

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
August 10, 2011**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, August 10, 2011. The meeting was called to order by President James Salopek on a motion by Jerry Franzoy, seconded by Robert Sloan. Motion carried. Members absent were Joe Nelson, Ramon Alvarez and Tom Simpson.

Roll Call

EBID personnel present were Henry Magallanez, Engineering Supervisor, Zachery Libbin, Junior Engineer; Chuy Morales, Engineer Tech; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; Leo Barrett, Maintenance Project Director; James Narvaez, Hydrology Director; Naomi Ontiveros Executive Secretary.

Also present were Samantha Barncastle and Steve Hernandez, Law Office of Steven L. Hernandez; Eric Fuchs, NMOSE; Hilary Brinegar, NM Department of Agriculture; Sammy Singh, EBID Constituent; Kurt Anderson, DAMDWCA; Erik Ness, Media Consultant; Erik Kirch, SMA.

Willie Koenig moved and Jerry Franzoy seconded to accept the minutes of the July 13, 2011 meeting. Motion carried.

Minutes Approval

Scott Adams moved and Jerry Franzoy seconded to accept the minutes of the July 8, 2011 Special Board of Directors Meeting. Motion carried.

The calendar was discussed. Gary Esslinger advised the Board there will be an Implementation meeting on August 16th in El Paso, TX at the USIBWC Headquarters. Gary also advised the Board he and Steve Hernandez will be attending the NMSBA Advisory Council in Santa Fe, NM on August 25, 2011.

Calendar of Events

Gary Esslinger read two Condolence Resolutions. Resolution 2011-11 for Raul Olivas a respected and hard worker in the District's Maintenance Department. Jerry Franzoy moved to approve and Scott Adams second the motion. Motion Carried. Resolution 2011-12 for Padraic Guffey an experienced well driller that helped many farmers. Tom Simpson moved to approve and Robert Faubion second the motion. Motion carried. The resolutions will be sent to the family members.

Condolence Resolutions

**License List for Special-Use-Permits for August 10, 2011 Board Meeting
Non-Moratorium**

Special Use Permits

Licensee	Assessment	Fees Requested to be Waived
2011-L-072 El Paso Electric		
To construct, operate, and maintain a single phase overhead utility crossing the Mesilla Lateral at apprx Sta# 195+00	\$3,166.67	
2011-L-073 El Paso Electric		
To construct, operate, and maintain a three phase overhead utility crossing the La Union West Lateral at Sta# 326+08	\$3,166.67	Requested Waived \$3,166.67 Farm well
2011-L-075 Qwest Corp		
To construct, operate, and maintain a buried utilities conduit and fiber crossing the Three Saints Main Canal at approximately Sta# 89+00 and the Mesquite Drain at approximately Sta# 135+00	\$2,260.15	
2011-L-076 El Paso Electric		
To operate and maintain two existing spans of	\$9,500.00	

overhead utility and construct, operate, and maintain one new span of overhead utility crossing the Upper Chamberino Lateral at Sta# 134+79, 201+00, and 232+03

2011-L-077 EI Paso Electric

To construct, operate, and maintain an overhead utility crossing the Garfield Main Canal at Sta# 464+31 and Garfield Lateral at approximately Sta# 6+00 \$6,333.33

2011-L-078 Qwest Corp

To construct, operate, and maintain a bored utilities conduit crossing the Gardner Lateral at Sta# 22+69 \$1,430.02

2011-L-079 Chris Carameros

To remove an existing crossing and construct, operate, and maintain a vehicle crossing across the West Drain at Sta# 21+24 \$1,766.67

Subtotal \$31,040.18 \$3,166.67

Total Assessments \$27,873.51

Zachary Libbin presented to the Board the Special Use Permits for the month of August. Jerry Franzoy moved and Robert Faubion seconded the motion to accept the Special Use Permits. Motion carried.

Henry Magallanez introduced Eric Hurss to discuss the Dona Ana Mutual Domestic Surface Water Project. Dona Ana Mutual wants to build a surface water treatment plant adjacent to the Leasburg Canal. It will be a three phase treatment plant with a 20 year projected full capacity site. The first phase will use ½ million gallons of water per day the second one million gallons per day and the third two million gallons per day. The design will still be in review for the next several months. Mariano Martinez adds that the association would like to be part of any proposed Low Head Hydro projects that could complement the project. The benefits to EBID would be the move of the heading of the Leasburg dam down to electric wasteway and development of hydropower at this location. The benefits to Dona Ana Mutual would be a pumping station directly out of the Leasburg canal and a check structure design that would accommodate development of hydropower for the pump station. The estimated cost is \$366,807 of the current design project. A DOE Grant has been submitted and notification should be received by mid August if more funding will become available. Henry explained to the Board there are still a few issues that need to be worked out between the district and Dona Ana Mutual. Henry adds there is a potential conflict of interest regarding Lee Peters because he represents the District and Dona Ana Mutual but a Conflict of Interest Agreement has been drafted for approval. Robert Faubion moved and Scott Adams seconded to approve the Conflict of Interest Agreement. Motion carried.

Dona Ana Mutual Surface Water Treatment Plant

Henry Magallanez presented to the Board the Porter Lateral property exchange with Mr. Vescovo of LCTS, Inc. Mr. Vescovo had inquired about piping 819 feet on the Porter Lateral off Valley Dr. A letter had been sent from EBID in 2008 that offered that if Mr. Vesocov's company paid for the piping of the Porter Lateral for a total cost of \$40,372.95 in exchange he would be issued a Quit Claim Deed for the property that was piped which is .48 acres. Mr. Vescovo would then have to give back an easement (flowage easement) on the same property which would allow EBID to continue to be able to deliver water through the Porter Lateral. LCTS, Inc. has paid the full amount and the piping has been installed. Henry Magallanez presented to the Board a map of the location

Porter Lateral Deed

of improvements and documentation sent to Mr. Vescovo regarding pricing of the pipe (attached to minutes). An appraisal has been requested of the property to be conveyed as required by DFA. EBID will advise the appraiser that the deed will be subject to an easement back to EBID that will allow them to continue to use the Poerter Lateral to deliver water. Once DFA gives its approval, Engineering and Legal will draw up the proper Quit Claim Deed. Henry Magallanez presented that the benefits to EBID would be less maintenance of Porter Lateral, the existing lateral was in poor condition, and the Poerter Lateral was higher than the neighboring land, much of which had businesses next to it which caused a flooding hazard if the lateral broke. The conveyance to LCTS, Inc. will also be subject to any special use permits of record. If for some reason the appraisal is more than the total of the piping paid by Mr. Vescovo it will then be brought back to the Board for further discussion. Jerry Franzoy moved and Scott Adams seconded a motion to give the President of the Board authority to sign the Quit Claim Deed to LCTS, Inc. for approximately .48 acres of the Porter Lateral upon DFA approval for the exchange. Motion carried.

Leo Barrett gave the maintenance update. Ongoing projects include Seldon drain ponding area and the Ranch Road pipeline. Routine servicing on heavy equipment continues; along with mower repairs and getting equipment ready that was purchased from the State of NM for field use. The rebuilding of the side flail mower was done quickly and with minimal cost by EBID fabrication shop. Preventative maintenance continues by the ditchriders in their units and weed control spraying and mowing in all areas.

The Rotary Mulcher bid was reviewed and rewarded.

Leo added that with the number of employees that have been lost by attrition he has still been able to use other employees and continues cross training.

James Narvaez advised the board that July 7, 2011 was the last day of operations and all district diversions were closed. James also presented to the Board the hydrology report for the 2011 Irrigation season. Total actual diversion was 55,041, acft charge to farmers 22,896 acft and delivery efficiency was 41.6 percent and the final allocation was 50,940 acft. James adds that July is usually the wettest month due to monsoon rains, but that has yet to happen. He will continue to monitor it. James states that the river seems to be a losing river. Caballo continues to drop and Elephant Butte is not releasing any water due to an inquiry by the NM Compact Commissioner/NMOSE to the BOR about releasing NM Credit Water. This is causing a decrease in head pressure to make releases to Texas, who still are placing orders.

James advised the Board EP#1 is scheduled to shut down September 10th or 13th.

James presented to the Board a slide show of canal berms installed by farmers that have potential to cause damage to surrounding properties if storm water enters the system and the berms are not taken out. One of the issues is that farmers are going into EBID banks with backhoes and exposing the lining and disrupting the configuration of the canal bank. The Board recommended that a letter of concern be sent to the farmers who were causing the problem.

Valerie Beversdorf advised the Board LRR 323 ROW and Easement Policy which included several policies in one is still being worked on and will be available for review and approval at the next Board meeting along with another policy for approval. Valerie also mentioned that the drain wash-in policy would also be reviewed for the next Board agenda.

Valerie Beversdorf gave CR/GIS update. She advised the Board she is currently working on the IT budget and Board policies that would be brought up for review.

Valerie discussed the Storm Water Coalition. The JPA was signed by several entities and the next meeting will be August 18, 2011. She added that there has been a debate with the city and county attorneys and staff members regarding the JPA. It is very unlikely that DAC and CLC will sign the JPA.

Valerie also discussed Vision 2040. The stake holders approved the document presented and the

Maintenance
Department
Update

Equipment
Bid

Cross Training

Operations/
Hydrology
Report

EP#1
Shut down

Berms and
Canals

Policy
Amendment

CR/GIS
Report

Storm Water
Coalition

Vision 2040f

vision plan will now go back to the public.

Gary Esslinger gave the HR and Safety update on behalf of Delyce Maciel. The current employee count is 91. Two employees are expected to retire at the end of August, which will end the month of August with an employee count of 89. The next EAC meeting will be September 19th at 8 am. Nominations have been coming in for new EAC members. Work on the water trailer continues by EAC members. Gary adds that monthly safety training with employees and management continues through Safety Counseling; as well as weekly management tailgate meetings. Delyce and Leo are working with the NM DOT training academy regarding some heavy equipment training and a CDL prep class that can be done on-site.

HR/ Safety
Report

Gail Norvell presented to the Board the financial reports for the Month of July 2011. Cash in the bank is \$495,120, assessments receivable is \$534,953 and investments \$4,943,148 for a total increase of \$1,122,170 over July 2010. Grant projects are on going.

Controller
Report
Financial
Fact Sheet

Gail introduced Debbie Gray with Kriegel/Gray/Shaw & Co., P.C. to present the fiscal year Audit for 10/31/10. Mrs. Gray reports the audit review is a clean opinion with full compliance for internal controls. The District was under budget for the fiscal year 2010 and that the District has no violations of any budgeting issues.

Fiscal Year
Audit 10/31/10

Gail presented to the Board Resolution 2011-13 PERA. The Resolutions approvals t the Districts change from PERA Plan I to PERA Plan II. Under PERA Plan II members will be eligible for a 75% final average salary at retirement whre 30 years of service. An election will be help for employees to vote for this change. Jerry Franzoy moved and Scott Adams seconded to approve Resolution 2011-13. Motion carried.

Resolution
2011-13 PERA

Gary advised the Board of the ASCE NM Section Fall Conference to be held on September 22-23, 2011 at Elephant Butte, NM. It will be a rededication to the Elephant Butte Dam as a Historical Civil Engineering Landmark Monument. Robert Faubion moved to fund \$500 for the reception and Willie Koenig seconded. Motion carried.

Managers
Update

Gary gave the Board the NCLS update. NCLS continues to believe that canal banks should be treated the same as levees. Despite letters from the BOR to the contrary they don't seem to be budging off their position. Family Farm Alliance and NWRA will continue to monitor and advocate a different position on behalf of all irrigation districts westwide.

Samantha Barncastle wanted to thank Erik Fuchs, OSE for his quick response regarding the problem of IBWC contractors pumping of the Rio Grande water without permission or OSE permits. Erik Fuchs adds that they have stepped up there policing this year.

Steve Hernandez and Samantha Barncastle reported on legal matters.

Legal
Update

- 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-SRB
- 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-SRB
- LRR 367 – Sierra County Communication Tower on Caballo Mountain MOA. Open-LEP
- LRR 374- Water Transfer and Stacking Request- Closed-SRB
- LRR 375- Delinquent Accounts for 2 or more acres- Closed-SLH
- LRR 376- Spill 2008-OP12 Policy- Closed- SRB
- LRR 377- EBID Permit Application Amendment Request- Closed-SRB
- LRR 378- Provisions made to Public Records Act-Closed-SLH

LRR
Report

- LRR 379- Grey Fox Subdivision Special Use Permit- Open-SRB

Robert Faubion moved and Scott Adams seconded to break for lunch. Motion carried. Following lunch, Scott Adams moved and Robert Faubion seconded to reconvene the meeting. Motion carried.

Lunch
Break

Robert Sloan moved and Scott Adams 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
- DAC Well Applications-LRG 3150B & LRG 9356
- Operating Agreement Litigation
- AWRM Appeal to Supreme Court
- Personnel Matter

Following closed session, Robert Sloan moved and Willie Koenig seconded to return to open session. Scott Adams moved and Robert Sloan seconded the motion to drop EBID's protest to the CLC Well Application-LRG 430-S-36 at the appropriate time set forty by legal staff.

There being no further business, Jerry Franzoy moved and Scott Adams seconded to adjourn the meeting. Motion carried.

Adjourn

The next meeting of the Board of Directors will be held on Wednesday, September 14, 2011.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary