

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
December 12, 2012**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, December 12, 2012. The meeting was called to order by President James Salopek on a motion by Willie Koenig, seconded by Bobby Kuykendall. Motion carried. Jerry Franzoy was absent.

Roll Call

EBID personnel present were Gary Esslinger, Treasure-Manager; James Narvaez, Hydrology Director; Zachary Libbin, Junior Engineer; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; Leslie Kryder, GIS Specialist; Chuy Morales, Engineer Tech; Richard Bejarano, Watermaster; Delyce Maciel, HR/ Safety Director; Naomi Ontiveros Executive Secretary.

Also present were Steven Hernandez and Samantha Barncastle, Law Office of Steven L. Hernandez; Dr. Phil King, Hydrology Consultant; Greg Daviet, Dixie Ranch; Chrystal Enoch, Zia Natural Gas; Ryan Ward, NMDA; Dave Dubois, NMSU; James Powell, EB; Julie Maitland, NM Ag.

The calendar was discussed. Gary advised the Board the Stormwater Coalition meeting scheduled for November 13th has been cancelled. Gary advised the Board the office will be shut down beginning December 24th and reopen again on January 2nd. Gary reminded the Board he will be presenting at the Four States Irrigation Council meeting on Friday January 18th. The next scheduled board meeting is January 9, 2013.

Calendar of Events

Non-Moratorium

License List for Special-Use-Permits for December 12, 2012 Board Meeting

Licensee	Assessment	Fees Requested to be Waived
2012-L-102 El Paso Electric		
To replace, operate and maintain an existing overhead powerline crossing the West Drain at Approx. Sta.# 746+00	\$3,416.67	3,416.67
2012-L-104 Zia Natural Gas Co.		
To construct, operate and maintain a 2" gas utility crossing the Elwood Lateral at Approx. Sta.# 6+35	Blanket Agreement	
2012-L-105 Zia Natural Gas Co.		
To construct, operate, and maintain a 2" gas utility crossing the Upper Chamberino Lateral at Appro. Sta.# 55+75	Blanket Agreement	
2012-L-106 Zia Natural Gas Co.		
To construct, operate and maintain a gas utility parralleling 115' and also crossing the Fink Lateral at Approx. Sta# 2+00	Blanket Agreement	
2012-L-107 Zia Natural Gas Co.		
To construct, operate and maintain a gas utility crossing the West Drain at Approx. Sta# 644+00	Blanket Agreement	

Special Use Permits

2012-L-108 Zia Natural Gas Co.

To construct, operate, and maintain a gas utility crossing the Deck Lateral at Approx. Sta.# 20+00 Blanket Agreement

2012-L-109 El Paso Electric Co.

To replace, operate, and maintain an overhead utility crossing the Las Cruces Lateral at Approx. Sta.# 420+75	\$2,916.67	
	\$2,916.67	3,416.67

Total Assessments \$2,916.67

Zachary Libbin presented the Special Use Permit applications for the month of December to the Board with a correction being noted on licensee number 2012-L-102 El Paso Electric fees are requested to be waived since the use is for a EBID member. Scott Adams motioned and Robert Faubion second to approve the December permits. Motion carried.

Zachary gave the Board a brief update on a few construction projects projects. Diaz Lagos is coming along. The community ditch has been cleaned out and improved. Zachary presented the board with several pictures of the Diez Lagos area and the improvements being made. He gives thanks to Leo Barrett's men that worked hard in removing the sewer pipe and reinstalling it on the correct side of the bank. He also adds no complaints have been made from the community and the men are working hard to make sure to keep any disturbance to a minimum.

Zachary presented to the Board Water Smart Grant Resolution 3.23-013 for approval. The grant will help pay for the Pump from the eastside into the tail end of Louisiana Lateral; pipe Louisiana Lateral to Lester check; pump/pressurize water to Mesilla Lateral above Lytton check; pipe entire Williams Lateral; pump/pressurize from tail end of Williams across Park Drain; pump/pressurize to Las Cruces Lateral above Fox check and install solar panels along Mesilla Drain to offset pump costs. The grant requires a 50 % cost share over a three year plan. Scott Adams motioned and Robert Sloan second to approve the resolution. Motion carried.

WaterSmart Grant Resolution 2012-013

Dr. Phil King presented the current outlook for the month of December and indicated no change from the November outlook. No change in the snowpack as well and a bit worrisome. He believes it will be another late release for the 2013 irrigation season. He advised the Board that there has finally been an agreement with the Bureau to recognize the effect of the Canutillo Well field impacts for 2012 and credit EBID with that surface water. It will be a small adjustment for 2012 because EBID closed its season early so most of the impact was felt by EP#1.

Operations/ Hydrology Report

Gail Norvell presented to the Board the financial reports for the Month of November 2012. Cash in the bank is \$1,175,114, assessments receivable is \$6,453,909 and investments \$4,552,170 for a total increase of \$1,001,835 over December 2011. Grant projects are on going and in process.

Controller Report Financial Fact Sheet

Gail presented to the Board a contract renewal for IT Consultant Services for Dave Nelson. The contract was reviewed by Gary Esslinger, Valerie Beversdorf and Gail Norvell. IT projects have been updated as well as an increase in fees. Robert Faubion motioned and Scott Adams second to renew the IT Consultant Service contract. Motion carried.

Contract Renewal

Gail advised the Board the Fiscal Budget 2012-2013 has been approved by DFA. It was reviewed and is in compliance with NM Statues.

Fiscal Budget 2012-13

Gary Esslinger advised the Board of conferences coming up. The FFA Conference that will be held in Las Vegas, NV on February 21st and 22nd. Dr. King will be a speaker at the conference. Gary asked the board for a motion to send James Salopek, Steve Hernandez and himself. Tom Simpson motioned and Bobby Kuykendall second. Motion carried. NWRA will be having a Leadership Conference in Las Vegas, NV from January 2nd, 3rd and 4th. This conference is a strategy session for all the western states to prioritize national water issues that will be discussed at the NWRA conference in Washington, DC. Robert Sloan motioned and Ramon Alvarez second to send Steve Hernandez and Gary Esslinger to the NWRA conference in January. Motion carried. A new workshop, Operations and Management Workshop; being presented by Kris Polly for irrigation board of directors and managers in Phoenix, AZ on January 23rd and 24th. Gary suggests any of our Board members who would like to attend to get with Naomi so she can send out all registrations. Bobby Kuykendall motioned and Robert Sloan second to send Gary Esslinger. Motioned carried.

Managers
Update

Gary advised the Board of Directors he has an opportunity on the 17th of this month to meet with FERC Commissioner Moeller to discuss the FERC guidelines on low head hydro power for irrigation districts. Scott Adams second and Robert Sloan second to send Gary to Washington, DC. Motion carried.

Gary presented to the Board Resolution 2012-14 a Regional Water Planning Resolution. The NM Legislature is attempting to resume regional water planning throughout the state. Gary advises the board we have supported the planning in the past and this does not bind, commit or obligate us to anything besides supporting the plan. Ramon Alvarez motioned and Robert Faubion second to approve Resolution 2012-14. Motion carried.

Resolution
2012-14

Steve Hernandez and Samantha Barncastle reported on legal matters.
Items to remain open:

Legal
Update

- LRR 302 – City of El Paso/Montoya Drain. Open- Pending reassignment.
- LRR 303 – Hatch Easements. Open -SRB
- LRR 345 – Lack/EBID Land Exchange and Flow Easement. Open-LEP
- LRR 387- Drain Right of Way Use-Open-SRB
- LRR 392- Rio Grande Enviromental 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 406- IBWC O&M Flood Gate MOU- Open LEP
- LRR 408- Anthony Drainage Project- Open- LEP
- LRR 409- Transfer of Tortugas #2 Dam- Open- LEP
- Contract for legal services re: Texas v. NM
- CID Update-SLH.

LRR
Report

Mr. Hernandez explained his meeting with the new attorney for the State of Texas, Stuart Somach. Mr. Somach explained that he is preparing a petition for the United States Supreme Court regarding violations of the Rio Grande Compact by the State of NM and that the petition will be filed before the end of the year. Mr. Hernandez explained that EBID was in a unique position in any compact litigation because it was in Compact Texas but situated in geographic NM. It is imperative that EBID be represented in any Supreme Court Compact litigation and that EBID needs to be ready to intervene as soon as the lawsuit is filed. He has been contacting several attorneys in the country regarding helping EBID intervene. He recommends hiring Rod Walston from Walnut Creek, California. Mr. Hernandez explained that he has previously litigated against Mr. Walston when he was employed with the United States and Mr. Walston represented the State of California. Mr. Hernandez also explained that he formerly worked with Mr. Somach as well when he was with the Solicitor's Office in Washington D.C. Mr. Walston has agreed to cut his fee because of the interesting nature of this case. Mr. Hernandez explained that this contract is for professional services to help him intervene in the Supreme Court and does not exceed \$50,000. Mr. Hernandez requested the board authorize hiring Rod Walston in an amount not to exceed \$50,000 and authorize the president to sign a letter of engagement to that effect. Mr. Walston will

Contract
Legal Services

work with Mr. Hernandez to the extent necessary to intervene in any Supreme Court action involving the Rio Grande Compact. Robert Faubion moved and Willie Koenig seconded to approve the contract as set forth by Mr. Hernandez. Motion carried.

Fastenal presented to the Board their parts vending machine. Board members were able to get a full look at how the machine works and will benefit the District.

FASTANAL

James Salopek presented Challenge Coins to the District employees for years of service of 5,10,15,20 and 25 years. Caitly Lee was also presented with an EBID logo jacket for employee of the year.

Years
Of Service

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

Open/
Closed
Session

Bobby Kuykendall moved 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:

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

Janet Jarratt, et al.v.MRGCD

Contract for legal services re: Texas v. NM

Managers Evaluation

Following closed session, Bobby Kuykendall motioned and Tom Simpson seconded to return to open session

Following closed session, Willie Koenig motioned and Robert Faubion seconded to approve the Treasurer-Manager's annual evaluation.

Treasure/
Manager
Evaluation

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

The next meeting of the Board of Directors will be held on Wednesday January 9, 2013.

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary