

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
July 8, 2009**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, July 8, 2009. The meeting was called to order by Vice President Robert Faubion in the absence of President James Salopek on a motion by Willie Koenig, seconded by Ramon Alvarez. Motion carried. Joe Nelson, Robert Sloan and James Salopek were absent.

EBID personnel present were Gail Norvell, Controller; Ricardo Bejarano, Water Master; Henry Magallanez, Engineering Supervisor; James Narvaez, Hydrology Director; Linda Armijo, Land Specialist and Joe Garibay, Fleet Maintenance Mechanic; Casey McGuire, and Maintenance Foreman, North.

Also present were Steve Hubert and Steve Hernandez, Hubert & Hernandez, P.A; Phil King, Hydrology Consultant; Calvin Chavez and Rasool Ahadi, OSE; Conrad Keyes; Nancy Aniszewska, Constituent; and Marvin Tessneer, The Bulletin.

Jerry Franzoy motioned and Bill Gary seconded to approve the minutes of the June 10, 2009 meeting. Motion carried.

Willie Koenig motioned and Ramon Alvarez seconded to approve the minutes of the Water Transfer hearing, 2009-WT 6, as presented. Motion carried

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

	<u>7/01/2008</u>	<u>7/01/2009</u>
Elephant Butte	625,550	634,387
Caballo	<u>56,340</u>	<u>64,580</u>
Total Storage	681,890	698,967

Items on the calendar were discussed: A ribbon cutting ceremony on the new offices of El Paso County Water Improvement District No. 1 on Friday, July 17<sup>th</sup>; the 2009 Western Water Seminar in Albuquerque beginning July 29<sup>th</sup>.

Gary reported that there were members from two irrigation districts coming for a tour of EBID at the end of the month following the 2009 Western Water Seminar. Kris Polly is also coming for the tour.

Steve Hernandez reported that Carlsbad Irrigation District would be having a celebration following the OSE final Pecos settlement agreement that has been filed with the court. He would let the Board know when a date was set.

The next board meeting will be held on August 12<sup>th</sup>.

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

Non-Moratorium:

09-L-029 – El Paso Electric; To operate, and maintain an existing aerial electric power line crossing the La Mesa drain at approximate station 165+50. Assessment, \$3,939.38.

Total Assessments under Non-Moratorium: \$3,939.38

Moratorium:

09-L-031 – Dona Ana MDWCA: To construct, operate and maintain a new buried 18" waterline paralleling the east side of the Dona Ana Drain from approximate stations 125+22 to 135+67 for approximately 1,045 feet. Then crossing the Elwood lateral at approximate station 40+59 and parallel the east side of the Elwood Lateral at approximate stations 40+59 to 50+64 for approximately 1,005 feet. Assessment, \$14,002.87.

Total Assessments under Moratorium: \$14,002.87.

Total assessments for all permits = \$17,942.25  
 Total fees requested to be waived = \$ 0.00  
\$17,942.25

Willie Koenig motioned and Tom Simpson seconded to accept the permits as presented. Motion carried.

Linda Armijo presented an In-Parcel Transfer of the parties Gonzalez to Gonzalez and recommended staff approval. The transfer was for 0.75 acres. Tom Simpson motioned and Bill Gary seconded to approve the transfer. Motion carried.

In the absence of Leo Barrett, Maintenance Project Director, Joe Garibay, Equipment/Fleet Manager, and Casey McGuire, Maintenance Foreman North, gave a report on a rotary disk mulching attachment for the excavators that they went to California to see demonstrated. The mulching attachment would be used as apart of

Roll Call

Approval of Minutes

Water Supply

Calendar of Events

Special Use Permits

In-Parcel Transfer

Rotary Disk Mulching Attachment

the drain cleaning program. Staff is going to try to arrange a local demonstration.

Richard Bejarano, Water Master, gave the Operations Department report to date as follows: Farm Deliveries, 3,728; Acres Irrigated, 70,189; AF charged to farmers, 30,676; Actual Total Diversion, 53,173; Balance, 78,694; 0 breaks and 2 runovers. Total breaks for year, 11, and total runovers, 6. 2009 Delivery efficiency was 58% as compared to 49% in 2008.

The Hydrology Department report for June is as follows: Total Order, 180,787; actual diversion, 180,600; AC/FT +/-, -187; Estimated carriage losses, 32,014; adjusted diversion, -0.1%; Total Spill, 2,598; % Diversion Spilled, 1.4%; Charge to Farmers, 111,302; Delivery Efficiency, 61.6%.

Dr. Phil King, Hydrology Consultant, updated the Board on the District's allocation. The spring runoff was about 70% complete at the date of the meeting, and was 101% of the diversion ration in June. He recommended to the Board to leave the allotment at 2.5 AF until the end of the season. Approximately 70,000 AF plus any remaining inflow would get us through August.

Steve Hubert discussed a new water treatment plant in Albuquerque and felt that this would affect compliance with the Rio Grande compact. Steve was concerned that New Mexico would breach the compact. Phil recommended that staff keep monitoring the inflow into New Mexico upstream of the new treatment plant.

James Narvaez reported the district was running at a 61% efficiency rating. By the end of June approximately 78,000 AF was used. James stated that operations was doing a good job to this point, but orders would have to be tightened up in August.

James stated that the river went to zero release on the 4<sup>th</sup> of July which was a good move to save water because of the storm inflows. On the Arrey Main, generators were shut off for the release for 8 hours, and the river came right back up when opened up normal on Monday.

Richard Bejarano introduced Mrs. Nancy Aniszewska who had been flooded in an incident that happened on June 28<sup>th</sup>. Mrs. Aniszewska asked the Board for advice on stopping this kind of incident from occurring again as the water user who she felt caused the incident has done it in the past. The Board advised her that once the water leaves a District canal and enters into a private ditch, we cannot intercede. The water user will be advised concerning flooding and waste of water. Gary Esslinger will talk with the manager of the El Paso district to see if he can get the Texas DOT to replace culvert that is too small.

James Narvaez discussed the renewal of the Joint Funding Agreement between EBID and USGS that is the continuation of the cooperative study entitled, "Monitoring Network of the Ground-Water Flow system and Stream-Aquifer Relations in the Mesilla Basin, Doña Ana County, New Mexico and El Paso County Texas." The District's cost will be \$23,100. Bill Gary motioned and Willie Koenig seconded to approve the renewal of the JFA. Motion carried.

Gail Norvell, Controller, gave the financial report. The Financial Fact Sheet for the month of June, 2009, is as follows: Cash in the bank totaled \$792,916; assessments receivable totaled \$482,334; and investments totaled \$3,576,489 for a grand total of \$4,851,739. This amount reflects a decrease in assets of \$(343,986) over June, 2008. No extraordinary costs were presented. Extraordinary receipts were: Special use fees \$81,831. Also presented was the financial statement for the month of May, 2009

Gail discussed the Bureau of Reclamation's FY 2010 Estimated O&M Budget. The total charged to EBID for this fiscal year is \$317,926. There will be an Executive Committee meeting set to discuss the BOR budget prior to the next meeting to formulate a letter to the BOR.

Gail discussed the State of New Mexico's Emergency Amendment to Section 11, of the DFA Regulations Governing the Per Diem and Mileage Act, 2.42.2 NMAC. Effective June 19, 2009 the new mileage rate as set by the State of New Mexico will be \$.50.5 per mile. Jerry Franzoy motioned to adopt Resolution 2009-06 reflecting the new mileage rates. Tom Simpson seconded the motion. Motion carried. January, 2010, the rate will increase to \$.55 a mile.

Gail presented the contract for renewal of legal services for Hubert & Hernandez, LLC. The contract is limited to \$300,000 per year. Gail recommended approval of the contract. Willie Koenig so moved and Ramon Alvarez seconded the motion. Motion carried.

Gail presented the contract renewal for IT Services for Ron Mears. Tom Simpson motioned and Bill Gary seconded to renew the contract. Motion carried.

Gail reported there is a meeting of the Employee Advisory Committee scheduled. There will be new representatives serving on the committee as the current representative 2-year terms have expired.

Operations  
Dept. Report

Hydrology Dept.  
Report

Allocation  
Update  
Allocation  
Report

Constituent  
Concern re  
Flooding Incident

Renewal of JFA  
with USGS

Controller Report  
Financial Fact  
Sheet

BOR FY 2010  
Estimated Budget  
Discussion

Mileage Rate  
Increase

Legal Services  
Contract Renewal

IT Contract  
Renewal

Employee  
Advisory  
Committee

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

- Multi State Salinity Coalition, Indian Wells, California, September 29-30. Bill Gary motioned and Tom Simpson seconded to send Gary Esslinger to the meeting. Motion carried.

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

- LRR 236 – Trails Act MOU/JPA W/CLC – to be closed.
- LRR 240 – Safe Harbour Agreement – remains open.
- LRR 259 – Revocation of Withdrawn Land – MVBSP – remains open.
- 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 Maintenance – remains open.
- LRR 322 – Diez Lagos Ponding Area – to be closed.
- LRR 323 - Policies, Relinquish of Easement, Excess Real Property –remains open.
- LRR 324 – Pipe Safety Bureau Compliance, PRC Compliance Conf. Case No: 20080626-243 – to be closed.
- 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 – to be closed.
- LRR 329 – Product of Service (Copyright Policy). Low-head power copyright – Samantha Barncastle is working on this matter – remains open.
- LRR 330 – Vendor Payment Problems – remains open.
- LRR 333 – Enforcement of Violators Taking Water Illegally – remains open
- LRR 334 – Setting up Small Flood Control Districts – Samantha Barncastle is working on this matter – remains open.
- LRR 335 – Redistricting Voting Precincts – Samantha Barncastle is working on this matter – remains open.
- LRR 336 – FERC Exemption – Low-head power plants – remains open.

Steve Hernandez updated the board on Carlsbad Irrigation District's final settlement agreement being filed with the Court. They will have an open house sometime in the future to celebrate.

Bill Gary Motioned and Tom Simpson seconded to break for lunch. Following lunch, Bill Gary and Jerry Franzoy seconded to reconvene the meeting. Motion carried.

Willie Koenig motioned and Jerry Franzoy 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.)
  1. OSE Meeting
  2. Threshold #3 Motion
  3. Offer of Judgment
  4. Intervention of RGDCFT
  5. Recall Threshold Motion #1 for Hearing
  6. New Threshold Motion #4 – Surface/Ground Interaction
  7. Water Resource Committee to Monitor S.A. proceedings
- B. AWRM Amicus Appeal Brief
- C. Intervention on Parasol Dairy NMED Permit (LRR 289)
- D. Lions Gate Water vs. OSE
- E. Implementation of Operating Agreement Settlement
- F. Bosque State Parks

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

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

Manager's Report

Legal Update  
LRR Report

Lunch Break

Open/Closed  
Session

Adjourn

ROBERT FAUBION, Vice President

WILLIE KOENIG, Secretary