

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
May 20, 2009**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, May 20, 2009. The meeting was called to order by President James Salopek on a motion by Ramon Alvarez, seconded by Robert Faubion. Motion carried. Tom Simpson and Robert Sloan were absent.

EBID personnel present were James Narvaez, Hydrology Director; Gail Norvell, Controller; Ricardo Bejarano, Water Master; Leo Barrett, Maintenance Project Director; Henry Magallanez, Engineering Supervisor; Jean Hinsley, Engineer/Resource Specialist; and Anjeannette Carlson, Land Specialist; and Richard Silva and Miguel Silva, EBID Employee Advisory Committee Members.

Also present were Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; Calvin Chavez and Rasool Ahadi, OSE; Clemente Lara, Constituent; Bud Starnes and Hillary Brinegar, NMDA; Darrell Wade, James Domenick, NSC; Barbara Crockett, CH2M Hill; Adrienne Widmer, City of Las Cruces; Klaus Wittern; Sammy Singh Jr.; Caitlin Morgan, Julia Morgan and Jessica Morgan of NMSU; Connie Fahl, NMSU; and Marvin Tessneer, The Bulletin.

Jerry Franzoy motioned and Willie Koenig seconded to approve the minutes of the April 8, 2009 meeting. Motion carried.

Ramon Alvarez motioned and Faubion seconded to approve the minutes of the Water Transfer hearing, 2009-WT 4, as presented. Motion carried.

Robert Faubion motioned and Jerry Franzoy seconded to approve the minutes of the special board meeting held April 17th for the purpose of discussing State ex. rel. D'Antonio vs. EBID CV 96-888 (Stream Adj.) in a video conference meeting with John D'Antonio, NM State Engineer as presented. Motion carried.

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

	<u>5/01/2008</u>	<u>5/01/2009</u>
Elephant Butte	535,860	580,390
Caballo	<u>50,9000</u>	<u>52,999</u>
Total Storage	586,760	633,389

Items on the calendar were discussed. Other than the next regularly scheduled meeting on the 10th of June, there were no items on the Board's calendar.

Adrienne Widmer of the City of Las Cruces Utilities Department and Barbara Crockett of CH2M Hill gave a presentation on the City of Las Cruces Proposed Surface Water Treatment Plant. They have settled on two different sites for the plant, one near Burn Lake and one near Santo Tomas land site. They were asking which site the District would prefer. The Board decided that they would prefer the CLC to build its future water treatment plant at the Santo Tomas site rather than at the Leasburg or Burn Lake sites due to delivery issues of surface water. This matter must still be researched by the Engineer and Hydrology Consultant. The District will send a letter to the City when it has had time to research the matter further. Motion was made by Robert Faubion, seconded by Bill Gary to allow staff to send a letter to the City of the District's preference. Motion carried.

Danny Duran, Engineering Land Records Tech II, presented the special use permits for the month of February, 2009.

Non-Moratorium:

1. 09-L-018 – El Paso Electric; to construct, operate and maintain a new aerial electric power line crossing the Little La Union Lateral at approximate station 72+50. Assessment, \$2,916.67.
2. 09-L-021 – El Paso Electric; to construct, operate and maintain a new aerial electric power line crossing the Garfield Main Canal at approximate station 372+45. Assessment, \$3,416.67.

Total Assessments, Non Moratorium, \$6.333.34

Robert Faubion motioned and Bill Gary seconded to approve the Non-Moratorium permits as presented. Motion carried.

Moratorium:

3. 09-L-024 – LOGOS Development/CLC; to construct and maintain a new buried 8" sewer line paralleling the Clark Lateral for approximately 2,480 feet crossing the Del Rio Drain at approximate station 867+93 then paralleling the Del Rio Drain for approximately 5,260 feet. Assessment, \$4,555.37.
4. 09-L-025 – CLC/Darrell Wade; to construct, operate and maintain a new buried 8"

Roll Call

Minutes
Approval

Water
Supply

Calendar of
Events

CLC Proposed
Surface Water
Treatment Plant

Special Use
Permits

sewer line paralleling the Tortugas Lateral for approximately 185 feet for proposed Tortugas Point Subdivision. Assessment, \$1,459.32.

Total Assessments under Moratorium: \$6,014.69

Robert Faubion motioned and Bill Gary seconded to accept the Moratorium permits with a stipulation on 09-L-024 that they get a permit from the IBWC prior to this permitting being processed. Motion carried.

Total Assessments all permits: \$12,348.03

Less fees waived: 000.00
\$12,348.03

Engineering updated the Board on the status of the Bosque State Park Water Transfer from Phillip Philippou. The water transfer has not been consummated and water rights will probably be given back to Phillipou. State parks have not paid the bill for 71 acres of water rights transferred from Phillipou to State Parks.

Mesilla Valle
Bosque State
Park

Resolution EBID 2009-04 – Diez Lagos Regulating Reservoir for Water Marketing and Conservation. This is a 2.6 million dollar grant. Greg Collins is the owner of the land in question and he will deed 40 acres to the District for the regulating reservoir. Jerry Franzoy motioned to accept the grant resolution. Robert Faubion seconded the motion. Motion carried.

Diez Lagos
Resolution with
Dona Ana
County

Challenge Grant MOU between NMSU and EBID for Remote Sensing. The grant has already been received, but the district needs the MOU in place so NMSU will be able to use graduate students to do the work and they will be able to be paid by NMSU. Motion by Willie Koenig, seconded by Ramon Alvarez to approve the MOU with final review from legal. Motion carried.

NMSU MOU for
Remote
Sensing Grant

Constituent Clemente Lara addressed the board once again about his request to combine his two tracts into farm rate. The two tract were not contiguous and his request was denied at the April meeting. It was Henry's recommendation that the tracts still not be combined. It was suggested by Gary Esslinger that Mr. Lara talk with his neighbors who were also small tract owners and combine with them to make them all farm rate. Mr. Lara would look into that option. Engineering will work with Mr. Lara to combine with neighbors to make farm rate rather than flat rate if Mr. Lara can get his neighbors to cooperate.

Leo Barrett, Maintenance Project Director, gave an update on the Maintenance Department during the 2009 irrigation season.

Maintenance
Report

- Leo discussed a demo of a new chipper attachment for the excavators that can handle salt cedars and will also rake out the cuttings and clippings, rather than leaving them on the drain bank. This chipper will slice or shred for mulch, and can take up to a 20 inch trunk.
- Jerry Franzoy said that the drains in the Garfield and Salem are going to over flow because of debris and will flood farm land. Leo said that the District can now put more attention to the cleaning of drains and use the drains to capture storm water for re-use. Jerry said that we were only a month away from the monsoon and he was concerned.
- Leo talked about a demonstration of a chemical called 'Remedy' for the treatment of invasive weeds such as Horsetail. The chemical was used to treat re-growth of weeds to see if they return. The chemical works well on Horsetail, but there are other issues with its use, and the product would be tested further before use on canals and laterals.

Chipper
Attachment

Drain Cleaning

Chemical Weed
Treatment

Bud Starnes, New Mexico Department of Agriculture, presented on the topic of a Memorandum of Understanding presented by the Dona Ana Cooperative Weed Management Area. Mr. Starnes presented the MOU and asked the District to be a part of the program. Motion was made by Jerry Franzoy, seconded by Ramon Alvarez to be a part of the Cooperative Weed Management Area. Motion carried and the MOU was signed.

Dona Ana
Coop. Weed
Mngt. Area
MOU

Richard Bejarano, Water Master, gave the Operations Department report to date as follows: Total Order, 80,390; Actual Diversion, 80,359; AC/FT +/-, -32; Estimated Carriage Losses, 14,105; Adjusted Diversion, 66,253; Diversion vs. Order, 0.0%; Total Spill, 964; Diversion Spilled, 1.2%; Charge to Farmers, 49,502; Delivery Efficiency, 61.6%.

Operations
Department
Report

Richard reported that the District is taking a strong position on operations personnel delivering water and preventing unnecessary loss of water by operational spill. He also said that riders were keeping an eye on farmers watering illegally, and that farmers were being charged for the water taken without an order.

James Narvaez, Hydrology Director, gave the Hydrology Department report for April as follows: Orders totaled 3,071; Actual Diversion was 43,314; Total Acres, 55,528;

Hydrology
Department
Report

Charged to Farmers, 25,561; and Delivery efficiency, 59.2%.

James said that during flat rate investigations, 31 violators were found watering without completing payment to EBID. Approximately 18 constituents had come in and paid the assessments due. It was suggested that collection letters incorporate stronger language of enforcement of the law and that EBID file a report with the sheriff's department including a criminal complaint.

James discussed a meeting to be held in Merino, Colorado. This is a one-day event on water monitoring and control technology. Bill Gary motioned and Joe Nelson seconded to send James to the meeting. Motion carried.

Dr. Phil King, Hydrology Consultant, updated the Board on the District's allocation. The current allocation stands at 206,661 AF which was 75% of normal. Dr. King continued not to recommend an increase in the allocation at this time. He hoped that an increase could be made in June at the end of the spring runoff once the water got into storage. He reported that the balance of 90,000 AF as of the 10th of May would only give the District 1.5 months left of its allotment and that by the next board meeting he could better determine an increase. Jerry Franzoy motioned that the allotment be raised to 2.5 AF now, but the motion died for lack of a second. Dr. King said that with the District running at 61% efficiency and spilling less, that we may see that effect the diversion ratio later that will add water to the allotment.

Jessica Morgan, a graduate student from NMSU gave her presentation of Farmer Intentions for Long Term Land Uses and Implications for Food Security. This was a program on which she presented her thesis at NMSU. Ms. Morgan had prepared a survey for EBID farmers that was sent out in April, 2009. Approximately 225 surveys were returned and this information was included in her report. Jessica thanked the Board for their participation and mailing of the surveys which enabled her to complete her report and thesis.

Willie Koenig motioned and Ramon Alvarez seconded to break for lunch. Following lunch, Bill Gary and Jerry Franzoy seconded to reconvene the meeting. Motion carried.

Gail Norvell, Controller, gave the financial report.

- The Financial Fact Sheet for the month of April, 2009, is as follows: Cash in the bank totaled \$362,564; assessments receivable totaled \$617,558; and investments totaled \$5,074,567 for a grand total of \$6,054,690. This amount reflects a decrease in assets of \$(619,912) over April, 2008. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$7,823. Also presented was the financial statement for the month of March, 2009.
- Gail reported that the BOR actual over budget for the FY 2008 increased and the additional charges would be added to the quarterly billing for the current year.
- Gail reported that Workers Compensation insurance premium will decrease for the new insurance period effective 7/1/2009 due to decreases in claims history.
- Gail presented several contracts for Board review and approval:
 - o Janitorial services contract - Robert Faubion motioned and Ramon Alvarez seconded to renew the contract with no increase in fees. Motion carried.
 - o Electrical services contract - Willie Koenig motioned and Ramon Alvarez seconded to renew the contract with no increase in fees. Motion carried.
 - o Plumbing services contract - Jerry Franzoy motioned and Robert Faubion seconded to renew the contract with no increase in fees. Motion carried.
 - o Data loggers contract - Robert Faubion motioned and Willie Koenig seconded to approve the contract for purchase of data loggers. Motion carried.
- La Union Soil and Water Conservation District, now the Dona Ana S&WCD, presented a contract for an advanced weather warning system within the two Dona Ana watershed dams. Robert Faubion motioned to accept the contract subject to legal review and approval. Jerry Franzoy seconded. Motion carried.

The EAC gave a demonstration on the irrigation system water display which the committee made for the Water Festival held at the New Mexico Farm and Ranch Museum. Approximately 500 area 4th grade students attended the water festival.

Robert Faubion motioned and Bill Gary seconded to recognize the work of the EAC and employees for the opportunity to connect with the public where food and surface water comes from by building the replica of the EBID irrigation system. Motion carried.

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

- American Recovery and Reinvestment Act - Gary discussed the NM Water Conservation and Efficiency Projects that are ongoing and a letter from NM Sen. Jeff Bingaman where he said "It is my understanding that Reclamation will be allocating \$40 million in water conservation efficiency grants from its ARRA funds. Over the last several years, agricultural water suppliers in NM such as the Middle Rio Grande Conservancy District and the EBID have used these grants to

Allocation Update
Allocation Report

Farmer Intentions
Presentation

Lunch Break

Controller Report

Financial Fact
Sheet

BOR Budget

Workers Comp.
Insurance

Contract
Renewals

Weather Warning
System

Employee
Advisory
Committee

Manager's Report

NM Water
Conservation and
Efficiency Projects

implement aggressive water conservation projects. There is much additional work to be done and many districts in NM could put ARRA funds to work to improve operations for the long-term. In addition, EBID is looking at integrating renewable energy generation into its operations in a way that will also promote additional water conservation. Innovative projects such as this should be high priority for Reclamation." The District hopes to continue to receive grant funds for its innovative projects.

– Three Conferences were discussed:

- Western Coalition of Arid States (WESTCAS) Annual Conference, San Diego, June 24, 2009. Gary Esslinger to attend
- USCID 2009 Irrigation District Specialty Conference, Reno, Nevada, June 3, 2009. Gary Esslinger to attend.
- NWRA Western Water Seminar, Albuquerque, July 29, 2009. Gary Esslinger, James Salopek and Steve Hernandez to attend.

Bill Gary motioned that the District send representatives to all three conferences. Motion carried.

– Gary discussed the matter of obtaining the services of Kris Polly for lobbying in the Washington D.C. area for a three-month trial basis. Ramon Alvarez motioned to prepare a contract for a three-month trial basis. Bill Gary seconded. Motion carried.

– Gary informed the Board of Reclamation Public meetings for annual operating plan for the Rio Grande Project and indicated that the BOR misrepresented the Operating Agreement in a public meeting.

– IBWC Canalization Record of Decision (ROD) – The ROD on the canalization project from American Dam to Caballo Dam has been finalized with comments by EBID and WWF for IBWC review. WWF partnered with EBID to come up with a river restoration plan that was good for farmers and did not hurt wildlife and protect constituents' water rights. EBID and WWF submitted their final comments to IBWC. Lee Peters contributed his findings and conclusions to the document. The ROD needs to get to Commissioner Ruth before his appointment is over as IBWC Commissioner. Jerry Franzoy motioned and Bill Gary seconded to accept the Record of Decision and submit the final comments to IBWC. Motion carried.

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

- LRR 236 – Trails Act MOU/JPA W/CLC – remains open.
- LRR 239 – One Call Rules and Regulations – to be closed.
- LRR 240 – Safe Harbour Agreement - remains open.
- LRR 243 – La Mesa Drain – Tony Perelli Minnetti – to be closed.
- LRR 259 – Revocation of Withdrawn Land – MVBSP- remains open.
- LRR 300 – Klaus Schuermann – to be closed.
- LRR 302 – City of El Paso/Montoya Drain- remains open.
- LRR 303 – Hatch Easements- remains open.
- LRR 304 – Lions Gate Water vs. NM OSE- remains open.
- LRR 305 – Past and Present Private Dam Maint. - remains open.
- LRR 306 – Village of Hatch Lawsuit – waiting for final paperwork and then will be closed.
- LRR 322 – Diez Lagos Ponding Area- remains open.
- LRR 323 - Policies, Relinquish of Easement and Excess of Real Property – will rewrite to combine both policies. - remains open.
- LRR 324 – Pipe Safety Bureau Compliance, PRC Compliance Conf. Case No: 20080626-243 – Waiting for response. - remains open.
- LRR 325 – Deposition of Jim Kirby- remains open.
- LRR 326-1 – Personnel Policy Book Review – Continuing Education – time limit to be set for employee to continuing working after receiving certification. - remains open.
- LRR 327 – BLM – Free Use Permits – asked for formal response to letter. - remains open.
- LRR 328 – NM Tax and Revenue Dept Subpoena, R. Rivera – to be closed.
- LRR 329 – Product of Service (Copyright Policy). Low-head power copyright. - remains open.
- LRR 330 – Vendor Payment Problems- remains open.
- LRR 331 – Qwest Claim – Cty. Rd. B10 – To be closed.

Blue Ribbon Task Force Update – Steve Hernandez took our EBID fact sheets for all of the innovative projects that the District is working on to the last meeting of the Blue Ribbon Task Force and they were very well received.

Lee Peters reported that the Qwest mediation settlement on both Qwest vs. EBID and EBID vs. Qwest was settled successfully. Funding and disclosure documents will follow.

Willie Koenig motioned and Robert Faubion 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:

Conference Approvals

Washington D.C. Lobbyist

BOR Public Meetings

IBWC Canalization Record of Decision

Legal Update

Blue Ribbon Task Force

Qwest Settlement

Open/Closed Session

- State ex. rel. D'Antonio vs. EBID (Stream Adjudication)
 - o OSE Meeting on EBID's Offer of Judgment
 - o Threshold #3 Motion
 - o Offer of Judgment Response Letter
- AWRM Amicus Appeal Brief
- Qwest vs. EBID, 07-CIV-163 (LRR 266)
- Intervention on Parasol Dairy NMED Permit (LRR 289)
- Lions Gate Water vs. OSE
- Implementation of Operating Agreement Settlement
- EBID vs. Qwest
- Bosque State Park

Following closed session, Bill Gary motioned and Ramon Alvarez seconded to return to open session.

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

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary