

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
June 11, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, June 11, 2008. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Jerry Franzoy. Motion carried. All members were present.

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

Also present were Steve Hubert, Steve Hernandez, and Samantha Barncastle, Hubert & Hernandez, P.A; Leeann DeMouche, NMSU, Rafael Plancarte, Constituent; Fernie Ortiz, City of Las Cruces; Calvin Chavez, Office of the State Engineer; Bud Starnes, NMDA; Tom Maddock, Groundwater Consultant; Fred Ayers and Ben Woods, NMSU; James Powell and Bert Cortez, US BOR; Marsha Wright, NMDA; Sammy Singh, Constituent; and Marvin Tessneer, The Bulletin.

Jerry Franzoy motioned and Bill Gary seconded to approve the minutes of the May 15, 2008 Board meeting as presented. Motion carried.

Willie Koenig motioned and Ramon Alvarez seconded to approve the minutes of the Water Transfer Hearing, 2008-S&T-05. Motion carried.

Robert Faubion motioned and Bill Gary seconded to approve the minutes of the special board workshop dated June 2, 2008. Motion carried. The purpose of this special meeting was to discuss the OSE settlement with pecan growers.

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

	<u>6/01/2007</u>	<u>6/01/2008</u>
Elephant Butte	305,060	614,520
Caballo	<u>53,120</u>	<u>46,070</u>
	358,180	660,590

Items on the calendar were discussed. Dates include: US-Mex Transboundary Aquifer Assessment Program, Mesilla Basin, June 11th; GMDA Conference, El Paso, TX, June 12-13th; Far West Texas Climate Change Conference, El Paso, June 17th; RG Salinity Management Conference, June 23rd; Storm Water Regulations in New Mexico, June 27th; the NWRA Conference in Skamania, Washington, June 28th; and the NW Water Law Conference in Albuquerque July 31st and August 1st.

The next meeting of the Board of Directors will be held on Wednesday, July 9, 2008.

Leeann DeMouche of NMSU gave a presentation of a project called AgClimate which is a program that was developed by the Southeast Climate Consortium (SCC) in Florida. The desire is to get area farmers to work with NMSU to evaluate the climate tools developed by SCC. These tools will monitor weather temps and rainfall. The results will evaluate crop yield and crop type in the South West. This announcement has been placed on the EBID website and Board members can call if they want to volunteer for the project.

Leo Barrett, Maintenance Project Director, gave the Maintenance Department Report. Leo reported that there was a new excavator on budget to be dedicated to the Hatch area. He also hopes to increase manpower by one new employee dedicated for drain cleaning. The excavator and employee are on the budget request for the 2008-2009 budget.

Leo updated the board on the problem of vegetation in drains. He reported that they were mowing one bank at a time and then spraying to keep the drain clean. He said that more equipment is needed to keep the drains clean. On the matter of controlling the Horse Tail weed, Leo reported that EBID is working with three 3 PhD's from NMSU who are looking at the best way to eradicate this weed.

Henry Magallanez, Engineer, gave the Engineering Department report:

A request to excess ROW off the Eastside Canal from Ralph Plancarte of approximately 2 acres was discussed. At the meeting in May of 2007, the Board denied Mr. Plancarte's request stating that this was a good place to stockpile materials. Engineering continues to recommend not selling the property. Mr. Plancarte has now changed his request to be allowed to acquire a ROW to the property. Plancarte said that there had been a fire due to excess weeds. EBID will clean it up and fence it. Mr. Plancarte was told that he could submit a permit application for use of the ROW. However, the Board agreed with EBID that the property was best suited for EBID.

On the matter of the City of Las Cruces' request for expansion of boundaries by 2000 acres at Santo Tomas Farm, the City has completed most of the steps. Once that is done, the City will bring its documentation back to the Board for acceptance. That will complete the process of the City expanding its boundaries. The District must decide what fees will be charged for the annexed land. It was Henry's recommendation that the District's legal staff work with Gail to review the value of the annexed land if any fee

Roll Call

Minutes Approval

Water Supply

Calendar of Events

Ag Climate

Maintenance Report
New Excavator for Drain Cleaning

Weed Control

Engineer Report

Plancarte Excess ROW Request

CLC Expansion of Boundaries Request

should be assessed. The following questions will need to be answered. (1) what will be the charge to bring the new land into the boundaries; and (2) how do we re-adjust the boundaries and election precincts? Robert Faubion recommended that the Board be judicious on annexations fee as it is beneficial to the District as well as the City.

The SWUA for the Las Cruces Public Schools to the City of Las Cruces was presented. This will be placed on the District's books for a 23.6 acre transfer of water rights. The city is leasing the Field of Dreams acreage to stack water. This is agricultural acreage.

CLC SWUA with LCPS

On the matter of the Thielman property exchange, or partial release of easement, Robert Faubion motioned and Joe Nelson seconded to continue with the process for the partial release of easement. Motion carried.

Thielman Property Exchange

Henry presented the Berino MDWCA Special Water Users Association resolution to become a SWUA. Bill Gary motioned and Joe Nelson seconded to approve the Berino MDWCA SWUA. Motion carried.

Berino MDWCA SWUA

Henry presented the Special Use Permits for the month June, 2008 as follows:

Special Use Permits

Non-Moratorium

07-L-081—Mesquite (MDWCA): To construct, operate and maintain a new 6" waterline in a 12" steel casing crossing the Lake Lateral at approximate station 76+15 and the Hess Spur Drain at approximate station 27+86 and the Del Rio Drain at approximate station 304+07.

Total Assessments For All Permits = \$9,500.00
Total Fees Requested To Be Waived = 0,000.00
\$9,500.00

Henry recommended approval of the permit. Jerry Franzoy motioned and Bill Gary seconded to approve the permit as presented. Motion carried.

Ricardo Bejarano, Water Master, gave the operations report for the month of May, 2008 as follows: Farm Deliveries, 3,669; Acres Irrigated, 66,150; AC/FT Charged to Farmers, 28,682; Actual Total Diversion, 52,046; Allotment Balance, 199,610; Breaks, 5; Run over, 0; 2008 Diversion Efficiency 55% as compared to 2007 at 51%. Total breaks for the 2008 irrigation season to date were 11, and 0 runovers.

Operations Report

On the matter of whether or not Pompeo took water illegally, Richard investigated and found that there was no illegal taking of water.

La Mancha Water Taking Report

James Narvaez, Hydrology Director, gave the Hydrology efficiency report for the month of May, 2008. The report is as follows: Orders totaled 128,306; Actual Diversion was 127,396; Using -910 AC/FT; Estimated Carriage Losses were 22,534; Adjusted Diversion 104,862; Diversion vs. Order was -0.7%; Total Spill was 2,488; % of Diversion Spilled was 2.0%, Charged to Farmers, 72,632; and Delivery efficiency, 69.3%.

Hydrology Report

Dr. King was not in attendance at the meeting. However, James said that he had recommended that there not be an increase to the allotment at this time. As it stands now, we will be able to deliver what we presently have allotted. The need to start brokering water was discussed. Jerry Franzoy motioned and Joe Nelson seconded to leave the allocation as it stands at 2.5 AC/FT.

2008 Water Allocation

James discussed Caballo releases which are continuing to be reported incorrectly by the BOR. EBID metered close to the order twice. The BOR is fighting the system. The District needs to look at this closer and continue to document the problems. It was suggested that someone contact Mr. Reese and put the matter into his hands. Caballo is the best and most accurate place to meter, but the local BOR office won't agree that it is true and continues to say that our equation is wrong.

BOR Metering Issue

On the matter of Flat Rate metering, James said that he will have a complete report at the July meeting.

Flat Rate Metering Investigation

Ben Woods and Fred Ayers of NMSU came before the Board to discuss annexation of property at Tortugas Dam. Mr. Woods said that NMSU is looking into expanding its campus into additional lands that the university owns as well as redeveloping lands south of Dripping Springs Road. He stated that NMSU would set up a meeting to bring in all involved entities to discuss the annexation. James Salopek asked if there would be an annexation fee? Mr. Woods did not have an answer for that question.

NMSU Annexation Discussion

Bert Cortez and James Powell of the US BOR came before the Board regarding the request to use Elephant Butte as a black start facility to service Southern New Mexico in the event of a severe black out. This matter had been denied at the May meeting. Mr. Powell said that PNM must have a plan in place if the grid were ever to fail. The plan would incorporate Elephant Butte's hydro electric plant to help fire up plants in Luna and Lordsburg, which would then fire up other plants in New Mexico. He likened the black start facility to a 'small match to build a bigger fire'. This would take at most three days and would be a benefit to all of the community and cooperation with all power plants in state. If a black start was required, the District would be notified and would not be charged for water used during a black start. Steve Hernandez and Steve Hubert spoke of the stipulation in the court order that regulates the amount of water to be put in to Caballo during off season is not to exceed 50,000 AF. Robert Faubion motioned and Joe Nelson seconded to approve the concept contingent upon documents pertaining to the court order

Black Start Facility

and giving the Manager authority to make the final decision. Motion carried.

Bert Cortez said that the BOR is starting work on the 2011 budget and will communicate with the District when it is ready for review.

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

The Financial Fact Sheet for the month of May, 2008 is as follows: Cash in the bank totaled \$130,709; assessments receivable totaled \$451,154; and investments totaled \$5,329,579 for a grand total of \$5,911,441. This amount reflects an increase in assets of \$377,044 over April, 2007. Extraordinary costs were from Hubert and Hernandez, PA, Legal Fees, \$38,939. Extraordinary receipts were: Special use fees \$999. Also presented was the financial statement for April, 2008.

Gail discussed delinquent accounts for all EBID constituents. Investigations for flat rate constituents helped to collect some past due accounts. Farm rate delinquent accounts was reviewed and discussion was held to pursue these with a delinquent collection notice advising constituents about payments, transfer of water, and suspensions.

Gail discussed the well meter loan program. A notice has been posted on the District's website that the OSE is inspecting wells for compliance with the well meter order effective March 1, 2006. Metering of all groundwater wells in the District is designed to protect the water rights in the Lower Rio Grande basin. Wells in non-compliance with the metering order have until June 30, 2008 to be in compliance. The initial loan payment has been made on the funding for the well meter loan program. Excess funds will be remitted to the ISC after the June 30, 2008 deadline.

The following professional service contracts were presented for renewal:

- Dr. Fernando Cadena (Environmental Consultant)
- Dr. Thomas Maddock (Hydro Consultant)
- Dr. J. Phil King (Expert witness)
- Dr. John Hernandez (Environmental Consultant)
- Dr. J. Phil King (Hydrologic Consultant)
- Ron Mears (Information Technology Consultant)

A motion to renew all contracts as presented was made by Robert Faubion and seconded by Bill Gary. Motion carried.

Gail informed the Board that the District is now able to take debit and credit card payment. Constituents have the opportunity to pay the tax assessment and conserved water bills in person or over the phone.

Gail reported that four requests for interest for the development of the Tortugas Dam project had been received to date. The deadline for RFI is June 30th.

Gail requested review and approval for equipment to be sold at public auction in July, 2008. Robert Faubion motioned and Bill Gary seconded to approve auction items. Motion carried. Gail noted that procurement regulations would be reviewed prior to a contract for the auction to ensure EBID follows the proper procedure.

Willie Koenig motioned and Robert Faubion seconded to break for lunch. Following lunch, Tom Simpson motioned and Jerry Franzoy seconded to reconvene. Motion carried.

Valerie Beversdorf, Computer Resources Director, gave the CR-GIS Department report. Valerie reported that wireless IT was now installed in both the Chamberino and Hatch yards. Valerie also presented copies of maps that were prepared for ditch riders to use for unpaid accounts and water deliveries.

Gail Norvell gave the Employee Advisory Report. She reported that the committee had met and discussed their bylaws, a survey for budget items of interest, sick leave donations and bereavement hours. The EAC will propose items for the upcoming fiscal budget year.

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

2025 Water Grant. Gary reported that the District was awarded \$265,000 for remote sensing technology that would detect in evapo-transpiration in different crops. The award of this grant will help us to keep better records for determining water budgets and irrigation schedules. This will be a tool to determine the amount of water lost to silt islands in the river and provide loss of river efficiency.

The World Wild Life Fund requested District support for the Rio Grande Environmental Management Program. They asked that the District join them in their effort to secure funding in the FY 2010 budget for federal funds. A motion not to participate due to the unknown results of such a program's effect on the river was made by Willie Koenig, seconded by Jerry Franzoy. On a roll call vote, Willie Koenig, Jerry Franzoy and Bobby Sloan voted Aye: Tom Simpson voted Nay: and Robert Faubion, Bill Gary, Joe Nelson and Ramon Alvarez abstained from vote. Motion carried.

Gary informed the Board that the NM Water Law Conference would be held July 31st in Albuquerque. Board members were asked to respond to the secretary if they were interested in attending.

Controller's Report
Financial Report

Flat Rate Delinquency

Well Meter Loan Program

Professional Services Contract Renewals

Debit/Credit Card Payments

Tortugas Dam RFI

Equipment for Auction

Lunch Break

Computer Resources Department Update

EAC Update

Managers Update

2025 Water Grant

WWF Request for support of RG Environmental Management Program

NM Water Law Conference

Gary discussed a proposal on what he calls the Green Water Project. The Project is a means to develop a renewable energy supply for the District. The District program is on a short list for selection for a pilot project with a \$150,000 grant award matched with \$125,000 in-kind services. This project could be used for farmers to lift water from a canal for the purpose of generating enough energy to run a turbine or centrifugal pump to run his drip irrigation system. Or it could be used to power our own surface water treatment plant or other pumps, or for credit back to the District from El Paso Electric. The pilot project would be located on the Westside Canal at Drop 8.

Green Water Project

Legal update

Legal Update

Samantha Barncastle, 1st year Law Clerk from H&H, P.A. gave a report on Utah Secondary Water project. She gave a summary of pressurized Secondary Water Systems which is a dual system that provides two water lines. One is clean treated potable water for cooking and drinking and the other one for outdoor use. Samantha's report concluded that pressurized secondary water service provides many benefits to communities as it aides in conservation of water by allowing secondary water to be used for outdoor purposes. The revenues to the District provide lower cost of water to farmers and reduction in O&M costs for improvement of the existing facilities. These improvements make the delivery and use of water more efficient and a greater conservation effort utilizing irrigation surface water.

Secondary Water System Report

Joshua Smith, a law clerk from H&H, P.A. provided a memo on farm tax credits. The memo was regarding a new section of the Income Tax Act that provides individual farmers a credit against their income tax liability for expenses incurred by the farmer for eligible improvements in irrigation systems or water management methods and whether or not this applied to EBID. It was Josh's finding that this tax credit did not apply to EBID as a whole, but it does apply to EBID constituents if the farmer met certain qualifications. EBID will provide assistance and recommendations for farmers participating in the program.

Tax Credit on Ag Water Conservation Expenses

Bill Gary motioned and Jerry Franzoy 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

- Boundary Expansion Dispute
- 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)
- Personnel Matter – Flex Hours
- Intervention on Parasol Dairy NMED Permit (LRR 289)

Jerry Franzoy 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.

There being no further business, Jerry Franzoy motioned and Willie Koenig seconded to adjourn the meeting. Motion carried.

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary