

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
April 11, 2007**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, April 11, 2007. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Willie Koenig. Motion carried. Joe Nelson was absent.

EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; Richard Bejarano, Water Master; EAC Co-Chairs Tom Hansen, HR and Linda Armijo, AP Clerk; and James Narvaez, Hydrology Director.

Also present were Steve Hernandez and Steve Hubert, Hubert & Hernandez, P.A; Dr. Phil King, Water Quantity Consultant; Dr. John Hernandez, Water Quality Consultant; Les Owen, NMDA; Bob Pofuhl and Tommy Etterling, Picacho Mountain Development; Geri Quisenberry, Paso del Norte Watershed Council; Conrad Keyes; Steve Smullen, US IBWC; Eric Fuchs, NM OSE; Tom Levy, Constituent; Fred Phillips, NM Tech; Jim Lee, Constituent; Diana Alba, Las Cruces Sun News; and Marvin Tessneer, The Bulletin.

Willie Koenig motioned and Bill Gary seconded to approve the minutes of the March 14, 2007 Board meeting as presented. Motion carried.

Robert Faubion motioned and Willie Koenig seconded to approve the minutes of the special closed session board workshop with the BOR held March 30, 2007. Motion carried.

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

	<u>4/01/2006</u>	<u>4/01/2007</u>
Elephant Butte	452,992	607,760
Caballo	<u>21,020</u>	<u>19,480</u>
	474,012	627,240

Items on the calendar were discussed. Dates include: Mesilla Dam Meeting with Sheriff's Department, April 11<sup>th</sup>; Los Lunas Silvery Minnow Refugium Groundbreaking Ceremony, April 12<sup>th</sup>; Ad Hoc Committee meeting, April 13<sup>th</sup>; LRGWUO Tech Meeting, April 19<sup>th</sup>; OSE/ISC Open house Workshop in the LRG, April 24<sup>th</sup>; 2007 Decision Makers Conference, May 17<sup>th</sup>; and LRGWUO technical committee meeting, May 17<sup>th</sup>; RG Basin Initiative Conference, May 14<sup>th</sup> - 17<sup>th</sup>.

The next meeting of the Board of Directors will be held on May 9, 2007.

**ELEPHANT BUTTE IRRIGATION DISTRICT  
RESOLUTION OF CONDOLENCE  
RESOLUTION 2007-02**

WHEREAS, Our Heavenly Father in His infinite wisdom has removed from our midst our beloved friend, fellow farmer and citizen, Joel Arnold who passed away on March 14, 2007;

WHEREAS, that we extend to the members of his family our most heartfelt sympathy;

WHEREAS, that the Elephant Butte Irrigation District has lost a noble, honest, upright farmer of the Mesilla Valley;

WHEREAS, the pecan and farming industries in the valley have lost one of its most valuable and knowledgeable farmers;

WHEREAS, that we, and each of us, feel that the passing of Joel Arnold, a friend and fellow farmer, has gone out of our lives and will be missed for the valued wisdom and expertise he brought to the farming community;

WHEREAS, that this resolution be so adopted by the Board of Directors of Elephant Butte Irrigation District, and that a copy be presented to his family.

RESOLVED in open session this 14<sup>th</sup> day of March, 2007.

Roll Call

Minutes Approval

Water Supply

Calendar

Resolution of Condolence

Bob Pofahl and Tom Etterling representing Picacho Mountain Development (PMD) came before the Board with a concern on the Nafzinger Arroyo/farmland flooding that took place last summer. PMD is asking the district to sign an easement with the BLM in order to begin flood control design and improvements. Constituent Lou Biad has given PMD an easement through his property and they would like the district to allow them to evacuate flood water into the Picacho Lateral. Questions were raised regarding the arroyo headwaters not being in the district boundaries and that even though evacuation of flood waters would be allowed into District facilities, there would need to be catch basin or controls in place in order to evacuate flood water. The attorneys will review and decide how we will reply. Mr. Esslinger gave them the rules to form a watershed district and stated that EBID could not commit to liability. He suggested that they work with the DAC Flood Control Commission.

Nafzinger  
Arroyo  
Discussion

Geri Quisenberry of NMDA came before the Board to invite them to attend the Paso Del Norte 319 Grant Project Public Meetings. Paso Del Norte Watershed Council has been awarded a grant from the EPA to assist stakeholders in planning for, and working towards getting the resources and support needed to enhance stewardship practices of the watershed. This coordinated process will result in the development of a Watershed Restoration Action Strategy which will address non-point source bacteria related to the 2004 Surface Water Quality. Public meetings will be held on the 25<sup>th</sup> of April and a field tour on the 5<sup>th</sup> of May.

Paso Del Norte  
Watershed 319  
Grant Project

Steve Smullen of the IBWC came before the Board to talk about the problem of the Rio Grande levees not being in compliance with FEMA. The cost to raise the levees to FEMA standards in New Mexico is \$20 million. This fee does not include dredging the river and raising structures. Dr. Hernandez felt that the bridge abutments and other structures in some areas would be overtopped. Questions were asked about flumes and whether they would be compromised. Mr. Smullen did not believe that would be a problem, and changing the flume was not in the estimate for raising the levees.

IBWC River  
Levee Report

Willie Koenig commented that it would be best to just take out the islands and dredge the river rather than raising the levees. If the river is not dredged, then the problem of delivering surface water to downstream users will continue. EBID should not take the blame for inefficient river delivery.

Robert Faubion asked Mr. Smullen for the design capacity of the river? Mr. Smullen replied that it was approximately 20 to 18,000 CFS in the upper reaches (Rincon), 18 to 10,000 CFS in the middle (Leasburg) and 7-8,000 CFS in the lower reach (below Mesilla Dam). Mr. Faubion asked what were the inflows in a 100 year flood? Mr. Smullen did not know.

Mr. Smullen said that the flood impact comes from incoming flow into river, 20,000 CFS from arroyos off the Black Range watershed and major arroyos coming in from the East to the West mesas.

Gary Esslinger said that the bottom line is that an attempt to raise levees is to placate the public in order to keep the public from having to purchase flood insurance. The IBWC needs to dredge the river, but environmentalists don't want the IBWC to clean out the river because it would destroy wildlife habitat. Mr. Smullen agreed that was a true statement saying that the environmentalists were against dredging.

The Board asked Mr. Smullen for copies of information showing the District the areas of flood inundation and the areas where structures that cross the river could be affected. EBID thinks that raising the levees will impact our facilities and inundate structures. EBID would like its engineers to look at the O&M plans.

Henry Magallanez requested the inundation maps and the levee deficiency maps. Mr. Smullen said that he would supply this information in digital format.

Steve Hernandez asked if the flood flow calculation was a part of the original canalization work. Mr. Smullen said that it was. Mr. Hernandez asked if the flooding of 2006 had changed the underlying assumption. Mr. Smullen said that it hadn't.

Dr. John Hernandez brought up the fact that no mow zones contribute to fecal coli from cattle grazing. He also stated that no mow zones contribute to salt build up in salt grasses that are not mowed. This is an environmental problem that needs further study by IBWC.

Mr. Tom Levy came before the Board to answer questions on his request to stack water on property owned by Mr. Klein located on Hickory Loop. Questions had been raised about flat raters using this as an opportunity to take water illegally. After questioning of Mr. Levy the Board decided that there was not a problem and Willie Koenig motioned to approve the variance, seconded by Robert Faubion. Motion carried.

Stacking  
Variance - Klein

Mr. Magallanez discussed a request for variance for stacking by Mr. Lee, off the Bullock Lateral and recommended approval. Jerry Franzoy motioned and Bill Gary seconded. Motion carried.

Stacking  
Variance - Lee

Henry Magallanez, presented the special use permits.

Special Use  
Permits

Under Moratorium:

01. 07-L-022 – Rio Grande Natural Gas: To construct, operate and maintain a new buried 2” poly gas line in a 4” steel casing crossing the Shalem Drain at approximate station 63+48. Assessment, \$5,785.22. Blanket Agreement, \$5,785.22.
02. 07-L-023 – Rio Grande Natural Gas: To construct, operate and maintain a new buried 8” high pressure gas line crossing various canals, laterals and drains along Highway 85 (Valley Drive) from Engler Road north to Leasburg at various stations. \$49,902.66. Blanket Agreement, \$49,902.66.

Non Moratorium:

03. 07-L-020 – Q West: To construct, operate and maintain a new buried cable line crossing the San Miguel Lateral at approximate station 0+000. \$2,562.43.
04. 07-L-021 - Q West: To construct, operate and maintain a new buried cable line crossing the Bannock Lateral at approximate station 66+49. \$2,562.43.
05. 07-L-024 – WPA Partners: To construct, operate and maintain a new storm water discharge pipe into the Mesilla Drain at approximate station 349+10. Assessment \$814.06.
06. 07-L-025 – La Dawna King: To operate and maintain an existing vehicle culvert crossing on the Del Rio Drain at Bales Road at approximate station 1027+00. Assessment: \$1,692.84. Request to waive all fees. Existing crossing. \$1,692.84. Pd. \$50.00 application fee.

Total assessments all permits: \$63,319.64  
Total fees waived: \$57,380.72  
\$ 5,938.92

Questions were raised on 07-L-023 – RGNG’s high pressure gas line. Board members wanted to know if the gas line would be protected from accident by EBID cleaning in the area of the pipe. Henry said that the bore criteria should protect us or we could ask for a concrete liner. Henry will check further.

Mr. Magallanez recommended approval of all permits. Robert Faubion motioned to approve all permits contingent on the question of a liner on 07-L-023. Bill Gary seconded the motion. Motion carried.

Ricardo Bejarano gave the operations report for the month of March, 2007 as follows: Farm Deliveries, 1,379; Acres Irrigated, 24,440; AC/FT Charged to Farmers, 15,011; Actual Total Diversion, 29,543; Allotment Balance, 142,826; Breaks, 3; Run over, 0; 2007 Diversion Efficiency 51% as compared to 2006 at 40%.

Operations  
Report

There were three breaks in March: March 20, San Miguel Lateral, David Jacquez farm, no damage; March 24, Santo Tomas River Lateral, W. Silver Farms, no

damage, and March 26, Three Saints East Lateral, Mike Dipp pecan farm, no damage. The break on the three saints east was caused by the metering device inside the lateral, a ramp flume that holds back a lot of water. There is no check gate in this area. Total number of breaks to date in the 2007 irrigation season is 3.

Regarding the break on the Three Saints East Lateral, Mr. Esslinger is looking into piping the area and including telemetry in the pipe. It is felt that this area could hold water in NM for better metering of Texas water. We will try to do this in the 2006-07 maintenance season.

Discussion was had on the farmers who ordered water to start the season and then refused this water, causing it to be spilled. It was again stressed that there needs to be better communication between the farmers and the ditchriders. The Board felt that we should hear the farmer's side of story prior to charging for the water. Letters will be sent by Operations to the individual farmers stressing communication with the ditchriders.

James Narvaez gave the Hydrology report for the month of March, 2007. The report is as follows: Orders totaled 30,793; Actual Diversion was 29,722; Using -1,071 AC/FT; Estimated Carriage Losses were 5,318; Adjusted Diversion 24,404; Diversion vs. Order was 3.5%; Total Spill was 714, % of Diversion Spilled was 2.4%, Charged to Farmers, 15,009; and Delivery efficiency, 50.5%.

Phil King discussed allocation issues. He said that the snowpack run-off was going mostly into the ground and not getting to Elephant Butte. District operations efficiency was 50% in our conveyance which was very good. Dr. King congratulated Operations on a good job of tightening things up. He said that we'd try for 60% efficiency next month. Dr. King reported that the river efficiency was up over 100% on the diversion ration. He said that he would be recalculating the allocation at May meeting. There will be another technical committee meeting with EP#1 and the BOR on the 16<sup>th</sup> of April.

There was a question on why EBID and EP#1 continue to get further apart on the D3 Curve? Dr. King said that it had to do with the West Side, East Side and La Union Main canals calculation. He talked about creating a ponding area on a 40 acre plot that could be used as a regulating reservoir. EBID could also use its drain system instead of buying land for a regulating reservoir. Gary suggested that we implement one and see how it works. EBID got a grant for \$350,000 for in-line storage and could use this as a pilot project when the funds are received.

Tom Hansen, HR Director and Linda Armijo, Accounts Payable Clerk gave the Employee Advisory Committee (EAC) report. Meetings have been held with all employees at their respective yards.

Concerns brought up by employees are the cell phone survey which is ongoing. IRS regulations relative to limited property state the conditions that apply to business use of this property. Ms. Armijo said that employees don't understand the reasoning and are requesting meetings to explain the process. Ms. Norvell stated that the survey is not completed and is for information purposes only. She said that she'd have meetings to discuss the information when it is completed. Alltel has been contacted to discuss the personal cell phone plans that could be offered and how these changes would effect to benefit EBID Employees.

Ms. Armijo said that some ditchriders are having problems with the Town of Mesilla Police Department denying them access to the District ROWs during certain exercises like DWI check points. The Manager will send a letter to the Mayor of Mesilla and get the matter taken care of.

Employees are asking for fuel increases due to the rising cost of fuel. Ms. Armijo said that to date only one person has prepared the requested fuel reports to justify the need for a fuel allotment increase. Gary mentioned that the Board had already given him discretion to increase the stand-by use per week if the price of gas continued to rise.

Three Saints  
East Lateral

Failure to Take  
Ordered Water

Hydrology  
Report

2007 Irrigation  
Season Start-Up

EAC Report

Cell Phone Survey

Town of Mesilla  
Ditchrider Conflicts

Fuel Cost Concern

Ms. Armijo reported that the EAC would be presenting a program at the Farm and Ranch Heritage Museum on April 19. Members of the EAC will give an Otto Otter presentation and discuss safety issues on canals and environmental issues such as dumping in the canals and drains.

Otto Otter Program

Dr. John Hernandez introduced Dr. Fred Phillips from NM Tech and the SAHRA program. Dr. Phillips gave a presentation on Sources of Salinity in the Rio Grande and Seepage of Sedimentary Brine. The conclusion from his study is that salinity in the drains at El Paso are not coming from New Mexico drains, but rather from the sedimentary brine that is coming from ancient water up-welling in that area.

SAHRA  
Presentation on  
Sedimentary Brine

A motion to break for lunch was made by Tom Simpson, seconded by Bill Gary. Motion carried. Following lunch, a motion to reconvene was made by Bill Gary, seconded by Ramon Alvarez. Motion carried.

Lunch Break

Gail Norvell, Controller, presented the Financial Fact Sheet for the month of March, 2007. The fact sheet is as follows: Cash in the bank totaled \$610,223; assessments receivable totaled \$640,136; and investments totaled \$5,298,522 for a grand total of \$6,549,881. This amount reflects an increase in assets of \$157,021 over March, 2006. Extraordinary costs were: Legal Fees were not available. Extraordinary receipts were: Special use fees \$30,770.

Financial Report

Also presented was the financial statements for the month of February, 2007.

The matter of bonds for Board members was discussed. At the March meeting, Ms. Norvell said that she was working with NM Self-Insurers on this matter. She reported that NM Self Insurers doesn't currently furnish bonds, but that they may be able to provide them in July when the State's new fiscal year begins. Quotes from area insurance companies were able to provide an estimate for the bonds for around \$100 a year per Board member. Steve Hubert said that this was a part of the NMSA 1905 statutes and that legislature really needs to fix the problem.

Board Member  
Bonds

Ms. Norvell gave the FEMA and Flood Insurance update. She reported that she met with the Office of Emergency Management (OEM) contact on completed emergency expenses submitted. The OEM representative will issue an amendment on the expenses de-obligated to add allowable expenses back to the reimbursement request. As for flood insurance, IBWC will appeal criteria for levy and flood modeling. The Manager met with Sen. Bingaman and IBWC Commissioner Carlos Marin on this matter. EBID may also appeal to push that FEMA Flood Inundation criteria is not in our best interest.

FEMA/Flood  
Insurance Update

Ms. Norvell updated the Board on the well meter loan program. Information letters went out to constituents informing them that EBID will manage the requirements set forth by the OSE through a well meter program. Constituents can purchase a meter and have it installed by EBID with a low-interest loan.

Water Conservation  
Reloan Program

Robert Rivera's professional services contract for Lobbying was presented for board approval. Robert Faubion motioned to approve and Bill Gary seconded the motion. Motion carried.

Lobbyist Contract  
Signed

Legal Issues were discussed.

Legal Update

- LRR 261 – An Easement for the City of Elephant Butte for a utility for sewer was requested by the BOR. EBID legal staff questions whether money should go to the two districts as part of Subsection I revenues. Steve Hubert advised that we were still not ready to sign the easement.

Gary Esslinger gave an update for the month of March, 2007. Topics discussed include:

Manager's Update

NM-ISC requested Primary Diversion Structures and as-built specs from EBID implying that the metering and monitoring of our diversions was inadequate. Staff agreed that this letter was inappropriate and that ISC was not authorized to get involved with surface water diversion. Our lawyers will reply to the letter from NM ISC dated March 23, 2007 stating that EBID does not wish to participate and that further

NM-ISC Request to  
Monitor Diversion  
Dams

explanation from ISC was necessary.

NM Water Market Conference – The Manager asked to be able to send Henry Magallanez to this meeting in Albuquerque on May 14<sup>th</sup>. Tom Simpson motioned to send Henry to this conference and Robert Faubion seconded the motion. Motion carried.

NM Water Market Conference

SHIPO Consultation update – Mr. Esslinger reported on a meeting held with SHIPO officials in Socorro in April. EBID was warned for being out of compliance with the law of the state and the District must comply with the rules of SHIPO by way of consultation, investigation, and formulation. The District must consult with SHIPO before selling any land or doing any construction that is not addressed in the MOA with SHIPO.

SHIPO Consultation Update

Jerry Franzoy motioned and Bill Gary 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 on Rio Grande
- State ex rel. D'Antonio vs EBID (Stream Adjudication)
- Metering Order Dispute
- AWRM –LRG Basin Specific Regulations Dispute
- EBID vs. United States BOR (U.S.Dist.Ct.NM) No. CIV 00-1309
  1. Operating Agreement/D-3 Curve
  2. 1920 Act Dispute
- EBID vs. US BOR and NM State 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
- Mike McNamee v. Mesilla 273 Partnership et al, No. CV-o7-263, LRR 265
- Qwest vs. EBID, 07-CIV-163, LRR 266

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.

Following closed session, Willie Koenig motioned and Robert Sloan seconded to write a letter to the Bureau of Reclamation regarding the allocation and carryover storage. Motion carried.

Allocation/Carry-over Storage

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

Adjourn