

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING**

**April 9, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, April 9, 2008. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Robert Faubion. Motion carried. Joe Nelson and Tom Simpson were absent.

EBID Staff present were Gail Norvell, Controller; Henry Magallanez, Engineer; James Narvaez, Hydrology Director; Leo Barrett, Project Maintenance Director; Valerie Beversdorf, CR-GIS Director; Richard Bejarano, Water Master.

Also present were Steve Hernandez and Lee Peters, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; John Hernandez, Environmental Consultant; Tom Maddock, EBID Consultant; Hillary Brinegar, New Mexico Dept. of Ag; Brandon Winchester and Rene Hadjigeorgalis, NMSU Dept of Ag Econ; Ralph Di Maro, Keystone Management; Bud Starnes, NMDA; Robert Brooks, NMDA; Adrian Tafoya, USDA-NRCS, T or C Field Office; Sammy Singh, Constituent; Fernie Ortiz, City of Las Cruces, Calvin Chavez, Office of the State Engineer; Bert Cortez, Brent Reese and Steve Hansen, Bureau of Reclamation; Diana Alba, Las Cruces Sun News; and Marvin Tessneer, The Bulletin.

Bill Gary motioned and Ramon Alvarez seconded to approve the minutes of the March 12, 2008 Board meeting as presented. Motion carried.

Robert Faubion motioned and Ramon Alvarez seconded to approve the minutes of the special meeting held March 25, 2008 at the EBID office to discuss the meeting on the 26<sup>th</sup> with the State Engineer as presented. Motion carried.

Robert Faubion motioned and Bill Gary seconded to approve the minutes of the special meeting held March 26, 2008 in Santa Fe with the State Engineer as presented. Motion carried.

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

	<u>4/01/2007</u>	<u>4/01/2008</u>
Elephant Butte	609,050	495, 250
Caballo	<u>19,010</u>	<u>37, 520</u>
	628,060	532,770

Items on the calendar were discussed. Dates include: The NRWA Conference in Washington, DC April 14-16; BOR Tour of the District, April 22-23, 2008; Blue Ribbon Task Force Meeting, April 22-23; and Ag Days at the Farm and Ranch Museum, May 15-16, 2008.

The next meeting of the Board of Directors will be held on Thursday, May 15, 2008.

Brandon Winchester, an NMSU student in the Ag-Econ department gave a presentation on Water Marketing. Different types of water market mechanisms that could be used in this area are water banking, spot water market, water options market, water rights market, and land and water rights market.

NRCS Operation and Maintenance Agreement on ownership/sponsorship of Dams. Adrian Tafoya of NRCS came before the board in response to a request to answer questions in regards to O&M on flood control dams within the District's boundaries that were up for renewal. NRCS is asking the District to sign O&M agreements and update out-of-date O&M agreements since we are the original sponsors. EBID is listed as the sponsor to all of these dams, but IBWC has had O&M responsibility and they should be the sponsor. EBID attorneys advised the board not to sign the agreements in their present state since additional language has been added. James Salopek said the board would take the matter under advisement and would schedule a special meeting if necessary. EBID feels that IBWC should take over O&M sponsorship of the dam.

Mr. Magallanez gave the Engineering Department report:

- Mr. Magallanez discussed a pump request from Mr. Kuncel to pump out of the Del Rio drain near Saddle Creek Estates. Henry's recommendation was to deny Kuncel's request on the basis that it would be difficult to meter and monitor. Robert Faubion pointed out that pumping out of his domestic well is the same as pumping out of the drain since the water table hydrologically connected to the invert of the drain. Jerry Franzoy motioned to deny Kuncel's request to pump out of the Del Rio drain. Robert Faubion seconded the motion. Motion carried.
- Mr. Magallanez discussed a SWUA variance for Legends West, a subdivision owned by Bill Cupit Property. The subdivision property is outside of City of Las Cruces limits. Fernie Ortiz from the CLC is asking for a variance to supply water to the subdivision. Dona Ana Mutual Domestic will send a letter of approval allowing for CLC to provide water. The transfer will be contingent

Roll Call

Minutes Approval

Water Supply

Calendar of Events

Water Marketing Presentation

NRCS O&M Request on Flood Control Dams

Engineer Report

Pump Request

SWUA Variance

<p>upon receipt of Dona Ana Mutual Domestic letter and EBID will approve the variance.</p>	
<ul style="list-style-type: none"><li>• Lee Peters presented two amendments to the Qwest Fee Schedule. The first one takes care of problems that Qwest claims are discriminatory and that they have attacked our policy in court on this provision. By law, the District cannot discriminate between telecommunications providers. This amendment rids us of any kind of discrimination between telecommunication users. The second amendment equalizes the fees that the District charges for users that are not telecommunication providers. Federal law protects telecommunication providers and prevents the District from treating telecommunication providers differently. The same fee schedule that we are using for all of our telecommunication providers will apply to all of our constituents. Following discussion Willie Koenig motioned to approve the two amendments to the Qwest Fee Schedule. Robert Sloan seconded the motion. Motion carried.</li></ul>	Qwest Fee Amendment
<p>Leo Barrett, Maintenance Project Director gave the Maintenance Report.</p>	Maintenance Report
<ul style="list-style-type: none"><li>• Mr. Barrett reported that the weed control crews were getting a good start on spraying for weeds and that they haven't begun mowing yet. Maintenance is focusing on ditch break repairs, week plugs, and gopher holes.</li></ul>	Weed Control
<ul style="list-style-type: none"><li>• Mr. Barrett discussed the new mower which will attach to our excavator. They are working to adjust the float pressure to the proper hydraulic oil level. Barrett also mentioned that a new box grader has been purchased. It is an attachment to the mowing tractor and will be pulled behind when the tractor is mowing. It is Barrett's hope that weed control will be able to get rid of all of the rear flail mowers and replace them with the box grader on the back of the tractors. The estimate for the box grader is \$2,800.</li></ul>	New Mowing Equipment
<ul style="list-style-type: none"><li>• Mr. Barrett discussed the fact that the District purchased a 1000 gallon nurse water tank for spraying. This water tank stores water and will be situated in the field away from the Hatch Yard. Having this tank in the field will take away from travel time to refill the spray trucks, thereby stopping down time. The nurse tank should be here in about 3 weeks.</li></ul>	Nurse Tank
<ul style="list-style-type: none"><li>• Leo said that they were adding blue dye to the weed spraying chemical within village and city limits so that we can see where we have sprayed. Adding this dye will help protect EBID as an entity showing the public that we are watching where we are spraying.</li></ul>	Dye Additive
<ul style="list-style-type: none"><li>• Leo said that the FY 07-08 budget includes a backhoe for the central area and he was looking for the right backhoe for the job. The backhoe he is looking will be a little smaller than the larger backhoes, but this will give each area a large and small backhoe.</li></ul>	Backhoe Needed
<p>Jerry Franzoy questioned the maintenance of the drain ditches in the Rincon area. Barrett responded that the District does not have an adequate big machine in that area and that he needed to replace the current JD890 with a new large excavator for that area. He said that he will bring this up at budget time to get a large excavator for the Hatch area.</p>	Drain Cleaning Concern
<p>Ricardo Bejarano gave the operations report for the month of March, 2008 as follows: Farm Deliveries, 1,659; Acres Irrigated, 27,486; AC/FT Charged to Farmers, 15,382; Actual Total Diversion, 32389; Allotment Balance, 137488; Breaks, 4; Run over, 0; 2008 Diversion Efficiency 47% as compared to 2007 at 51%.</p>	Operations Report
<p>James Narvaez gave the Hydrology report for the month of April, 2008. The report is as follows: Orders totaled 32,600; Actual Diversion was 31,432; Using 1,169 AC/FT; Estimated Carriage Losses were 5,537; Adjusted Diversion 25,894; Diversion vs. Order was -3.6%; Total Spill was 1,323; % of Diversion Spilled was 4.2%, Charged to Farmers, 15,383; and Delivery efficiency, 59.4%.</p>	Hydrology Report
<p>The flat rate investigation for the first irrigation in the south end of the district was discussed. Hydrology had personnel in the field to check on irrigators in the southern area of the District. In one weekend over forty individuals were found to be watering illegally, due to non-payment of their accounts, suspended water rights, or that they were watering twice in the weekend. They will be out in the field again for the next flat rate irrigation in the central area. A letter will be sent to those caught irrigating illegally. Bobby Sloan discussed setting up ditch associations and said that he thought all areas should be set up where these types of associations would be able to water better. Mr. Esslinger replied that setting up as an association with a good working foundation takes years and a lot of field visits to get the public to agree to setting up a ditch association.</p>	Flat Rate Investigation
<p>Phil King discussed the current water allocation which was set at 18 inches at the March 2008 meeting. The snow pack is currently 148% of normal. The upper part of the river is flowing big and strong, but that flows are still not showing up in San Marcial. Dr. King said that we would have a better runoff projection in May.</p>	Water Allocation
<p>Jerry Franzoy asked if the allotment could be increased to 3 AF at this time. His reason was that farmers wanted to now what they were going to be receiving and wanted to shut down their pumps if the allotment was going to be 3 AF. Phil said that the NRCS forecast of runoff had dropped to 1.3 million AF for runoff. He said that the</p>	

maximum at this point was 2.4 AF. Phil stressed that the water was still not in the Elephant Butte Reservoir. At this point, Jerry Franzoy made a motion to increase the allotment to 2.5 AF. Willie Koenig seconded. Motion carried with all members present voting yes.

Dr. King reported that he and James Narvaez had attended a meeting with the BOR, EP#1 and Mexico the day prior to this meeting. At this meeting the District's allocation was set at 198,284 AF. A topic of discussion at the meeting was that EP#1 wants the District to become more firm on its initial start and perhaps come up with a predetermined plan. Dr. King suggested that the initial start date be set yearly at the February meeting of the two district boards. This procedure will be put in draft to be decided by the two districts.

Brent Reese, Assistant Regional Director from Salt Lake City; Filberto Cortez, Office Manager from the El Paso Regional Office; and Steve Hansen, Asst. Area Manager from Elephant Butte of the Bureau of Reclamation came before the Board to discuss Review of the El Paso Field Office, BOR Project Tour and Parasol Informal Appeal.

Mr. Reese congratulated the Board on the Operating Agreement that it had just reached with the BOR and EP#1. He thanked the Board for working so hard to make that agreement happen and said that he was looking forward to working with the District.

- Review of El Paso Field Office - Mr. Reese stressed that the District and the Bureau are partners and it is the expectation of the BOR to get to that end. He wanted to improve the office management efficiency and transparency in their overall operations of the El Paso field office. He stated that outreach from the BOR through localized interviews and meetings would be conducted with each district. He said that the BOR would do whatever was needed to do to move forward and come together and that he wanted to keep it a very open process. His invitation today was to identify issues and tackle them one at a time. His invitation to participate in review and process was offered to the District. The real issue was metering Caballo and staying consistent with the order. Phil King suggested gates be set by a rating equation and the BOR should then not adjust them after the order was placed. The BOR said that they would consider this request and would work with EP#1 and EBID on finding a solution.
- On another matter, a BOR project tour with IBWC and district officials from Mexico is planned. EBID will compile a list of sites to visit in the District.
- Bert Cortez mentioned that the budgeting process for the Bureau's 2011 budget would begin soon and asked for the District's input.
- Parasol Dairy's informal appeal was discussed by Steve Hansen of the BOR and John Hernandez, EBID consultant. The permit was denied by the Secretary of NMED, but an appeal was filed by Parasol Dairy in March. Parasol's negotiations may not reflect the BOR's concerns and there will be 90 days to file formal petition for appeal. Parasol may try to negotiate with the Secretary of Environment and any action to be taken may not give the District a say since we are not a party, because we are only an interested party. The Bureau is the party. John Hernandez suggested that the Bureau send a letter to the Secretary of Environment. The Bureau promised to keep us informed.

Bill Gary motioned and Willie Koenig seconded to break for lunch. Following lunch, Robert Faubion motioned and Robert Sloan seconded to reconvene. Motion carried.

Gail Norvell gave the report for her department:

- The Financial Fact Sheet for the month of March, 2008 is as follows: Cash in the bank totaled \$168,251; assessments receivable totaled \$939,863; and investments totaled \$5,904,536 for a grand total of \$7,012,650. This amount reflects an increase in assets of \$462,769 over March, 2007. No Extraordinary costs were presented. Extraordinary receipts were: Special use fees \$8,684. Also presented was the financial statement for February, 2008.
- Ms. Norvell discussed the proposal on the development plan for Tortugas Dam acreage. Requests for Intent to developers went out to the newspapers in Albuquerque, Arizona, Dallas, Houston, LA, Salt Lake City, El Paso and Las Cruces. Interested parties have 60 days in which to submit their intent, which ends June 30, 2008. Requests for quotes for appraisal services have also been sent out, with an April 30, 2008 date.
- Well Metering Program –There are 137 wells in the area that need to have meters installed per OSE regulations. Some of these wells are inactive and will not be refurbished. Three have been installed in full. Nine have put in their down payments. Forty others have expressed an interest to apply for loans. This leaves approximately 70 who have not responded at all. Sheldon Dorman has asked to continue to receive updates. The OSE is not planning any further notices to well owners who have not responded. Group one, which are wells pumping into our system, is done. Gary Esslinger asked Valerie to have a report for the Board that wells that pump into our system are complete. Valerie will have

BOR Report

Operating Agreement

El Paso Field Office

BOR Project Tour

FY 2011 Budget

Parasol Dairy

Lunch Break

Controller's Report

Financial Report

Tortugas Dam Acreage

Well Metering Program

a status report at the next meeting.

- FEMA Project Update – Gail reported that a full quarterly report was due next week. A reimbursement report has been submitted to FEMA on two 2 small projects that were completed. No response has been received as of the date of the meeting.
- Del Rio Drain Land Sale Approval – Gail reported that the sale of the land had been approved by the Department of Finance and Administration and that Mr. Beyers has paid the \$23,000 purchase price.

FEMA Update

Del Rio Drain land Sale

Valerie Beversdorf, Computer Resources and GIS Director gave the IT Department report:

IT Department Update

- Work Order Update – Valerie gave an update on her departments Work Orders entered into Help desk during the first quarter of this year. 166 Work orders were submitted, 24 are pending, 19 overdue and 123 closed. She wanted to give the board an understanding of the technology that we use is demanding of resources and personnel. Entire department is new and learning and getting adapted to the things they do. Good accomplishment in this first quarter.
- The GIS Department is working to prepare maps for use during the upcoming flat rate investigation for the purpose of locating properties and knowing whether or not they are paid accounts.
- Henry's team has been setting GPS points on turnouts, discharge pipes and check structures. Someday we would like to be able to charge these discharges through use of telemetry by linking water turnouts to tax.
- The department is in the process of replacing PCs that are more than 5 years of age. One laptop has been purchased for Henry.
- The IT Department is also exploring technology for recording Ons and Offs for ditch riders. The 7 Day Report could be used by the Water Master and his assistant water masters and also the ditch riders while in the field, but they haven't been using it. The process for internet access is up to date in the central and north yards, but not in Chamberino as there is no internet access in that area. Real time information in the field is difficult. Cell phones could be used, as well as interactive voice response. Ditch riders could call in and get their balances as well as being able to see if he has orders pending, and for ons and offs. Ability to monitor, turn alarms on or off, RTU failing to respond. James could use in hydro.

Gary Esslinger gave the managers update. Topics discussed were as follows:

Managers Update

- USCID Water Management Conference. May 28-31, in Scottsdale, Arizona. Bill Gary motioned and Robert Sloan seconded to send Henry Magallanez to the conference. Motion carried.

USCID Water Management Conf.

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

- \*State ex rel. D'Antonio vs. EBID (Stream Adjudication)
- \*AWRM – LRG Basin Specific Regulations Dispute
- \*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
- \*Qwest vs. EBID, 07-CIV-163, LRR 266

Bill Gary motioned and Robert Faubion 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, Jerry Franzoy motioned and Robert Sloan seconded to adjourn the meeting. Motion carried.

Adjourn