

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
January 14, 2009**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, January 14, 2009. The meeting was called to order by President James Salopek on a motion by Jerry Franzoy, seconded by Willie Koenig. Motion carried. Ramon Alvarez and Robert Faubion were absent.

Roll Call

EBID personnel present were James Narvaez, Hydrology Director; Gail Norvell, Controller; Ricardo Bejarano, Water Master; Leo Barrett, Maintenance Project Director. Jean Hinsley, Engineer/Resource Specialist; Linda Armijo, Land specialist; Fernando Cadena, Engineering; and Ramon Ramos, EAC Representative.

Also present were Calvin Chavez of OSE; Steve Hernandez and Steve Hubert of Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; James Powell and Filberto Cortez, BOR; and Bud Starnes, NMDA.

Jerry Franzoy motioned and Tom Simpson seconded to approve the minutes of the December 12, 2009 meeting with the correction of one clerical error. Motion carried.

Minutes Approval

Jerry Franzoy motioned and Willie Koenig seconded to approve the minutes of the Water Transfer hearing, 2008-WT 12, as presented. Motion carried.

The water supply outlook was presented. The storage totals on January 1, 2009 with a comparison for last year are as follows:

Water Supply

	<u>12/01/2008</u>	<u>12/01/2009</u>
Elephant Butte	409,700	617,180
Caballo	<u>23,870</u>	<u>21,370</u>
	433,570	638,550

Items on the calendar were discussed. Dates include: National Salinity Summit, Las Vegas, NV, Jan 15-16; Rio Grande and Rio Jordan Conference, Las Cruces, Jan 22-23; LRGWUO Technical Committee Meeting, 1/29; Paso del Norte Task Force Meeting, EBID, Jan 30; Tentative Executive Committee Meeting with WWF on February 9.

Calendar of Events

The next meeting of the Board of Directors will be held on Wednesday, February 11, 2009.

The Open Meetings Act Resolution, 2009-01, was presented for reaffirmation. Tom Simpson so moved and Willie Koenig seconded. Motion carried. All board members were reminded of not meeting in public if there were over 4 members, which is the maximum amount of people to avoid a quorum.

Open Meetings Act Resolution

Dr. Fernando Cadena presented two resolutions authorizing grant agreements with the United States Department of Interior, Bureau of Reclamation, for the Water for America Grant. The first resolution was for an In-Line Storage Agreement (EBID 2009-02) to capture storm water and the second resolution was for Green Energy Generation from irrigation structures for Optimal Water Management In Irrigation Systems (EBID 2009-03). The funding for these grants will come through the BOR in the amount of \$300,000 and the District will match with in-kind services of equipment and labor. Bill Gary motioned to approve the resolutions. Joe Nelson seconded. Motion carried with one opposition from Willie Koenig.

Water for America Grant

There were no special use permits to present for the month of January, 2009.

Special Use Permits

Jean Hinsley and Gary Esslinger discussed the Montoya Drain project. Meetings with the executive committees of both EP#1 and EBID were held and EP#1 is very impressed with the cooperation between the districts since the implementation of the operating agreement. There were many questions raised at the meeting regarding giving up the right-of-way of the Montoya Drain in the New Mexico section of Unit 6A of EBID. There will have to be further investigation and meetings to work out all of the implications of disposal of the Drain ROW in New Mexico.

Montoya Drain

Dr. King reported on the 2008 Capitol Outlay funding received to do work on Dona Ana Dam. The early warning system and the outfall channel will be upgraded. Work to be completed using Capital Outlay funds include installation of two (2) RTU's and clearing of the outfall channel. The work will be completed before the 2009 season.

La Union SWCD, Dona Ana Dam Project

Leo Barrett, Maintenance Project Director, gave the Maintenance Department report. He said that work on the Three Saints East divide project continues located in the 4A/4B units. It will cure a bad silt problem in that area. He said that Drop 8 on the Westside Canal in Unit 5A which will produce low-head electricity is an impressive structure. Work is progressing on the Porter, Laguna, and Tortugas Laterals. The Fruedenthal Lateral will be piped to provide an extra head of water to the Mesilla Lateral. Henry will meet with James Salopek to discuss utilizing his lift pump or putting in our own lift pump. The Energy Grant will fund these projects. Leo said that there are five FEMA sites to be completed by the end of February. Additionally, a check structure will be placed on the Placitas arroyo along with silt removal and a small pipe job on the Rincon Main.

Maintenance Update

Leo reported that the new excavators were up and running and that they had both been good buys. The bucket and arm from the vandalized excavator will be installed on the excavator purchased in Washington, and that will make it the equal of the one that was destroyed by fire.

New  
Excavators

Leo discussed briefly the items that will be sold at auction. He said that one of the District's Caterpillar D-7s was not worth keeping as it will need continual maintenance to keep it running.

Items to be  
Sent to Public  
Auction

A pre-meeting with EP#1, City of El Paso, and the NM Department of Transportation (NM DOT) will be held for pre-maintenance on the Montoya drain project. NM DOT will reimburse EBID for the reinstallation of the drain culvert.

Montoya Drain  
Update

Jerry Franzoy reported that constituent Donny Hackey was happy with the job done in Hatch. He said that the farmers in Hatch appreciate the new equipment and the work that our employees are doing.

Kudos to EBID

James Narvaez, Richard Bejarano and Phil King gave the Hydrology and Operations update.

Hydro & Op  
Reports

Phil King discussed the current allocation. Presently there are 658,000 AF in storage. After taking out the Rio Grande Compact water, San Juan Chama water and El Paso #1's carry-over storage, the District's allotment is 145,000 AF as of the date of the meeting. This figure equates to just over 1 acre-foot right now. Phil said that he would bet that we had above average snow pack and the net inflow to Elephant Butte would also be above average. That being said, Jerry Franzoy motioned to start the 2009 irrigation season at 2 acre feet allotment. Robert Sloan seconded. Motion carried. Phil agreed with Jerry.

2009 Allocation  
Update

James Narvaez said that hydrology was working to get ready for the up-coming season. He said that they were working with the BOR to reconstruct the Caballo cable. This should improve efficiency of meter notes and control of released water from the drain. He is working with James Powell of the BOR on the cable way RTU instrumentation and installation of an acoustic Doppler device at the Caballo site.

Caballo Cable  
Work Update

James said that the October efficiency rate was good and he hopes to start the 2009 irrigation season at the same level. A workshop will be set up Operations Department for more education on the use of the metering devices.

Ditchrider  
Workshop

Richard Bejarano presented a memo stating that EP#1 would make its first release on February 18<sup>th</sup>. There are only a few projects in question to be completed prior to the 18<sup>th</sup>. (1) The gates at Percha dam are missing a seal which has been ordered and will be completed and reinstalled to complete the refurbishing of the canal heading and river gate. (2) Arrey Canal – four gates are being fabricated now. It should not be a problem per Leo. (3) The Leasburg canal project. The electric waste way and gates need to be refurbished. The crews will finish the job if there are no serious delays with the gate fabrication.

Start of the 2009  
Irrigation Season

All in all, Richard said that barring inclement weather, all projects should be completed prior to the 18<sup>th</sup> of February and that he and Leo would work together to begin breaking down maintenance crews and going back into operations.

Notices will be posted in the newspapers and the EBID website that water records will open on February 2, 2009, for taking water orders. Hatch will start irrigating on February 18<sup>th</sup> pending adequate orders for water, and the rest of the District will follow when enough orders are received.

James Powell of the BOR said that he plans to attend EBID Board meetings as often as possible. He said it helps him to understand what is going on with EBID and how the BOR can be of more assistance to the District. Bert Cortez was also at the meeting.

BOR  
Representation

There was a discussion on Flat rate weekends. With a two AF allotment, Flat Raters are entitled to four irrigations at this time based on 6 inch delivery. The list of dates for flat rate irrigations will be presented for approval at the February meeting. Flat Rate irrigations will probably start in April as they did last year.

Flat Rate  
Irrigation  
Schedule

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

Controller Report  
Financial Report

The Financial Fact Sheet for the month of December, 2008 is as follows: Cash in the bank totaled \$834,466; assessments receivable totaled \$4,780,173; and investments totaled \$2,714,910 for a grand total of \$8,329,549. This amount reflects a decrease in assets of \$(420,667) over December, 2007. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$16,583. Also presented were the financial statements for October and November, 2008.

Gail presented the ISC Metering Well contract for approval. Willie Koenig so moved and Tom Simpson seconded. Motion carried. This contract will provide for 66 new monitoring wells in the valley and will include telemetry units as well.

ISC Well Contract

Gail discussed the disposition of obsolete, worn-out and/or unusable equipment that the District proposes to sell at public auction. Jerry Franzoy motioned and Willie Koenig seconded to sell the selected assets at public auction in February of 2009. Motion carried. Gail will begin the process with DFA to review and approve to dispose of the equipment.

Disposition of  
Obsolete  
Equipment

Gail reported on the vandalized excavator. Discussions with NM Self Insurer's Fund and the insurance underwriters have been ongoing. We believe we have come to an agreement on the settlement claim and salvage of the vandalized equipment and proceeds should be received by the District shortly. NM Self Insurer's Fund is aware of the length of time this claim has taken to resolve with the underwriters and will discuss with their board of directors for future business regarding this company.

Excavator  
Vandalism

Gail Norvell and Ramon Ramos gave an update for the Employee Advisory Committee. The minutes from the last meeting were presented and discussed. Linda Armijo resigned her position as co-chair representing the employees. The committee reviewed the bylaws of the EAC. The EAC will also be developing input on new evaluation criteria, cooperatively with Staff, Middle Managers and the Board of Directors. The EAC will be meeting at all yards to begin discussions and input on this effort.

EAC Update

Vehicle Allowance was decreased by \$100 per pay period due to the decrease in gas prices. Staff will continue to monitor the price of gas and will continue to report to the Board each month. The EAC will be suggesting a method to determine when the thresholds are reached in order to allow a systematic approach to increases and decreases in the VA.

The next meeting of the EAC will be held on February 10<sup>th</sup>.

Tom Simpson motioned and Willie Koenig seconded to break for lunch. Following lunch, Tom Simpson motioned and Joe Nelson seconded to return to open session. Motion carried.

Lunch Break

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

Legal Update

- LRR 240 – Safe Harbor Agreement. This LRR remains open.
- LRR 300 – Claus Shuerman - Josh Smith has not clarified the status of this matter but EBID should be cleared of any wrong doing. This LRR remains open until legal can clarify the status. This LRR is closed.
- LRR 302 – City of El Paso – Montoya Drain – A meeting is scheduled on 12/17/08 in El Paso. Henry Magallanez indicates there is a construction meeting scheduled in January, 2009 with NMDOT. There will be a uniform permit process with El Paso PSB. The volume of water under the permit has been exceeded. There is consideration to sale of the drain which would resolve the issues and provide revenues. This LRR remains open.
- LRR 303 – Hatch easement – Hatch hired an engineering firm to survey the Placitas arroyo and the process can continue when the survey is completed. LRR remains open.
- LRR 308 – Garfield Dam JPA – Lee Peters is working on a MOU. The LRR remains open.

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

Manager's Report

- Bill Gary motioned and Robert Sloan seconded that the manager attend the MSSC 2009 Annual Salinity Summit on February 15-16 in Las Vegas, NV. Motion carried.
- FFA Annual Conference to be held in Las Vegas, NV in March, 2009. Bill Gary motioned and Robert Sloan seconded to send Gary Esslinger, James Salopek and Steve Hernandez to the conference. Motion carried.
- Gary and Steve gave an update on the NWRA leadership conference and the DC Strategy Development for the NWRA Federal workshop in March. The Clean Water Act reform bill will probably be introduced in the House by Congressman Oberstar. Keeping the Ag exemption in the bill will be of utmost importance as well as making sure canals and drains are not to be defined as waters of the US. This is very important legislation for irrigated Ag.
- The New Mexico Legislative session will begin on January 20<sup>th</sup>. The 60 day session in Santa Fe will certainly be a test as to what bills get approved and funded. There are 15 water bills out there now in draft and it will be important to see how they move forward.

FFA Annual  
conference

Robert Rivera, the District's lobbyist under contract came before the board to discuss issues that he was having and the reasons he should be retained as lobbyist. The board will discuss the matter in closed session.

Lobbyist Contract

Bill Gary 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)
  - OSE Meeting
  - Threshold #3 Motion
- 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)
- Lions Gate Water vs. OSE
- Lobbyist Contract
- Implementation of Operating Agreement Settlement

Robert Sloan motioned and Willie Koenig seconded to return to open session.

In open session it was moved and seconded that the lobbyist had asked be allowed to have his contract to remain in place for the next 60 day legislative session, and if the he did not perform or be productive, he would resign at that time. The motion was made by Willie Koenig and seconded by Bobby Sloan. Motion Carried. Tom Simpson voted NO.

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

Adjourn

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JAMES SALOPEK, President

WILLIE KOENIG, Secretary