

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
December 12, 2005**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Monday, December 12, 2005. The meeting was called to order by President James Salopek on a motion by Joe Nelson, seconded by Tom Simpson. Ramon Alvarez and Bill Gary were absent.

Roll Call

EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; EAC Co-Chair Tom Hansen, Human Resources Director and EAC Representative Casey McGuire, HEO II. Also present were Jason Allen and Bud Starnes, NMSU Dept. of Ag; Sal Gonzalez, Tri-Car Investments; Pat Arrington, Realtor; Gene Paulk and Len Stokes, CLC; and Marvin Tessneer, LC Bulletin.

Also present was Steve Hernandez, Hubert & Hernandez, P.A.

President Salopek called for a moment of silence in memory of the passing of Woodrow O. Gary, a member of the Board from 1984 to 1997. Woodrow Gary was the father of present Board member Bill Gary.

Woodrow O. Gary

Robert Faubion motioned and Robert Sloan seconded that the minutes of the November 2, 2005 Board meeting be approved. Motion carried.

Minutes Approval

Robert Faubion motioned and Joe Nelson seconded to approve the minutes of the November 2, 2005 Water Transfer Hearing.

The water supply outlook was presented. The storage totals on December 1, 2005 with a comparison for last year are as follows:

Water Supply

	<u>12/01/2004</u>	<u>12/01/2005</u>
Elephant Butte	139,660	385,980
Caballo	<u>21,610</u>	<u>14,170</u>
	161,270	400,150

The Manager reported on a memo from Wayne Treers of the BOR informing the board that we were approaching 400,000 AF Compact Usable Water.

The Board canvassed the votes of the election held on December 6<sup>th</sup>. The results of the election are as follows:

Results of 2005 Board Election

Precinct #2 – Bill Gary received a total of 37 votes. Mr. Gary ran unopposed.

Precinct #4 – Tom Simpson received a total of 32 votes. Mr. Simpson ran unopposed.

Precinct #4 – Tom Simpson received a total of 32 votes. Mr. Simpson ran unopposed.

Precinct #6 – Robert Sloan received a total of 34 votes. Mr. Sloan ran unopposed.

Precinct #8 – Ramon Alvarez received a total of 39 votes. Mr. Alvarez ran unopposed.

Write in votes are as follows:

In Precinct #1 there was one write-in vote for Barry Gonzalez.

In Precinct #2 there was one write-in vote for Jerry Franzoy.

In Precinct #5 there was 1 write-in vote for Lois Roberts.

The Election procedure was discussed. It was suggested that the District look into doing mail-in ballots. The lawyers had researched it and thought it could be easily done by changing a state statute. The matter will be discussed at the January meeting.

Election Procedure

Tom Hansen updated the Board on the Employee Advisory Committee (EAC). Mr. Hansen reported that employees have completed the general survey and the survey will be brought before the board after the EAC meets with employees at meetings scheduled in all three yards. Mr. Hansen said all in all, the survey was very positive.

Employee Advisory Committee Update

Mr. Hansen reported on a survey taken of employees on the Nationwide 457 plan. 71 employees out of 80 votes voted to go with Nationwide which is overseen by the Public Employees Retirement Association (PERA). Gail Norvell recommended that we take the time to find out more about the plan as there was not enough information at the time of the meeting and the walling off of ICMA is an issue that she wanted to investigate further. Mr. Keeler of Nationwide will be asked to return for another meeting. Mr. Hansen asked that we not hold up the process as several employees had their 457 accounts on hold until the matter is sorted out.

Mr. Hansen asked about the well at the Chamberino yard and asked when it was going to be installed. Mr. Esslinger said that we were getting permitted for a domestic well in the Chamberino yard and this will have to be re-bid as a domestic well since it was originally bid as a commercial well.

Henry Magallanez presented the following special use permits:

Special Use Permits

05-L-073 – Picacho (MDWCA); To construct, operate, replace and maintain two new 4" water line crossings on the School Lateral at approximate stations 4+90 and 6+90. Assessment, \$3,863.29.

05-L-074 – Dona Ana (MDWCA); To construct, operate and maintain new various size water lines crossing the Shalem Drain at three locations – a 12" at station 6+80, an 8" at station # 63+48, and a 6" at station 87+50; a new 12" water line crossing the Picacho Lateral at station # 57+90; and a new 6" water line crossing the Dona Ana Outfall Channel at two locations – at Thorpe Road and Elks Road. Assessment \$19,970.38. Request to waive all fees until blanket Agreement is in place. \$19,970.38

05-L-075 – Sharp Oil Co./in behalf of NM Environmental Department; To construct, operate and maintain the installation of a new groundwater monitoring well on a buried portion of the Las Cruces Lateral (Town Ditch) at Alameda Blvd. And Main Street at approximate station 221+00. Assessment\$832.46.

05-L-072 – Sherwin Wang; To operate and maintain an existing vehicle bridge crossing on the La Union East Lateral at approximate station 268+85. Assessment \$1,081.16. Request to waive all fees, Farm Use.

05-L-076 – Las Uvas Valley Dairy; To operate and maintain (5) existing vehicle crossings (4) on the Angostura Lateral and (1) on the Angostura Drain at various stations. Assessment \$5,647.59. Request to waive all fees – farm use.

05-L-077 – Carl Westbrook c/o Dona Ana County; To operate and maintain the parallel use of approximately 1,750 feet and an existing vehicle culvert crossing at approximate station 26+10 on the San Miguel Spur Drain. Assessment \$7,896.15.

Total Assessments, \$39,291.03

Henry Magallanez recommended approval of the licenses as follows:

Robert Faubion motioned and Joe Nelson seconded to approve License 05-L-073 as presented. Motion carried.

Robert Faubion motioned and Tom Simpson seconded to table license 05-L-074 and send a letter to DA MDWCA telling them that the blanket agreement must be in place prior to issuing this license. Motion carried.

Robert Faubion motioned and Robert Sloan seconded to approve license 05-L-075 as presented. Motion carried.

Robert Faubion motioned and Joe Nelson seconded to approve license 05-L-072 as presented. Motion carried.

Jerry Franzoy motioned and Robert Faubion seconded to approve license 05-L-076 as presented. Motion carried.

Willie Koenig motioned and Joe Nelson seconded to approve license number 05-L-077 with the condition that language be added to the license that the license is not transferable to Dona Ana County because of liability issues.

Discussion followed regarding liability and indemnification issues associated with the City's use of District rights of way. CLC sent a follow up letter stating the following:

- That the City will work together to compile an inventory of where city facilities cross or parallel district laterals, drains, canals or other rights of way.
- That the City will look further into obtaining either self-insurance to cover the District's risk in allowing the City use of its rights of way, or private insurance coverage comparable to the coverage that DAC and RGNGA have provided to the District.
- That the District will issue interim conditional special use permits to the City on a case by case basis at the complete discretion of District staff and/or the District Board to enable some high profile projects such as the joint pedestrian and bicycle pathways, or public infrastructure projects to proceed.

Dona Ana County Roads Resolution – the inventory has been done and there are 70-80 miles of parallel uses which are non-permitted, approximately 400 crossings. The manager reported on the meeting that he and some board members had with the DAC Commissioners on this matter. The DAC had dropped the ball and a meeting will be scheduled in January of 2006.

The request by Mr. Dallas Bauer to buy the tail-end of the San Miguel Spur Drain was discussed. Mr. Magallanez asked if the board wanted to proceed with the process to sell the .33 acre tract of land. Robert Faubion motioned to move forward in the process. Willie Koenig seconded the motion. Motion carried.

Discussion of the City's request to expand the District boundaries was brought forward by Len Stokes. The Board recommended that the staff proceed with the process to expand the boundaries of EBID. Staff will initiate a letter with procedures to expand the boundaries and will meet with attorneys to establish guidelines. EBID

CLC –  
Cooperative  
use of ROW

DAC Roads  
Resolution

Request to  
Purchase Drain

Expansion of  
District  
Boundaries

will send a letter to requestees and will treat each request on a case-by-case basis. Requestees will pay all survey and administrative costs.

Len Stokes asked that the CLC be allowed to petition for annexation and get approved prior to spending money for all the necessary surveys and etc.

Gene Paulk with the CLC stated that several hundred acres of land are being developed within the next year and the city will need the additional land to move their surface water rights.

Following discussion, Robert Faubion motioned and Jerry Franzoy seconded to start the process to expand the boundaries. This process will be reviewed by the Board at future meetings.

Mr. Sal Gonzalez of Tri Car Investments came before the Board to ask that the District not protest Tri-Car's request for a well permit to allow the use of his supplemental well to water the horse training facilities they have built on their farm land. Tri-Car's main function is training race horses. The water will be used mainly for dust control and also for an alfalfa field located on the property. Mr. Gonzalez said the OSE had asked him to get permission from EBID on the request. EBID was advised by its attorneys that its position could be stated in their decision to protest or not protest the application. The Board was inclined not to protest the application.

Tri-Car Well Request

Mr. Esslinger reported to the board that the District has been awarded a \$1.7 mil. Line item specific to EBID from the appropriation bill of the Bureau's 2006 budget. The money was awarded to the District through the efforts of Senator Pete Domenici. This money will be used for modernization and some new equipment for the District. The manager was instructed to send a letter to Senator Domenici thanking him for the opportunity.

\$1.7 Mil. Line Item Appropriation to EBID

The manager discussed the resignation of Dr. John Hernandez as the District's Water Quality Consultant. The board asked that the District purchase a plaque to be presented to Dr. Hernandez at the January meeting. Motion by Jerry Franzoy, seconded by Joe Nelson. Motion carried.

Resignation of John Hernandez

Gail Norvell, Controller, gave the financial report for the month of November, 2005. The fact sheet is as follows: Cash in the bank totaled \$1,095,782; assessments receivable totaled \$5,821,003; and investments totaled \$1,500,518 for a grand total of \$8,417,304. This figure reflects an increase in assets of \$2,155,622 over November of 2004. Special use fees collected were \$2,653. Also presented was the Financial Statement for the month of October, 2005.

Financial Report

Employee bonuses were discussed. Robert Faubion motioned and Joe Nelson seconded to give all employees a \$200 bonus. Motion carried.

Bonuses

Joe Nelson motioned and Robert Faubion seconded that the Board break for lunch. Following lunch, Tom Simpson motioned and Willie Koenig seconded that the meeting be reconvened. Motion carried.

Lunch Break

Henry Magallanez updated the Board on the progress on the NADBank projects. Work is on schedule on the School, Barrio and Elwood Laterals in the Central area, the Trujillo and S1 Laterals in the North and the Jimenez Lateral in the South. Mr. Magallanez reported that everything was going well and that NADBank was being finalized and the District is using the leftover money to order pipe for non-NADBank projects.

NADBank Update

Joe Nelson 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:

Closed/  
Open Session

Threat of Texas/NM Supreme Court Action; LRG Stream Adjudication Case, AWRM; 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; Hussain Temp Easement and Well Protest

Robert Sloan motioned and Joe Nelson 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.

Robert Faubion motioned and Robert Sloan seconded to investigate the letter from the OSE on well protest. Motion carried.

OSE Well Protest Letter

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

Adjourn

The next meeting of the Board will be held on Wednesday, January 11, 2006

Next Meeting