

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
February 13, 2013**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, February 13, 2013. The meeting was called to order by President James Salopek on a motion by Robert Sloan, seconded by Tom Simpson. Motion carried. Jerry Franzoy was absent.

Roll Call

EBID personnel present were Gary Esslinger, Treasure-Manager; James Narvaez, Hydrology Director; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; Chuy Morales, Engineer Tech; Jean Hinsley, Resource Engineering Specialist; AJ Carlson, Land Water Analyst; Richard Bejarano, Watermaster; Delyce Maciel, HR/ Safety Director; Leo Barrett, Maintenance 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; Mark Rozman.

The calendar was discussed. Gary advised the Board the Stormwater Coalition meeting scheduled for February 14th has been cancelled the next scheduled meeting is March 14th. 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

Tom Simpson motioned and Robert Faubion second to approve The Notice of Public Meeting and Participation Policy Resolution 2013-01. Motion carried.

Non-Moratorium

License List for Special-Use-Permits for January 9, 2013 Board Meeting

Licensee	Assessment	Fees Requested to be Waived
2012-L-110 Ray Rodriguez/ Willie Koenig		Requested Waived
To operate and maintain an existing bridge crossing WW #15 of the Brazito River Lateral at Approx. Sta# 16+00	\$1,666.67	\$1,666.67 Farm Use
2012-L-111 Lower Rio Grande Public WWA		Requested waived
To construct, operate and maintain a water utility crossing the Upper Chamberino Lateral at Approx. Sta# 407+63	\$2,916.67	\$2,916.67
2012-L-112 Century Link		
To construct, operate and maintain a 4" conduit crossing the San Miguel Lateral at Approx. Sta# 14+00 and also crossing the San Miguel Spur Drain at Approx. Sta# 43+00	\$2,280.15	
2012-L-113 Benjamin B. Bolanos		Requested Waived
To construct, operate, and maintain a harvest gate on the right bank of the Westside Canal at Approx. Sta# 323+17	\$1,566.67	\$1,566.67 Farm Use
2012-L-114 DAC Kit Carson Rd.		
To operate and maintain Approx. 27,423.00 ft. of Kit	\$118,164.18	Requested Waived

Special Use Permits

Carson Rd. paralleling the Rincon Drain and Rincon Lateral, including widening 4 ft. x 3,612 ft. from Approx. Sta# 170+88 thru 207+00 of the Rincon Drain		\$118,164.18
2012-L-115 El Paso Electric Co.		Requested Waived
To construct, operate, and maintain a powerline utility crossing the Goering Lateral at Approx. Sta# 20+00	\$3,166.67	\$3,166.67 Farm Use
2012-L-116 Holbrook		Requested Waived
To operate and maintain an existing vehicle crossing on the Lake Spur Drain at Approx. Sta# 1+00	\$1,666.67	\$1,666.67 Farm Use
	\$131,427.68	\$129,147.53
Total Assessments		\$2,280.15

Non-Moratorium

License List for Special-Use-Permits for February 13, 2013 Board Meeting

Licensee	Assessment	Fees Requested to be Waived
2013-L-002 Hector Flores		Requested Waived
To construct, operate and maintain a water flume to travel water from a well to a farm crossing the Little La Union Lateral at Approx. Sta# 88+80	\$1,566.67	\$1,566.67 Farm Use
2013-L-003 Berridge Farms		Requested waived
To replace, operate and maintain an irrigation pipe crossing the Garfield Drain at Approx. Sta# 378+00	\$1,766.67	\$1,766.67 Farm Use
2013-L-004 Century Link		
To construct, operate and maintain a 4" utility line crossing the West Drain at Approx. Sta# 320+00	\$1,570.06	
2013-L-005 Zia Natural Gas Co.		
To construct, operate and maintain a gas utility line crossing the Selden Lateral at Approx. Sta# 15+90	Blanket Agreement	
2013-L-006 Zia Natural Gas Co.		
To construct, operate and maintain a gas utility line crossing the Selden Lateral at Approx. Sta# 0+58	Blanket Agreement	

2013-L-007 Zia Natural Gas Co.

To construct, operate and maintain a gas utility line crossing the Laguna Lateral at Approx. Sta# 150+50 Blanket Agreement

2013-L-008 Zia Natural Gas Co.

To construct, operate and maintain a gas utility line crossing the Selden Drain at Approx. Sta# 188+00 Blanket Agreement

2013-L-009 Zia Natural Gas Co.

To construct, operate and maintain a gas utility line crossing the Chamberino East Lateral at Approx. Sta# 275+00 Blanket Agreement

2013-L-010 Zia Natural Gas Co.

To construct, operate and maintain a gas utility line crossing the Chamberino East Lateral at Approx. Sta# 223+14 Blanket Agreement

2013-L-011 Ronnie J. Franzoy

		Requested Waived
To construct, operate and maintain a PVC Irrigation pipe parraleling 1,350' ft. of the Leasburg main Canal from Sta# 665+00 thru 668+50	\$2,807.65	\$2,807.65
		Farm Use
	\$7,711.05	\$6,140.99

Total Assessments **\$1,570.06**

Chuy Morales presented the Special Use Permit applications for the months of January and February to the Board. Robert Faubion 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

Operations/
 Hydrology
 Report

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.

Gail Norvell presented to the Board the financial reports for the Month of January. Cash in the bank is \$1, 076, 0551, assessments receivable is \$2,440,527 and investments \$7,303,680 for a total increase of \$580,571 over January 2011. Grant projects are on going and in process.

Controller
 Report
 Financial
 Fact Sheet

Gail presented to the Board a Heating and Cooling contract with Stadjuhar's Heating and Cooling; the contract will be extended yearly upon Board approval. Willie Koenig motioned to approve the heating and cooling contract and Ramon Alvarez second the motion. Motion carried. Gail also presented Dr. Fernando Cadenas contract for amendment adding a subcontractor Sara Williamson there are no changes to cost. Jerry Franzoy motioned to amend and approve the amended contract Ramon Alvarez second. Motion carried.

Contract
 Renewal

Gail updated the Board on the delinquent accounts. 130 letters were sent out on January 2, 2013 and out of those 6 have made payment arrangements and now 97 letters have been sent from legal.

Delinquent
 Accounts

A Soil Excavation Contract is in process and has gone to legal for review. The contract will allow dirt to be removed from Diez Lagos. Jerry Franzoy motioned to allow Gary Esslinger to sign the contract when legal has approved the content Willie Koenig second.

Soil Excavation
 Contract

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

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

Contract
 Legal Services

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 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. Caity 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 March 13, 2013.

Adjourn

Elephant Butte Irrigation District
Board of Directors Meeting
February 13, 2013

JAMES SALOPEK, President

WILLIE KOENIG, Secretary