

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

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, March 13, 2013. The meeting was called to order by President James Salopek on a motion by Robert Sloan, seconded by Robert Faubion. Motion carried. Scott Adams and Bobby Kuykendall were absent.

Roll Call

EBID personnel present were Gary Esslinger, Treasure-Manager; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; Zachary Libbin, Junior Engineer; 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; Patrick Lopez; 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; Ryan Ward, NMDA; Fernando Ortiz, CLC; Javier Ontiveros, EBID member; Guadalupe Gonzalez, EBID member; James Hangen, OSE; Ken Flex, Albuquerque Journal; Bert Cortez and Ken Rice, BOR.

The calendar was discussed. Gary advised the Board of the Stormwater Coalition meeting scheduled for March 14th. The Rio Grande Compact meeting will take place in Alamosa, Colorado on March 21st. Gary reminded the Board of Directors of the Law of the Rio Grande Conference is scheduled for April 25th and 26th and advised if anyone would like to attend to place notify Naomi Ontiveros.

Calendar of Events

Non-Moratorium			
License List for Special-Use-Permits for March 13, 2013 Board Meeting			
Licensee	Assessment	Fees Requested to be Waived?	Approved - Denied EBID BOD
2013-L-012 Century Link			Approved
To construct, operate and maintain a utility line crossing the Houghton Lateral at Approx. Sta# 30+50	\$1,430.02		
2013-L-014 Century Link			Approved
To construct, operate and maintain a utility line crossing the Fillmore Arroyo Channel Easement	Easement only		

Special Use Permits

2013-L-015 Century Link			
To construct, operate and maintain a utility line crossing the Las Cruces Main Canal at Approx. Sta# 594+50	\$1,430.02		Approved
2013-L-016 El Paso Electric Co.		Yes	
To construct, operate and maintain an overhead utility crossing the Eastside Canal at Approx. Sta# 453+70	\$3,166.67		Approved
		\$3,166.67	
		Farm Use	Fees Waived
2013-L-017 Enrique M. Lucero		Yes	
To construct, operate and maintain a irrigation well pipe crossing the Leasburg Main Canal at Approx. Sta# 113+63	\$1,766.67		Approved
		\$1,766.67	
		Farm Use	Fees Waived
2013-L-018 Zia Natural Gas Co.			
To construct, operate and maintain a gas utility crossing the Park Drain at Approx. Sta# 325+75	Blanket Agreement		Approved
2013-L-019 Zia Natural Gas Co.	Blanket Agreement		Approved

To construct, operate and maintain a gas utility crossing the Leasburg Main Canal at Approx. Sta# 113+63				
2013-L-020a EI Paso Electric Co.	\$3,416.67		Approved	
To construct, operate and maintain a new utility pole to improve clearance crossing the Chamberino Drain at Approx Sta# 27+50				

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Non-Moratorium --- Continued				
License List for Special-Use-Permits for March 13, 2013 Board Meeting				
2013-L-020b EI Paso Electric Co.	\$1,844.94	Yes	Approved	
To construct, operate and maintain a new powerline paralleling 275' of the Chamberino Drain from Approx. Sta# 24+75 thru 27+50		\$1,844.94		Farm Use
2013-L-021 Albert Miller		\$3,133.33	Yes	Approved
To construct, operate and maintain two harvest gates on the Hatch Drain at Sta# 362+10 & 366+40	\$3,133.33		Farm Use	
2013-L-022 New Mexico Gas Co.	\$2,916.67		Yes	Approved

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<p>To construct, operate and maintain a new 1" gas utility crossing the Talbot Lateral at Approx. Sta# 64+20</p>			
<p>2013-L-023 Charles Tharp</p>	<p>Pump in - Take out</p>	<p>\$2,916.67</p>	
<p>To pump in - take out using the Leasburg Main Canal at Approx. Sta# 485+00</p>		<p>Farm Use</p>	<p>Fees Waived</p>
<p>2013-L-024 Triple D Farms\R. Corrales</p>	<p>\$1,766.67</p>	<p>Yes</p>	<p>Approved</p>
<p>To construct, operate and maintain a 15" well pipe crossing the West Drain at Approx. Sta# 385+50</p>		<p>\$1,766.67</p>	
		<p>Farm Use</p>	<p>Fees Waived</p>
<p>2013-L-025 Young Guns Inc.</p>	<p>\$825.26</p>	<p>Yes</p>	<p>Approved</p>
<p>To fill in Approx. 100' of the Hatch Drain for farm use.</p>		<p>\$825.26</p>	
		<p>Farm Use</p>	<p>Fees Waived</p>
<p>2012-L-113 Benjamin B. Bolanos</p>	<p>\$1,566.67</p>	<p>Yes</p>	<p>Approved</p>
<p>To construct, operate, and maintain a harvest gate on the right bank of the Westside Canal at Approx. Sta# 323+17. Previously tabled</p>		<p>\$1,566.67</p>	
		<p>Farm Use</p>	<p>Fees Waived</p>

Adjusted Compact Credit	-31,000	Mar 21 13
San Juan - Chama	-44,400	
70% Exceedance Runoff March-July	121,000	Jul 31 13
Total Estimated Releasable for 2013	262,439	Season
D1 Delivery	114,494	
Percent of Full Delivery	21.7%	
Mexico Allocation	12,993	
D2 Diversion	261,121	
Drought Adjusted D2 (0.78)	203,674	
US Districts D2 Diversion	190,681	
EP1 Allocation (43%)	82,423	
EBID D2 Allocation (57%)	108,257	
Estimated Actual Diversion Ratio	0.7	
Estimated Actual Divertable Water	183,707	
EBID = Actual Divertable - EP1 - MX	88,291	
Estimated Conveance Efficeincy	50%	
Deliverable Water	44,145	
Estimated Seasonal Allotment	5.8	inches

Dr. King advises the Board at this time based on what is in the reservoir, there will be a 0 allocation but after the Spring runoff into the reservoir, we may see 4-6 inches with a start date of June and ending in July possibly August.

Bert Cortez introduced Ken Rice and gave a brief BOR update for the Board of Directors. Bert discussed the compact accounting numbers and advised the final numbers will be received at the next advisors meeting. Ken Rice advised the board he is trying to reorganize and be more involved in Rio Grande and Pecos areas. He plans to attend the next Copper Flats hearing in Santa Fe. He is not in agreement with the Leasburg State Parks indemnity issue and proposes a meeting with the state parks, EBID and BOR. Finally the BOR is working on sending a letter to the district requesting EBID to be exempt from the new County Code Amendment.

BOR Update

Gail Norvell presented to the Board the financial reports for the Month of February. Cash in the bank is \$621,022, assessments receivable is \$1,461,065 and investments \$8,803,246 for a total increase of \$1,231,021 over February 2011. Grant projects are on going and in process.

Controller Report
 Financial Fact Sheet

Gail updated the Board on the delinquent accounts. Letters from EBID and legal have been sent out to EBID members with delinquent farm accounts. There has been a good response from these members as they have either called or come into to set up a payment plan. From January 1 thru March 8, approximately \$40,000 has been collected, (approximately 250 payment transactions and a dozen accounts with 4 or more years delinquent have paid in full. Gail also advised the Board that EBID letters to EBID members with delinquent LID only accounts have been mailed. The response has been minimal on these accounts; Legal letters are now ready to be sent on the LID only accounts.

Delinquent Accounts

Gail gave a brief description of how the Affordable Care Act may affect EBID and employees. This is a complex system of rules and regulations, and some are not yet defined. The ACA includes tax implications, penalties and subsidies that may impact both businesses and individuals. More information is forthcoming as the October 1, 2013 enrollment dates for ACA are coming up for the implementation date of January 1, 2014. Gary Esslinger recommended that Gail do some more research and update the board in the future will more information.

Affordable Care Act

Andy Nunez gave the Board a legislative update. Mr. Nunez visited with Senators Cervantes, Papan and Anderson regarding water legislation that affects EBID. He also attended a house Agriculture and Water Committee to comment on HB-650. This bill was to improve the right to farm bill. . Andy gave brief reports on several other bills that were presented including: HB-18, 82,94,181,201,234,238 and HB-397.

Gary Esslinger presented to the Board of Directors an MOU between the IBWC and EBID Regarding Habitat Restoration Projects. The MOU was part of the process to satisfy the Record of Decision for restoration sites. The MOU has been sent to IBWC and now we have a final copy for the Districts signature. Gary requested approval for himself, James Salopek and Steve Hernandez to attend the annual NWRA Federal Water Affairs Conference scheduled for Washington April 15-17, 2013. Jerry Franzoy motioned Robert Faubion second to approve the NWRA conference attendance. Motion carried.

Steve Hernandez, Samantha Barncastle and Lee Peters reported on legal matters.

LRR #	Legal Assignment	Legal	Open	Closed per BOD	Comments
LRR 303	Hatch Easements for Work on Placitas Arroyo	SRB	x		Legal has asked to remain open: possible quiet title to be done
LRR 345	Lack/EBID Land Exchange and Flow Easement	LEP	x		Legal has asked to remain open
LRR 387	Drain Right of Way Use	SRB	x		Legal has requested this LRR remain open indefinitely
LRR 394	Review BLM Letter Regarding Copper Flat Mines	SRB	x		Legal is continuing to monitor and has requested LRR to remain open
LRR 399	Amend and Revise Original Document with Zia Natural Gas	LEP	x		Legal has requested this LRR remain Blanket Agreement still being worked on
LRR 406	IBWC O & M Flood Gate MOU	LEP	x		Legal has requested this LRR to remain open MOU is continuing to be negotiated
LRR 408	Anthony Drainage Project	LEP	x		Legal has requested this LRR to remain open
LRR 409	Transfer of Tortugas #2 Dam	LEP	x		Legal has requested this LRR to remain open
LRR 410	Kit Carson Road Permit	LEP			Legal has requested to remain open

Managers Update

Legal Update

LRR Report

			x		will discuss further in closed session
LRR 412	Bridge Crane Contract	SLH			Legal has requested to remain open
LRR 413	Soil Excavation Contract Agreement	LEP			Legal has requested to remain open
LRR 414	Tort Claims - City of Las Cruces sewage release	LEP	x		Legal has requested to remain open will discuss in closed session
LRR 415	Hatch High School Walk Over Bridge	LEP	x		Legal has requested to remain open
LRR 416	Local Improvement District	LEP		x	LRR to be closed per Legal. A drafted letter has been prepared to explain LID to members
LRR 417	Reinstatement of water rights	SRB	x		Please see below
	CID Update	SLH			

LRR 417-Legal and Staff have spoken and have decided there are two options for Mr. Hyser: He may be put at the top of the reclassification list or put at the bottom of the list; which legal recommends. Legal and Zachary Libbin told the Board Mr. Hyser was advised of his option to be added to the reclassification list back in 2011 when Henry Magallanez sent him a letter discussing the issue. Robert Faubion motioned and Jerry Franzoy seconded to put Mr. Hyser at the bottom of the reclassification list and be sent a letter attached with the reclassification policy. Motion carried.

Robert Faubion moved and Bobby Sloan seconded to break for lunch. Motion carried. Following lunch, Tom Simpson moved and Willie Koenig seconded to reconvene the meeting. Motion carried.

Jerry Franzoy 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

Open/
 Closed
 Session

Texas v. NM (USSC)
Parasol Dairy Well Permit

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

Following closed session, Robert Faubion motioned Bobby Sloan second to approve permit 2012-L-114 DAC Kit Carson Rd with the following conditions; fees will not be waved and will be deferred for a month, indemnification of liability is required. Motion approved

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

The next meeting of the Board of Directors will be held on Wednesday April 10, 2013.

Special
Use Permit
Approval

Adjourn

JAMES SALOPEK, President

WILLIE KOENIG, Secretary