

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
April 10, 2013**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, April 10, 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.

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 April 11th. Gary reminded the Board of Directors James Salopek, Steve Hernandez and himself will be attending annual NWRA Conference in Washington, DC.

Roll Call

Calendar of Events

Special Use Permits

Non-Moratorium			
License List for Special-Use-Permits for April 10, 2013 Board Meeting			
Licensee	Assessment	Fees Requested to be Waived?	Approved - Denied EBID BOD
2013-L-026 Joe Nelson	Pump-in Take-out		Approved
To pump in - take out using the La Union West Lateral at Approx. Sta# 86+50		Farm Use	
2013-L-027 El Paso Electric Co.	\$8,849.66	Yes	Approved
To construct, operate and maintain various powerline crossings on the Rincon C Lateral, Rincon Drain, Rincon Main Canal		\$8,849.66	
		Farm Use	Fees Waived
2013-L-028 James Salopek	\$1,430.02	Yes	Approved
To construct, operate and maintain a vehicle crossing on the Del Rio Drain at Approx. Sta# 635+00		\$1,766.67	
		Farm Use	Fees Waived
2013-L-029 Maria Jonas	\$1,566.67		Approved
To construct, operate and maintain a harvest gate on the west bank of the Nemexas Drain at Approx. Sta# 965+50			

2013-L-030 Sally Stahmann	\$1,666.67	Yes	Approved
To operate, and maintain an existing vehicle crossing the Santo Tomas Lateral at Approx. Sta# 54+50		\$1,666.67	
		Farm Use	Fees Waived
2013-L-031a El Paso Electric Co.	\$923.74	Yes	Approved
To construct, operate and maintain a new powerline paralleling 60' of the Eastside Canal at Approx. Sta# 128+50 thru 129+10		\$923.74	
		Farm Use	Fees Waived
2013-L-031b El Paso Electric Co.	\$3,416.67		Approved
To operate, and maintain an existing powerline crossing the Eastside Canal at Approx. Sta# 128+50			
2013-L-032 Carl D. Frazier	\$1,766.67	Yes	Approved
To operate and maintain a vehicle crossing on the West Drain at Approx. Sta# 39+53		\$1,766.67	
			Fees Waived
2013-L-033 El Paso Electric Co.	\$5,495.45	Yes	Approved
To construct, operate and maintain a new powerline paralleling 1,127' of the Bullock Lateral from Approx. Sta# 53+00 thru 64+27		\$5,495.45	
		Farm Use	Fees Waived
2013-L-034a Jerry Franzoy	\$4,177.83	Yes	Approved
To construct, operate and maintain an irrigation pipe paralleling 1,100' on the Garfield Drain from Approx. Sta# 55+00 thru 66+00 and crossing the Garfield Drain at Approx. Sta# 66+00		\$4,177.83	
		Farm Use	Fees Waived
2013-L-034b Jerry Franzoy	\$3,919.24	Yes	Approved
To construct, operate and maintain an irrigation pipe paralleling 1,000' on the Garfield Lateral from Approx. Sta# 74+00 thru 84+00 and crossing the Garfield Lateral at Approx. Sta# 74+00		\$3,919.24	
		Farm Use	Fees Waived

Zachary Libbin presented the Special Use Permit applications for the month of April to the Board. Willie Koenig motioned and Robert Faubion second to approval all permits presented. Motion carried.

Zack updated the board on the City of Las Cruces sewer spill that reached EBID's Park Drain, near Union Avenue, and originated near where Farney Rd crosses El Paseo. The sewer pipe spilled into a City of Las Cruces storm drain which transported the raw sewage to the Park Drain. The city

City Sewage
Spill

treated the sewage within the drain by adding fresh water and powdered lime to raise water to a pH of 9 or greater. Zack discussed the City of Las Cruces preliminary report.

Zack updated the Board on the.

Leo Barrett gave a brief update on how the maintenance season has been going. Mustard has been ordered so spraying and mowing can begin. Mowing has been ongoing along check structures on the Eastside canal. The LCHS and La Clinica de Familia piping will be completed and a fence will be installed along the pipe.

County Code
Amendment

As of April 9, 2013, 2013	Storage, AF
Elephant Butte Reservoir	221,377
Caballo Reservoir	10,505
Total Rio Grande Project Storage	231,882
Rio Grande Compact Credit Water	29,634
San Juan-Chama Water	35,335
Rio Grande Project Usable Water	166,913
Flow at San Marcial, AF/day	198

Hydrology
Report

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, Papen 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

Managers
Update

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	x		Legal has requested to remain open will discuss further in closed session
LRR 412	Bridge Crane Contract	SLH	x		Legal has requested to remain open
LRR 413	Soil Excavation Contract Agreement	LEP	x		Legal has requested to remain open
LRR 414	Tort Claims - City of Las Cruces sewage release	LEP	x		Legal has requested to remain open

Legal Update

LRR Report

					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

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 waived 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.

Open/
 Closed
 Session

Special
 Use Permit
 Approval

Adjourn

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

The next meeting of the Board of Directors will be held on Wednesday May 8, 2013.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary