

**'ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
July 9, 2008**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, July 9, 2008. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Ramon Alvarez. Motion carried. Robert Sloan was absent.

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 and Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; John Hernandez, Water Quality Consultant; Fernie Ortiz, City of Las Cruces; Calvin Chavez and Rasool Ahadi, Office of the State Engineer; Arthur Johnson and Manuel Lucero, EBID Constituents; Diana Alba, Las Cruces Sun News; and Marvin Tessneer, The Bulletin.

Willie Koenig motioned and Ramon Alvarez seconded to approve the minutes of the June 11, 2008 Board meeting as presented. Motion carried.

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

	<u>7/01/2007</u>	<u>7/01/2008</u>
Elephant Butte	571,440	625,550
Caballo	<u>39,990</u>	<u>56,340</u>
	611,430	681,890

Items on the calendar were discussed. Dates include: a meeting with the OSE on the Operating Agreement in Albuquerque on July 11; a Rio Grande Basin Initiative conference and tour scheduled for July 15-16; the Governor's Blue Ribbon Task Force meeting in Albuquerque on July 24th; the NWRA Conference in Skamania, Washington, June 28th; a Water and Natural Resources Committee meeting to be held in Las Cruces on August 18; and a proposed Rio Grande Compact Commission tour August 28-29th.

The next meeting of the Board of Directors will be held on Wednesday, August 13, 2008.

Henry Magallanez, Engineer, gave the Engineering Department report:

Henry updated the Board on the matter of the City of Las Cruces' request for expansion of boundaries by 3000 acres located adjacent to the West Side Canal at Santo Tomas Farm. He said that the City was taking the last steps to complete their part of the process. EBID has accepted the recorded copy of the Boundary expansion provided by the City. The next step will be for the City to ask for a variance from agricultural use to transfer water rights on non-agriculture lands. Jerry Franzoy motioned and Joe Nelson seconded to accept the recorded copy of the deed and maps as for the boundary expansion. (Said documents are attached to these minutes.)

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

Non-Moratorium

08-L-036—Las Uvas Dairy; To construct, operate and maintain a new buried 12" irrigation well pipe paralleling a portion of the Angostura Drain approximately 1,200 feet at approximate stations 114+00 to 102+00 and crossing the Reed Arroyo. Assessment, \$2,569.76. Request to waive admin fee, \$666.67.

08-L-037 – El Paso Electric Co; To construct, operate, and maintain a new aerial electric power line crossing the Mesilla Lateral at approximate station 63+28. Assessment, \$3,166.67.

08-L-038 – Indalecio Prieto; To operate and maintain an existing vehicular culvert

Roll Call

Minutes
Approval

Water
Supply

Calendar of
Events

Engineer Report

CLC Expansion
of Boundaries
Request

Special Use
Permits

crossing on the Mesilla Drain at approximate station 159+60. Assessment, \$1,666.67. Request to waive all fees. \$1,666.67.

Total Assessments For All Permits = \$7,403.10
Total Fees Requested To Be Waived = 2,333.34
\$5,069.76

Henry recommended approval of all permits. Jerry Franzoy motioned and Willie Koenig seconded to approve the permits as presented with fees waived on 08-L-036 and 08-L-038. Motion carried.

The matter of Lucero Dike was tabled until Mr. Lucero was available and would sign the special use permit.

Henry updated the Board on the request for relinquishment of easement from Mr. Stan Hargrave located adjacent to the South Dona Ana Dam. Henry was given the go ahead to continue with the process for relinquishment of the easement. No Board action was needed.

Leo Barrett, Maintenance Project Director, gave the Maintenance Department Report. Leo reported that the first pass of mowing for this season was completed. He said that he had had some success with using 10% Round-up on the weed known as Horse Tail and would continue to monitor the test plots.

He reported that there would be a pre-bid meeting on the new backhoe. He also said that there was some water behind McLead Dam and it was holding well and draining. A lot of rain had fallen in the Hatch Valley up to this point.

Ricardo Bejarano, Water Master, gave the operations report for the month of June, 2008 as follows: Farm Deliveries, 3,973; Acres Irrigated, 75,474; AC/FT Charged to Farmers, 32,794; Actual Total Diversion, 59,199; Allotment Balance, 131,949; Breaks, 6; Run over, 0; 2008 Diversion Efficiency 55% as compared to 2007 at 49%. Total breaks for the 2008 irrigation season to date were 17, and 0 runovers.

Mr. Bejarano reported that due to large amounts of rain occurring within the District boundaries, water had been shut down in the all distribution sites as of the time of the meeting. Heavy rains were slated to continue in the area for the next few days. El Paso Water Improvement District No. 1 had also shut down operations due to the rains.

Gary reported that E-coli sampling was being conducted from arroyo runoff for the first time this year. There has been significant rain in the year 2008. Sampling of arroyos would again be done later in the year and then comparison could be made as to the amount of E-coli that comes from natural sources on the watershed from wildlife rather than from Ag use.

James Narvaez, Hydrology Director, was not in attendance, but his report was presented by Dr. King. The report for June, 2008 is as follows: Orders totaled 186,357; Actual Diversion was 185,976; Using 382 AC/FT; Estimated Carriage Losses were 33,066; Adjusted Diversion 152,959; Diversion vs. Order was -0.2%; Total Spill was 4,204; % of Diversion Spilled was 2.3%, Charged to Farmers, 107,328; and Delivery efficiency, 70.2%.

Phil King, Hydrology Consultant, showed computer weather network graphs showing storms in the area as well charts and graphs of the rain fall activity and the water running through the system. Phil reported that the allocation had gone down slightly with the 20,000 AF adjustment for the diversion ratio and advised that it was important to use the flood water we are getting wisely and try to utilize it within the system. Phil and James will develop protocol to use flood water on the system. The allotment to constituents remains at 2.5 AF.

Phil discussed Caballo releases which are continuing to be reported incorrectly by the BOR.

On the matter of Flat Rate metering, James will have a complete report at the August

Lucero Dike

Relinquishment of Easement on Dona Ana Dam

Maintenance Report

Purchase of Backhoe

Operations Report

Water Shut Down due to Heavy Rains

Ecoli Sampling

Hydrology Report

2008 Water Allocation

BOR Metering Issue

Flat Rate Meter

meeting.

Gary presented a request from USGS for continuation of a Joint Funding Agreement between the EBID and the USGS for continuation of the cooperative study entitled, "Monitoring Network of the Ground Water Flow System and Stream-Aquifer Relations in the Mesilla Basin, Dona Ana County, New Mexico and El Paso County, Texas." Motion was made by Joe Nelson and seconded by Robert Faubion to continue with the JFA. Motion carried.

Valerie Beversdorf, Computer Resources Director, gave the CR-GIS department report. She discussed the fact that the District's programmer was leaving due to personal matters, but would be willing to continue working on a consultant basis from his home in Roswell. He would travel to Las Cruces when necessary. A contract would be presented later in the meeting.

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

Gary discussed a letter from the Bureau of Reclamation regarding the transfer of irrigation water on the BOR Rio Grande Project. Reclamation referenced the City of Socorro, TX, and how the matter was handled there. It was the opinion of the Bureau that the City of Socorro, Texas, may not require that sub dividers transfer the water rights of lands being subdivided to the City. It was Reclamations opinion that only the fee owner of the lands irrigated and the water users association can enter into a 1920 Act Contract for the Sale of Water for Uses Other Than Irrigation.

Gary discussed Reclamation's Water 2025 Preventing Crisis and Conflict in the West-System Optimization Review – fiscal Year 2007-2008. He announced that the District had been awarded federal funds in the amount of \$265,000 for the proposed project.

Gary discussed the World Wildlife Fund/Bureau of Reclamation Grant for Soil Survey. The purpose of this grant is to undertake soil surveys in Selden Canyon. The amount of WWF request is \$45,422.69 from the District. Gary asked for approval for this grant saying it would cost the District nothing. Willie Koenig asked for explanation of the benefit to the District. Gary explained it was to determine if Willow Fly Catcher is already in the District and if Seldon Canyon was a suitable habitat. According to the inventory taken by WWF, they are not in the Bosque Park, but are already in the narrows at the north end of Elephant Butte lake. If the water in the lake rose, their habitat would be lost. To mitigate this situation, EBID can say we have a place for them in Selden Canyon. Writing a safe harbor agreement is also a very important step in the process. Wildlife programs such as this are benefiting EBID. It cost the Salt River Project in Phoenix \$40 mil to mitigate when they raised the lake and wiped out the habitat. Robert Faubion motioned to approve and Tom Simpson seconded the motion. Motion carried with one opposition by Willie Koenig.

Gary discussed the New Mexico State University's proposed annexation of lands into the City of Las Cruces boundaries. A motion for the approval from the Board that we do not object to the annexation will place our Tortugas Dam in city boundaries. For now we will be considered in a holding zone so nothing changes since our property is not developed. If development occurs, there could be a change in zoning. Motion to approve was made by Joe Nelson, seconded by Jerry Franzoy. Motion carried.

Gary discussed a Regional Water Plan resolution asking that the State Legislature pass a budget for the Interstate Stream Commission that includes a recurring budget item of \$400,000 for the update of Regional Water Plans each year. James Salopek asked for a motion to allow the resolution to go forward. Willie Koenig so moved, seconded by Robert Faubion. Motion carried.

The Dona Ana County/EBID Mutual Assistance Agreement was discussed. In case of an emergency the two entities would share resources and equipment without violation of anti-donation or procurement. Steve Hernandez stated that the agreement should be a Joint Powers Agreement and didn't recommend using a MOU or MOA. Legal staff will develop a JPA for review and approval by DFA and will work with DAC lawyers to work out appropriate language.

Investigation

EBID/USGS JFA

CR-GIS Update

Managers Update

Transfer of Irrigation
Water on the BOR
RGP

Water 2025 Grant
Award

WWF/BOR Grant
– Soil Survey

NMSU Annexation

Regional Water
Plan Resolution

DAC/EBID Mutual
Assistance
Agreement

Debbie Gray of Kriegel/Gray/Shaw & Co. issued an unqualified opinion on the FY 2006-2007 Audit report. There are no material weaknesses or significant deficiencies or noncompliance issues to report on the financial statements or on Federal awards. The audit finding noted is that the Well Meter loan program did not have a budget per statutes.

FY 2006-2007
Audit Report

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

Controller's
Report

The Financial Fact Sheet for the month of June, 2008 is as follows: Cash in the bank totaled \$441,228; assessments receivable totaled \$415,593; and investments totaled \$4,338,905 for a grand total of \$5,195,726. This amount reflects an increase in assets of \$173,390 over June, 2007. Extraordinary costs were from Hubert and Hernandez, PA, Legal Fees, \$35,873. Extraordinary receipts were: Special use fees \$18,774. Also presented was the financial statement for May, 2008.

Financial Report

The Board questioned Gail on the ability to purchase a new excavator at the present time. Gail said pending presentation, review and approval of an amended budget for the fiscal year, this could be an option.

Purchase of
Excavator

The question on fuel cost was brought up. Gail is looking into the Japanese mini trucks that are becoming popular and reviewing the costs, maintenance and safety of them. This has been discussed with area law enforcement and insurance carriers regarding the acquisition and use of them for the District in an effort to achieve an economic and safe way of patrolling for operations. They are not licensed for legal operation on the roadways, but may be used for off road travel with appropriate signage, beacons and business uses.

Gail gave an update on the well meter loan program. Three more constituents have submitted down payments and completed the documents for the well meter purchase and installations. June 30 is the deadline for the well meter loan program and compliance with the well meter order for OSE. \$46,594.37 is the total amount of down payments received from constituents for 46 well meter loans.

Well Meter Loan
Program

The issue of spill water was discussed. Farmers are contacted to receive spill water on short notice. An order is placed for the water and the farmer accepts delivery. Operation personnel submit the ticket to water records for processing and charging out in the normal process, and the ticket is indicated "spill water". The farmer account may then be credited for the water, all or in part and the entry reflects the adjustment is due to spill water.

Spill Water

Gail reported that the Tortugas RFI deadline was June 30th and five responses were submitted. Staff will move forward with the next step to include the Executive committee, Staff and consultants to invite presentations of the development proposals from the responses to the RFI.

Tortugas RFI

Gail reported on the equipment auction set for July 19th. The Board reviewed the list of equipment to be sent to auction at the June meeting. The issues concerning commission has been resolved in compliance with procurement regulations. Charles Dickerson has agreed to a commission of 8% with no additional fees.

Equipment
Auction

The following professional service contracts were presented:

David Nelson, Professional Services Programming Services Contract 7/10/2008 – 12/31/2008. Programming services were previously procured thru Tek Systems. The term of that contract is expiring. David Nelson has agreed to perform programming services thru a contract with EBID. A motion to approve the programmer contract was made by Robert Faubion and seconded by Willie Koenig. Motion carried.

Professional
Services Contract
Renewals

Computer
Programmer

Hubert and Hernandez, P.A., Renewal 8/1/08 – 7/31/2009. The bill rates increased \$10 per hour for all attorneys from the prior contract. A motion to renew the attorney's contract as presented was made by Robert Faubion and seconded by Willie Koenig. Motion carried.

Legal Services

Green Thumb, Professional Services Tree Trimming Contract 7/10/2008 – 7/9/2009. The District has need for tree trimming services including debris removal in specific areas and on an as needed basis. Robert Faubion motioned and Willie Koenig

Tree Trimming
Services Contract

seconded to approve the contract. Motion carried.

Bureau of Reclamation Estimated O&M for FY 2009 totals \$312.845 for EBID.

BOR 2009 O&M

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

Lunch Break

Willie Koenig motioned and Joe Nelson 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 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)
Theilman Property Exchange
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