

**ELEPHANT BUTTE IRRIGATION DISTRICT
SPECIAL BOARD OF DIRECTORS MEETING
August 30, 2012**

The Special Board of Directors meeting of the Elephant Butte Irrigation District was held on Thursday, August 30, 2012. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Bobby Kuykendall. Motion carried. Scott Adams and Ramon Alvarez were absent.

Roll Call

EBID personnel present were Gail Norvell, Controller; Leslie Kryder, GIS Specialist; James Narvaez, Hydrology Director; Erek Fuchs, Groundwater Resource Manager; Richard Bejarano, Watermaster; Zackary Libbin, Junior Engineer; Naomi Ontiveros Executive Secretary.

Also present were Steven Hernandez and Samantha Barncastle, Law Office of Steven L. Hernandez; Lee Peters of Lee Peters Law Firm. Guest attended were Sammy Singh Jr., Lupe J Garcia, Conrad Keyes, Jr., and Kevin Bixby, Southwest Environmental Center.

Erek Fuchs presented to the board a Joint Funding Agreement (JFA) between the District and the U.S. Geological Survey (USGS). The joint agreement will allow for continuation of the study titled "Monitoring Network of the Groundwater-flow System and Stream-aquifer Relations in the Mesilla Basin, Dona Ana County, New Mexico and El Paso County, Texas." Gary Esslinger adds USGS has failed in the past to provide the result of the studies and testing done. Erek advised Gary he will make sure that reports are given to the Board and Staff for updates on the progress being done. Robert Faubion requests USGS come to a Board meeting and present a current report when the data is collected and finalized. Robert Faubion motioned and Jerry Franzoy second to allow Erek Fuchs sign the JFA and continue with the USGS monitoring program. Motioned carried.

USGS
JFA

Lee Peters presented to the Board for approval a Memorandum of Understanding (MOU) between International Boundary Water Commission (IBWC) and EBID regarding Habitat Restoration Projects within the river levee system. Lee Peters advised the Board the deadline date to submit final comments to USF&WL is September 10th for the proposed designation of the Southwest Willow Flycatcher and this MOU will help in addressing the cooperation of the agencies over the last eight years. Lee advised the Board it is important to avoid having the river between Caballo and Leasburg Dam designated as critical habitat. Lee also adds that the MOU will explain the events and the arguments in place to show the District has been working for eight to ten years in trying to avoid designation. The MOU further states that if critical habitat is imposed on this river reach the District will pull out of the agreement. A meeting with USF&WL is set for September 7th in Albuquerque to discuss the agreement and meet with agency officials in an effort to show our willingness to partner. The MOU does not bind EBID or commit EBID to anything; it is a cooperative agreement to continue to work together with mutual understanding. Robert Faubion motioned and Tom Simpson second to approve the MOU. Motion carried.

IBWC &
EBID
Habitat
Restoration
MOU

Lee Peters also presented to the Board for approval the National Fish and Wildlife Foundation, "Rio Grande Water Transactions Program Contract for Services". The contract is for seventy thousand dollars (\$70, 000) to help develop an environmental water transaction program. The contract will enable EBID staff and Legal to develop a mechanism to acquire or lease surface water for environmental purposes over the next 3 months. The concept is to make EBID water available to E-Farmers for environmental purposes; as long as they abide by EBID policy and acquire EBID surface water rights. It would work similar to the EBID transfer program and change of use would not be affected because the surface water acquired would still serve as an agricultural purpose. It is the environmental water transaction program that will put EBID in charge of local environmental water uses and hopefully keep the Endangered Species Act pressures off of the District because of our innovation water program. Steve Hernandez adds EBID does not want anyone coming in and telling us how to manage our river operations and EBID is fortunate to have already started a program such as this to show we have already taken steps to create a partnership with the environmental community. Willie Koenig motioned and Robert Faubion econd to accept the contract. Motioned carried.

USF&WL
Transaction
Program
Contract

- 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- Closed- SRB
 - LRR 387- Drain Right of Way Use-Open-SRB
 - LRR 392- Rio Grande Water Transfer Program-Open-LEP
 - LRR 394- Review BLM Letter Regarding Copper Flat Mines-Open-LEP
 - LRR 398- EBID Purchase Order Terms and Conditions-Open- LEP
 - LRR 399- Amend and Revise Original Document with Zia Natural Gas-Open-LEP
 - LRR 401- State of NM obligation to pay EBID Bill- Open SRB
 - LRR 403- True Point Software and maintenance Agreement-Closed-SLH
 - LRR 404- MOU or Waiver between USDA FSA and EBID- Open-SRB
 - LRR 405- Magellan Pipeline Co. Right of Use Permit- Open- LEP
 - CID Update-SLH/SRB

Legal Update

LRR Report

Jerry Franzoy moved 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.)

- 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

Following closed session, Willie Koenig motioned and Tom Simpson seconded to return to open session

Adjourn

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

JAMES SALOPEK, President

WILLIE KOENIG, Secretary