

**ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS MEETING
October 12, 2005**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, October 12, 2005. The meeting was called to order by President James Salopek on a motion by Bill Gary, seconded by Jerry Franzoy. Robert Sloan and Willie Koenig were absent.

Roll Call

EBID Staff present were Henry Magallanez, Engineer; Gail Norvell, Controller; Ricardo Bejarano, Watermaster; James Narvaez, Hydrology Director; Linda Armijo, Accounts Payable Clerk, and Tom Hansen, Human Resources Director, EAP Co-Chairman. Also present were Calvin Chavez and Rasul Ahadi, NM OSE; EBID Constituents Tim Darden, Douglas Henson and Janell Woodward; Barry Williams, J. D. Domenick and Darrell Wade, Avalon Partners LLC; and Marvin Tessneer, Las Cruces Bulletin.

Also present were Steve Hernandez and Lee Peters, Hubert & Hernandez, P.A. and John Hernandez, Water Quality Consultant.

Ramon Alvarez motioned and Bill Gary seconded that the minutes of the September 14, 2005 Board meeting be approved. Motion carried.

Minutes Approval

Jerry Franzoy motioned and Bill Gary seconded to approve the minutes of the September 14, 2005 Water Transfer Hearing.

Robert Faubion motioned to approve the minutes of the September 21 Special Board meeting with correction in the wording on water charges for 2006. Joe Nelson seconded the motion. Motion carried.

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

Water Supply

	<u>10/01/2004</u>	<u>10/01/2005</u>
Elephant Butte	96,400	342,440
Caballo	<u>14,470</u>	<u>11,150</u>
	110,870	353,590

The Manager reported that as of the present date, we should have 1.5 acre/foot projected allocation to start the 2006 water season based on the forecast levels in storage. It will be decided later in the season the starting date for the 2006 water season.

The Manager updated the Board on calendar items for the remainder of October and the month of November, 2005. Items on the calendar include a check signing ceremony for the 2025 Challenge Grant to be held October 19th in conjunction with the NM Water Resource Institute Conference to be held at NMSU October 18-20th; The Manager attending the SAHRA Conference in Tucson, Arizona; The Manager, Chairman and Attorney attending the NWRA Conference in Honolulu, Hawaii beginning November 7th; and the Manager attending the Bi-National Rio Grande Summit in McAllen, Texas. The November meeting of the Board will be held one week early on November 2nd due to a conflict with the NWRA on the second Wednesday of the month.

Calendar of Events

Linda Armijo and Tom Hansen updated the Board on the Employee Advisory Committee (EAC). Linda and Tom presented the Board with a letter signed by all members of the EAC expressing the gratitude of the committee and all EBID employees for the Board's support in allowing EBID to become affiliated with PERA. Additionally, Tom and Linda distributed a copy of the minutes from the EAC meeting held October 4, 2005. Discussed at the meeting were:

Employee Advisory Committee Update

- Upcoming meetings with ICMA;
- The matter regarding repairing the air conditioning in trucks used for stand-by vehicles was tabled due to the District acquiring several newer vehicles through federal procurement;
- The matter of doing more spraying of weeds and less mowing was discussed. Employees in the weed control program were fearful of being let go. There will be no change in employment status of the weed control personnel. Rather, there will be changes in the job duties to include spraying rather than mowing. A licensed sprayer must be supervising an unlicensed sprayer and unlicensed sprayers can only spray certain chemicals.
- A survey to determine if there were any issues with employee satisfaction in areas such as supervisors' practices, work conditions, etc. will be taken. The manager asked that the committee keep it impartial and that it not become a 'witch hunt'.
- The EAC questioned the status of the well drilling for the Chamberino yard. Steve Hernandez will do a follow up with the State Engineer to see the status of the well

drilling permit.

- The additional day for use of stand-by vehicles rather than increasing individual employees fuel allotment was discussed. The Board allowed a third day a week for use of the stand-by vehicles during the water season to help with the high price of gas. Linda said that she has asked operations personnel to do a fuel report to be able to approach Board with a recommendation for the 2006 irrigation season. It will be left up to the employees to provide the reports and reports should only include the employee's gas consumption during working hours. The Manager asked that the committee reflect to the employees that the use of stand-by vehicles can also decrease in days when the price of fuel goes down.

The EAC asked that consideration for adding an additional holiday to the holidays the District currently recognizes be brought before the Board. Tom and Linda will do a study on the matter and bring it back to the Board at a future meeting.

Ricardo Bejarano, Water Master, gave the operations report for the month of September, 2005. In September there were 2,908 farm deliveries made, 63,961 acres irrigated, and 21,796 ac/ft charged to farmers. Actual total diversion was 45,819; leaving a 163,600 balance in the District's allotment. There were two (2) ditch breaks to discuss, one on the Talbot Lateral and one on the Laguna Lateral. There were no claims for damages. There have been twenty-seven (27) ditch breaks through the end of September.

Operations
Report

Mr. Bejarano reported that the gates were closed at Caballo at 08:00 a.m. this date and the season would be done by Friday, October 14, 2005.

James Narvaez, Hydrology Director, gave the Hydrology Department report for the month of September, 2005. The water order totaled 339,511; actual diversion was 336,329 estimated carriage losses were 60,116; adjusted diversion was 276,213; total spill 8,212; % diversion spilled, 2.4%; charge to farmers, 170,266; and delivery efficiency at 61.6%.

Hydrology
Report

It was estimated that at the end of the 2005 irrigation season, there would be approximately 147,000 acre/feet left in the District's allotment.

Mr. Narvaez discussed a report on water usage by crop that was prepared by his department. There will be a more complete report when the final tallies come in and the crop report is prepared by the water records department.

Water
usage by
Crop

Henry Magallanez presented the following special use permits:

Special Use
Permits

05-L-064 – Dona Ana (MDWCA); To construct, operate and maintain a new 18" water line crossing on the Dona Ana Arroyo Channel at Thorp Road. Assessment, \$766.15.

05-L-065 – Avalon Park Subdivision; To construct, operate and maintain a new 8" sanitary sewer line crossing on the Quesenberry Lateral at approximated station 14+12. Assessment \$857.68.

05-L-066 – El Paso Electric Co; to construct, operate and maintain a new aerial electric power line paralleling the right bank of the Salem Lateral from approximate station 115+75 to 123+49 for approximately 775 feet. Assessment, \$827.94. Waive all Fees – Farm Use.

Total Assessments, \$2,496.77; Total Fees Waived, \$872.94.

Henry Magallanez recommended approval of all licenses and waiver of fees on number 05-L-066. Bill Gary motioned and Robert Faubion seconded to approve the licenses after clarification on 05-L-066 as to which canal was actually being paralleled. Motion carried. Jerry Franzoy abstained from vote.

Henry Magallanez discussed a proposal for permit fees schedule. Following this fee schedule would double the money received for permit fees. The district's process to waive fees will not be changed. The District is developing a collection policy to group all areas of fee collection together. There has been no fee increases since 1986.

Permit/
License Fee
Schedule

Robert Faubion motioned and Joe Nelson seconded to adopt the fee schedule until such time as the collection policy is in place. Motion carried. See copy of permit/license fee schedule attached.

Members from Avalon Partnership LLC came before the Board to discuss the matter of permit 05-L-065 for a new subdivision. Avalon Park subdivision would necessitate a sewer line crossing on the Quesenberry Lateral. J. D. Domenick of Avalon Partnership discussed the matter with the board. Indemnification problems with city are holding up the permit for the crossing as the City is either unable or unwilling to issue a certificate of insurance indemnity since the CLC is self-insured. Lee Peters and City Attorney Marcia Driggers are working on the problem. No permits will be issued to the City until this problem is resolved. In the meantime the Avalon Partnership is unable to continue working on their utility crossing. Mr. Domenick said

that the partnership could provide insurance until such time as CLC would take over and asked for permission to at least install the carrier pipe in which the sewer pipe would run during this winter's maintenance season. Mr. Magallanez said that the District could issue a permit to the sub-divider for the carrier pipe and when the dedication of the subdivision occurred, the City would then need to apply for a special permit for the sewer line. Robert Faubion motioned and Bill Gary seconded to allow the installation of the carrier pipe. Motion carried

The matter of the County's application to request County road maintenance was discussed. The County submitted a resolution for maintenance of private roadways and subdivisions. The District believes that what is needed is a joint powers agreement which would cover all of the roads owned by EBID and used collaboratively by EBID and Dona Ana County. Another letter will be sent explaining the District's position and will be signed by the Chairman. This letter will be sent to the County Commissioners.

Henry Magallanez, District Engineer, discussed a matter of a temporary easement for repair of a dike on Mr. Mohammed Hussain's property. This matter was discussed at the September meeting with Mr. Hussain present. At the September meeting a motion was passed to accept a three month temporary easement. By accepting this temporary easement, staff and Mr. Hussain were to come to some amicable agreement. Since there has been no response from Mr. Hussain, the matter was deferred to closed session.

The matter of a Partial Release and Vacation of Grant Easement from the NMSU Board of Regents was discussed. EBID, in exchange for the deed by quitclaim from the Board of Regents to the 86.177 acre tract of land just southeast of the City limits of the City of Las Cruces, NM. This release of easement was previously approved and this is finishing the process. The Board of Regents will quitclaim to EBID the 86.177 acres. Robert Faubion motioned to approve the partial release and vacation of grant easement and Bill Gary seconded the motion. Motion carried.

Gail Norvell, Controller, gave the financial report for the month of September, 2005. The fact sheet is as follows: Cash in the bank totaled \$465,383; assessments receivable totaled \$311,551; and investments totaled \$1,643,025 for a grand total of \$2,419,959. This figure reflects an increase in assets of \$281,790 over September of 2004. Extraordinary costs were to Hubert & Hernandez, Legal Fees, \$8,261; Special use fees collected were \$30,223. Sale of conserved water year to date was \$208,049. Also presented was the Financial Statement for the month of August, 2005.

Ms. Norvell reported that the annual tax statements would be printed for mailing by the 1st of November and that the constituents should work to get their accounts in order prior to the printing of the bills. The final water statement will be mailed out in the week following the meeting.

Dr. John Hernandez, Water Quality Consultant, updated the Board on the Water Quality Act and changes to the Act. A new definition of "Waters of the State" could include the District's canals and laterals. This definition is currently under litigation and a ruling should occur soon. The Board decided to wait for the ruling by the courts before moving forward with any decision. The issue will be brought up again in November for an update.

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

Henry Magallanez gave the Manager's update in the absence of Mr. Esslinger. The bi-national Rio Grande Summit to be held in McAllen, TX in November was discussed. Mr. Esslinger has been invited to attend. Bill Gary motioned and Jerry Franzoy seconded to send Mr. Esslinger to the conference. Motion carried.

Mesilla Dam rerouting - The closure of Mesilla Dam remains an issue. It has been suggested that the river levy below the dam be open to the public. George Granados, DAC Road Department Manager recommends that it not be dedicated as a County road. The proposal will be presented to DAC Commissioners with the IBWC, BOR and EBID in attendance.

IBWC Canalization - IBWC has told EBID that it needs the Record of Decision to go forward, but EBID insists that a safe harbor agreement needs to be in place. This process is moving slowly. Gary Esslinger, Steve Hernandez and Phil King met with Erik Webb of Senator Domenici's office about the issue. Webb will take this matter to Domenici as a concern. IBWC Acting Commissioner Carlos Marin is working with his staff to address the issue.

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;

County Road
Maintenance
Issue

Hussain
Temporary
Emergency
Easement

Tortugas Dam
Site #1 Release
of Easement

Financial
Report

Water
Statement/
Annual
Statement

Water Quality
Act

Lunch Break

Bi-National Rio
Grande Summit

Mesilla Dam
Rerouting

IBWC
Canalization
EIS

Closed/
Open Session

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; and Hussain Temp Easement.

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

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

The next regular meeting of the Board will be held on Wednesday, November 2, 2005.

Adjourn

Next Meeting

JAMES SALOPEK, President

BOBBY SLOAN, Secretary