

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
November 28, 2007**

<p>The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Thursday, November 28, 2007. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Bill Gary. Motion carried. Joe Nelson and Ramon Alvarez were absent.</p>	<p>Roll Call</p>												
<p>EBID Staff present were Henry Magallanez, Engineering Supervisor; Gail Norvell, Controller; EAC Co-Chairs Tom Hansen, HR and Linda Armijo, Accts. Payable; Specialist. Also present were Steve Hernandez and Steve Hubert, Hubert & Hernandez, P.A and John Hernandez, Water Quality Consultant; Nathan Small, CLC Councilmen, and Fernie Ortiz, City of Las Cruces; Dara Parker, Senator Bingaman's Las Cruces office; Calvin Chavez, NM OSE; Dr. Zorhab Samani and Dr. Salim Bawazir, NMSU; Les Owens and Bud Starnes, NMSU NMDA.; and Marvin Tessneer, The Bulletin.</p>													
<p>Willie Koenig motioned and Jerry Franzoy seconded to approve the minutes of the October 18, 2007 Board meeting as presented. Motion carried.</p>	<p>Minutes Approval</p>												
<p>Willie Koenig motioned and Tom Simpson seconded to approve the minutes of the closed session meeting on the stream adjudication and offer of judgment held November 6 as presented. Motion carried.</p>													
<p>The water supply outlook was presented. The storage totals on November 1, 2007 with a comparison for last year are as follows:</p>	<p>Water Supply</p>												
<table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>11/01/2006</u></th> <th style="text-align: center;"><u>11/01/2007</u></th> </tr> </thead> <tbody> <tr> <td>Elephant Butte</td> <td style="text-align: center;">396,370</td> <td style="text-align: center;">325,550</td> </tr> <tr> <td>Caballo</td> <td style="text-align: center;"><u>39,450</u></td> <td style="text-align: center;"><u>20,620</u></td> </tr> <tr> <td></td> <td style="text-align: center;">435,820</td> <td style="text-align: center;">346,170</td> </tr> </tbody> </table>		<u>11/01/2006</u>	<u>11/01/2007</u>	Elephant Butte	396,370	325,550	Caballo	<u>39,450</u>	<u>20,620</u>		435,820	346,170	
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Elephant Butte	396,370	325,550											
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<p>Items on the calendar were discussed. Dates include: NM WRRRI Water on November 29-30; an executive committee meeting with the operations department n December 3; the board of directors election on December 4; nm first meeting on December 5; state water plan ad hoc committee meeting in Albuquerque on December 14th; and a LRGWUO Committee meeting on December 20th.</p>	<p>Calendar of Events</p>												
<p>The next meeting of the Board of Directors will be held on Monday, December 10, 2007.</p>	<p>Change of Meeting Date</p>												
<p>EBID will be closed beginning December 24, 2007 and will re open on January 2, 2008 for the winter break.</p>													
<p>Gary Esslinger discussed the water supply outlook. He said that the storage figure was 90,000 AC/FT short of the same time last year. Phil King would give a better report later in the meeting.</p>													
<p>Henry Magallanez presented the special use permits as follows:</p>	<p>Special Use Permits</p>												
<ol style="list-style-type: none"> 1. <u>07-L-071— Q West Comm;</u> to construct, operate and maintain a new copper communication cable & conduit in a 10" pipe crossing the Propeck lateral at approximate station 8+10. Assessment, \$2,916.67. 2. <u>07-L-072— Q West Comm;</u> to construct, operate and maintain a new copper communication cable & conduit in a 10" pipe crossing the Leasburg canal at approximate station 451+04. Assessment, \$3,166.67. 3. <u>07-L-073— Q West Comm;</u> to construct, operate and maintain a new buried telephone cable line crossing the Hatch canal at approximate station 1027+10. Assessment, \$3,416.67. 4. <u>07-L-074— Q West Comm;</u> to construct, operate and maintain a new buried fiber telephone cable line crossing the Anthony lateral at approximate station 293+50. Assessment, \$3,166.67. 5. <u>07-L-075— Q West Comm;</u> to construct, operate and maintain a new fiber telephone cable line crossing the Bouggy Spur drain at approximate station 68+47. 													

- Assessment, \$3,416.67.
6. 07-L-076— Q West Comm; to construct, operate and maintain a new buried telephone cable line crossing the Las Cruces lateral at approximate station 307+39 then paralleling the East bank for approximately 355 ft. Assessment, \$3,833.33.
 7. 07-l-077— Q West Comm; to construct, operate and maintain a new buried telephone cable line crossing the Las Cruces lateral at approximate station 221+50. Assessment, \$3,166.67.
 8. 07-l-078— Q West Comm; to construct, operate and maintain a new 4" buried telephone cable line crossing the Quesenberry lateral at approximate station 47+97. Assessment, \$2,916.67.
 9. 07-l-079— Q West Comm; to construct, operate and maintain a new 4" buried telephone cable line crossing the Mesilla drain at approximate station 475+00. Assessment, \$3,416.67.
 10. 07-l-080— Q West Comm; to construct, operate and maintain a new buried fiber telephone cable line crossing the Anthony lateral at approximate station 352+86. Assessment, \$3,166.67.
 11. 07-l-086—San Antonio Sub'd (Dilaso Inc.); to construct, operate and maintain a new vehicle crossing within a proposed subdivision on the Three Saints East lateral at approximate station 258+19. Assessment, \$1,091.08.
 12. 07-l-087— El Paso Electric Co.; to construct, operate and maintain a new aerial electric power line crossing the Anthony drain at approximate station 333+77. Assessment, \$4,745.34.

Total Assessments, All permits - \$38,419.78
Total Fees requested to be waived - \$ 0.00
\$38,419.78

Mr. Magallanez recommended approval of all of the above permits. Jerry Franzoy motioned and Robert Faubion seconded to approve the permits as presented. Motion carried.

On the matter of a request by Greg Beyers to purchase a portion of EBID ROW on the Del Rio Drain which was discussed at the October, 2007 board meeting, Willie Koenig motioned to sell the ROW at the higher appraisal value of \$23,000 for 2.17 acres of easement. Robert Faubion seconded the motion. Motion carried. Gail Norvell will proceed with DFA approval and initiate the sale.

Del Rio Drain Land Sale

Dr Zohrab Samani and Dr. Salim Bawazir gave a presentation on evaluating crop water use by remote satellite sensing. Their report focused on evapo-transpiration by different crops on District land. The Board found it very informative and encouraged staff to pursue the benefits of using this tool for the District as well as constituents. The staff engineer will pursue further information to use the model and incorporate it into district water innovation plan.

Evaluating Crop Water Use Presentation

Dr. Phil King discussed the RGP report provided by the BOR. Dr. King said that at present the snow pack was 20% in the Upper Rio Grande at this point in time. This was only a 9% increase over the last week. He told the board to be prepared for a shorter water year next year, with under a foot on initial allocation (maybe 6 inches) to start the irrigation season. James and Phil are still trying to reconcile with the BOR year end numbers and hopes to have firm numbers by the December 10th meeting. They were both frustrated with the BOR's lack of cooperation to provide good numbers and the back up as how they derived their numbers. Dr. King said that we would probably be better to run the water straight through, low and slow, rather than delivering it in blocks as has been done in the past during short water years. He stated that in January, 2008, the board should begin to strategize a plan for operations of the district.

RGP Water Update

Dr. John Hernandez gave an update on the proposed Para Sol Dairy to be located on Percha creek and asked for recommendations from the board on how they wanted to handle this matter that could cause E-coli contamination in the Caballo Reservoir. Bill Gary motioned to pursue the Para Sol Dairy matter diligently and to our full

Para Sol Dairy Discussion

capabilities to appeal the groundwater permit that has been issued. Robert Faubion seconded. Motion carried.

Tom Hansen, HR, and Linda Armijo, Accounts Payable Assistant gave the EAC report. They reported on the EBID General meeting that was held on November 16th and that the meeting was well received. The employees also wanted to express their appreciation for the turkeys that they received for Thanksgiving.

EAC Report

Gail Norvell, Controller, presented the Financial Fact Sheet for the month of October, 2007. The fact sheet is as follows: Cash in the bank totaled \$183,909; assessments receivable totaled \$254,980; and investments totaled \$2,528,002 for a grand total of \$2,966,887. This amount reflects an increase in assets of \$934,722 over October, 2006. Extraordinary costs were: Legal Fees, \$14,742. Extraordinary receipts were: Special use fees \$2,337. Conserved water sold year to date was \$614,117 as compared to \$78,206 in 2006.

Financial Report

Also presented was the financial statement for the month of October, 2007.

Ms. Norvell discussed the Radio Telemetry Units Contract with Control Design for radio Telemetry units used to comply real-time data on irrigation wells that pump groundwater. The RTU's and meters are to be installed on wells that pump into EBID canals and meter loans are available for farmers to use. The Interstate Stream Commission Water Conservation Re-loan is also available for farmers to take advantage of. Jerry Franzoy motioned and Robert Faubion seconded to approve the RTU contract with Control Design as presented. Motion carried.

RTU Contract
Renewal

Ms. Norvell also presented a letter from Dept. of Finance and Administration approving the EBID FY 2007/2008 budget.

2007-08 FY Budget
Approval

Stephen Hubert and Steven Hernandez gave the legal update.

- Steve Hubert discussed the Status conference to be held on El Paso Co. Water Improvement District No. 1 vs. EBID et al.; U.S. District Court. Western District of Texas, El Paso Division, Case No. EP-07-CV-027-PRM. James Salopek, Robert Faubion and Willie Koenig will attend this hearing with Mr. Hubert. The parties to this case have not been able to negotiate a settlement thus far and Mr. Hubert will recommend to the judge to rule on the matter of jurisdiction.
- Steve Hernandez discussed a letter from John D'Antonio regarding the water cabinet and indicated that the Governor's decision to appoint a water cabinet may add another layer of bureaucracy that will or will not help resolve water matters timely.
- Steve Hubert discussed a portion of EBID land near Tortugas Dam that has been the topic of discussion for lease by the District to a development contractor. Mr. Hubert said that some of this land is highly developable for commercial use due to road frontage and proximity to NMSU. The land must first be appraised and DFA must approve the sale. Tom Simpson motioned and Robert Faubion seconded to go forward with the process lease of the land for developmental purposes. Motion carried.

Gary Esslinger gave the Manager's update for the month of October, 2007. Topics discussed include:

Manager's Update

- Drought watch on the Rio Grande, as prepared by the BOR, was discussed for the Board members' information and the outlook does not look good for winter snow pack.
- Wilderness Act Proposal –the Manager explained the position of the two entities that were advocating for wilderness protection. Gary told the board that both entities were looking for support for their legislation. The board will listen to the Wilderness Alliance proposal at the next board meeting. The board has asked Nathan Small with the Wilderness Alliance will come to the

December meeting to present his viewpoint. The board was adamant that nothing should prevent the district from having the ability to capture flood flows or be limited to any proposal that would not allow access or construction to impede the capture of flood flows in the watershed. If not, the board would not support any legislation. Nathan Small stated that he would like to at least have the opportunity to explain the Alliance position. Dara Parker of Bingaman's office stated that her office will work to help draft legislation that will try to meet all aspects of wilderness designation. She will be working with Clint Chandler of Domenici's staff as well as drafting federal legislation.

- The manager will be attending a meeting on rural, urban and economic development sponsored by NM First. This is a series of meetings held in all areas of the state and will then be compiled and presented later on their findings.
- The manager reported that NRCS sent a letter regarding the Dona Ana Arroyo Water Shed Projects and their permits will expire in 2008. Gary stated that we need to revisit these two projects while NRCS is still a sponsor for climatic change conditions. EBID has gotten the governor's attention and is ready to move forward. Phil King indicated that under the BOR grant Water 2025, that the district was submitting early warning systems and weather stations as part of restoring the dams. Robert Faubion motioned and Bobby Sloan seconded to approve a resolution that would use remote sensing to improve agricultural water management. Motion carried. Tom Simpson motioned and Bill Gary seconded to approve a resolution that would incorporate early warning storm management and weather stations to plan for better water management. Motion carried.
- NWRA Annual Meeting Report – The Manager discussed the meeting that he, James Salopek and Steve Hernandez had with BOR Regional Director, Larry Walkoviak while at the NWRA Annual meeting in Albuquerque. Walkoviak will be in Las Cruces in January and the District urged him to get involved with issues that are out of control with the BOR. Steve Hernandez discussed HR 2421-Clean Water Act Restoration Act. There is much opposition to that act in the NWRA. Hernandez attended an irrigation caucus meeting during the conference and reported that NWRA is watching this proposed water legislation. He talked about the Stream Adjudication in regard to Middle Rio Grande (MRG) and the fact that the MRG is totally unprepared for the Stream Adjudication.

A motion to break for lunch was made by Tom Simpson, seconded by Robert Faubion. Motion carried. Following lunch, a motion to reconvene was made by Bill Gary, seconded by Bobby Sloan. Motion carried.

Lunch Break

Willie Koenig motioned and Bobby Sloan 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

- *State ex rel. D'Antonio vs. EBID (Stream Adjudication)
- *AWRM – LRG Basin Specific Regulations Dispute
 - Appeal from Judge Reynolds' Decision
- *EBID vs. United States BOR: (U.S. Dist. Ct. NM) No. CIV 00-1309.
- *EBID vs. United States BOR and N.M. St. Parks (U.S. Dist. Ct. NM) No. CIV 90-95
- *EP#1 vs. EBID and BOR (U.S. Dist. Ct. Texas) No. CIV EP 07CA0027
 - Operating Agreement Negotiations
 - D3 Curve Implementation
 - Negotiations meeting in Albuquerque, 10/22/2007
- *Qwest vs. EBID, 07-CIV-163, LRR 266
- *Crecencio Cardona vs. EBID; DO21-CV2007-119
- *Victor Sanchez vs. EBID; Notice of Tort Claim

Bill Gary motioned and Jerry Franzoy 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.

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

Adjourn

JAMES SALOPEK, President

BOBBY SLOAN, Secretary