

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
September 10, 2008**

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The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, September 10, 2008. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Joe Nelson. Motion carried. All Board members were present.

EBID Staff present were Gail Norvell, Controller; Henry Magallanez, Engineer; James Narvaez, Hydrology Director; Valerie Beversdorf, Computer Resources Director; and Richard Bejarano, Water Master; and Linda Armijo, Engineering Land Specialist.

Also present was Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; John Hernandez, Water Quality Consultant; Calvin Chavez, Office of the State Engineer; Sammy Singh Jr., EBID Constituents; Bud Starnes, NMDA; Diana Alba, Las Cruces Sun News; and Marvin Tessneer, The Bulletin.

Jerry Franzoy motioned and Robert Sloan seconded to approve the minutes of the August 13, 2008 Board meeting as presented. Motion carried.

Robert Sloan motioned and Ramon Alvarez seconded to approve the minutes of the Water Transfer Hearing 2008-S&T-8 held August 13, 2008 as presented. Motion carried.

The minutes for the special board workshop on flat rate scheduling held August 22<sup>nd</sup> were not available. They will be presented for approval at the October 8<sup>th</sup> board meeting.

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

	<u>9/01/2007</u>	<u>9/01/2008</u>
Elephant Butte	394,780	575,060
Caballo	<u>31,810</u>	<u>56,860</u>
	426,590	631,920

Items on the calendar were discussed. Dates include: LRG WUO Board Meeting, Sept 17<sup>th</sup>; Interim Legislative Water and NRC on Funding for RWP meeting in Albuquerque, September 18-19<sup>th</sup>; Special Board Meeting on Reclassification and Budget Items, September 24<sup>th</sup>; BOR Presentation to PSB on Operating Agreement, September 25<sup>th</sup>; NM Watershed Forum in Albuquerque, October 2<sup>nd</sup>; Paso del Norte Water Task Force Meeting, El Paso, October 17<sup>th</sup>; and the WRRI Annual NM Water Conference in Albuquerque, October 21-22<sup>nd</sup>.

The next meeting of the Board of Directors will be held on Wednesday, October 8, 2008.

Henry Magallanez, Engineer, gave the Engineering Department report:

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

Under Moratorium

- 08-L-045—Chamberino MDWCSA; To construct, operate and maintain a new 6" buried water line crossing the Lower Chamberino Lateral at two locations stations 43+69 and 63+72 and the Nemexas Drain at two locations stations 932+84 and 967+27. Assessment, \$13,166.67.
- 08-L-046 – Anthony Water and Sanitation; To construct, operate and maintain a new buried 4" forcemain sewerline crossing the Anthony Lateral at approximate station 322+50. Assessment, \$3,166.67
- 08-L-047 – Anthony Water and Sanitation; To construct, operate and maintain a new buried 8" waterline connection to an existing waterline approximately 35' on the right bank on the Anthony Drain at Washington St. intersection at approximate station 100+73. Assessment, \$866.62.

Roll Call

Minutes Approval

Water Supply

Calendar of Events

Engineer Report

Special Use Permits

Non – Moratorium

- 08-L-041 – Encroachment Agreement – Belia Provencio: to operate and maintain an encroachment of a portion of an existing Mobile home of approximately 7 feet on the left bank of the Nemexas Drain at approximate station 963+10. Assessment, \$50.00 application fee.

Total Assessments For All Permits = \$17,199.96  
Total Fees Requested To Be Waived = 00.00  
\$17,199.96

Robert Faubion motioned and Bill Gary seconded to approve all permits as presented. Motion carried.

Henry discussed the process for the request for boundary expansion by Mr. Thurston in the Rincon Valley. The next step was to accept the certified deeds as official boundary including the 500 acres that would become part of the District boundary. No additional water rights will be assigned to this 500 acre expansion so that the district's water righted acres remain at 90,640 acres. Mr. Thurston can transfer his own water rights to this new property or he can purchase water to irrigate it. This makes the second boundary expansion request that has been presented to the Board. Willie Koenig motioned to approve the boundary expansion. Ramon Alvarez seconded. Motion carried.

Boundary  
Expansion

A request to excess ROW on Garfield Canal by Mr. John Alvarez was discussed. This piece of property is already being farmed by Mr. Alvarez and has been for several years. After discussion, Bill Gary motioned and Ramon Alvarez seconded to issue an encroachment permit until such time as engineering could do further checking on the property since it was on the Garfield canal and might be needed by the District sometime in the future. Motion carried.

Excess of ROW

Gary Esslinger discussed heavy rainfall in the Arrey area. He said that there had been a 2 inch rain on Monday, September 8<sup>th</sup> and then another 2 inches on Tuesday, September 9<sup>th</sup> which caused flooding to several farmers in the area. The Bennett lateral ran over and flooded Mr. Cardona's property again. The Rincon arroyo broke which flooded several homes in Rincon, New Mexico. The district worked to repair the breaks and help in pumping out flooded property. Gary mentioned a problem with the Barreras Dairy that was washing cow waste into our system during this storm event. NMED has been notified and will check on this situation to see if there is a problem.

Flooding Report

Ricardo Bejarano, Water Master, gave the operations report for the month of August, 2008 as follows: Farm Deliveries, 2,545; Acres Irrigated, 57,824; AF Charged to Farmers, 23,331; Actual Total Diversion, 45,020 AF; Allotment Balance, 51,673 AF; Breaks, 2; Run over, 0; 2008 Diversion Efficiency 52% as compared to 2007 at 56%. Total breaks for the 2008 irrigation season to date were 20, and 0 runovers.

Operations  
Report

James Narvaez, Hydrology Director, gave the Hydrology Department report for August, 2008 is as follows: Orders totaled 263,005 AF; Actual Diversion was 263,823 AF; Using 818 AF; Estimated Carriage Losses were 47,243 AF; Adjusted Diversion 216,580 AF; Diversion vs. Order was -0.3%; Total Spill was 6,152 AF; % of Diversion Spilled was 2.3%, Charged to Farmers, 151,417 AF; and Delivery efficiency, 69.9%.

Hydrology  
Report

James distributed a report entitled Rain Gauge Summary for the year in all areas. Yearly totals by area ranged from 6-12 inches. The monsoon season vastly improved the prolonging of this irrigation season, but the rain also destroyed hundreds of acres of vegetables.

The end of the 2008 irrigation season was discussed. Mexico will shut down on Sept 15<sup>th</sup> and El Paso County Water Improvement District No. 1 plans to shut down around October 17<sup>th</sup>. Richard Bejarano recommended the 3<sup>rd</sup> of October as our last order date, and then watering out within the next two weeks. It was decided to wait until we knew what EP#1 was doing and follow their lead. Water Operations from both districts would be meeting on September 17<sup>th</sup> and would make a decision at that time. An announcement would be posted on the District's webpage when dates were set.

End of Season  
Shut Down

Valerie Beversdorf, Computer Resources Director, gave the CR-GIS department report. Valerie said that she had found a programmer who could do the job and that she was in the process of determining how much he could be paid to make him an offer.

CR-GIS Update

Valerie also reported that she is still trying to fill the GIS Specialist position.

Valerie reported that on the Networking side, John Gregg, Dave Nelson and Ron Mears had worked to correct a problem relating to data storage and backup on the SQL server for the Telemetry Toolchest. Also, Valerie and John responded to a telephone call from the TempGuard monitor in the Hydrology computer room that occurred when the temperature went too high due to a door being left open. She reported that it was a good test of the alarm system.

Henry Magallanez and Phil King discussed an invitation to join a Dam Owners Coalition. Henry and Phil had attended a conference to see if it was of value to the District. They both concurred that it would be a benefit to the district and recommended that the district take on a membership as a small flood control authority with membership fees of \$500 a year. Willie Koenig so moved and Bill Gary seconded. Motion carried.

Dam Owner  
Coalition  
Membership

The matter of the New Mexico Department of Transportation and Montoya Drainage Issue was discussed. Gary said that a meeting with NM DOT is scheduled for September 16<sup>th</sup> to work on the Montoya Drain crossing that was installed improperly by NM DOT. The El Paso Water Improvement District No. 1 and the City of El Paso were threatening litigation if NM DOT did not resolve the matter. EBID is the permitting entity, so we are involved in the permitting process and agree the culvert needs to be lowered. Legal is researching the 6A/6B contract to determine how we work in the lower end of the valley to comply with the new Operating Agreement.

Montoya Drain/  
DOT Issue

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

Controller Report

The Financial Fact Sheet for the month of August, 2008 is as follows: Cash in the bank totaled \$130,871; assessments receivable totaled \$352,153; and investments totaled \$3,103,557 for a grand total of \$3,586,581. This amount reflects a decrease in assets of \$(793,875) over August, 2007. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$7,150.

Financial Report

Gail gave an update on the well meter loan program. \$46,594.37 is the total amount of down payments received from constituents for well meter loans. EBID received loan funds in the amount of \$432,825 to loan to constituents for purchase and installation of well meters. Tom Simpson motioned and Robert Sloan seconded to adopt Board Resolution 2008-04 payment of excess principal loan funds to Interstate Stream Commission and renegotiate the terms of the loan from 5 years to 3 years, with the existing interest rate of 1.75%. Motion carried. See resolution attached to these minutes.

Well Meter Loan  
Program

Gail discussed a professional services contract to award Mesilla Valley Appraisal Service for all appraisal work for the District. Motion by Bill Gary and seconded by Robert Faubion to accept the professional services contract for Mesilla Valley Appraisal services. Motion carried.

Tortugas Land  
Appraisal

A proposed policy for spill water use for irrigation purposes was presented for Board approval. Bill Gary motioned and Robert Faubion seconded to adopt Policy 2008-OP12. Motion carried. Policy 2008-OP12 is attached to these minutes.

Spill Water for  
Irrigation  
Purposes Policy

Gail discussed the District's Volvo excavator that had been destroyed by vandalism. The District purchased the excavator for \$182,825. Crime Stoppers partnered with EBID to offer a reward, and the District matched the crime stoppers reward with \$1000. Crime Stoppers will post the Crime Stoppers posters in the south area of the county on the burning destruction of EBID equipment. Smith Co. equipment was also burned and they partnered on a \$1,000 reward for a total of \$3,000. Other farmers in that area have also suffered vandalism to their farming equipment.

Excavator  
Replacement

An amendment to the IBWC grant for Rio Grande Canalization and extension of the Safe Harbor Agreement with WWF which was approved at the August 13, 2008 meeting was discussed. The amendment extends the Safe Harbor Agreement until July 31, 2009.

IBWC Grant  
Amendment

Motion to approve the amended agreement was made by Joe Nelson, and seconded by Tom Simpson. Motion carried.

Gail updated the Board on the Employee Advisory Committee activity. The committee will meet next week to discuss the General Meeting which was tentatively scheduled for November 10<sup>th</sup>. The place of the meeting had not been set as of the date of the meeting. Lowell Catlett has graciously agreed to be the guest speaker.

EAC Update

A software license agreement with Ron Mears was presented for discussion. Motion to accept as written was made by Bill Gary and seconded by Jerry Franzoy. Motion carried.

Software License Agreement

Steve Hernandez reported on the Blue Sucker and Gray Red Horse possible listing to the Endangered Species Act. There are no sightings of the Blue Sucker or the Gray Red Horse in the Rio Grande. They are in Carlsbad's district in the Black River. The State is seeking voluntary agreements with farmers along the Black River to keep habitat for these endangered fish. Steve didn't think that listing of these fish will ever happen in the Rio Grande. Other legal research requests were tabled.

Blue Sucker and Grey Red Horse Endangered Species

Tom Simpson motioned and Robert Faubion seconded to break for lunch. Motion carried. Following the lunch break, Bill Gary motioned and Ramon Alvarez seconded to reconvene the meeting. Motion carried.

Lunch Break

Bill Gary motioned and Tom Simpson 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)
- Thielman v. EBID, CV-2008-1553, LRR 294
- Intervention on Parasol Dairy NMED Permit (LRR 289)

Robert Faubion motioned and Joe Nelson 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