

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
July 12, 2006**

<p>The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, July 12, 2006. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Robert Faubion. Ramon Alvarez was absent.</p>	<p>Roll Call</p>												
<p>EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; EAC Co-Chairs Tom Hansen, Human Resources Director and Linda Armijo, Accounting Assistant; Henry Magallanez, Engineer; Ricardo Bejarano, Water Master;</p> <p>Also present were Steve Hubert, Steve Hernandez and Lee Peters, Hubert &amp; Hernandez, P.A; Phil King, Engineering Consultant; Tom Maddock, Hydrology Consultant; Connie Rupp, and Bert Cortez, US BOR; Norman Gaume, Calvin Chavez and Erik Fuchs, OSE; and Keith Day, Keith Day LLC, Auditor.</p>													
<p>Willie Koenig motioned and Robert Faubion seconded to approve the minutes of the June 14, 2006 Board meeting. Motion carried.</p>	<p>Minutes Approval</p>												
<p>Tom Simpson motioned and Robert Faubion seconded to approve the minutes of the June 14, 2006 Water Transfer Hearing. Motion carried.</p>													
<p>Robert Faubion motioned and Joe Nelson seconded to approve the minutes of the special closed session board meeting with the Office of the State Engineer held on June 20, 2006 in Albuquerque. Motion carried.</p>													
<p>The water supply outlook was presented. The storage totals on June 1, 2006 with a comparison for last year are as follows:</p>	<p>Water Supply</p>												
<table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>07/01/2005</u></th> <th style="text-align: center;"><u>07/01/2006</u></th> </tr> </thead> <tbody> <tr> <td>Elephant Butte</td> <td style="text-align: center;">558,720</td> <td style="text-align: center;">208,130</td> </tr> <tr> <td>Caballo</td> <td style="text-align: center;">48,060</td> <td style="text-align: center;">49,390</td> </tr> <tr> <td></td> <td style="text-align: center;">606,780</td> <td style="text-align: center;">257,520</td> </tr> </tbody> </table>		<u>07/01/2005</u>	<u>07/01/2006</u>	Elephant Butte	558,720	208,130	Caballo	48,060	49,390		606,780	257,520	
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<p>Items on the calendar were discussed. Dates include: Gary attending the Utility Management Institute in San Antonio, TX July 18-21, 2006; and Steve Hernandez attending the NWRRA Conference in Park City Utah July 24-28, 2006. The next meeting of the Board will be August 9, 2006.</p>	<p>Calendar</p>												
<p>Robert Faubion 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:</p>	<p>Closed Session/ Open Session</p>												
<ul style="list-style-type: none"> <li>• <a href="#">EBID vs. Bureau of Reclamation (Fed. Dist. Ct), Operating Agreement proposal, Applicability of 1920 Act issue</a></li> <li>• <a href="#">D'Antonio vs. EBID (State Stream Adjudication), EBID individual member adjudication of acreage</a></li> <li>• <a href="#">Budget Protest and related funding issues</a></li> <li>• <a href="#">Withdrawn Lands Protest, Right of way, Bosque Park</a> and Expansion of Boundaries</li> </ul>													
<p>Tom Simpson motioned and Willie Koenig 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.</p>													
<p>Robert Faubion motioned and Robert Sloan seconded that the Board break for lunch. Following lunch, Bill Gary motioned and Robert Sloan seconded that the meeting be reconvened. Motion carried.</p>	<p>Lunch Break</p>												
<p>Concerns of Bobby Sloan regarding ordering the additional 2" water were discussed. Tom Simpson motioned that farmers when ordering water be able to access the additional two inches to bring the allotment up to 14 inches without prior payment of the additional two inches. Seconded by Robert Sloan. Motion carried.</p>	<p>Water Order Concern</p>												
<p>The Hydrology report is as follows: Orders totaled 131,831; Actual Diversion was 131,733; Using -99 AC/FT; Estimated Carriage Losses were 23,629; Adjusted Diversion 108,104; Diversion vs. Order was 0.1%; Total Spill was 4,074, % of Diversion Spilled was 3.1%, Charged to Farmers, 56,017; and Delivery efficiency, 42.5%.</p>	<p>Hydrology Report</p>												
<p>The Operations report for the month of June, 2006 was as follows: Farm Deliveries, 2,565; Acres Irrigated, 44,397; AC/FT Charged to Farmers, 16,807; Actual Total Diversion, 40,934; Allotment Balance, 112,622; Breaks, 1; Run over, 0; 2006 Diversion Efficiency 41% as compared to 2005 at 49%. There was one break in June on the Anthony Lateral, downstream of the Berino Check which flooded a 4-acre alfalfa field owned by Tony Lara and farmed by Willie Hernandez. There was no</p>	<p>Operations Reports</p>												

claim for damages. Total number of ditch breaks at this same time in 2005 was 14.

Mr. Bejarano brought forth a request from constituents on the tail end of a community ditch that had been covered and piped. These constituents are now unable to water and their pecan were in danger of loss of crop and/or death. They questioned whether or not the district could deny water to the person who took out the ditch. Upon legal advice, Mr. Bejarano was instructed to tell the constituents that we cannot withhold water from the person on the head of the ditch who's account is paid for the current assessment, but that the parties would have to pursue legal action against the individual.

Constituent  
Community  
Ditch Action  
Request

Henry Magallanez, Engineering Supervisor had no special use permits to present at this meeting.

Special Use  
Permits

Mr. Magallanez presented an invitation from Xinjiang Water Resources and Hydroelectric Science Institute in Xinjiang, China to visit their district for the Board's consideration. Mr. Magallanez and Dr. Phil King will both make the trip. Dr. King said that he thought there was enough money in the New Mexico State University (NMSU) budget to supply Mr. Magallanez's air fair to China but asked that the board fund Mr. Magallanez's travel expenses if NMSU funding did not cover those expenses. Bill Gary motioned and Jerry Franzoy seconded to send Henry Magallanez on the trip to China. Motion carried.

Henry  
Magallanez  
and Phil  
King Trip to  
China

Linda Armijo and Tom Hansen gave the Employee Advisory Committee (EAC) update. EAC Representatives committee will meet in July 19<sup>th</sup> and Tom and Linda will give a report at the August meeting.

EAC Report

Keith Day, of Keith Day LLC, CPA presented the audit for the year ending 10/31/2005. The auditor's report expresses an unqualified opinion on the financial statements of EBID.

FY 2004-  
2005 Audit  
Report

Gail Norvell, Controller, presented the financial fact sheet for the month of June, 2006. The fact sheet is as follows: Cash in the bank totaled \$241,622; assessments receivable totaled \$331,717; and investments totaled \$3,876,092 for a grand total of \$4,449,431. This figure reflects an increase in assets of \$862,239 over June of 2005. Special use fees collected were \$24,253. Conserved water sales year to date is \$286 as compared to \$42,314 in June of 2005.

Financial  
Report

Also presented were the financial statements for May, 2006.

Tom Simpson asked for Ms. Norvell's projections for the end of the year and the outlook for next year. Ms. Norvell replied that the sale of water is down and we are now using reserves. Revenues will be incoming from the BOR, \$1.7 mil, and another \$500,000 in the form of another grant. Mr. Simpson asked that additional information be prepared showing anticipated expenses/income for the rest of the year.

The BOR Budget was discussed during closed session. In open session, Bill Gary motioned and Robert Faubion seconded the motion to send the District's official protest letter to the Bureau of Reclamation's 2007 Annual budget. Motion carried. The letter will be copied to Senator Domenici and comments on the 2025 grant will be included in the letter. It was also suggested that we protest the 2009 budget at the same time.

BOR Budget  
Protest Letter

Ms. Norvell discussed several professional services contracts that were in the process of being renewed. Included were contracts for the following:

Professional  
Services  
Contracts

Expert Witness Fees for Dr. John Hernandez, Dr. Tom Maddock and Dr. Phil King

Professional Service Contracts for: Electrical Engineering Services to IC Tech Inc; Environmental Engineering Services to Dr. Fernando Cadena; and Hydrologic Engineering Services to Dr. Phil King.

Bill Gary motioned to approve professional services contracts as presented. Joe Nelson seconded the motion. Motion carried.

Mr. Esslinger discussed the USGS Joint Funding Agreement providing for the continuation of the cooperative study entitled, "Monitoring Network of the Ground-Water Flow System and Stream Aquifer Relations in the Mesilla Basin, Dona Ana County, NM and El Paso County, TX". The agreement is in the total amount of \$41,040 of which \$20,080 is EBID's share. Robert Faubion motioned and Bill Gary seconded to approve the JFA. Motion carried.

USGS JFA

The matter of New Mexico State license plates and EBID's ability to have licensure for EBID vehicles was discussed. Mr. Esslinger updated the board on the communications between the district and the Department of Motor Vehicles regarding the MVD's stance that the District is no longer entitled to NM State license plates. The attorneys are working on this matter and it is hopeful that the District will be granted the ability to NM State licensure.

Government  
License Plate  
Denial by  
DMV

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; LRG Stream Adjudication Case, AWRM; Metering Order; 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 (tabled); and Telecommunication Act and Qwest Fees Dispute.

Bill Gary motioned and Joe Nelson seconded to return to open session for lunch. 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.

Following closed session the following motions were made and passed:

Robert Faubion motioned and Willie Koenig seconded not to file a protest to the OSE change of purpose for use of well for Tri-Car Investments under the LRG Stream Adjudication Case. It was determined that the purpose of the well was still agricultural use.

Bill Gary motioned and Joe Nelson seconded to sign the settlement agreement for Anderson vs. EBID on the portion of settlement regarding the Dona Ana North Dam.

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

Adjourn

The next meeting of the Board will be held on Wednesday, August 9, 2006

Next Meeting

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JAMES SALOPEK, President

BOBBY SLOAN, Secretary