

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
September 14, 2005**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, September 14, 2005. The meeting was called to order by President James Salopek on a motion by Jerry Franzoy, seconded by Tom Simpson. Robert Faubion, Robert Sloan and Joe Nelson were absent.

Roll Call

EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; Ricardo Bejarano, Watermaster; James Narvaez, Hydrology Director; Linda Armijo and Tom Hansen, Human Resources Director/EAP Co-Chairman;

Also present were Roger Ford and Adrian Tafoya, USDA-NRCS; Pat Emery and Merry Jo Fahl, Caballo Soil and Water; Tish Segovia, DAC Flood Commission/ Tanya Trujillo, CLC; EBID Constituent, Mohamed Hussain; Erik Fuchs, NM OSE; and Marvin Tessneer, Las Cruces Bulletin.

Also present were Steve Hernandez and Lee Peters, Hubert & Hernandez, P.A. and Phil King, Engineering Consultant.

Tom Simpson motioned and Willie Koenig seconded that the minutes of the August 10, 2005 Board meeting be approved. Motion carried.

Minutes Approval

Willie Koenig motioned and Bill Gary seconded to approve the minutes of the August 10 Water Transfer Hearing.

The water supply outlook was presented. The storage totals on September 1, 2005 with a comparison for last year are as follows:

Water Supply

	<u>9/01/2004</u>	<u>9/01/2005</u>
Elephant Butte	111,820	403,000
Caballo	<u>37,240</u>	<u>19,050</u>
	147,610	412,050

The manager reported that as of the present date, we should have fifty percent (50%) allocation to start the 2006 water season. It will be decided later in the season what date to start the 2006 water season.

The Manager updated the Board on calendar items for the remainder of September and the month of October, 2005. Items on the calendar include a special open session workshop of the full board to discuss the FY 2005-06 budget to be held on September 21st; the end of the 2005 irrigation season on the 10th of October; a check signing ceremony for the 2025 Challenge Grant to be held October 19th in conjunction with the NM Water Conference to be held at NMSU October 18-20th. The October Board meeting will be held on the 12th.

Calendar of Events

Janice Neaves reported on her attendance of the Open Meetings Act Seminar held in Albuquerque August 23rd. She reported that for the most part the District was doing a good job in keeping in compliance with the Open Meetings Act. The only area of concern was in the fact that Executive Committee meetings may be considered a violation of the Act if the Committee had the authority to make a recommendation to the full board for an action to be taken. We must also be sure to take care that when closed session/meetings are reopened, they must be done by a roll call of the board. Members congregating at meetings outside of the district and emails were also discussed. The Act will be revised to take in the newer technology.

Open Meetings Act Seminar Report

Linda Armijo and Tom Hansen updated the board on the Employee Advisory Committee (EAC). The EAC presented two completed studies and a survey to the board. Linda Armijo provided the information on the study done on overtime currently being paid versus the hiring of another operations employee in all units. The hiring 12 new employees would be approximately \$41,000.00, plus 40% in benefits above what is currently being paid in overtime. The EAC does not find that it would be cost effective to change the way the District currently operates during the water season. Tom Hansen provided information on the study completed on repairing air conditioners in fleet vehicles. The cost estimate included several vehicles that needed major repairs to the a/c, had leaks, electrical problems and needed to be recharged. The estimated cost was over \$7,440.00. Some of these trucks will be auctioned and then the budget will be considered and work will be prioritized. Linda Armijo provided information on the results of the PERA/ICMA/Raise survey. The results are: 95 employees were surveyed, 80 employees voted for the PERA retirement option, 2 for a wage increase, 2 for both, 13 were not returned, or left questions unanswered.

Employee
Advisory
Committee
Update

Henry Magallanez, District Engineer, discussed a matter of a temporary emergency easement for repair of a dike on Mr. Mohammed Hussain property. Mr. Hussain spoke on his behalf and indicated that the easement in question was of value and he was not interested in turning over the easement without compensation. Mr. Hussain did agree that the District enter into use a temporary emergency easement so that it could do the necessary maintenance on the dike from storm events that occurred earlier in the year. Henry said it would take about 3 months to do the work this maintenance season. If there ever was a major rain event, the arroyo below the overshot would be inundated with water flooding everybody's property, including Hussain's. The options for this matter are to allow EBID to do the maintenance under a temporary permit, drop the matter and let Mr. Hussain deal with all maintenance in the future, purchase the easement from Mr. Hussain, or take the property through condemnation. Willie Koenig motioned to accept the three month temporary easement. Tom Simpson seconded the motion. Motion carried. By accepting this temporary easement, staff and Mr. Hussain will try to come to some amicable agreement.

Hussain
Emergency
Easement

Rehabilitation of the Garfield Dam was discussed Mr. Roger Ford of the NRCS and Merry Jo Fahl, Pat Henry, Joe Paul Lack and other members of the Caballo Soil and Water Conservation District came before the Board to ask it's cooperation in a supplemental watershed agreement to rehab the Garfield Dam #6. NRCS is asking for District sponsorship on the watershed rehab of this dam by agreeing to supply in kind service and other funding to cover the five percent (5%) contribution by the District. Joe Paul Lack asked that the District develop a good working relationship with Caballo SWCD to fix these dams. Mr. Esslinger said that the problem is bigger than the Garfield dam, that there were about 31 other dams that NRCS was also asking for sponsor support with a 5% contribution. Our attorneys are looking at legal side for EBID and the District can't afford the 5% sponsorship that NRCS is asking the District to contribute for the rehab of the dams. The Anti donation clause governs the EBID and says that the District cannot spend money for the benefit of private citizens to provide flood control to private property. Additionally, the District cannot sign a contract without knowing the exact financial obligation. If 25% committed by state, DAC flood commission and EBID would be responsible for 10%. EBID LID assesses \$5 per acre of irrigated farm land and that is a limited fund. Estimated O&M is \$11,000 per year for sediment removal but there is no ability to raise money for projects that are open-ended on construction costs. These dams are 40 to 50 years old and were built to protect agricultural lands they are now being reclassified for high hazard because development and communities now take the place of agricultural land.

Rehab of
Garfield
Dam

Joe Paul Lack asked that the Board get together with Caballo Soil and Water Conservation District and DAC Flood Control to craft a way make this work by way of legislation or taxation, or whatever it takes. James Salopek said that the District would work with the other entities and try to come up with a solution. A committee of the three sponsors was set up to work out a remedy to the funding of the Garfield dam. EBID can only commit to the current estimated cost and will not exceed that contribution as set in place by law.

Henry Magallanez presented the following special use permits:

05-L-060 – Curtis Flores; To operate and maintain an existing vehicle crossing on the Leasburg Main Canal at approximate station 248+39. Assessment, \$703.62, Waive all fees, \$703.62.

05-L-062 – La Union (MDWSA); To construct, operate and maintain a new 6" with a 6" concrete cap paralleling the West Drain at various stations for approximately 900 feet; Assessment \$929.99.

Total Assessments, \$1,633.61; Total Fees Waived, \$703.62.

Henry Magallanez recommended approval of all licenses and waiver of fees on numbers 05-L-062. Willie Koenig motioned and Bill Gary seconded to approve the licenses as presented. Motion carried.

Mr. Magallanez discussed the matter of the Cielo Dorado Homeowners Association and a request by Mr. and Mrs. Bill Barnhouse to allow a special use permit for their beautification of the portion of the West Drain that runs through the subdivision. The Barnhouses had come before the Board at a previous meeting and had been instructed to obtain insurance indemnity coverage. Cielo Dorado has furnished the indemnity coverage and is now ready to go through with the permit. The Board instructed Legal to look at the policy and if it is acceptable, to process the permit. Ramon Alvarez so moved and Bill Gary seconded the motion. Motion carried.

Mr. Magallanez talked about the discharge permit issued to the Village of Hatch. The discharge permit has expired and Mr. Magallanez wondered what the District would do with it? It was decided to advise Hatch by letter to remove discharge and work with them to find some other place to put their effluent.

The matter of a request from Mrs. Oakeley to purchase a portion of land on the Park Drain was discussed. Mrs. Oakeley's request would be an exception to the moratorium on the sale of land. It was recommended to continue with the process to sell the land at the appraised value and submit documents to the DFA for approval. Willie Koenig so moved and Jerry Franzoy seconded the motion. Motion carried.

Mr. Magallanez discussed a Resolution by the City of Las Cruces to expand the boundaries of the District to include Santo Tomas Farms. This would mean the reclassification of 3,000 acres. It was Mr. Magallanez's recommendation that the District begin the process to expand the boundaries and bring the matter back to the Board at a later date. It was suggested that the District look at old requests from farmers and give constituents the opportunity to do the same thing at the same time. The Water Resource Committee will meet to look at the matter and discuss and take action at the October meeting. A letter will be sent to the City explaining the board's action.

Ricardo Bejarano, Water Master, gave the operations report for the month of August, 2005. In August there were 3,387 farm deliveries made, 78,204 acres irrigated, and 28,123 ac/ft charged to farmers. Actual total diversion was 55,749; leaving a 209,388 balance in the District's allotment. There were six (6) ditch breaks to discuss with no claims for damage. There have been twenty-five (25) ditch breaks through the end of August.

Special Use
Permits

Cielo
Dorado

Hatch
Discharge
Permit

Sale of
portion of
Mesilla Park
Drain

CLC
Request to
expand the
Boundaries
to include
Santo
Tomas
Farms

Operations
Report

James Narvaez, Hydrology Director, gave the Hydrology Department report for the month of August, 2005. The water order totaled 288,140; actual diversion was 285,494 estimated carriage losses were 50,896; adjusted diversion was 234,599; total spill 5,954; % diversion spilled, 2.1%; charge to farmers, 145,531; and delivery efficiency at 62.0%.

Hydrology Report

It was estimated that at the end of the 2005 irrigation season, there would be approximately 150,000 acre/feet left in the District's allotment.

The end of the 2005 irrigation season was discussed. It was decided to set October 7th as the last water order date. Caballo dam will be closed on the 12th of October. Water should play out in the system by Sunday, the 16th of October. Bill Gary motioned to accept the dates as proposed. Jerry Franzoy seconded the motion. Motion carried.

End of 2005 Irrigation Season

The matter of irrigation orders that are more than 7 days past the ready date and are still open was discussed. Many farmers were reluctant to cancel due to the fact that they may not get the water back when they needed it if they cancelled. There were questions as to what to do with these outstanding orders. The problem with keeping the orders open distorted what the District needed to order on release from Caballo. It also presented a false account of a farmers water balance because these pending orders had not been deducted. It was decided to cancel all orders 10 days after the ready date. The Watermaster will assess the 7 day order report and then give the riders 3 days to visit with the farmer to determine the outcome of the order before it is cancelled. The Board agreed to follow staff recommendations.

Irrigation Orders

The question of whether or not to continue taking orders for constituents who are delinquent in their monthly payments was discussed. The annual assessments will be mailed on November 1, 2005 and staff needed to know if they were to stop orders for non-payment. The board agreed that the district should continue giving the water when ordered and not require payment before the end of the season. The constituents will pay their bills prior to the opening of the 2006 water season and any remaining balance for the 2005 season should be included in the 2006 assessment.

End of Season Billing

The matter of the price of gas (\$3.05 a gallon) in Hatch and other areas in the District was again discussed. The question was whether or not to increase the gas allowance or allow those in operations to continue to use the stand-by vehicles for 3 days a week instead of the 2 that they are presently using. A motion to give a third day of stand-by usage in lieu of an increase to the gas allowance was made with the understanding that the stand-by use could also go down in the same manner as gas prices drop at the manager's discretion was made by Bill Gary and seconded by Jerry Franzoy. Motion carried.

Stand-By Vehicle Usage

Jerry Franzoy motioned and Bill Gary seconded that the Board break for lunch. Following lunch, Jerry Franzoy motioned and Bill Gary seconded that the meeting be reconvened. Motion carried.

Lunch Break

Gail Norvell, Controller, gave the financial report for the month of August, 2005. The fact sheet is as follows: Cash in the bank totaled \$497,418; assessments receivable totaled \$362,163; and investments totaled \$1,888,353 for a grand total of \$2,747,934. This figure reflects an increase in assets of \$188,177 over August of 2004. Special use fees collected were \$3,072. Sale of conserved water year to date was \$142,399. Also presented was the Financial Statement for the month of July, 2005.

Financial Report

Ms. Norvell discussed two Requests for Proposal (RFP) for a Water Resource Information System to complete the overall comprehensive data management plans for the District. The cost of this software is \$300,000 and will be used for Hydrology data management of the SCADA system which is already in place. Ms. Norvell asked that the board approve the award to CH²M Hill. This software is a key component and

RFP 2005-01A and RFP 2005-03 Hydrology

will be valuable for the AWRM and stream adjudication.

The second RFP is for design and implementation of a comprehensive Hydrologic Data Management System. The amount for this contract is \$100,000. This RFP would be awarded to Daniel B. Stephen & Associates, Inc. Ms. Norvell discussed proposals from local banks to loan the money to the District for these RFPs as well as the possibility of borrowing from the LID funds of the District with a promissory note.

The local banks also proposed to loan money on the purchase of the building located at 525 S. Melendres to house the growing Hydrology department. The purchase would be based on the appraised value and needs to be approved by DFA. The Board recommended that staff go forward with negotiations with the seller. This item will come before the board in October for final approval.

Ms. Norvell reviewed the FY 2005-06 budget that will be decided at the special open session workshop to be held on September 21st. All of the proposals on the RFPs and the building will be presented for Board approval at this special open budget workshop.

The contract to engage Ron Mears as the Information Technology consultant was present for discussion. Bill Gary motioned and Willie Koenig seconded to accept the Contract as presented. Motion carried.

Jerry Franzoy motioned and Bill Gary 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:

Threat of Texas/NM Supreme Court Action; LRG Stream Adjudication Case, AWRM; EBID vs. United States, Operating Agreement, Amended Complaint; EBID vs. BOR No. CIV 90-95-HB, Mediation w/State Parks – Subsection I Credits; Anderson vs. EBID, Dona Ana Dam, Fillmore Dam; EB Land and Trust Co., Subdivision C, Lots 39 and 40; SHPO MOU.

Jerry Franzoy motioned and Bill Gary seconded to return to open session. Motion carried by roll call vote with all members agreeing to the motion to return to open session. During closed session the above-noted topics were discussed.

There being no further business, Bill Gary motioned and Jerry Franzoy seconded to adjourn the meeting. Motion carried.

The next regular meeting of the Board will be held on Wednesday, October 12, 2005. There will be a workshop on September 21st to discuss the 2005-2006 FY Budget. This will be an open meeting of the full board.

Software and
Service
Contracts

Building at 525
S. Melendres

FY 2005-06
Budget Review

IT Consultant
Contract

Closed/
Open Session

Adjourn

Next Meeting