

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
February 9, 2011**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, February 9, 2011. The meeting was called to order by President James Salopek on a motion by Robert Faubion, seconded by Scott Adams. Motion carried. Member absent was Tom Simpson.

Roll Call

EBID personnel present were Henry Magallanez, Engineering Supervisor, Linda Armijo, Land Records Specialist; A.J. Carlson, Land Water Analyst. Gail Norvell, Controller; James Narvaez, Hydrology Director; Valerie Beversdorf, CR/GIS Director; Dustin Leonard, GIS specialist; Delyce Maciel, HR/Safety Director; Naomi Ontiveros, Executive Secretary.

Also present were Steve Hernandez and Samantha Barncastle, Law Office of Steven L. Hernandez; Lee Peters from the Peters Law firm Dr. Phil King; Eric Fuchs, NMOSE.; Fernando Ortiz, City of Las Cruces; Evaristo Giron, Rolf Hechler of New Mexico State Works; Dr. John Hernandez; Brian Hanson, NMDA; Bert Cortez, BOR El Paso; Hector Flores, Antonio Rios, David Madrid, Juanita Navarette Silva and Sammy Singh, EBID Constituents.

Jerry Franzoy motioned and Scott Adams seconded to accept the minutes of the January 12, 2011 meeting as presented. Motion carried.

Minutes Approval

The calendar was discussed. Items on the calendar include: February 10, 2011 National Levee Workshop in Boise, ID. February 16, 2011 Low Head Hydro Workshop in Berthoud, CO; February 23, 2011 Family Farm Alliance conference in Las Vegas, Nevada. Gary is making a presentation on Title Transfers and National Levee Legislation. Steve Hernandez is unable to go because he is a speaker at the American Bar Association National water Law conference in San Diego. March 30, 2011 Compact Meeting in Albuquerque, NM. Gary asked the board to approve the March 30, 2011 trip Robert Faubion motioned and Scott Adams second. Motion carried.

Calendar of Events

Henry Magallanez informed the board that there were permits for the month of January.

Special Use Permits

**License List for Special-Use-Permits for February 9, 2011 Board Meeting
Non-Moratorium**

Licensee	Assessment	Fees Requested to be Waived
2011-L-001 Qwest Corporation		
To construct, operate, and maintain a fiber utility line and innerduct crossing the Little La Union Lateral at STA #193+88, the West Drain at STA #290+50, the La Union West Lateral at STA #205+30, the Central Drain at STA #54+18, and the Baker Lateral at STA #71+57.	\$4,080.35	
2011-L-002 El Paso Electric Company		
To construct, operate, and maintain a single phase underground powerline crossing the Gillem Lateral at APPROX. STA #24+00.	\$3,166.67	
2011-L-003 Qwest Corporation		
To construct, operate, and maintain a fiber utility line crossing the Mesilla Drain at STA #418+37.	\$1,550.05	

2011-L-006 Qwest Corporation

To construct, operate, and maintain a fiber utility line crossing the School Lateral at STA 23+67. \$1,400.02

2011-L-007 Qwest Corporation

To construct, operate, and maintain a fiber utility line crossing the Mesilla Lateral at STA #116+80. \$1,430.02

2011-L-008 Qwest Corporation

To construct, operate, and maintain a fiber utility line crossing the Del Rio Drain at STA #986+02 and the Alamo Lateral at STA #33+23. \$2,070.10

2011-L-010 El Paso Electric

To construct, operate, and maintain a single phase overhead powerline crossing the Garfield Main Canal at APPROX. STA#493+40. \$3,416.67
Waive fees \$3,416.67
Farm use

2011-L-011 El Paso Electric

To construct, operate, and maintain a 3 phase powerline paralleling the Selden Drain from STA #147+00 to 144+50, crossing the Selden Drain at STA #147+00, and crossing the Leasburg Flume Arroyo #2 at the tailend. \$8,321.16

2011-L-012 El Paso Electric

To operate and maintain an existing overhead powerline crossing the La Union Main at APPROX. STA #887+00. \$3,666.67

2011-L-013 El Paso Electric

To operate and maintain an existing overhead 3 phase powerline crossing the Garfield Main Canal at STA #346+65. \$3,416.67

2011-L-014 Qwest Corporation

To construct, operate, and maintain a utility line and 4" casing crossing the Las Cruces Lateral at STA #464+08. \$1,430.02

2011-L-015 Qwest Corporation

To construct, operate, and maintain a utility line and 4" casing crossing the Houghton Lateral at STA #18+57. \$1,430.02

2011-L-016 El Paso Electric Company

To replace, operate, and maintain a 3 phase powerline crossing the Baca Lateral at STA #31+07. \$3,166.67

Subtotal	\$41,961.76	\$3,416.67
Total Assessments	\$38,545.09	

License List for Special-Use-Permits for February 9, 2011 Board Meeting
 Moratorium

Licensee	Assessment	Fees Requested to be Waived
2010-L-074LRGPWWA		
To construct, operate, and maintain wastewater collection lines crossing the Mesquite Drain, Bannock Lateral, and Eastside Canal at respective STA #s 339+00, 79+04, and 423+87, and paralleling the Eastside Canal from STA # 423+87 to 439+07.	\$16,929.31	
Subtotal	\$16,929.31	\$0.00
Total Assessments	\$16,929.31	

Motion to approve all the special permits by Joe Nelson second by Scott Adams and motion carried.

Henry advised the board that the Ranch Road documents have been submitted to the NM board of Finance. The NM Taxation and Revenue Department is reviewing the appraisal.

Ranch
Road
Project

Henry introduced to the board Mr. Evaristo Giron and Mr. Rolk Hechler with NM State Parks.

Mr. Giron presented the board with a Power Point presentation showing the area where the proposed pedestrian foot bridges will be located on the Leasburg Canal. The foot bridges have been in planning for nine years and NM State Parks has now found funding for the project. The plan is to connect Ft. Selden and Leasburg Park and to provide an educational programming for informing the public about the RG Project and EBID's role in providing irrigation water to farmers. The main objective is for education and not for recreational use. Henry asked if the Leasburg park is within BOR acquired land and Mr. Giron's response was yes it is BOR property excluding the entrance road to the Leasburg State Park. Mr. Giron presented the board with a second request of waiver of fees for use of facilities; in exchange their plan is to turn the Dam tenders old house into an educational exhibit. He explains the importance of the footbridges is to connect the State Park to the river and bring kids in and offer a great educational experience. The park gates would be locked during the winter time to minimize vandalism and environmental impact to the natural resources. And the hours of operation will be closed early to lower public use to the facilities. Henry and Lee Peters advised the board they are working on a MOU, similar to the City of Las Cruces MOU for recreational use. Mr. Peters did express a concern of past promises by NM State Parks that were not complied with. Mr. Hechler expressed how the new MOU will break the ice to work towards complying and addressing issues at the Bosque Park. He gave his pledge and support and understands they have been out of compliance in the past and will make sure that future promises are complied with. Gary asked Mr. Hechler and Mr. Giron how they planned on keep people out of the canals. Mr. Giron said the facilities will be well marked and will have full time patrol in the summer times, Thursday through Saturday which are the busiest times. Mr. Hechler added that the canal bridges are access to upper camp grounds and they will have law enforcement during the weekends there as well. Henry added that there are still a few issues that need to be worked out. Motion to proceed forward with the Leasburg footbridges was motioned by Robert Faubion second by Willie Koenig. Motion Carried.

Leasburg
State Foot
Bridges

Gary Esslinger gave the maintenance report on behalf of Leo Barrett. Gary advised the board all concrete pouring is done and there are only a few projects left such as the Ranch Road project. The burning crew has started on the canals to keep them free of debris for early pumping. There have been problems with pecan limbs in the laterals and will be trying to get with the farmers to help burn them. A little mustard spraying is happening in the South Valley. Operation workers are being kept busy and will continue to do so until irrigation season begins in April.

Maintenance
Department
Update

At January's meeting, Dr King indicated that New Mexico had accrued a large credit under the Rio Grande Compact, so that the credit water in storage made about 235,000 acre-feet unavailable, and that the Rio Grande Project allocated that water as it came in during 2010. EBID used nearly all of its 2010 water, as is our intention. That left the peculiar situation of having, from a Project accounting perspective, negative water in storage for this year's allocation. Apparently there was an accounting error in determining the Compact credit water and instead of 235,000 acre-feet of credit water being unavailable, the correct number is about 175,800. This puts us in the positive, but not very much. That's where the good news ends.

Operations/
Hydrology
Report

An estimate of what the allocation would be right now is:

EBID: 20,015 AF carryover + 2,635 AF this year's water = 22,650 AF total

EBCWID: 224,348 AF carryover + 2,006 AF this year's water = 226,354 AF total

Mexico: 13,000 AF (assuming release of all carryover in 2011)

The future does not look promising either. NRCS lowered their estimated forecast for unregulated runoff at San Marcial into Elephant Butte Reservoir from 89 percent of average last month to 71 percent of average as the February estimate. The reason is that it simply didn't snow significantly in January, typically a very productive snow month. If we don't get snow in February, expect it to go down even more. There is a persistent La Niña condition in the equatorial Pacific, which is associated with low precipitation in the American Southwest, and all forecasts point to continued drought.

A rough estimate based on current conditions and the 71 percent forecast is that EBID's allocation for the year will be about 200,000 AF, which corresponds to an allotment of about 14 inches for the season, and it could be lower. This would be the lowest since 2003 and 2004. The board decided to start later than normal so that the surface water would be available during the peak demand months. The plan is to start no earlier than April, and if February and March go badly in terms of snow pack, it could be even later. It is important to get this message out to constituents so they can plan their operations accordingly and get their wells and pumps in good working order.

EBID staff and consultants will continue to evaluate hydrologic conditions and to ensure that the accounting numbers that determine our allocation are correct.

James Narvaez asked the board approval to attend the IBWC Bi-National Border Sanitation and Water Quality Summit March 16, 2011 through March 18, 2011 in San Antonio, TX. Motion to approve by Robert Sloan second by Ramon Alvarez. Motion carried.

Valerie Beversdorf gave her update on Fusion. Valerie and Dave Nelson have been working on the Water Records portion of the database making sure it is working properly and is ready when the irrigation season begins.

CR/GIS
Report

Vision 2040 planning team has been developing a comprehensive development plan for the city and county. Valerie handed out maps of existing development and potential growth scenarios for the area. The committee liked a combination of the Satellite and Compact Growth plans. The next scheduled meeting is February 24, 2011.

Vision 2040

The Storm Water Coalition will meet February 24, 2011 and no additional updates were available at this time.

Storm
Water
Coalition

Gail Norvell presented to the board the financial reports for the Month of January 2011. The Financial Fact sheet shows cash in the bank at \$706,540, assessments receivable \$2,793,603 and

Controller

investments 5,936,425. This is an increase of \$1,055,492 from January 2010. The Grant status update for the month of February shows NMED/EPA, NMDA/NMSU, NRCS are still in process. The water Trust Board Grant is not final yet and has a due date of June 2011; Henry Magallanez will also be working with Gail on this grant.

Report
Financial
Fact Sheet

Gail updated the board on EAC activities. The committee met to discuss the water trailer and meet with the NMSU students to begin development of the modules.

EAC
Committee

Gail presented the board with Dr. Fernando Cadena's Contract for amendment for an additional subcontractor. James Covey will be working on dams and providing consulting on developing Emergency Action Plans and O & M Agreements on flood control dams. Motion to take action on amending Dr. Cadena's contract to add James Covey as a Subcontractor was made by Robert Faubion second by Robert Sloan. Motion carried.

Dr. Fernando
Cadena
Contract
Amendment

Vice President Robert Faubion gave the Managers update on behalf of Gary Esslinger. The Lower Rio Grande Water Works Authority MOU was presented to the board for approval. Steve Hernandez advised the board this would be the third MOU with other public entities in the Lower Rio Grande and explained that this MOU allows EBID to help out in emergency situations such as floods and natural disasters. Motion to accept MOU was made by Willie Koenig second by Scott Adams. Motion carried.

Lower Rio
Grande
Water Works
Authority

The Annual Law of Rio Grande Conference will take place March 31-April 1, 2011 in Santa Fe. Motion to approve sending Gary Esslinger and any additional board members made by Scott Adams second by Robert Faubion. Motion carried.

Law of Rio
Grande
Conference

The MOA Agreement for Rincon Arroyo Weather Station was presented to the board by Samantha Barncastle. Motion to approve the MOA was made by Robert Faubion second by Scott Adams. Motion carried.

Rincon
Arroyo
Weather
Station MOA

Steve Hernandez provided a brief description on the State and Federal Legislation that impacts the district.

NM House Bill 109 will allow an applicant to appeal to the district court on an application that has not been protested. It also allows an applicant to appeal if the state engineer has rendered a decision without holding a hearing.

State and
Federal
Legislation
Update

NM House Bill 117 deals with acequias or community ditches within a conservancy district. It allows the Acequia to continue to serve its members and allows the Acequia to also contract with the conservancy district for O & M. It only applies in Albuquerque area. It doesn't affect EBID unless it is amended to apply to irrigation districts.

NM House Bill 147 amends the time we have to get final agendas out from 24 hours to seven days in advance. It could really impact our agendas and the ability to allow last minute items to get on the board agenda.

NM House Bill 279 from Joanie Gutierrez, which aims to establish a single duty of water for irrigators in irrigation or conservation districts. Mary Kay Papen is carrying the senate version.

NM Senate Bill 236 will make sure water under a lease is still a beneficial use. Steve Hernandez noticed the district will not get the protection of the 40 year forfeiture statute but the City of Las Cruces does. He suggests we consider leasing our SS102 EBID water rights to the City to be able to receive 40 year protection and have more versatility with making our groundwater rights available.

NM Senate Bill 249 will take rulemaking away from the water quality control commission and put it in the Secretary's Hands. Dr. John Hernandez gave input on the bill and proposed they constitute a new board, water control board with four members.

Congressman Steve Pearce will be the new Chairman of the Western Caucus. This is an organization we have done much work with in the past. While there is no official list of members shared, Steve understands there are about seventy members. This is not an official committee, but they do work together on joint letters, such as the NPDES Standards for aquatic herbicides, and other activities to promote western issues.

Steve Hernandez reported on legal matters.

- LRR 302 – City of El Paso/Montoya Drain. Open- SAH
- LRR 303 – Hatch Easements. Open -SRB
- LRR 323 - Policies, Relinquish of Easement and Excess of Real Property. Open-SLH
- LRR 342- Protest to DAC and Verde Reality Water Rights Apps, Reopen-LEP
- LRR 345 – Lack/EBID Land Exchange and Flow Easement. Open-LEP
- LRR 351 - Request to realign ROW boundaries, Stahmann. Open-SAH
- LRR 359 – LRG MD Surface Water Treatment Facility Proposed Plan. Open-BJS
- LRR 365 - Assessment Roll Reconciliation. Open-SRB
- LRR 366 – Rincon Arroyo Weather Station MOA. Closed-SAB
- LRR 367 – Sierra County Communication Tower on Caballo Mountain MOA. Open-LEP

Legal Update

LRR Report

Robert Sloan motioned and Scott Adams seconded to break for lunch. Motion carried. Following lunch, Jerry Franzoy motioned and Joe Nelson seconded to reconvene the meeting. Motion carried.

Lunch Break

Scott Adams motioned and Willie Koenig 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.)
- CLC Well Applications-LRG 430-S-36

Following closed session, Scott Adams motioned and Willie Koenig seconded to return to open session. No topics other than those set forth above were discussed at the closed session.

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

Adjourn

The next meeting of the Board of Directors will be held on Wednesday, March 9, 2011.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary