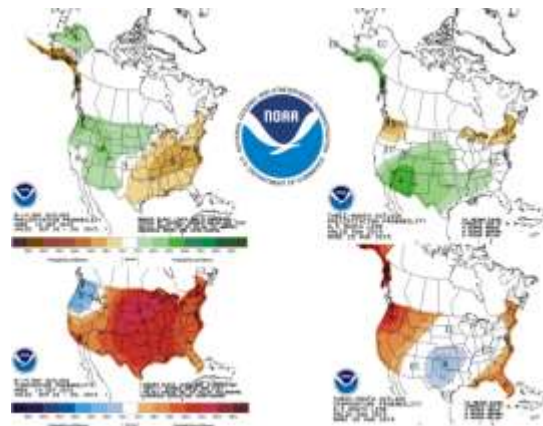
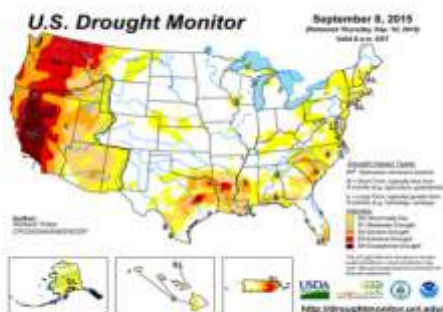
The calendar was discussed:

- September 17<sup>th</sup> Stormwater Coalition
- October 8&9 - Annual NM WRRRI Water Conference; Taos, NM
- October 9 – DASWCD Meeting
- October 14<sup>th</sup> – EBID Board Meeting
- October 15&16 – Interim Water & Natural Resource Committee Proposed Meeting
- October 15 – Stormwater Coalition

Dr. Phil King presented the weather forecast and irrigation season update.

**"Current" Storage Status**

9/16/2015	El.	Storage, AF
Elephant Butte	4306.66	166,424
Caballo	4142.38	35,736
Total Project Storage		202,160
Compact Credit		-15,515
San Juan-Chama		-3,403
Usable Project Storage		183,242
Current Release, AF/d		2,106



Roll Call

Pledge of Allegiance & Invocation

Minutes

Calendar of Events

Water Resource Report

Bottom Line:

- Season winding down, diversion ratio about where expected
- Late water will result in carryover balance to both districts at year-end reconciliation
- El Niño strengthening
- Forecasts are optimistic
- Groundwater drought will persist, affect EBID allocation
- Higher 2016 allocation for EBID, but lower percentage of Project allocation

James Narvaez advised the board that Hatch and the Central and South Units have shut down and all orders have been watered out. The last order date set for EP #1 is September 18<sup>th</sup> and orders ready to receive water by the 21<sup>st</sup>. The allocation for EBID was 142,233 acre feet for the year with a balance to the District of plus 2,658 ac/ft. Larry Vasquez with the Bureau of Reclamation advised the board that water at Elephant Butte Reservoir gates were shut off as of today. James Narvaez will have a final allocation and crop report by the next board meeting.

James discussed the findings on the Small Track Investigation that the board requested. James showed spreadsheets and data explaining that the average flat rate parcel uses around 8.5 acre inches per acre. James recommended the board keep rate for flat rate irrigations at 6" as investigations would continue. Dr. King stated that he agrees with that figure. Some of the tracts that were metered used less than 6" and others used more. On an average the 6" per irrigation would be correct. James recommended continued measurement and setting up more measurement for flat rate irrigations. Tom Simpson also recommended continued measurement in the forthcoming years to solidify the charge.

Mr. Tim McKimmie, EBID flat rate irrigator requested the data presented by James Narvaez be given to him. Mr. McKimmie was provided a copy of memo pertaining to the study Zack Libbin did specific to Mr. McKimmie's second flat rate irrigation which showed that irrigation at approximately 8.5 acre inches per water righted acre and verified as reasonable by theoretical calculation. Mr. McKimmie made several comments pertaining to flat rate irrigation and his understanding of past studies that a more reasonable flat rate charge should be 5 acre inches. Marty Franzoy explained his perspective as a farm rate irrigator that 6-8 inches per irrigation is reasonable.

John Gwynne; Dona Ana County Flood Commission Engineering Supervisor spoke to the board concerning the benefits of a local flood warning systems and sharing data. John explained how EBID and Flood Commission rain gauge and climate measurement networks complement each other.

Patrick Lopez and Zack Libbin showed the board a proposed agreement between Dona Ana County Flood Commission and EBID for sharing data for Flood Warning Systems. Patrick explained the proposed agreement and Zack explained some of the benefits. Marty Franzoy made a motion to approve the MOU and give Gary Esslinger authority to sign off on the MOU including any minor changes and Robert Faubion seconds. Motion carried.

License List for Special-Use-Permits for September 16, 2015 Board Meeting			
Licensee	Assessment	Term	Fees Requested to be Waived?
<b>2015-L-056 CITY OF LAS CRUCES</b>	\$1,047.29	10 Year	Yes
To operate, and maintain low water use landscaping with bubbler irrigation on the Las Cruces Lateral / Town Ditch at Station # 220+30 through Station # 222+00			
<b>2015-L-057 SHEILA HERRING</b>	\$1,666.67	10 Year	Yes
To construct, operate, and maintain a single span bridge crossing the La Union East Lateral at Station # 44+60			Farm Use
<b>2015-L-059 EL PASO ELECTRIC COMPANY</b>	\$2,916.67	25 Year	
To operate and maintain an existing 3 phase powerline crossing the Bannock Lateral at Station # 79+70, including replacing poles			

Special Use Permits

<b>2015-L-060 ZIA NATURAL GAS COMPANY</b>	Blanket Agreement	25 Year	
To replace and maintain a bored 2" HDPE gas line crossing the Three Saints Main Canal at Station # 0+00			
<b>2015-L-061 PICACHO MDWCA</b>	\$3,166.67	25 Year	
To construct, operate, and maintain an intermittent well discharge pipe into the Picacho Lateral at Station # 248+00			

Zachary Libbin presented the Special Use Permit applications for the month of September to the Board. Zack recommended a special condition on permit 2015-L-056 City of Las Cruces that the landscaping be changed to not appear as a trail towards the check structure; staff recommends approval on all permits presented with the special condition included. Robert Faubion motioned to approve the presented permits including the condition on the City of Las Cruces permit, Bobby Kuykendall second. Motion carried.

Zack gave an update on the status of the IBWC Levee Certification Mesilla Phase II. DAC Flood Commission received a letter from IBWC that the levee segments were rehabilitated and paperwork has been submitted to FEMA for their consideration. IBWC is making progress but Zack informed the board that certification for flood insurance is unlikely in the near future due to several reasons, including tying the ends of the levees to high ground. Zack also informed the board that his understanding from a recent meeting with FEMA that flood insurance rate maps for the valley are 5-10 years from being updated and therefore IBWC has some time to get the levees certified.

Zack gave an update on the status of the MOU with Village of Hatch for maintenance of the Placitas Arroyo to the Board of Directors; the agreement proposed by their legal counsel was amended by EBID's legal counsel and will be sent to them for their consideration. Approval of MOU is tabled until next board meeting and the concurrence of the Village of Hatch.

Zack presented a request from the City of Las Cruces for EBID to petition for a portion of EBID's Las Cruces Lateral to be annexed into city limits where it is adjacent to the future hotel near the convention center on University Avenue. NMSU is the primary applicant so that the future hotel can be within the city limits. Robert Faubion motioned to approve the Annexation and Marty Franzoy second. Motion carried.

Zack requested approval for the MOU with IBWC for River Gate Structure O&M be tabled until next board meeting.

Zack gave the board an update on the Tortugas 1 Dam Emergency Action Plan progress. Gary, Zack, and EBID's engineering consultant met with OSE Dam Safety Bureau to address some differences in interpretation and engineering. Zack explained that most issues were resolved and revisions are being made to the Tortugas 1 EAP for resubmittal.

Gary Esslinger advised the board that the NWRA Annual Conference will be in November in Denver, Colorado this year. Gary, James Salopek, Steve Hernandez and 1 Staff member, if no one else from the board wants to go, would like to attend the conference. Gary requested approval from the board so early-bird registrations can be made. Robert Faubion made a motion to approve their attendance and Bobby Sloan seconds. Motion carried.

Gary asked Zack Libbin and Mike McNamee to update the board on the Law of the Rio Grande conference they attended September 14<sup>th</sup> thru 15<sup>th</sup>. Zack gave a brief summary of several sessions and Mike concurred.

Frank Ward; NMSU presented to the board the USDA Research Project for sustainable water resources for irrigated agriculture. They are requesting the board to be willing to collaborate on stakeholder policy considerations and stake holder input meetings. Robert Faubion motioned to collaborate on policy considerations; Tommy Simpson seconds. Motion carried.

Marty Franzoy moved and Mike McNamee seconds to break for lunch. Motion carried. Following lunch, Bobby Sloan moved and Willie Koenig second to reconvene the meeting. Motion carried.

Managers Update

Gail presented to the board the financial reports for the month of August 2015. Cash in the bank was \$208,599; assessments receivable was \$569,758 and investments \$5,574,916 for a total decrease of \$1,192,204 over August 2014.

Financial Report

Gail requested approval from the board for two soil removal contracts at EBID project site Diez Lagos in Sunland Park; one is with Caliper Construction and the other is with KMF Construction. Both contracts have duration of one year. Robert Faubion motioned to approve the contracts and to add that Gary can sign the contracts pre-approval and bring them to the board after the fact; Marty Franzoy seconds. Motion carried.

Gail presented a list of Assets for Disposal to the board. Marty Franzoy made a motion to approve disposal and Robert Faubion seconds. Motion carried.

Steve Hernandez and Dr. Lisa Henne reported on legal matters.

Legal Update

- LRR 303 - Hatch Easements for Work on Placitas Arroyo- SLH-Open
- LRR 406 - Drainage MOU with IBWC-LEP-Open
- LRR 440 - Clean Water Act-SLH-Open
- LRR 447 – Operating Agreement EIS – SLH/LH-Open
- LRR 452 - NMSU Special Collections Agreement-Open
- LRR 453 – North Salem Dam Issues – LEP – Open
- CID Update-SLH
- Litigation Status Updates – LH/SLH

LRR Report

Willie Koenig moved and Bobby Sloan seconds 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 were discussed in closed session:

- A. State ex. rel. Office of the State Engineer vs. EBID CV 96-888 (Stream Adj.)
  - SSI 103-Domestic Wells
  - SSI 104-US Project Water Right
  - Expedited Inter Se-Boyd Claims
  - Pre 1906 Claimants' Motion for SSI and appeal
- B. State of New Mexico vs United States of America, et al.; no. CV 11-00691 JB-WDS
- C. Texas v. NM (USSC)
- D. EBID Protests
  - 1. CRRUA
  - 2. Chamberino MDWCA
  - 3. Attaway (Hot Springs Basin)
  - 4. Smith (Hot Springs Basin)
- E. Boyd Motion to Tenth Circuit U.S. Court of Appeals in Quiet Title litigation
- F. Copper Flats Corporation Inter Se on Water Rights
- G. BOR OA EIS Update

Following closed session, Willie Koenig motioned and Bobby Kuykendall seconds to return to open session. Motion carried. During closed session only the above-noted topics were discussed.

There being no further business, Marty Franzoy moved and Bobby Kuykendall seconds to adjourn the meeting. Motion carried.

Adjourn

The next meeting of the Board of Directors will be held on Wednesday, October 14, 2015.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary