

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
November 12, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, October 8, 2008. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Joe Nelson. Motion carried. Bill Gary was absent.

Roll Call

EBID personnel present were Gail Norvell, Controller; James Narvaez, Hydrology Director; Valerie Beversdorf, Computer Resources Director; Leo Barrett, Maintenance Project Director; and Jean Hinsley, Linda Armijo and Danny Duran from the Engineering Department.

Also present were Martin Lopez, Roberto Marty Nieto, and Mike Lopez, Mesquite Mutual Domestic Water Association; Olga M. Sanchez, Rural Community Assistance Corp; Jack Noel, EBID Constituent; Pat Gordon, Rio Grande Compact Commissioner; and Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant.

A Resolution of Condolence was read upon the death of John Clayshulte who was a director on the board for 18 years. Jerry Franzoy motioned to approve the Resolution of Condolence and Ramón Alvarez seconded the motion. Motion carried. See resolution attached.

Resolution of Condolence

Jerry Franzoy motioned and Ramon Alvarez seconded to approve the minutes of the October 8th Board meeting as presented. Motion carried.

Minutes Approval

Willie Koenig motioned and Joe Nelson seconded to approve the minutes of the Water Transfer Hearing 2008-S&T-10 held October 8th as presented. Motion carried.

The water supply outlook was presented. The storage totals on October 1, 2008 with a comparison for last year are as follows:

Water Supply

	<u>11/01/2007</u>	<u>11/01/2008</u>
Elephant Butte	325,550	582,900
Caballo	<u>20,620</u>	<u>17,270</u>
	346,170	600,170

Items on the calendar were discussed. Dates include: a settlement hearing with Qwest on November 17th; and the NWRA Conference in San Diego, California November 18 through 21; and the World Wildlife Fund Third and Final Stakeholders meeting, December 16th; Meeting with the RGCC, EBID, EP#1 and members from the BOR regarding the Operating Agreement.

Calendar of Events

The next meeting of the Board of Directors will be held on Wednesday, December 10th. The office will be closed November 27-28th for the Thanksgiving holiday and December 24th through January 2, 2009 for the winter break.

Martin Lopez of Mesquite Mutual Domestic Water Association and Olga Sanchez of Rural Community Assistance Corp (RCAC) gave a presentation on the idea of gathering small drinking water systems in the southern portion of the district and joining them to become a Lower Rio Grande Public Works Authority. Districts included in the Authority would be Mesquite Water, Desert Sands MDWCA, Vado MDWCA, Berino MDWC, and La Mesa MDWCA. The Authority, once created, will give the group the ability to resolve many challenges currently affecting all five associations in regards to future water supply. The Authority would also create additional benefits, such as promoting economies of scale, reducing and or eliminating duplication of efforts, increasing technical, managerial and financial capacity, establish and define a service area, assure compliance with regulations, increase the ability to secure funding, and increase drinking water reliability. They were also interested in participating with EBID to build a small surface water treatment plant. The Board thanked Mr. Lopez and Ms. Sanchez for the presentation and asked that they be kept informed of the progress.

Danny Duran and Jean Hinsley presented the Special Use Permits for the month

Special Use

November, 2008 as follows:

Under Moratorium

- 08-L-016—Dona Ana County; To construct, operate and maintain the construction and widening of Kit Carson Road and install drainage structures along the Rincon Drain at various stations. Assessment, Not Applicable.
- 08-L-059 – Rio Grande Natural Gas; to construct, operate and maintain a new buried 2" gas line connect to an existing line paralleling the Park Drain at various stations and to cross the Park Drain with a new buried ¾" service gas line at approximate station 267+13. Assessment, \$5,715.78. Under Blanket Agreement.

Non – Moratorium

- 08-L-056 – Joe McBain; to operate and maintain the installation of a new harvest gate for crop protection for hay field and new pecan trees on the East bank of the West Drain at approximate station 351+00. Assessment, \$719.53. Request to waive all fees.
- 08-L-057 – Geneve Adams; to operate, and maintain an existing vehicle crossing on the Hatch Canal at approximate station 1141+51. Assessment, \$1,866.67. Request to waive all fees, existing crossing farm use
- 08-L-058 – Helen Masterson C/O Jack Noel: To operate and maintain two existing vehicle farm crossings on the Del Rio Drain at approximates station 1054-84 and the Alamo Lateral at approximate station 35+40 and possibly replace both. Assessment, \$3,333.33. Request to waive all fees, existing crossings, farm use.

Total Assessments For All Permits	\$11,635.31
Total Fees Requested To Be Waived	<u>\$11,635.31</u>
	\$0.00

Upon discussion, Tom Simpson motioned to table license 08-L-016 to Dona Ana County and to approve the rest as presented. Joe Nelson seconded the motion. Motion carried. The JPA between Dona Ana County and EBID still has not been completed and many of the issues in the JPA address the ROW issue on joint use facilities. DAC has not reviewed the JPA, and the Manager will attempt to meet with the Dona Ana County Manager to move this process along.

Leo Barrett, Maintenance Project Director, gave the Maintenance Department update. Leo reported that they were in the process of doing the first major pour at the time of the meeting. This is for the North and South Picacho for meters at Drop 8 and hydrology electric generators were to be installed under the NM Clean Energy Grant. He said that the crews were sand blasting sluice gates and performing maintenance on gate motors at the diversion dams. The fabrication team will build 50 boxes for telemetry and nine radial gates will be built to replace older failing gates. Leo said that the crews were doing turnout repairs this year and three major construction jobs. Also there were a couple constituent funded jobs.

Leo reported on a trip to Olympia, Washington to look at an excavator to replace the vandalized excavator. The District will make a proposal to the insurance company requesting settlement for the total cost of this machine including transportation as well as EBID to keep the old excavator as salvage.

In response to the RFP, there is another used excavator the District will consider purchasing. These new machines will allow the District to retire the JD 892 excavator. Tom Simpson thanked the Maintenance Department for the work they had done on the Picacho lateral and said that they did a beautiful job.

Ramon Alvarez asked about pipe jobs this year. Leo said that there was a construction funded job on the Tortugas lateral. There is also a job of 200 feet on the Mayfield Lateral and approximately 1000 feet on the Three Saints East and 400 to 500 feet on American

Permits

Maintenance
Update

Bend. Another area is the Laguna between Boutz and University which is in the Town of Mesilla and will be a lining project. There will be some mobile filtration units in Hatch as a pilot project for drip irrigation through a grant program. Farmers in the area have indicated interest in donating the easement to see if they can get at least two extra heads of water into the Mesilla lateral.

Leo was questioned about the men working four ten-hour days and how it was working. He reported that most of the men like it and that it gives the warehouse a chance to play catch-up on Fridays.

James Narvaez and Phil King gave the Operations and Hydrology reports for the month of October

Operations
Report

Farm Deliveries, 2203; Acres Irrigated, 42350; AF Charged to Farmers, 17583; Actual Total Diversion, 27468 AF; Allotment Balance, -10363 AF; Breaks, 0; Runover, 0; 2008 Diversion Efficiency 64% as compared to 2007 at 56%. Total breaks for the 2008 irrigation season to date were 22, and 0 runovers.

The Hydrology report for October, 2008 is as follows: Orders totaled 322354 AF; Actual Diversion was 322643 AF; Using 289 AF; Estimated Carriage Losses were 57,772 AF; Adjusted Diversion 265,017 AF; Diversion vs. Order was 0.1%; Total Spill was 8022 AF; % of Diversion Spilled was 2.5%, Charged to Farmers, 187899 AF; and Delivery efficiency, 70.9%.

Hydrology
Report

Jerry Franzoy commented that Assistant Water Master Sam Gonzalez had saved a lot of water by closing gates in storm events. He did a great job.

Discussion about developing a storm water policy to divert storm water onto fields was held. Catching water and holding it in a drain and putting it slowly back into the river below Caballo will improve delivery efficiency. On December 18, a meeting will be held with RGCC Commissioner Pat Gordon which will include Brent Reese, Regional Director of the Bureau as well as other Bureau employees Steve Hanson, John Poland, Bert Cortez, Wayne Treers and Javier, EBID and personnel from El Paso Water Improvement District No. 1 to discuss river operations and Caballo metering.

Storm Water
Policy
Discussion

Steve Hernandez reported on a meeting with the Acequia Association. He said that former State Engineer Tom Turney had over allocated acres in the Middle Rio Grande Conservancy District to fill groundwater permits that the OSE had issued. He said that 55,000 acres on Middle Rio Grande will have to be retired to take care of what OSE did.

James discussed the end of the water season. He reported that October efficiency rates were 74% in Arrey, 71% in Leasburg, 72% in the East Side Canal and 55% in the West Side Canal. He indicated that he and Phil King would conduct intensive 8 hour training to manage water for operations personnel.

The Board discussed once again the issue of end of irrigation season water order balances. Robert Faubion said that the district should confiscate unused water and sell it as we did this year.

Valerie Beversdorf, CR GIS Manager, gave her departments report. She discussed the server crash at the end of the last water order day and the end of fiscal year and need to run year end processes. She said that the District has been looking for a provider to provide trouble shooting services on the network and give advice and recommendations on the IT department for programming to networking. The State of New Mexico has contracts that include network services and project management services. After review and discussion with one of the contractors, it is recommended that the District enter into a contract with POD, Inc.

CRGIS
Department
Update

Pat Gordon, Rio Grande Compact Commissioner, came to visit and discuss Bureau discrepancies in the Operating Agreement. Robert Faubion thanked Pat for his report and said that he was the reason that the operating agreement was achieved. The Commissioner passed out plaques to all board members for their hard work in achieving the operating agreement between the districts and the Bureau. The goal now is to continue working out the bugs with the Bureau. There will be a meeting between all

parties on December 18th which the Commissioner will mediate. Commissioner Gordon said that he had just received notice that he was reappointed to the position for another 6 years.

Robert Sloan motioned and Ramon Alvarez seconded to break for lunch. Motion carried. Following the lunch break, Jerry Franzoy motioned and Joe Nelson seconded to reconvene the meeting. Motion carried.

Gail Norvell, Controller, gave the report for her department:

The Financial Fact Sheet for the month of October, 2008 is as follows: Cash in the bank totaled \$397,500; assessments receivable totaled \$254,443; and investments totaled \$1,609,218 for a grand total of \$2,261,160. This amount reflects a decrease in assets of \$(705,727) over October, 2007. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$350. Also presented was the financial statement for September, 2008.

Gail reported that work was still ongoing on the Tortugas RFI. She will set up meetings with the Executive Committee to discuss joint tenure and long-term lease alternatives.

Gail presented a Professional Services Contract renewal for Robert Rivera for Lobbyist Services. A motion to retain Robert Rivera's services was made by Robert Sloan and seconded by Jerry Franzoy. Motion carried.

Gail presented a Professional Services Contract amendment to Dr. King's contract to add an additional subcontractor to the contract. Robert Faubion made a motion to accept the contract as presented. Ramon Alvarez seconded the motion. Motion carried.

Gail presented a contract for Ready Mix Concrete services for the 2008-09 fiscal year. Motion to accept as presented was made by Tom Simpson, seconded by Ramon Alvarez. Motion carried.

Gail discussed statewide price agreements for IT and Project Management services by POD, Inc. Jerry Franzoy motioned and Robert Sloan seconded to accept the contract for IT Network Services and Project Management Services by POD, Inc. Motion carried.

Gail gave an update for the Employee Advisory Committee. The General meeting was held and was deemed to have been a good meeting. The EAC did a good job organizing the meeting. Linda Armijo thanked the Board for allowing door prizes and said that it was a good morale booster for employees.

Gary Esslinger gave the Manager's report. Topics discussed were as follows:

Shallow Piezometer Replacement Project – ISC wants to renovate the shallow monitoring wells and add ten more shallow monitoring wells, making a total of 54 from Hatch to the Texas state line. Telemetry will be installed on all new well sites. ISC will provide the funding.

The Family Farm Alliance requested contributions on the Western Water Policy report printing and mailing costs. Ramon Alvarez made a motion to give send \$500 as printing fees. Robert Sloan seconded the motion. Motion carried.

Gary said the District would be signing a permit soon with the NM State Parks. The District is still working on developing a safe harbor agreement with the Feds to make sure we are protected under the Endangered Species Act.

Steve Hernandez did the legal update. The following topics were discussed:

Steve Hernandez reported on a meeting with the Acequia Association. Former State Engineer Tom Turney reported at that meeting that groundwater permits in the Middle Rio Grande had allowed pumping with offsets to be acquired in the future. He estimated all of those permits would require about 55,000 acres within MRGCD to be retired. This is about all that is in the district. He does not see how any more groundwater pumping can be allowed in the future once all of these permits are exercised to their full amount.

Lunch Break

Controller Report
Financial Report

Tortugas RFI

Professional
Services Contract
- Lobbyist

Amendment to Dr.
King Contract

Ready Mix
Concrete Contract

IT and Project
Management
Services Contract

EAC Update

Manager's Report

Piezometer
Replacement
Project

Family Farm
Alliance Funding
Request

Bosque State
Park

Legal Update

Acequia Assoc.
Update

There is going to be a \$344M shortfall for the 2009 legislative session. The OSE has initiated a hiring freeze and travel has been cut. They have to reduce their budget by 5%. The Gila settlement has now been pushed to be resolved this month. Pete Domenici has been hired by groups in Arizona. The OSE is considering a state wide metering order. The OSE will seek legislation on deep well, licenses and lowering his jurisdiction on small dams."

Blue Ribbon Task
Force Update

Willie Koenig motioned and Robert 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:

Open/Closed
Session

State ex. rel. D'Antonio vs. EBID (Stream Adjudication)
AWRM Amicus Appeal Brief
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)
Qwest vs. EBID, 07-CIV-163, (LRR 266)
Intervention on Parasol Dairy NMED Permit (LRR 289)
Manager's Evaluation

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, it was decided that the Executive Committee would meet to discuss EBID vs. United States BOR and N.M. St. Parks (U.S. Dist. Ct. NM) and consider where to go with this case. The question was whether or not EBID should seek United States Supreme Court review of the 10th Circuit Court decision. The deadline to file is December 15, 2008. Robert Faubion motioned and Bill Gary seconded to meet in Executive Committee to discuss this matter further. Motion carried.

EBID vs. US BOR
and N.M. St.
Parks (U.S. Dist.
Ct. NM)

The Executive committee will also meet regarding Qwest vs. EBID, 07-CIV-163, (LRR 266) to plan strategy of the settlement conference to be held on November 17, 2008. If settlement is not reached, trial will probably be set in the spring of 2009. Robert Faubion motioned and Jerry Franzoy seconded to meet in Executive Committee to discuss this matter further. Motion carried.

Qwest vs. EBID,
07-CIV-163, (LRR
266)

Following the closed session, the board approved the Treasurer-Manager's salary upon completing the annual evaluation.

Manager's
Evaluation

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

Adjourn