

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
May 8, 2013**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, May 8, 2013. The meeting was called to order by President James Salopek on a motion by Bobby Kuykendall, seconded by Scott Adams. Motion carried. Tom Simpson and Ramon Alvarez were absent.

EBID personnel present were Gary Esslinger, Treasure-Manager; Gail Norvell, Controller; Zachary Libbin, Junior Engineer; Richard Bejarano, Watermaster; Delyce Maciel, HR/ Safety Director; Leo Barrett, Maintenance Director; Naomi Ontiveros Executive Secretary; Erech Fuchs, Groundwater Resource Manager; .

Also present were Steven Hernandez, Law Office of Steven L. Hernandez; Lee Peters, Peters Law Firm, LLC; Dr. Phil King, Hydrology Consultant; Jim Hangen, OSE; Ken Rice, BOR; Marvin Tessneer, LC Bulletin; Chrystal Enoch, Zia Natural Gas, Dave Dubois, NMSU.

The Pledge of Allegiance was read by President James Salopek followed by an Invocation given by Jerry Franzoy.

The calendar was discussed. Gary advised the Board of the Stormwater Coalition meeting scheduled for May 9th. Gary advised the Board Joe Delk and Jennifer Shoup have retained their positions on the Dona Ana Soil Water Conservation Board after the election; the next scheduled meeting will be May 9th at 9 a.m. followed by the Stormwater Coalition meeting at 1:30 p.m. Steve Hernandez adds a seminar is scheduled for June 22nd at EBID called "Managing an Irrigation District in a Crisis." The seminar is for the State Bar Section for Natural Resource attorneys. Dr. King, Gary, Samantha, James, Eric and Zach will be presenters. It will begin at 8:00 am and will end at Drop 8 with the Low Impact Hydro and then lunch at Chopes. Gary requested approval from the Board to attend the ABC Annual Business Meeting in Phoenix, AZ on Friday, May 17th. Robert Faubion motioned and Scott Adams seconded to send Gary Esslinger to the ABC Annual Business meeting. Motion carried

Roll Call

Pledge of Allegiance & Invocation
Calendar of Events

Non-Moratorium			
License List for Special-Use-Permits for May 8, 2013 Board Meeting			
Licensee	Assessment	Fees Requested to be Waived?	Approved - Denied EBID BOD
2013-L-035 El Paso Electric Co.	\$2,916.67	Yes	Approved
To construct, operate and maintain an aerial power line crossing the Santo Tomas Lateral at Approx. Station# 203+80		\$2,916.67	
		Farm Use	Fees Waived
2013-L-036 El Paso Electric Co.	\$8,750.00		Approved
To operate and maintain three (3) existing utility power lines crossing the Las Cruces Canal at various Stations.		\$8,750.00	
			Fees Waived
2013-L-037 Richard & Philis Bucchus	\$1,666.67	Yes	Approved
To construct, operate and maintain a new vehicle crossing on the La Union West Lateral at Approx. Station# 426+60		\$1,666.67	
		Farm Use	Fees Waived

Special Use Permits

2013-L-038 Zia Natural Gas Co.	Blanket Agreement		Approved
To construct, operate and maintain a gas utility crossing the WW# 11 at Approx. Station# 13+50			
2013-L-039 Zia Natural Gas Co.	Blanket Agreement		Approved Concrete Cap Required
To construct, operate and maintain a gas utility paralleling 1,200' on the Del Rio Drain from Approx. Station# 928+00 thru 940+00 and crossing the Del Rio Drain at Station# 928+00			
2013-L-040 Jeff Flores	\$3,133.33	Yes	Approved
To construct, operate and maintain two (2) harvest gates on the south bank of the Leasburg Lateral WW# 5 at Approx. Station# 58+00 and 64+50		\$3,133.33	
		Farm Use	Fees Waived
2013-L-041 El Paso Electric Co.	\$3,416.67	Yes	Approved
To construct, operate and maintain a new aerial power line crossing the Del Rio Drain at Approx. Station# 492+00		\$3,416.67	
		Farm Use	Fees Waived

Zachary Libbin presented the Special Use Permit applications for the month of May to the Board. Robert Faubion motioned and Robert Sloan seconded to approve all permits presented with a condition on permit 2013-L-039 to use a concrete cap. 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 broke and spilled into a City of Las Cruces storm drain which transported the raw sewage into the Park Drain. The city 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 also mentioned that staff had developed a potential solution to EBID's concerns with City of Las Cruces storm water and sewage discharges by possibly having the City purchase the drains that could be affected by future spills.

City Sewage Spill

Zack updated the Board about ongoing maintenance projects. The project funded by LCHS on the Las Cruces Lateral has been piped and backfilled. LCHS is expected to apply for a permit to use 40 ft of right of way which will be used as a community trail. Jerry Franzoy suggested that Zack approach Hatch Public Schools with the similar piping proposal for their high school. The Project used 6000 feet of 60 inch corrugated pipe. This will help with seepage and increase efficiency as well as be safer with all the high school kinds in the area. Burning is continuing when allowed by the City and County; South area is eighty percent done, Central is complete and the North still has a bit to go before completion. Zack advised the Board the Diez Lagos project is coming along. Several NMSU and NSF researchers associated with REUNITt visited the site to design different test beds to see which ones improved drain water quality the most. Zack adds that efforts with IBWC to clean out the river are still on going and a pilot channel will be dredged after this water season. Ribbon cutting for the Vado Park and Trail is scheduled for May 10th at 8:30 a.m.

Maintenance/Projects Update

Zack and Gary reviewed the Kit Carson road paving issue and potential sale of drains that were discussed at the Water Resource Committee meeting (WRC). The WRC reviewed a response letter from Sue Padilla at the county requesting the Board of Directors to reconsider waiving fees

on the Kit Carson Road permit. The WRC recommended that the fees should remain and should not be waived until some agreement is reached with the county about charging EBID fees for maintenance activities under their new regulations. Zack also presented the idea of a potential sale of drains within CLC as a solution to many problems. Zack states the main concerns are with the Mesilla and Park Drains within the city limits. These two drains have not functioned because of the low water table and because of urbanization of the farm land within their vicinities. Concerns include sewage spills, just as the one that recently occurred, unpermitted non-agricultural discharge, unpermitted and unregulated city storm water discharges, and encroachments. One solution is to sell as excess, a portion of the Mesilla and Park Drains, and the city can take over all ownership, operations, and maintenance responsibilities. Zack explained that the drains could be used by the city for storm water management and the agricultural portion of the drain which still functions could now begin downstream of where the drain is sold to the city. Ideas pertaining to payment options or land swap were discussed by staff and legal counsel. The Board directed staff to pursue the proposal of the sale of a portion of the Mesilla and Park Drains with CLC leadership. Dr. King presented the Board with the current outlook report.

Kit Carson Rd.

May 2013 Forecast
 May-July Runoff

Exceedence	50%		70%		30%		90%		30 yr
Station	kAF	% of Avg.	kAF	% of Avg.	kAF	% of Avg.	kAF	% of Avg.	Avg.
Otowi	87	18%	66	14%	111	23%	40	8%	485
San Marcial	-50	-15%	-106	-32%	6	2%	-189	-56%	335

Hydrology
 Report

Diversions Allocations,
 Current and Anticipated

Diversions Allocations	Acre-Feet
Total EBID Diversion Allocation	58,930
Total EPCWID Allocation	48,505
Mexico's Current Diversion Allocation	3,208
Total Diversion Allocation	110,643

Diversions Schedule

Diversions	CFS	AF/Day
Arrey	150	298
Leasburg	180	357
Westside	300	595
Eastside	150	298
Total	780	1547
Diversions Allocation, AF		58,930
Run Time, days		38

No Allotment has been set, but here is what it is looking like:

Deliverable Water	
Total EBID Diversion Allocation, acre-feet	58,930
Water-Righted Acres	90,640
Diversion per Acre, feet	0.65
Conveyance Efficiency	45%
Deliverable Water, acre-feet	26,519
Deliverable water, acre-feet per acre	0.29
Deliverable water, inches	3.5

Dr. King adds this is an extreme year requiring coordination, communication and planning. He recommends members get their orders in early, be prepared to get the water when it is available and not to expect more than one irrigation this season. Working with neighbors to coordinate delivery schedule will be very useful.

James Narvaez presented the Board of Directors with a draft schedule of release dates and order start dates as well as an allocation diversion chart. Robert Faubion motioned and Scott Adams second to set the current allotment for the 2013 irrigation season at 3.5 inches. Motion carried. After the allotment had been set for the season the Board of Directors along with Staff and Dr. King set the schedule: Orders will start on May 28th, Rincon Valley Diversion June 2nd, Mesilla Valley Diversion June 6th, Flat Rate DAY will be June 8th, last order day June 21st and last ready date June 28th. Board members added there will be no guarantee date if the member order is placed on last order day and the end of the season is still to be determined.

Gail Norvell presented to the Board the financial reports for the Month of April. Cash in the bank is \$302,021, assessments receivable is \$1,312,234 and investments \$8,305,106 for a total increase of \$1,173,018 over April 2012. Grant projects are on going and in process.

Controller Report
 Financial Fact Sheet

Gail presented the Board with several contracts up for renewal: Dr. James Covey, Dr. Phil King, Dr. Thomas Maddock III, Law Office of Steven L Hernandez PC, Peters law Firm LLC, Plumbing Services, Janitorial services, Electrical Services, Fire Extinguishers, and the Mutual Aid Agreement-DAC. Gail advised the board the Law Office of Steven L Hernandez will be adding Rod Walston as a subcontractor to their contract to help in case the USSC accepts TX v. NM. Willie Koenig motion and Robert Faubion second to renew all contracts presented.

Contract Renewal

Gail Norvell introduced Debbie Gray of Kriegel / Gray / Shaw & Co., P.C. for the presentation of the fiscal year 2012 audit. Debbie presented the Board with the financial statements and supplementary information for the fiscal year ending October 31, 2012. Mrs. Gray reports the audit review is a clean opinion for internal controls with no budget violations.

Fiscal Audit 10/31/2012

Gary Esslinger introduced Ken Rice with the Bureau of Reclamation (BOR). Mr. Rice advised the Board he has been hired by the Albuquerque Office to work closely with the District and will address all questions and concerns the best he can. He also advised the Board a member of the Albuquerque office did attend the Copper Flats meeting that was held in Silver City; he has not yet received a report on the event and will provide an update after reviewing the report. Gary asked Mr. Rice if he or the BOR had received a response letter from the county regarding the new construction regulations. Mr. Rice advised Gary and the Board he will check with Mr. Hamman on the status of the letter and if a response had been received. Steve Hernandez, Samantha Barncastle and Lee Peters reported on legal matters.

BOR Update

LRR # Legal Assignment Legal Open Closed Comments

Legal Update

per BOD					
LRR 303	Hatch Easements for Work on Placitas Arroyo	SRB	x		This stays open, although nothing is happening currently.
LRR 345	Lack/EBID Land Exchange and Flow Easement	LEP	x		
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 advised to close
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 411	Zoning and Land Use Code	LEP		x	Legal has advised to close
LRR 412	Bridge Crane Contract	SLH	x		Legal has advised to close
LRR 413	Soil Excavation Contract Agreement	LEP		x	Legal has advised to close
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	Legal has advised to close
LRR 417	Reinstatement of water rights	SRB	x		This one we finished this month and will close at the board meeting next week.

LRR Report

LRR 418	EBID Encroachments	SRB	x	x	Legal has advised to close
LRR 419	Defective Equipment-Roll Bender Model R-H45	SRB	x		This one is open, waiting for Gail to follow up with me.
LRR 420	Weather Station Agreement	LEP		x	Legal has advised to close
LRR 421	LCHS Special Conditions Permit	LEP			
	CID UPDATE	SLH			CID will not meet until the following week.

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

Open/
 Closed
 Session

Willie Koenig 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, Scott Adams motioned and Willie Koenig seconded to return to open session

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

Adjourn

The next meeting of the Board of Directors will be held on Wednesday June 12, 2013.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary