

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
December 10, 2007**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Monday, December 10, 2007. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Bill Gary. Motion carried. All members were present.

Roll Call

EBID Staff present were Henry Magallanez, Engineering Supervisor; Gail Norvell, Controller; James Narvaez, Hydrology Director and Leo Barrett, Project Maintenance Director; EAC Co-Chair Tom Hansen, HR. Also present were Steve Hernandez, Hubert & Hernandez, P.A and Phil King Consultant; Nathan Small, CLC Councilman; John Fleming, Steve Wilmeth, Tom Cooper, and Jerry Schickedanz, EBID constituents.

Willie Koenig motioned and Jerry Franzoy seconded to approve the minutes of the November 28, 2007 Board meeting as presented. Motion carried.

Minutes Approval

Bill Gary motioned and Robert Sloan seconded to approve the minutes of the Suspension and Transfer hearing, 2007-S&T-11 held November 28, 2007 as presented. Motion carried.

The water supply outlook was presented. The storage totals on December 1, 2007 with a comparison for last year are as follows:

Water Supply

	12/01/2006	12/01/2007
Elephant Butte	460,330	352,020
Caballo	39,444	22,160
	499,774	374,180

Items on the calendar were discussed. Dates include:

Calendar of Events

December 18, 2007 tour of the District with Mayor Ken Miyagashima. December 20, 2007 LRGWUO technical committee meeting.

Jerry Franzoy motioned and Bill Gary seconded to approve the change of board meeting date. Motion carried. The next meeting of the Board of Directors will be held on Wednesday, January 16, 2008.

Change of Meeting Date

EBID will be closed beginning December 24, 2007 and will re open on January 2, 2008 for the winter break.

Gary Esslinger deferred the water supply outlook to Phil King's presentation later in the meeting.

The canvas of the board election was completed with a tally of the 288 votes for the election held December 4, 2007 in all precincts. The canvas is as follows:

Canvass Votes for Board Election

- Jerry Franzoy 58 votes
- Robert Faubion 56 votes
- Willie Koenig 60 votes
- James Salopek 58 votes
- Joe Nelson 56 votes
- David Salopek (write in candidate) 1 vote

Tom Simpson motioned and Willie Koenig seconded to approve the canvas of votes for the election of board members. Motion carried. Elected Board members will be sworn in at the January 16th meeting and will serve for a four-year term ending December 31, 2011.

Henry Magallanez, Engineer, presented the reclassification request of Dencil Gillis. The land cannot currently be served because it is high ground and will have to be served by lift pump. Mr. Gillis currently has water rights on 6 acres, though no water has been ordered for this land, as it is transferred for use on other land. Henry is waiting for information on this land from the BOR. Henry recommends that the board decision for reclassification be deferred to allow legal review because of effects on the Bonito Lateral. Bonito Lateral comes under Caballo Dam, under Spanish Land Grant and not EBID property. Tom Simpson motioned, and Jerry Franzoy seconded to move forward with other reclassifications on the list and allow this reclassification request to be reviewed, with the option to come to the top of the reclassification list when complete. Motion carried. Bobby Sloan asks for legal & staff to give a presentation of Bonito Private Lateral concerning Dencil Gillis. Beverly White has researched this in depth and has a lot of information.

Reclassification, Dencil Gillis

Henry presented the Helena Drain crossing request. There is currently a protest from Mesquite Domestic Water concerning the Helena Drain crossing request. This is a request for a secondary crossing off the Del Rio Drain. The concern is the risk of contamination of the drain and water supply due to spill of hazard materials. The EBID recommendation is to require 600 ft. of pipe to the state road intersection to minimize risks for contamination. The access could be from another route with parallel use with the County road, which the County maintains for a residential area. Henry will review right of way and encroachments for an alternate route. Robert Faubion suggests pipe of the entire drain to improve water quality and environment in the area. Tom Simpson recommends working with Helena for safety but to be

Helena Drain Crossing

practical and let Helena come forward with recommendations on resolving the issue and best determinations for the crossing. No board action is taken, and more information is forthcoming.

Leo Barrett presented the maintenance report. 320 maintenance projects are currently scheduled, 170 are in process and 95 projects are completed. This does not include FEMA and grant projects already in process. Maintenance projects should be approximately 50% completed at Winter Shutdown, which is right on schedule.

Maintenance Report

Dr. Phil King discussed the RGP report provided by the BOR. As of the BOR report 12/7/07 usable storage is 183,909 ac/ft. This is below the seasonal average. Serious problems continue to be present with BOR allocations. Snow pack conditions are currently good, with snow water equivalents about 80-85%. The water supply looks promising, in the short-term. It is too early to predict the outcome.

RGP Water Update

Gary Esslinger, Treasurer/Manager, gave the Manager's Update.

Manager's Report

Family Farm Alliance is February 28-29, 2008 in Las Vegas, NV. Gary, Steve Hernandez and James Salopek are attending. Tom Simpson and Bill Gary may be interested in attending. James Salopek motioned and Joe Nelson seconded to have 4 representatives attend the conference in Las Vegas in February. Motion carried.

FFA Conference

Law of the Rio Grande conference is scheduled January 24-25, 2008 in Albuquerque. James Salopek, Phil King and Gary Esslinger will attend. Jerry Franzoy motioned and Bill Gary seconded to send these 3 representatives to the conference. Motion carried.

Law of the Rio Grande Conference

The report to the Board of Directors of EBID on concerns and rationale for opposition to approval of an NMED Groundwater Permit for a new dairy to be located on Percha Creek, by Dr. John W. Hernandez, Consulting Engineer was provided for review. The Board agreed to continue its protest.

Percha Creek Dairy Discussion

Gail Norvell, Controller, presented the Financial Fact Sheet for the month of November, 2007. The fact sheet is as follows: Cash in the bank totaled \$110,965; assessments receivable totaled \$6,391,985; and investments totaled \$3,138,997 for a grand total of \$9,641,947. This amount reflects an increase in assets of \$1,855,945 over November, 2006. Extraordinary costs were: Legal Fees, \$37,605. Extraordinary receipts were: Special use fees \$7,932.

Financial Report

Nathan Small, City of Las Cruces Councilman, presented the Wilderness Act Proposal to the Board on behalf of the Wilderness Alliance. Grazing, security with border issues are some of the concerns of EBID. The Wilderness Act became law in 1964 regarding wilderness, including weather monitoring, flood control, search & rescue, etc. The wilderness act exists in 44 states and the Carhart Wilderness School is designated for federal land managers. The Wilderness Act is a legislative and legal issue. Fire management in watershed areas is an issue. Motorized access is allowed for fires, to save human life and property. Many conditions deemed as necessary are very vague, though the language allows for latitude. There are eight wilderness study areas in the county currently. The Wilderness Act concerns are due to management plans that provide option for access & maintenance, but in reality, many times those are not allowed when requested. The Board asked many questions concerning flood control, future accessibility and loss of future flood protection. Mr. Small was very much aware of the Board's concerns and indicated that he had worked with EBID staff to address many of those concerns. The Board did not vote on the matter at that time.

Wilderness Act Proposal

A motion to break for lunch was made by Jerry Franzoy, seconded by Robert Faubion. Motion carried. Following lunch, a motion to reconvene was made by Willie Koenig, seconded by Bill Gary. Motion carried.

Lunch Break

Bobby Sloan 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

- *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 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.

In open session, Tom Simpson motioned and Robert Faubion seconded that the EBID Board of Directors endorse the "Dona Ana County Planned Growth, Open Space and Rangeland Preservation Act of 2008" as submitted to the New Mexico Congressional

Open Space and Rangeland Preservation Act of 2008

delegation on December 6, 2007 by the People for Preserving our Western Heritage. This legislation has been amended to address EBID concerns about water rights, flood control, land disposal, watershed protection and allowing reasonable access by the general public. Copies of this motion may be transmitted to the New Mexico Congressional Delegation, the Dona Ana County Board of Commissioners and the elected officials of Las Cruces, Hatch, Mesilla and Sunland Park. Motion carried.

There being no further business, Tom Simpson motioned and Bobby Sloan seconded to adjourn the meeting. Motion carried.

Adjourn

JAMES SALOPEK, President

BOBBY SLOAN, Secretary