

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
June 13, 2012**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, June 13, 2012. The meeting was called to order by President James Salopek on a motion by Tom Simpson, seconded by Ramon Alvarez. Motion carried. All Members present.

EBID personnel present were Zachary Libbin, Junior Engineer; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; Leslie Kryder, GIS Specialist; James Narvaez, Hydrology Director; Leo Barrett, Maintenance Director; Jean Hinsley, Resource Engineering Specialist; AJ Carlson, Land Water Analyst; Delyce Maciel, HR/ Safety Director; Richard Bejarano, Watermaster; Naomi Ontiveros Executive Secretary.

Also present were Steven Hernandez and Samantha Barncastle, Law Office of Steven L. Hernandez; Dr. Phil King, Hydrology Consultant; Fernando Ortiz, CLC; Chrystal Davis and Dean Lackey of Parkhill, Smith & Cooper; Greg Daviet, Dixie Ranch; Hilary Brinegar, NMDA; Graham and Ron Reynolds, Zia Gas; Louie Bouvet, EBID member.

Tom Simpson moved and Robert Sloan seconded to accept the May board minutes. Motion carried.

Robert Sloan moved and Bobby Kuykendall seconded to accept the May water transfer minutes. Motion carried.

The calendar was discussed. Gary advised the Board he presented the Water Trailer at NMSU to a group of adults on June 5th and will be having another presentation on June 19th at 2:00 pm. The next scheduled Board meeting will be on July 11th.

Roll Call

Minutes Approval

Calendar of Events

Non-Moratorium-Renewals License List for Special-Use-Permits for June 13, 2012 Board Meeting		
Licensee	Assessment	Fees Requested to be Waived
2012-L-045 David Salopek To operate and maintain previously permitted harvest gates on the left bank of the La Mesa Drain at Sta# 385+10 and 416+41	\$1,666.67	Requested Waived \$1,666.67 Farm Use
2012-L-044 SW Levee Road Comm Ditch Assoc. To operate and maintain a previously permitted irrigation ditch paralleling the Del Rio Drain from Approx Sta#54+00 thru 14+00	\$7,010.31	Requested Waived \$7,010.31 Farm Use
2012-L-046 WPA Partners To operate and maintain a previously permitted storm water discharge on the Mesilla Drain at approx. Sta# 349+10	\$3,166.67	
	\$11,843.65	\$8,676.98
Total Assessments	\$3,166.67	

Non-Moratorium License List for Special-Use-Permits for June 13, 2012 Board Meeting		
Licensee	Assessment	Fees Requested to be Waived
2012-L-029 EI Paso Electric Co To operate and maintain an existing overhead electric utility crossing the Central Spur Drain at approx. Sta# 107+40	\$3,416.67	
2012-L-031 EI Paso Electric Co To construct, operate and maintain an overhead utility crossing the Paxton Lateral at Sta# 3+81	\$2,916.67	
2012-L-032 EI Paso Electric Co To construct, operate and maintain an overhead electric utility crossing the Del Rio Drain at approx. Sta# 540+00	\$3,416.67	Requested Waived \$3,416.67 Farm Use
2012-L-033 Zia Natural Gas To construct, operate and maintain a buried gas utility crossing the Lower Chamberino Lateral at Sta# 224+03	Blanket Agreement	
2012-L-034 Century Link To construct, operate, and maintain a buried utility crossing the Park Drain at approx. Sta# 460+00	\$1,530.05	
2012-L-035 Lorraine Smith To operate and maintain a vehicle crossing on the Fink Lateral at approx. Sta# 87+00 and the West La Mesa Spur Drain at Sta# 68+50	\$3,233.33	
2012-L-036 Zia Natural Gas To construct, operate and maintain a buried gas utility crossing the Nemexas Drain at approx. Sta# 863+50	Blanket Agreement	
2012-L-037 Leslie Daviet To pump in - take out using the Mesilla Lateral at approx. Sta# 411+98, 413+00, and 415+00	Pump in- Take out	

Special Use
Permits

		Farm Use
2012-L-038 Picado and Candelaria		Requested Waived
To construct, operate and maintain an irrigation pipe crossing the La Union West Lateral at Sta# 165+01	\$1,666.67	\$1,666.67 Farm Use
2012-L-039 Sam Salopek		Requested Waived
To construct, operate and maintain an irrigation pipe crossing the Apache Lateral at Station# 175+40	\$1,666.67	\$1,666.67 Farm Use
2012-L-040 Keith Deputy		Requested Waived
To construct, operate and maintain an irrigation pipe crossing the Three Saints Main Lateral at approx. Sta# 130+00	\$1,666.67	\$1,666.67 Farm Use
2012-L-041 RFJ Farms		
To pump in - take out using the Leasburg Main at Sta# 667+92	Pump in- Take out	Farm Use
2012-L-042 El Paso Electric Co		
To construct, operate and maintain a buried electric utility crossing a piped portion of the Quesenbury Lateral at Sta# 83+67	\$2,916.67	
2012-L-043 Triple D Farms		
To pump in - take out using the Little La Union West Lateral at approx. Sta# 87+00	Pump in- Take out	Farm Use
	\$22,430.07	\$6,750.01
Total Assessments	\$15,680.06	

Zachary Libbin presented to the Board the Special Use Permits for the month of June. Zachary explained to the Board there were two lists of permits, the second being previously issued permits that need to be renewed. After discussion from the Board and staff it was determined to table permit 2012-L-046 WPA Partners until further research regarding the storm discharge and will report back at the July Board meeting.

Zachary also advised the Board the blanket agreement with Zia Natural Gas is still being reviewed and worked out with legal. He advised the Board that Zia Natural Gas has not been cooperative in notifying EBID of construction as required by policy and the permit. One of the requirements of

Zia Natural Gas

EBIDs Board approved Right of Use policy is to notify the District 10 days prior to doing any construction and Zia has not been doing so. Zack explained further that on May 21, 2012 EBID engineering inspected construction of a bore across a piped portion of the McCrummen Lateral and had several concerns; first, Graham Construction was digging with a backhoe parallel to the pipeline on EBID property even though the permit and construction plans only allowed a single crossing. During inspection of boring later in the day the crossing was initially installed 4 feet too shallow and almost damaged EBID's pipeline. Zack explained that the contractor's employees noted that the errors happened because they were not given any plans by Zia Natural Gas. Grahams Construction was cooperative and reinstalled the crossing to the approved depth at Zack's request. Zack also noted that there were representatives from Zia Natural Gas and Grahams Construction present for questions. Zack recommended approval of the waivers required for Zia's permits. Robert Faubion motioned to accept the permits presented excluding 2012-L-046 that has been tabled, Scott Adams second. Motion carried.

Zachary advised the Board there will be testing at Wasteway 5 done by EBID Engineering with Los Alamos National Lab (LANL) and Dr. Fernando Cadena today and this Friday. Today's testing will be done with turbine blades designed and constructed in-house using a different blade pitch than was tested last year and at Friday's testing a LANL designed and Dan Darbyshire Fabrication constructed blade will be tested. Zachary encouraged anyone who would like to see a demonstration of the hydropower at "Wasteway 5" in Garfield to come observe around 10am.

Turbine
Testing

Zachary also updated the Board on the reclassification list. There are approximately 200 acres remaining on the list that are not stacked, are greater than 1 acre, and likely to be recommended for approval. He will have more acres verified and will give a more complete update at the July Board meeting.

Reclassification
List

Zachary Libbin presented to the Board Resolution 2012-05, a partial cost share of a grant NMSU received from the Department of Energy Water Power Program. This grant includes modification of EBIDs structure "Drop 8" for NMSU's HyPER Turbine. The turbine will be designed and constructed by NMSU and MTEC. \$20k in labor, equipment, and facilities will be provided by the District; this will be no cash out of "pocket" but rather labor funds that are already budgeted for. EBID will assist in the installation and allow the use of EBID facilities for testing. Scott Adams motion to accept Resolution 2012-05 Grant Agreement with New Mexico State University and United States Department of Energy, Bobby Kuykendall second. Motion carried.

NMSU
Resolution

Leo Barrett gave the Maintenance update. The flood control dam cleaning is completed and weed control has started with the third batch of chemicals. Leo adds maintenance is not during the normal routine and path they are moving to areas where there is no water and areas that need the most help to run the irrigation season smoothly.

Maintenance
Department
Update

Patrick Lopez presented the Caballo MOA to the Board for approval. He advised the Board it has been an 18 month process working on the agreement with Dona Ana County. The agreement recognizes EBID's portion of the work done from 2002-2003. EBID's contribution to the radio communication tower site was approximately \$20,000. This contribution included labor and equipment to construct a tower pad and set up the communications building. Dona Ana County will maintain ownership and EBID will be listed as a tenant along with Sierra County. In exchange for our contributions, EBID will have an irrevocable license to access and use the site, while Sierra County will be on a 5 year lease agreement. Each party will bare the cost for its own private equipment and any violation caused by one party will be the responsibility of that party and any fees sustained. Dona Ana County will be responsible for all BLM right of way costs as well as the electric bill; should the bill increase significantly then it will be further evaluated to collect funds from the parties. Should Dona Ana County abandon ownership of the building, EBID will have first choice at accepting or declining the offer on the site and have 60 days to purchase or negotiate the offer. EBID may also terminate as a tenant with a 90 day notice.

Caballo
MOA

James Narvaez gave the update for the month of June. James advises the Board irrigation and allocation numbers are still being looked at and tickets are still being processed. Hatch has irrigated thirteen thousand acres and used five thousand acre feet; they are close to using up there

Operations/
Hydrology
Report

allotment and they will be lowering the flow for Hatch. Gary Esslinger suggests sending out a flyer advising the farmers in Hatch the plans of dropping the delivery order for their area and adding that it is not necessarily the last cut off date but that the delivery order will drop to minimize the flow. James advises the board they had a rough start after the rain as well as scheduling flat rate weekend, but the units are currently back on the block schedule and are releasing seven hundred cfs. The Eastside unit currently has the most acreage at three thousand acres.

Dr. Phil King gave the season outlook for the month of June. Dr. Phil King advised the Board that on Thursday, June 7th the operation manual was approved to adjust the diversion ratio used to calculate EBID's allocation to reflect the effects of sequential years of severe drought. This helps EBID's allocation.

As of June 1, 2012	acre-feet
Elephant Butte Reservoir Storage	366,077
Caballo Reservoir Storage	24,040
Total Rio Grande Project Storage	390,117
Estimated Rio Grande Compact Credit Waters	(70,346)
Estimated San Juan-Chama Water	(46,338)
Water Released from Storage	82,982
Total Usable Water Available for Release	356,415
Multiyear Extreme Drought D2 Correction Factor	0.88
Diversion Ratio	0.79
Total EBID Diversion Allocation	125,429
Total EPCWID Allocation	120,410
Mexico's Current Diversion Allocation	19,929
Total EBID, EPCWID, and Mexico Allocation	265,768

At Lobatos is 102 cfs, Embudo 340 cfs, San Juan Chama 1160 cfs, and at Otowi 1400 cfs by the time it gets to San Marcial it will be 39 cfs and Dr. King adds evaporation is faster and not to expect any new water. The diversion ratio of 0.79 EBID gives 125,429 if efficiency is at 55% this would provide an allotment of 9 inches. Efficiency doesn't look like 55 percent will be possible. Phil feels it will be more like 45 percent for 7.5 inches to 41 percent for a 6 inch allotment. Gary Esslinger suggests on waiting until the July Board meeting to make an announcement on the allotment to get better numbers; Dr. King agrees. Dr. King advised the Board we are now officially out of La Nina and in a neutral area and not quite in El Nino yet. The 6-10 day out look is dry and below average as well as the 8-10 outlook, but the three month outlook is looking wetter than normal.

Lee Peters gave the Board of Directors an update on LRR 388 Matter 156- Protest to Application of Sunland Park and Charles Johns well protest. The local District court ruled in favor of EBID's Writ of Mandamus against the OSE The Office of State Engineer (OSE) has cancelled the permit and has cancelled the whole application from Charles Johns and sited that they used the wrong form, but would not admit to issuing a temporary permit. The permit was issued to Sunland Park by former state Engineer John D'Antonio before the town's application had even been published in a local newspaper, as required by law and preventing anyone from challenging the permit before it was issued. Lee adds Erek Fuchs will continue to monitor all permits from the OSE very closely.

Valerie Beversdorf gave the CR/GIS update. Leslie had spent some time coordinating with the

Operations and Hydrology departments for flat rate weekend getting maps of land owners that did not have water rights or have not paid the tax; it was successful and helpful. Leslie also created digital files (.pdf) for the Hydrology Department to have on their notebook computers while in the field. There are also several GIS projects being developed that will be discussed at future Board meetings. Programmer Dave Nelson has worked to make changes to water order tickets by being able to group them by units as well as working on reports for balances of available water. The department is working on fulfilling the current budget year requests and beginning to plan for the next budget year. Future Board Policies that will be added or updated include groundwater, liens, and a flume policy.

CR/GIS
Report

Valerie gave the update on the Stormwater Coalition. At the May meeting Phil King presented the status of the water supply and Gary reminded the Coalition of how important it is to capture the stormwater. Jim Covey was also present and gave a short report of the information he has gathered for flood inundation mapping; he will also be presenting at tomorrow's scheduled meeting. Unfortunately a quorum was again not met and at the next meeting there will be discussion about procedural changes that may be made in order to obtain a quorum at future meetings.

Stormwater
Coalition

Valerie also discussed Vision 2040. The Regional Plan is finalized and titled, *One Valley, One Vision 2040*. Valerie presented the Executive Summary and final version of the document and had it available for review. She will bring the document to future Board meetings so it will be available for review.

Vision
2040

Gail Norvell presented to the Board the financial reports for the Month of June 2012. Cash in the bank is \$395,116, assessments receivable is \$770,219 and investments \$6,803,716 for a total increase of \$1,003,374 over June 2011. Grant projects are on going and in process. Gail adds the mower bid has been awarded and three have been ordered and are expected to be delivered to by August 31st. Gail also advised the Board the security access controls is in the process. Access to the building for the open public are through the front entrance way only. Other doors will be accessed by an access card. An alarm and cameras will be added to all buildings and wiring has already begun for the alarm system. Cameras for all directions of the Las Cruces yard will be in place, along with an interior camera for the front office door and counters.

Controller
Report
Financial
Fact Sheet

Gail presented to the Board contracts that up for renewal as well as new contracts:

- Dr. James Covey; Prof. Engineering Services – New
- Dr. J. Phillip King; Prof. Hydrologic Engineering Services-Renewal No change
- Dr. Fernando Cadena: Prof. Expert Witness Services- Renewal No change
- Dr. Thomas Maddock III; Prof. Expert Witness Services-Renewal No change
- Peters Law Firm LLC; Legal Services- Renewal No Change
- Law Office of Steven L. Hernandez PC; Legal Services- Renewal No change
- Central Fire & Safety; Fire Extinguisher Services- Renewal No change
- Precision Refrigeration heating & cooling, Inc; Plumbing Svcs-Renewal No change
- High Peak Electric; Electrical Services- Renewal Fee Increase
- Deer Oaks EAP Svcs, LLC Employee Assistance Program-Renewal No change
- Parkhill, Smith & Cooper; CLC Engineering Svcs Contract- New

Contracts New
and Renewal

Robert Faubion motioned and Willie Koenig seconded to accept all new and renewal contracts presented. Motion carried.

Gail Norvell presented to the Board a list of disposition of assets that are scheduled to be sold at auction or as scrap metal. The list has been reviewed by Gail Norvell, Leo Barrett; Gary Esslinger and Joe Garibay. Robert Faubion motion and Bobby Kuykendall second to allow all items on the list provided to be disposed at auction or sold as scrap metal. Motion carried.

Disposition
of
Assets

Gail Norvell introduced Debbie Grey from Kriegle/Gray/Shaw & Co.; P.C. who conducted the fiscal year 2011 audit. Debbie Grey presented the Board with the financial Statements and Supplementary Information for the fiscal year ending in October 31, 2011. Mrs. Grey reports the audit review is a clean opinion with full compliance for internal controls and has no violations

budgeting issues.

Gary Esslinger advised the Board there will be a NWRA 2012 Western Water Seminar on August 1st through the 3rd. Jerry Franzoy motioned and Bobby Kuykendall second to send Gary to the seminar. Motion carried.

Managers
Update

Gary discussed the Low- Head Hydro Working Group meeting that occurred in Denver on May 24th. Representative McMorris has sponsored a Legislative Bill to exempt FERC licensing of anything less than five mega watts from the FERC application process. Gary also advised the Board that Mr. Tom Davis out of Yuma County Water Users Association may be joining the working group and five additional irrigation districts may also join which would be a total of twenty irrigation districts.

Gary also asked for Board for approval to purchase and install two more weather station sites. EBID has equipment available for one weather station and a rancher at the bottom of the Organ Mountains has agreed to install on his private land another weather station. Another rancher behind Broad Canyon Dam where there are a couple wild arroyos just before Broad Canyon and one rancher off Afton Road. There would then be eight weather stations from Santa Teresa and Hatch on the Westside and three on the eastside. Robert Faubion motioned and Scott Adams second to approve purchase and installation of new weather stations. Motion carried.

Steve Hernandez and Samantha Barncastle reported on legal matters.

- LRR 302 – City of El Paso/Montoya Drain. Open- SAH
- LRR 303 – Hatch Easements. Open -SRB
- LRR 345 – Lack/EBID Land Exchange and Flow Easement. Open-LEP
- LRR 351 - Request to realign ROW boundaries, Stahmann. Open-SAH
- LRR 367 – Sierra County Communication Tower on Caballo Mountain MOA. Closed-LEP
- LRR 384- LRR Reclassification Amendment of Current Policy-Open- SRB
- LRR 386- Lien Form and Process for Delinquent Farm Accounts- Open- SRB
- LRR 387- Drain Right of Way Use-Open-SRB
- LRR 390- Determine ownership of Rhodes Arroyo Dam and Leasburg Dam-Closed- LEP
- LRR 391- 2012-2014 Draft Integrated CWA 303d/305b-SLH-Closed
- LRR 392- Rio Grande Water Transfer Program-Open-LEP
- LRR 393-Diez Lagos Public Comments- LEP- Closed
- CID Update-SLH/SRB

Legal
Update

LRR
Report

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

Open/
Closed
Session

Scott Adams moved and Bobby Kuykendall 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:

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

- SSI 101-CIR/FDR
- SSI 103-Domestic Wells
- SSI 104-US Project Water Right
- SSI 105-Expedited Inter Se-Boyd Claims

LRR 342/ Matter 150-2nd EBID Protest to Verde Realty Operating Partnership Application

LRR 358/ Matter 151-EBID Protest to City of Las Cruces Well Application- LRG 430-S-36
and LRG 5818

Matter 155- EBID Protests to County of Dona Ana Applications LRG 3150 B and LRG 9356

AWRM Appeal to Supreme Court

Diez Lagos Properties

LRG-3150-D into LRG-12171-S-2 and LRG-3229 Protest to Application of Sunland Park and

Charles Johns

State of NM vs. US/EBID/EP#1. MP/ 11-CV-691/WDS

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Following closed session, Willie Koenig motioned and Robert Sloan 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, Scott Adams moved and Jerry Franzoy seconded to adjourn the meeting. Motion carried.

The next meeting of the Board of Directors will be held on Wednesday July 11, 2012.

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary