

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
October 13, 2010**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, October 13, 2010. The meeting was called to order by President James Salopek on a motion by Joe Nelson, seconded by Ramon Alvarez. Motion carried. All members were present.

Roll Call

EBID personnel present were Henry Magallanez, Engineering Supervisor; Gail Norvell, Controller; Ricardo Bejarano, Water Master; Valerie Beversdorf, CR/GIS Director; Linda Armijo, Land Specialist; Anjeanette Carlson, Land/Water Analyst; and Dustin Leonard, GIS Specialist.

Also present were Steve Hernandez and Samantha Barncastle, Law Office of Steven L. Hernandez; Beverly J. Singleman, Law Office of Beverly J. Singleman; Phil King, Water Quantity Consultant; Eric Fuchs and JR Hennessey, OSE; Sammie Singh, Sr., Sammy Singh Jr., Beahouin Gomez, Mike Charles, Ross Provencio, Jake Provencio, Nick Carson, Joe Paul Lack, Johnny Diaz, Oscar Carrillo, John B. Fleming, Richard Ogaz, Nacho Bustamante, EBID Constituents; Adrienne Widmer, CLC; Hillary Brinegar, NM Dept. of Ag.; and Tom Maddock, Hydrology Consultant.

Willie Koenig motioned and Scott Adams seconded to accept the minutes of the September 8, 2010 meeting as presented. Motion carried.

Minutes Approval

Tom Simpson motioned and Willie Koenig seconded to approve the minutes of the Water Transfer Hearing of September 8, 2010 meeting as presented. Motion carried.

During the introduction of guests, Constituent Sammie Singh Jr. spoke up with concerns about several matters he wanted to present to the Board. Mr. Singh was told that he could not address the Board at this meeting since he was not on the agenda. He was asked to present his matters for discussion in a written format and he would be put on the November agenda. Board Chairman, James Salopek, directed Mr. Singh to read the Open Meetings Act posted on the wall for proper format to come before the Board. It was suggested that a letter be sent to Mr. Singh complete with instructions and format.

Introduction of Guests

John Bigbee informed the board that the Prime Timers were having a lunch to meet with the candidates for the election to be held in November. Mr. Bigbee invited board members to attend and show the candidates that agriculture was strong in Southern New Mexico.

Prime Timers Meet the Candidates Invitation

The calendar was discussed. Items on the calendar for the months of October and November, 2010 include: Prime Timers meeting with election candidates, October 19; RGP Mediation, October 25; National Committee on Levee Safety, Sacramento, CA, October 26-29; BOR Meeting on the Willow Fly Catcher, November 8; Energy Water Workshop, Irwindale, CA, Nov. 8-9; NWRA Conference, San Diego, CA, November 10-12.

Calendar of Events

Due to conflicts with the NWRA conference, the next meeting of the Board will be held on Wednesday, November 17, 2010. The Board approved motion by Jerry Franzoy, seconded by Robert Faubion to move the board meeting to November 17, 2010.

Change of November Meeting Date

Henry Magallanez presented the special use permits for the month of October, 2010 and recommended approval of all licenses as presented.

Special Use Permits

Non-Moratorium

2010-L-059 To operate and maintain an existing vehicle crossing on the Mesquite Drain at approximate station 586+84. Assessment, \$1,766.67.

2010-L-060 El Paso Electric Co. - To construct, operate, replace and maintain existing power poles and power lines crossing the Cozine Spur Drain at approximate station #35+35 and the Westside Canal at approximate station # 525+82. Assessment, \$6,583.33. Waive fees – existing crossing.

2010-L-061 Anthony Pecan Co. - To construct, operate, and maintain a crossing on the Anthony Drain at approximate station #78+00. Assessment, \$1,666.67.

2010-L-064 Dino Cervantes - To construct, operate, and maintain a waterline crossing wasteway #18 at approximate station # 14+16. Assessment, \$3,166.67

Total all assessments, \$13,183.34 minus fees requested to be waived, \$1,766.67.

Total Assessments: \$11,416.67

Scott Adams motioned and Tom Simpson seconded to approve the permits as presented. Motion carried.

<p>Henry discussed an in-parcel transfer and stacking of water rights from Donna Legarretta to Viola and Joaquin Legarreta in the amount of 5.77 water righted acres. Scott Adams motioned and Tom Simpson seconded to approve the transfer and stack water as presented. Motion carried.</p>	<p>In-Parcel Transfer</p>
<p>The Selden Canyon Boundary Expansion was discussed. Funding for the expansion was through the NM Audubon Society and there may be more funding to continue with boundary expansion for surveys and legal description. Tom Simpson asked for a map detailing the land expansion in question and Willie Koenig asked for a workshop to better educate the Board on the process prior to making a decision to expand the boundaries for this project.</p>	<p>Boundary Expansion – Selden Drain Project</p>
<p>Gary Esslinger gave the maintenance report in the absence of the Maintenance Project Director Leo Barrett. He reported that canal cleaning and bank building was ongoing in the north, central and south. Crews were also trimming trees in the central area and putting up harvest gates. He reported that the fabrication shop was being revamped to allow the fabrication team to do more projects.</p>	<p>Maintenance Department Update</p>
<p>Gary discussed the mobile irrigation filtration unit that was purchased through the BOR energy grant. The filtration system is capable of filtering irrigation canal water for farmers who have drip or sprinkler systems. The unit will be tested in the Hatch area to determine performance and effectiveness. A report will be given on its performance during the next irrigation season.</p>	<p>Drip Irrigation Filter</p>
<p>Phil King reported that the District was close to zero (0) allotment on October 30 which is the end of the 2010 irrigation season. He also said that EP#1 ran until the first week of October. Dr. King said that the Rio Grande Project would be under the Rio Grande Compact Commission (RGCC) Article 7 which means EB storage is under 400,000 ac/ft at present time. He suggested that the District should ask the RGCC for an early season relinquishment of NM credit water.</p>	<p>Water season update</p>
<p>The Southwest Willow Fly Catcher habitat in the upper end of Elephant Butte basin was discussed. The current drought is creating new habitat for the Southwest Willow Fly Catcher because the lake is so low and the birds build closer to water as the water recedes. The major concern to the District is that when the water comes back up, which will be during the birds’ nesting season, the habitat will be flooded, and therefore, the ESA would be triggered. The BOR/EBID are working with US Fish and Wildlife to try to mitigate the issue.</p>	<p>CR-GIS Report</p>
<p>Valerie Beversdorf CR-GIS Director gave her department’s report. Dustin Leonard GIS Specialist is working on a project to associate turnouts with parcels using GIS. Dustin is finding the association and then Engineering enters the information into the data base. Dustin has identified approximately 1,500 turnouts associated with TOs using GIS and there are still approximately 650 TOs that are not identified as of yet. Dustin should be finished with his initial review by the end of the week. A report will be given to the Board at a future meeting.</p>	<p>Vision 2040</p>
<p>Valerie updated the Board on the Vision 2040 Project. A special meeting was held entitled the State of the Water. Karl Woods of the WRRRI talked on the ground water component and Phil King, EBID Water Consultant discussed the surface water component. The purpose of the meeting was for the Vision 2040 committee members to gain a better understanding of what water is and where it comes from. There is an assumption from the Vision 2040 team that there is plenty of water in the valley.</p>	<p>Controller Report Financial Fact Sheet</p>
<p>Gail Norvell, Controller, gave the financial report. The Financial Fact Sheet for the month of September, 2010, is as follows: Cash in the bank totaled \$332,694; assessments receivable totaled \$339,206; and investments totaled \$2,683,401 for a grand total of \$3,355,301. This amount reflects an increase in assets of \$844,115 over September, 2009. Extraordinary receipts in the amount of \$18,789 for Special Use Fees. Also presented was the financial statement for the ten (10) months ending August 31, 2010.</p>	<p>Contract Renewals</p>
<p>Gail presented a contract renewal for Lobbyist services to Water Strategies LLC. Franzoy motioned to approve the contract. Robert Faubion seconded the motion. Motion carried. Mr. Esslinger reported that Kris is currently working on several bills impacting irrigation districts: Clean Water Restoration Act, EPA Herbicide Rules, National Committee on Levee Safety and FERC exemptions for low-head power.</p>	<p>Amended FY 2009-2010 Budget</p>
<p>Gail presented a contract for concrete to Ready Mix and Certified Concrete. Robert Faubion motioned and Willie Koenig seconded to award the contracts. Motion carried.</p>	<p>FY 2010-2011 Budget</p>
<p>Gail presented a Resolution to amend the FY 2009-2010 budget. Motion to approve by Robert Faubion, seconded by Joe Nelson. Motion carried.</p>	
<p>Gail presented the budget for FY 2010-2011. Robert Faubion motioned and Robert Sloan seconded to approve the budget as presented. The sick leave donations are</p>	

tabled for further discussion. Motion carried.

The Employee Advisory Committee is working with NMSU on the EBID water trailer. NMSU has designated students and funding to assist with this project. The EAC is also in the process of planning the general meeting to be held in November.

EAC Update

Gary Esslinger discussed the National Committee on Levee Safety meeting to be held in Sacramento on October 27<sup>th</sup>. Scott Adams motioned and Robert Faubion seconded to send Gary to the meeting. Motion carried. Gary indicated his concerns that this committee was looking at including the canal banks with the same standards for river levees.

Manager's Update

Gary discussed a proposed State of New Mexico Centennial Wall and the request to have EBID included as a part of the historic and cultural wall. Also discussed was a request from the Las Cruces Museum to be included in a book that is being published on the history of Las Cruces. The Board asked that Gary get more information prior to making a decision on either of these items. Gary suggested that these ideas were something to do for EBID's 100<sup>th</sup> birthday which would occur in 9 years.

NM Centennial Wall

Gary discussed a workshop on energy alternatives to be held in Irwindale, California just prior to the NWRA conference. He asked the Board's permission to attend this workshop in conjunction with the NWRA conference. Robert Faubion motioned and Ramon Alvarez seconded to send Gary. Motion carried.

Energy Alternatives Workshop

Gary discussed a meeting to be held with the IBWC to discuss the illegal taking of surface water by the contractors building up the river levees. Stealing of water from the river and drains results in lower efficiency in terms of water delivery to the District. It is important to notify the IBWC that the Office of the State Engineer will enforce the NM water law, and contractors will be informed of the legal process to follow. EBID/OSE will try to develop the permits to be signed and enacted.

Illegal Taking of Water from Drains and River by Contractors

Steve Hernandez reported on legal matters.

Legal Update

- LRR 274 – the Mutual Aid Agreement. With Dona Ana County was presented for final approval and signature. Motion to approve by Robert Faubion and seconded by Scott Adams. Motion carried. This item to be closed.
- LRR 275 – Utilities Land Use Blanket Agreement - To be closed
- LRR 303 - Hatch easements. Waiting on title reports. Will then do MOU. This item to remain open.
- LRR 354 – Pumping out of drains and canals. Farmers can pump into canals to help others. Go on record that we can't allow contract water to be taken. Propose a solution pursuant to OSE. Send a letter to IBWC Commissioner. To be closed.
- LRR 357 – Public Water Provider Recognition – To be closed.

LRR Report

Gary reported on the problem of IBWC contractors taking Project water. Instead Gary was looking at using the EBID groundwater rights just recognized by the State Engineer in Stream System Issue #102. The water would have to be pumped by EBID members near the construction sites. Gary asked what a farmer would charge if their well was used to supply water to the IBWC contractors. Most of the board said that the minimum charge from a farmer to pump water was \$100 an acre foot. This would be in addition to a charge by EBID to the contractor.

Illegal Taking of Water

Steve Hernandez reported that Stream System Issue #102 had been settled with the State Engineer. EBID received a water right of 9,500 acre feet that can be used on any of the 90,640 acres within the district. The priority date for the water right is 1973 and was the result of the district's Deep Well Program initiated by Manager Wayne Cunningham. The state engineer relied on an Attorney General's Opinion issued in the 1970's to confirm EBID's ability to hold its own water right. This groundwater right held by EBID is in addition to surface water it delivers to its members and is not part of member individual groundwater rights.

Stream System Issue #102

CID Sinkhole. Steve Hernandez reported that new findings from sonar readings indicated that the sinkhole threatening the CID main canal shows only a small portion of the salt formation is near the canal. Only 5% of the dissolved salt formation is shown in the sinkhole and the engineers are not sure where the other 95% of the dissolved formation.

CID Sinkhole

Blue Ribbon Task Force. Steve reported that no matter the outcome of the Governor's election on November 2<sup>nd</sup>, there would be cuts in State Government. The Blue Ribbon Task Force will give water related priorities that each agency wants to see accomplished. He also reported on the National Lab Small Business Funding Program which EBID has applied for. Suggestions of priorities were: Energy and storage on the east side of the state, wind tunnels, study on salinity, wells and pumps, and low-head hydro power.

Blue Ribbon Task Force Update

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

Lunch Break

Tom Simpson 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:

Open/Closed Session

State ex. rel. D'Antonio vs. EBID CV 96-888 (Stream Adj.)

AWRM Amicus Appeal Brief

Verde Realty Operating Partnership

Cardona vs. EBID

Intel Guidelines/Comments due

Following closed session, Jerry Franzoy motioned and Robert Faubion seconded to return to open session.

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

Adjourn

The next meeting of the Board of Directors will be held on Wednesday, November 17, 2010.

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JAMES SALOPEK, President

WILLIE KOENIG, Secretary