

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

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Monday, December 14, 2009. The meeting date was changed in order to canvass the votes of the election held on December 8th. The meeting was called to order by President James Salopek on a motion by Jerry Franzoy, seconded by Robert Sloan. Motion carried. All members were present.

Roll Call

EBID personnel present were Henry Magallanez, Engineering Supervisor; James Narvaez, Hydrology Director; Gail Norvell, Controller; Linda Armijo, Land Specialist; Leo Barrett, Maintenance Projects Director; Dustin Leonard, GIS Specialist II.

Also present were Steve Hernandez, Steve Hubert and Samantha Barncastle, Hubert & Hernandez, P.A; Rasool Ahadi and Eric Fuchs, OSE; Fernie Ortiz, City of Las Cruces; Bud Starnes, NM Dept of Ag.; Gerald Smith and Caroline Adams, Constituents; Ian Leslie, Amigos de los Robledos; and Marvin Tessneer, the Bulletin.

Jerry Franzoy motioned and Robert Faubion seconded to approve the minutes of the October 14, 2009 meeting. Motion carried.

Approval of Minutes

Robert Faubion motioned and Willie Koenig seconded to approve the minutes of the Water Transfer hearing, 2009-S&T-10, as presented. Motion carried.

Ballots were counted for the Elephant Butte Irrigation District Board of Directors election held on December 8th. The number of ballots cast were as follows:

Certification of Election

Elephant Butte Irrigation District
Election Tally Sheet - December 8, 2009

	Totals
P2 Scott Adams	144
P4 Tom Simpson	139
P6 Robert Sloan	151
P8 Ramon Alvarez	201
P8 Gerald Smith	28
Barack Obama	2
Michele Obama	1
Tiger Woods	1
Manuel Leyva	1
Totals # of Votes Cast	668

Pursuant to the canvass, Scott Adams, Thomas Simpson, Robert Sloan and Ramon Alvarez were elected to serve a 4-year term beginning January 1, 2010. They will be sworn in at the meeting on the 13th of January, 2010.

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

Water Supply

	<u>12/01/08</u>	<u>12/01/09</u>
Elephant Butte	626,130	488,370
Caballo	<u>56,540</u>	<u>29,810</u>
Total Storage	682,470	478,180

Items on the calendar were discussed: The District will close for Winter Break beginning at noon on the 24th of December and re-open for business on Monday, January 4, 2010. No other items were on the calendar.

Calendar of Events

Leo Barrett updated the Board on ongoing maintenance projects. Cleaning of laterals and drains and turn-out repairs are continuing under schedule. The Armijo lateral has been cleaned through the City of Las Cruces. Turn-out work on mains and laterals are starting to add up. The Board's policy book on turn-out (TO) repairs states that EBID will maintain TOs after purchase and when the TO can no longer be repaired and is in need of a new installation, EBID will bear the expense. The question was whether EBID would continue to absorb the cost of TO replacements, or do we look at them and determine if they are beyond their lifespan? Should farmers absorb the cost of the replacement of the TO? Many of the TOs are over 60 years old and have outlived their life expectancy. Most all TOs have been inherited from the BOR and cannot be rehabbed. The cost of a 24-inch TO installed is \$2800. Staff would like some direction from the Board. One idea is to develop our own fabrication shop for milling of the turnouts and save the cost of purchasing all of the parts. The Board's Equipment

Maintenance Projects Update

Committee will look into this matter and bring back recommendations.

Jerry Franzoy said there is a real problem with the Hatch Drain being full of sand. He said it could be a huge problem with a big rain. Leo will look into scheduling it for cleaning.

Leo stated that radial gates are being rebuilt for the Northern area of the District. Sand blasting and recoating of river gates is also in progress.

Leo discussed the demonstration of the Rotary Fox mulcher Operator and shipping cost would need to be paid for to bring the machine to EBID. Cost share could be split among the entities that are interested. The Equipment committee will look into the matter as soon as the Rotary Mulcher is available to demo. Diesel, operator and shipping estimate to come at a later date.

Henry Magallanez, Engineer, presented the special use permits for the month of December, 2009.

Special Use
Permits

Non-Moratorium:

09-L-047 – City of Las Cruces: To construct, operate and maintain the extension of Water Street paralleling the Las Cruces Lateral at approximate station 208+56. Assessment, \$1,660.70. Request to waive all fees, \$1,660.70. Existing permit.

09-L-048 – Rio Grande Natural Gas Association: To construct, operate and maintain gas service at a home crossing the Picacho C. Lateral 2239 at approximate station 5+00. Assessment, \$2,916.67. Under Blanket Agreement. \$2,916.67.

09-L-049 – El Paso Electric Company: To construct, operate and maintain overhead powerline crossing the Arrey Canal and Bennett Lateral at approximate stations 83+07 and 00+30. Assessment, \$3,416.67.

09-L-050 - El Paso Electric Company: To construct, operate and maintain overhead powerline crossing the Upper Chamberino Lateral at approximate station 175+00. Assessment, \$3,166.67.

09-L-051 – Sky City Communications: To construct, operate and maintain underground fiber optic cable and conduit crossing the Las Cruces Lateral at approximate station 198+79. Assessment, \$3,166.67.

TOTAL ASSESSMENTS FOR ALL PERMITS= \$14,327.38

TOTAL FEES REQUESTED TO BE WAIVED= \$ 4,577.37

\$ 9,750.01

Jerry Franzoy motioned and Robert Faubion seconded to accept the permits as presented. Motion carried.

James Narvaez, Hydrology Director, presented the highlights of the 2009 water season and indicated that these were estimates and the parties had not finalized the 2009 allocation as of this report. The initial allocation was 176,640 acre feet and the forecast was promising, but never developed. Final allocation to the district was 268,007 AF. Minimal runoff caused the season to end mid September and efforts began in late July to extend the season through a new method of release management to curtail waste of water. Historical records were analyzed to produce a budget and release schedule under this method and a max cap release of 750 CFS was instituted. Once the word was out that the season was ending, the demand increased dramatically. There was a difficult transition for the Ditchrider to hold to the release cap, however, as the season progressed, operations adapted and the results were excellent.

Hydrology
Dept. Update

The experiences learned from the end of the season will carryover for the seasons to come. EBID will take a proactive approach to the irrigation season from this point forward. Water budgets will be developed in order to beneficially and efficiently extend our limited resource of water.

EBID diverted 305,475 AF. Our actual ending balance was -37,398 in the hole. We were allowed to go into the negative since we anticipated a carryover transfer. Our initial estimates were around 40,000; however in the end, it ended up being 82,044 transferred from EP Carryover water. That means that EBID will start the season with 44,602 AF.

District delivery efficiency goal was 65%. We fell short of that by 4% and ended up with a 61% rating. The lowest month was in July for a rating of 55%. The highest rating was in September for a rating of 71%.

Tom Simpson remarked that there were many irate farmers. He stated that EBID is a service business, and that we may be efficient, but efficiency is not good for the farmers. James stated that we will try to improve for next year and that part of the problem was changing over to a new methodology when we were already facing a huge deficit in delivery.

Steve Hubert thanked James Narvaez, Henry Magallanez and all of the EBID staff

and the Water Operations personnel for the first full year on the Operating Agreement for doing such a great job. He said that for the efficiency to improve while in new operating system, the ditchriders did a truly great job.

Dustin Leonard, GIS Specialist, gave a demo on District maps that he was preparing for the Board's information and for use by staff. These comprehensive district maps include RTU sites, remote sensing, and overview of types of crops grown, and the parcels being watered by large and small tracts.

Maps Demo

Dustin Leonard also updated the Board on the Communication Resources and GIS Department. He demonstrated for the board the new projector mounting from the ceiling as well as the surround sound speakers. The Board will no longer have the computer cart blocking their view of the screen during presentations.

IT Update

Gail Norvell, Controller, gave the financial report. The Financial Fact Sheet for the month of October, 2009, is as follows: Cash in the bank totaled \$290,712; assessments receivable totaled \$316,841; and investments totaled \$1,428,680 for a grand total of \$2,036,233. This amount reflects a decrease in assets of \$(224,927) over October, 2008. Extraordinary receipts were: Special use fees \$12,850. Also presented was the financial statement for the month of October, 2009.

Controller Report
Financial Fact
Sheet

Ms. Norvell reported that FEMA review of reimbursement requests was still ongoing.

FEMA Update

Ms. Norvell presented updates on several contracts:

Contract
Renewals

- Renewal on RTU contract with Control Design Inc. Robert Faubion motioned and Robert Sloan seconded to renew the RTU contract as presented. Motion carried.
- Renewal on heating and cooling contract with Climate Masters Inc. Robert Faubion motioned and Ramon Alvarez seconded to renew the heating and cooling contract as presented. Motion carried.
- Renewal on Pressure Sensors contract with INW. Robert Faubion motioned and Robert Sloan seconded to renew the Pressure Sensor contract as presented. Motion carried.
- Renewal on IT Services contract with Dave Nelson. Robert Faubion motioned and Robert Sloan seconded to renew the contract as presented. Motion carried.

Ms. Norvell discussed the new City ordinance on cell phones that will take effect in February 2010 within the city limits. The matter was tabled for further discussion once the ordinance is in place and its affect on District operations within the City limits is known.

Cell Phone Ban
Discussion

Ms. Norvell reported that the Employee Advisory Committee (EAC) had done an irrigation water display at Zia Middle School for 7th grade students. The Soil and Water Conservation District will donate a water trailer to the District for use in these educational presentations. An EAC meeting will be scheduled for January. Ms. Norvell reported that EAC members will be attending Board meetings in 2010.

EAC Update

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

Manager's Rept.

Dona Ana Mutual Domestic had requested an opinion on the use of reclaimed water from its water reclamation plant for agricultural use. Mr. Mariano Martinez, General Manager, came before the Board to ask that the Association be allowed to come and make a presentation to the Board on the use of reclaimed water. Mr. Martinez believes that this is a very important step which must be discussed and approved by both the association and EBID since the reclaimed water had the potential to be used for Ag use. The Board asked that DAMD come back at a later meeting with more information and present to the Board their findings and how they would provide this water to EBID constituents.

DAMD Reclaimed
Water from Water
Reclamation Plan

People for Preserving Western Heritage and Chamber of Commerce Ag Committee Request – PPWH requested that the Board support their opposition letter on Senator Bingaman's Wilderness Act. Tom Simpson motioned to rewrite the letter PPWH's letter to thank Senator Bingaman for addressing our immediate water issues. Motion was withdrawn for lack of a second. President Salopek asked if the EBID Board supported a public hearing to allow both parties a chance to discuss the Wilderness Act. The Board agreed that a public hearing would not hurt. EBID will release it's mailing list to PPWH since it is a public document, but EBID does not want PPWH representing EBID in their letter as written. EBID constituents who have raised concerns about the Wilderness Act should be allowed to speak their minds, but EBID as a whole needs to thank the Senator for his help in addressing our flood control concerns.

People for
Preserving
Western Heritage

Robert Faubion motioned to send a redraft of the letter by PPWH asking for a special public hearing by Senator Bingaman, and also thanking him and his staff for the work they did to help EBID in addressing the concerns of our constituents. Tom Simpson seconded. Motion carried.

Bureau of Reclamation Reservoir Operations Plan – A memo from Lee Peters was discussed. Following a meeting with Lori Robertson and Hector Garcia of the BOR, Elephant Butte Reservoir can never be filled to capacity again due to the fact that it houses the single most important population of Southwest Willow Flycatchers in that area. The bird survey shows that the population is up over 150% from the survey in 2008. Filling the reservoir would destroy the habitat of the Flycatcher. The Board asked for a legal opinion on how it would affect the District and if EBID could challenge the Fish and Wildlife Service? The attorneys' staff stated that they would research if the ESA could be trumped by the Rio Grande Compact. Both laws are federal. A letter to the Texas Compact Commissioner to alert him was suggested. The RGP users could lose the storage in Elephant Butte Reservoir. This could threaten carryover concept in the operating agreement.

BOR Reservoir
Ops Plan

Steve Hubert gave the legal update and discussed the following topics:

- LRR 259 – Revocation of Withdrawn Land – Mesilla Valley Bosque State Park- To be closed.
- LRR - 302 – City of El Paso/Montoya Drain – remains open.
- LRR - 303 – Partly resolved. Section that no one wants to claim. Samantha researching to see who owns the land. QC deed. Hatch is researching - Remains open.
- LRR 305 – Private Dam Maintenance. Remains open.
- LRR 323 - Policies, Relinquishment of Easement, Excess Real Property. Remains open.
- LRR 333 – Enforcement of violators taking water illegally. Legal Opinion has been done. Remains open.
- LRR 334 – Setting up Small Flood Control Districts. To be closed.
- LRR 336 – FERC Exemption – Low-head power plants. Working with Bingaman's office on the low-head power exemption to the FERC. Remains open.
- LRR 337 – EPEC Contamination Study – Memo sent. EPEC is responsible for clean up. To be closed.
- Steve Hernandez updated the Board on the sink hole from a brine well in Carlsbad. It threatens to collapse part of Carlsbad's system.

Legal Update
LRR Report

Motion to break for lunch by Jerry Franzoy, seconded by Robert Faubion. Motion carried. Robert Sloan motioned and Willie Koenig seconded to return to open.

Lunch Break

Willie Koenig 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:

- A. State ex. rel. D'Antonio vs. EBID CV 96-888 (Stream Adj.)
- B. AWRM Amicus Appeal Brief
- C. Intervention on Parasol Dairy NMED Permit (LRR 289)

Open/Closed
Session

Following closed session, Tom Simpson motioned and Scott Adams seconded to return to open session.

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

Adjourn

The next meeting of the Board of Directors will be held on Wednesday, January 13, 2010.