

**RIGHT OF USE  
AND LICENSE POLICY  
ELEPHANT BUTTE IRRIGATION DISTRICT  
NEW MEXICO**

Effective Date 1 November 1994

Amended 2 August 1995

**I. INTRODUCTION**

The Elephant Butte Irrigation District, hereafter referred to as EBID, is a quasi-municipal agency of the State of New Mexico. EBID operates and maintains the New Mexico portion of the Rio Grande Federal Reclamation Project's irrigation division, which was constructed by the United States Bureau of Reclamation (hereafter referred to as USBR).

This document describes EBID's policy regarding the issuing of licenses and permits which authorize the occupation, use or traversing of lands under the lawful jurisdiction, administration and management of EBID.

**II. PURPOSE**

The purpose of this document is to establish procedures, guidelines and criteria for the issuance of licenses and permits, and to set fees associated with the consideration of the applications.

**III. AUTHORITY**

The authorities for this policy are those provided by the applicable laws, regulations and rules of USBR and EBID, and the respective contracts and agreements between USBR and EBID.

#### **IV. DEFINITIONS**

- A. EBID Elephant Butte Irrigation District.
- B. USBR United States Bureau of Reclamation.
- C. Licensees all Federal, State, private individuals, partnerships, firms or corporations, and local governmental agencies that request rights-of-use from EBID.
- D. Rights-of-Use includes leases, permits, licenses, or agreements issued by EBID to permit the occupation, use, or traversing of lands under the ownership, administration or management of EBID.
- E. Administrative Costs all direct or indirect costs associated with reviewing, issuing, and processing of rights-of-use requests, and the administration of this policy.
- F. Land Use Fees the amount charged by EBID for the issuance of a right of use for the use of land under the ownership, administration or management of the EBID.

#### **V. SPECIAL-USE-PERMIT**

- A. Application Requirement. When requesting a Special-Use Permit, an applicant shall submit the following:
  - 1. Written request executed by responsible person seeking the issuance of a Special-Use Permit.A responsible person shall be the owner of the land

or a person having legal authority from the corporation, partnership, or public entity that owns the land, to apply for a permit under this policy.

2. Three (3) sets of final design plans in strict compliance with the District's design criteria. Any variance in the District's design requirements must be approved by the District.

3. Application shall be submitted to:

Elephant Butte Irrigation District  
P. O. Drawer 1509  
530 S. Melendres  
Las Cruces, New Mexico 88004

B. Review. The review and approval of the Special-Use Permit generally will be completed within sixty (60) days. All completed requests shall be submitted to the District Board of Directors for approval.

C. Expiration. Construction authorized by the license or permit must be initiated no later than two years after final approval by the EBID Board of Directors. Failure to comply with the two-year time limit invalidates the permit or license. All fees paid shall be forfeited.

D. Assignment. Licensee shall not assign this license, in whole or in part, without Licensor's prior written consent, and absent such consent, any attempted assignment shall be void. Licensee shall make all

requests for Licensor's consent to an assignment, modification or amendment of this license in writing and shall accompany each request with a service charge of \$50. Such service charge shall be the property of Licensor and not refundable to Licensee.

E. Terms and Conditions.

1. Terms:

Terms of licenses shall be executed based on the following:

<u>Type of license</u>	<u>Term</u>
Utilities	25 years
Vehicle crossing	(Governmental) 25 years
Vehicle Crossing	(Private) 10 Years
Gates	10 Years
Discharges	5 Years
Blanket Agreements	5 Years

Terms of licenses are subject to change at the discretion of the EBID Board of Directors.

2. Conditions:

As set forth by EBID.

F. Fees

EBID's fees for issuing special-use-permits are divided into the following categories:

1. Administration Fee. The minimum administration fee is three hundred dollars (\$300.00) which shall accompany the initial application for a right-of-use. If, after a preliminary review of the application, EBID determines the granting of a right-of-use is incompatible with present or future uses of the land or not in the best interest of EBID and the right-of-use cannot be granted, the applicant will be so informed. No refund will be

made for the initial administration fee.

The actual administration fee will usually exceed \$300 since the applicant will be required to pay all administrative costs in excess of the initial deposit for the preparation of the right-of-use document.

Administrative costs include, but are not limited to the following:

- Engineering review
- Legal review
- Reviews required by federal, state or local agencies.
- Coordination with other agencies
- Construction inspection
- Document preparation
- Rights-of-use assistance
- Appraisals for right-of-use and right-of-way
- Other applicable charges

Actual review costs incurred by EBID will be indexed by 30% for overhead. All fee assessments are approved by the EBID Board of Directors, and are subject to change at their discretion.

2. Land Use Fee. Prior to issuance of the Special-Use-Permit, the applicant shall also pay EBID a fair market value of the right and privilege

requested for the use of the right-of-way or facilities.

- a. Narrow crossing with trench widths less than 3.0 feet & generally crossings perpendicular to the channel, shall be assessed a use fee of \$0.15 per lineal foot per year, per term of license.
- b. Where the area of use exceeds 500 square feet or parallel installations and is not classified as a narrow crossing, fees shall be assessed at \$0.01 per square foot, per year, per term of license unless otherwise determined by the EBID Board of Directors.
- c. The base land use license fee shall be indexed using the current published prime interest rate for the term of the license. The current prime interest rate is determined by the effective prime rate on the first Wednesday of each month and shall remain in effect until the first Wednesday of the following month when a new interest rate will be determined. The total land use fee shall be determined using the following formula:

$$L_T = L_B \frac{(1+R)^N - 1}{R}$$

Where

$L_T$  = Total Land Use Fee

$L_B$  - Base Land Use Fee

R = Index coefficient

N = Term of License (in years)

The total land use fee ( $L_T$ ) is payable in advance unless a payment schedule is accepted and agreed upon by the EBID Board of Directors. Payment scheduled shall be based on the following:

\$0-\$5,000	One payment net 30 days
\$5,000-\$10,000	Bi-annual Payment
\$10,000-\$25,000	Quarterly Payment
\$25,000 and up	As directed by board

and must be included with the license or permit documents that are presented to the board for final approval.

- d. EBID, at its discretion, may require the permittee to furnish a Surety or Performance Bond which will ensure completion of permitted work and protect EBID from any liability resulting from permittee's performance. The amount of the bond, if required, will be specified by EBID.



In addition, EBID, at its discretion, may require the permittee to furnish such insurance protection as the Board may deem necessary.

3. Discharge Fee. Permits for discharging water into the EBID system will be processed in the same manner as other permit requests, except that the term of permit will not exceed five (5) years. The annual charge will be based upon the acre-feet of water discharged and the charge will be the same as the "Excess Water Charge" charged by EBID to its water users. All quantities of water will be assessed at the end of each quarter on the basis of actual quantities of water discharged. Measurement of quantities and any water quality testing required by licensor will be paid by licensee. EBID is the owner of any water discharged into EBID systems as well as any water right associated therewith. In addition to the annual quantity discharge fee, a carriage charge of \$0.10 per linear foot from the point of discharge to point leaving District facilities shall be assessed per year, per term of license.
4. Blanket Agreement. For governmental agencies,

utility companies and other entities who have a continual need for licenses and/or permits, an agreement may be entered into with the District which will define and seek to minimize procedural requirements of multiple applications. The agreement shall be made for terms not to exceed five (5) years. However, all applicable engineering plans and specifications must be in accordance with the standard criteria for each separate use. Any fees assessed under the "Blanket Agreement" shall be negotiated with that entity prior to execution of the agreement.

5. Fee and Cost Waiver. Fees and charges may be waived by the Board when the issuance of specific permits is deemed to be in the interest of EBID. Water users of EBID who are engaged in agriculture and agricultural activities normally will not be assessed fees for permits that improve and supplement their agricultural operations.

G. Design Criteria

These design criteria have been prepared to serve as a guide for the design of installations to be constructed on Elephant Butte Irrigation District benefitted rights-of-ways. They are general requirements that will apply

to most installations. However, some proposed construction may, by its nature, necessitate other requirements. Discussion with EBID's Engineering Department and preliminary approval of proposed construction prior to the preparation of final plans should prove helpful to the designer and expedite approval of final plans.

#### 1.0 Plan and Specification Requirements

1.1 Plans. Three (3) sets of detailed plans and specifications for the proposed use shall be submitted for review and approval. It is essential that the plans include sufficient waterway data, such as cross-sections, profiles and high water surface elevations, hydrological analysis and the related use in relation to the waterway. Designs involving major works such as bridges, concrete boxes, inverted siphons, large culverts, relocations of irrigation facilities, and/or those works as established by statute must be prepared by or under the direct supervision of a registered professional engineer licensed to practice in New Mexico. Drawings shall be sealed and the engineer's signature placed thereon, where required by New Mexico State Law.

1.2 Materials and Testing. Materials and geotechnical testing, if applicable and/or required by EBID, shall be designated using the current American Society for Testing Materials Standards (ASTM) and certified by a registered professional engineer. Should other standards be used, they must be cross referenced to ASTM standards. Any testing, where required, will be at the sole expense of the licensee.

1.3 Location Map. All plans shall include a location map with sufficient detail to locate the project.

1.4 Stationing and Elevation Data. All drawings or plans shall be referenced to the USBR engineering stations of canals, laterals, or drains. Vertical control must be referenced to USBR datum. Plans not having this information will be returned without further review.

## 2.0 Road Crossings

2.1 Installations of New Crossing (Canals and Laterals).

A. Crossings within city, town or village limits.

1. Canals and Laterals. All road crossings within the limits of any city, town or village in Dona Ana or Sierra County

shall be either a concrete box culvert with transitions, or a single-span bridge.

2. Drains. All crossings within the city limits of any town or village in Dona Ana or Sierra County shall be a minimum 48" diameter, reinforced concrete pipe with concrete transitions.

3. Width of crossing structure shall comply with minimum requirements of the respective city or village.

B. New Crossings Outside City or Village Limits.

1. Canals and Laterals

Subdivisions - Crossing over laterals and canals that will be used as an access to a proposed subdivision shall be a concrete box culvert, or single-span bridge.

Farm Crossings - Where the crossing is to be used only as a crossing from one field to another, corrugated metal pipe with transitions or straight concrete headwalls may be used.

2. State and County Roads.

State and County roads that cross canals and laterals shall be concrete box culverts, reinforced concrete culvert pipes or concrete/steel bridge. Multi-barreled box culverts will not be permitted. Where conditions permit, corrugated pipe culvert may be allowed. However, prior approval must be obtained from EBID.

3. Drains. Where conditions permit, crossing may be constructed using minimum 48" corrugated metal pipe with a minimum of two (2) feet earth cover. Multi-barreled culvert pipes will not be permitted. Invert of the pipe shall be 1/3 pipe diameter below the bottom grade of the drain.
4. All road crossings shall be a minimum width of 24 feet.

## 2.2 Bridges.

- 2.2.1 Minimum standards. A bridge installation shall conform to the minimum standards shown on Drawing No. "**A**", Bridge Crossings, Canals-Laterals, Drains.

- 2.2.2 Freeboard. A minimum vertical distance of 12 inches generally shall be provided between the maximum water surface in the waterway and the bottom of the bridge stringers. In no case shall the freeboard be less than six (6) inches.
- 2.2.3 Pile Bents. Pile bents on single-span bridges shall not be constructed in the water prism.
- 2.2.4 Spread Footings. On all bridges where abutments are on spread footings, the prism shall be concrete lined as specified in Paragraph 4.1.2, except that the length of lining shall extend to five (5) feet beyond each side of the bridge.
- 2.2.5 Operating Roads. Passage along parallel operating roads on the waterway shall not be restricted by guard rails or parapet walls. Operating roads on canals and laterals require a minimum road width of 12 feet. Drain operating roads shall have a minimum operating width of 25 feet.
- 2.2.6 Curbing. Curbing along roads, over

waterways, shall have leave-outs or laydown curb on line with both operating roads of the waterway. The width of leave out or laydown shall be as stated in Paragraph 2.2.5.

2.2.7 Sidewalks. Sidewalks along roads, over waterways, shall be reinforced in order to carry the loads of heavy equipment moving on the operating roads. All reinforcement shall be a minimum of #4 rebar on 12 inch centers, both ways.

2.2.8 Crossing Pads. Crossing pads shall be provided in line with both waterway operating roads when the road crossing the waterway is paved with asphalt. The crossing pads shall be of adequately reinforced concrete a minimum of 6 inches thick. All reinforcement shall be a minimum of #4 rebar on 12 inch centers, both ways. The width of the pads shall be the same as those stated in Paragraph 2.2.5.



2.2.9 Ramps. Ramps shall be provided along waterway operating roads when the road crossing the waterway is not at the same elevation as the operating road. The ramp shall extend to the end of the transition, but in no case shall the slope exceed 30%.

Additional right-of-way to outside toe of slope shall be provided by the permittee if ramp side slope falls beyond the existing right-of-way of the waterway.

2.2.10 Design Loads. All bridges crossing rights-of-way shall be designed using as a minimum AASHTO-H-20 loadings and safety factors.

### 2.3 Culverts.

#### 2.3.1 Reinforced Concrete Box Culverts.

a. Minimum Standards. The culvert installation shall conform to the minimum standards shown on Drawing No. **"B"**, Box Culvert Crossing and Transitions.

b. Dimensions. The box shall be sized to provide free flow with a minimum freeboard of six (6) inches. The minimum

dimensions shall be 5 feet wide and 5.5 feet high in order to provide sufficient clearance for cleaning with mechanical equipment.

- c. Losses Through Structure. The licensee will be required to raise banks a minimum of 12 inches above the high water surface, upstream of the culvert for the length of the backwater effect of the structure.
- d. Transitions. Transitions shall be provided at both inlet and outlet of the box. They shall conform with Drawing No. **"B"**, Box Culvert Crossing and Transitions. Straight headwalls may be approved at the option of EBID.
- e. Compacted Backfill. All backfill shall be compacted to 95% of soil density as determined by ASTM Standard Proctor. Applicant shall pay for any laboratory testing that may be required.

#### 2.3.2 Concrete Pipe Culverts.

- a. Minimum Standards. The concrete pipe culvert installation shall conform to the

requirements shown on Drawings No. "C",  
Pipe Culvert Crossings, Canals, and  
Laterals.

- b. Pipe Classification. The pipe shall be reinforced concrete pipe in accordance with the appropriate ASTM Designation C76 using "O" ring gasket joints as approved by EBID.
- c. Culvert Sizing. Canal and lateral culverts, when permitted, shall be sized to pass the required flow where head loss shall be kept to a minimum. Velocity in the pipe of approximately 3 feet per second should be maintained. Pipe shall have a minimum diameter of 36 inches.
- d. Transitions. Transitions shall be provided at both inlet and outlet of the pipe as shown on Drawing No. "C", Pipe Culvert Crossings, Canals and Laterals.
- e. Compacted Backfill. All required backfill shall be compacted to a minimum depth consistent with a H-20 loading and shall not be less than a minimum cover of 12 inches over structures. Compacted material shall be not less than 95% soil density as determined by ASTM Standard Proctor. Applicant shall pay for any

laboratory testing that may be required.

2.3.3 Corrugated Metal Pipe Culverts (CMP).

- a. Minimum Standards. The corrugated metal pipe culvert installation shall conform to the requirements shown on Drawing No. "C", Pipe Culvert Crossings, Canals, and Laterals.
- b. Pipe Classification. The pipe shall be in accordance with ASTM 760.
- c. Transitions shall be provided at both inlet and outlet of pipe as shown on the above drawings and as shown on Drawing No. "C", Pipe Culvert Crossings, Canals, and Laterals.

2.4 Major Highway Crossings.

For major highway crossings, overpasses shall be required. The overpass shall provide an opening for the waterway and for operating roads.

3.0 Utility Crossings.

3.1 Underground Crossings.

3.1.1 Crossings at Culverts.

- a. Minimum Standards. Underground utility crossings at culverts shall conform to the requirements shown on Drawing No.

"D", Utility Crossings.

- b. Canals and Laterals. On canals and laterals, utility crossings shall be made under an existing culvert with a minimum clear distance of 12 inches between the bottom of the culvert and top of utility conduit.
- c. Drains. On drains, utility crossings can be made above an existing culvert with a minimum clear distance of 12 inches between the bottom of the utility conduit and top of culvert conduit. Where the drain culvert is corrugated metal pipe, the applicant may be required to place the utility crossing under the culvert by jacking or boring.
- d. Road Cover. A minimum cover of 12 inches shall be provided from the top of the utility conduit to any road surface. This includes public roads and waterway operating roads.
- e. Compacted Backfill. All backfill shall be compacted to a minimum depth consistent with a minimum of H-20 loading, and shall not be less than a



minimum cover of 12 inches. Compacted material shall be not less than 95% soil density as determined by ASTM Standard Proctor. Applicant shall pay for any laboratory testing that may be required.

3.1.2 Tunneling, Boring, and Jacking.

- a. Canals and Laterals. During times of channel flow, tunneling, boring, and jacking may be allowed under canals and laterals only if the casing diameter does not exceed 6 inches. Lining of the waterway as per 4.1.2 may be required.

3.1.3 Pipe Lines.

Minimum Standards. Steel pipe shall be used in place of plastic pipe at waterway crossings, or plastic pipe may be cased in steel pipe within the limits of the established rights-of-way. Concrete encasement may be allowed under special conditions. All utility lines shall have warning tape placed 12 inches over the utility line.

3.1.4 Parallel Installations.

- a. Minimum Standards. Utilities installed

parallel to a canal or lateral centerline shall be buried along and within the outside five (5) feet of the right-of-way, and not less than three (3) feet below the invert of the channel or surrounding natural ground, whichever is lowest. Utilities adjacent to drains shall be installed a minimum of three (3) feet below the natural surface.

3.1.5 All open cuts or trenches, jacking pits or excavations shall be shored or braced in conformance with OSHA requirements.

### 3.2 Overhead Crossings.

3.2.1 Minimum Standards. Overhead transmission and communications line installations and clearances shall be in accordance with Drawing No. "D", Utilities Crossings; the latest edition of NEC (ANSI C1) standards of the National Fire Protection Association; the latest edition of NEC (ANSI C2); the latest regulations issued by the OSHA; and the adopted electrical code of New Mexico. Unless otherwise required by the above, a minimum

clearance from highest point on the ground of 22 feet shall be provided for communications lines, and 28 feet for electric supply lines.

3.2.2 Right-of-Way Restrictions. The location of line poles, guy poles and guy lines on canals and laterals shall be set at right-of-way limits. Guy wires shall not restrict operating roads.

4.0 Reinforced Concrete Lining.

Reinforced concrete lining shall meet the following requirements:

- a. Minimum Standards. Reinforced concrete lining shall conform to the requirements shown on Drawing No. "E", Typical Concrete Lining.
- b. Lining Thickness. The lining shall have a minimum thickness of three (3) inches. However, a thickness of six (6) inches may be required at the discretion of EBID.
- c. Bottom Width. The bottom width shall match the design bottom width of the waterway or the existing bottom width, if it is wider than the design width.
- d. Invert Elevation. The lining invert elevation shall match the design bottom grade or existing bottom (whichever is

lower) of the waterway.

- e. Reinforcement. Minimum reinforcement shall be 6x6, W1.4 x W1.4 welded wire fabric or fiber reinforced concrete. Fiber type and content will be specified by EBID.
- f. Side Slopes. The side slopes generally shall match the design slope of the waterway (and shall extend to other District requirements.) Slope paving steeper than 1 to 1 will not be permitted.
- g. Length. The length shall be approximately equal to the top width of the waterway measured from inside top cutline to inside top cutline, but not less than 20 feet.
- h. Cut-off-Walls. Cut-off walls, normal to the centerline of the waterway, shall be provided at both ends of the lining, extending 24 inches into the side slopes for the full height of the lining.

## 5.0 Safety Devices

- 5.1 Occupational Safety and Health Administration Safety Code (OSHA) Regulations. All construction

shall be in strict conformance with applicable OSHA regulations and/or standards.

5.2 Safety Racks. Safety racks, when required, shall be installed as directed by EBID.

5.3 Safety Fence. Safety fences, when required, shall be installed as directed by EBID.

5.4 Safety Ladders. Safety ladders, when required, shall be installed as directed by EBID.

6.0 Discharge of Foreign Waters

A. General. Recognizing that the District's canals, laterals and drains generally block access to the Rio Grande, the Board of Directors of Elephant Butte Irrigation District may grant permission for the disposal of flood waters, manufacturing process waters, sewage effluent or any other type of water that may be lawfully introduced into the distribution or drainage system. This permission is contingent upon the continued approval of the New Mexico State Environment Department and/or the Federal Environmental Protection Agency. The Board reserves the right to declare a moratorium for the issuance of licenses and permits for the disposition of waters to any part or all of the District's distribution or drainage system for such periods of time that it deems necessary. The Board may, at it's discretion, issue variances to a



declared moratorium on a case-by-case basis. In no case will permission be granted for the discharge of waters to the distribution or drainage system that will exceed the physical capacity of the system, or endanger the integrity of the system. Any discharge of waters to the District's system by others must be permitted in accordance with the Special-Use-Permits and Licenses Policy. The application must include scope of the proposal, complete engineering plans and written approval, where applicable, by the New Mexico State Environment Department that the quality of the water meets all applicable State and Federal water quality regulations. EBID is deemed to be the owner of water discharged into EBID's system as well as any water right associated therewith. Nothing contained in this policy shall be construed as a waiver or revocation of existing moratorium policies or special use permits and licenses previously issued.

B. Definitions.

Agricultural discharge - those discharges directly related to agricultural or farm applications, i.e. field runoff, irrigation tailwater.

Non-Agricultural discharge - discharge not directly related to agriculture or farm applications, i.e. dewatering discharges.

Storm discharge - discharge directly related to urban and rural runoff of precipitation.

Wastewater discharge - manufacturing, industrial, agricultural process and sewage waters.

C. Standard Specifications.

1. Storm water discharges generally will not be permitted in canals and laterals. Storm water may generally be accepted into the drainage system. Hydrologic data on the watershed must be furnished. It will be computed by methods approved by the District and shall show the flood volume in acre-feet and the peak discharge in cubic feet per second. The design storm shall be the 50-year frequency, 6 hour standard storm for rural watersheds and the 100-year frequency, 6-hour storm for urban watersheds. The District may require adjacent holding or ponding facilities to store water for possible treatment, metering or detention before introduction into it's system.
2. Sewage effluent, manufacturing or agricultural

processed water generally will not be accepted into the system. However, if permitted, the effluent continually must meet all environmental requirements of the State of New Mexico and the Federal government.

3. Construction dewatering effluent may be accepted in the distribution or drainage system if the quality of such water is approved by the District.
4. Although a license and permit under this policy is required, agricultural tailwater or local agricultural run-off water from irrigated lands are exempt from the provisions of these regulations.
5. Termination of any agreement may be made by the Board upon written notification to the lessee, sufficient time usually will be granted to the licensee so that other water disposal measures may be effected. Termination by the Board is final.

D. Wastewater.

Environmental regulations may be expected to change from time-to-time by the issuance of new, revised or expanded rules and regulations issued by the

State of New Mexico and/or the United States. It is expressly understood that the licensee must conform to these new or changed rules or regulations upon their effective date. Continued non-compliance by the licensee shall constitute automatic cancellation of the permit.

6.1 Discharge Structures.

- A. Minimum Standards. Discharge structure shall conform to the requirements shown on Drawing No. "F", Discharge Structure, and Drawing No. "G", Discharge Structure-Alternate.
- B. Side Slope Discharge. Discharge onto the side slopes of the drain prism shall conform to the requirements shown on Drawing No. "F", Discharge Structure. The concrete lining shall meet the requirements of Paragraph 4.1.4, Reinforced Concrete Lining.
- C. Bottom Discharge. Discharge at the bottom of the drain prism shall conform to the requirements shown on Drawing No. "G", Discharge Structure-Alternate.
- D. Compacted Backfill. Backfill for cuts or excavation in drains shall be thoroughly compacted to the satisfaction of the District.

6.2 Water Quality/Reports.

Waters not having to comply with EPA standards for quality shall not exceed 3000 mg/l, for total dissolved solids. Laboratory testing and water quality reports, as directed by the District, shall be furnished to the District by the licensee at no cost to the District.

6.3 Metering.

All discharge water shall be metered by approved methodology and reports furnished as set forth by the District.

**VI. LIMITED-USE-PERMITS**

Limited-Use-Permits are for short duration of time not to exceed one (1) year. Limited-Use-Permits are required for such uses, but not limited to, removal of excess material from canals, laterals or drains, removal of sand and/or gravel from arroyo control projects, cutting of firewood, temporary placement of farm equipment on EBID facilities, pumping water from the distribution or drainage system, pumping water into the distribution or drainage system, placement of beehives for pollination of agriculture crops.

A. Application Requirement. In requesting a Limited-Use-

Permit an applicant shall submit the following:

1. Written request outlining scope of desired permit and executed by responsible person. A responsible person shall be the owner of the land or a person having legal authority from the corporation, partnership, or public entity that owns the land to apply for a permit under this policy. The District, at its discretion, may request from the applicant additional detailed plans and/or specifications.
2. Application shall be submitted to:

Elephant Butte Irrigation District  
P. O. Drawer A  
530 S. Melendres  
Las Cruces, New Mexico 88004

B. Review.

The review and approval of the Limited-Use-Permit generally will be completed within seven (7) days. All completed requests shall be submitted to the District's Treasurer-Manager for approval.

C. Assignment.

Licensee shall not assign this license in whole or in part without Licensor's prior written consent.

D. Terms and Conditions.

1. Terms:

Limited-Use-Permit generally shall not exceed one  
(1) year.

2. Conditions:

As set forth by EBID.

E. Fees

For those permits classified as Limited-Use, a \$50.00 non-refundable application fee will be assessed, in addition to the following:

<u>Type of license</u>	<u>Assessment</u>
Dirt removal	+ \$.50 per cy
Beehive placement	+ \$.05 per sq ft
Dewatering	+ \$.10 per ft carriage + (excess rate) (volume)
Temporary pumping	+ (excess rate) (volume)
Temporary use of ROW	+ \$.05 per sq ft

F. Design Criteria

Requirements set forth for the Special-Use-Permit, where applicable, shall be in effect in addition to the following:

1. Beehive placement (Reserve)
2. Removal of fill/sediment (Reserve)
3. Cutting of wood (Reserve)
4. Temporary pumping (Reserve)
5. Dewatering (Reserve)
6. Temporary use of ROW (Reserve)



Elephant Butte Irrigation District  
Amendment to EBID Permit/License  
Fee Schedule Adopted  
On October 12, 2005

EBID Permit/License Fee Schedule  
For Telecommunications Providers  
Using EBID Lands/Facilities

Adopted by Board of Directors  
Of EBID, August 1, 007  
And Effective Immediately

Part 3, "Land Use Fee", of the "EBID Permit/License Fee Schedule Board Approved 'Proposed' Fees on October 2, 2005", is hereby amended, effective August 22, 2007, in order to create and adopt Land Use Fees for telecommunication providers which use EBID lands or facilities under special use permits issued by EBID to telecommunications providers as defined by the Federal Telecommunication Act amendments of 1996, and specifically pursuant to the provisions of 47 United States Code Section 253.

All fees charged for a special use permit pursuant to the Fee schedule of October 12, 2005, shall be charged to a telecommunication provider, except for the Land Use Fee set forth in Part 3. The Land Use Fee for a permit issued to a telecommunications provider and for a telecommunications use of EBID lands or facilities shall be determined and charged as set forth in this Amendment.

3. Land Use Fees for Telecommunications Providers and Telecommunication Uses:

a. Crossing	Flat Fee
1) Length up to 50 feet	\$2,250.00
2) Length over 50 feet and up to 100 feet	\$2,500.00
3) Length over 100 feet and up to 150 feet	\$2,550.00
4) Length over 150 feet and up to 200 feet	\$2,750.00
5) Length over 200 feet	\$ 250.00
	Additional for every increment of 50 feet

b. Parallel Indexed using a rate representing the general increase in farm land values over the last 30 years adjusted by the rate of inflation over the same period, represented by a discount rate of -.01, and using the formula:

$$L_T = L_B X \left( \frac{1 - \left( \frac{1}{(1+r)^n} \right)}{r} \right)$$

Where  
 $L_T$  = Total Land Use Fee  
 $L_B$  = Base Land Use Fee  
 $r$  = -.01 (as described above)  
 $n$  = Term of License (in years)

	Per linear foot:	\$0.15
c. <u>Area</u>	Per square foot:	\$0.10

Severability. If any section, subsection, sentence, clause, word or phrase of this policy is for any reason held to be unconstitutional, unenforceable, or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The Board of Directors hereby declares that it would have adopted this policy and each part of it regardless of any part being declared unconstitutional, unenforceable or otherwise invalid.

ELEPHANT BUTTE IRRIGATION DISTRICT

Amendment to Right of Use and  
License Policy, as amended  
on August 2, 1995

EBID Permit/License Policy  
For Telecommunications  
Providers Using EBID  
Lands/Facilities

Adopted by Board of Directors  
of Elephant Butte Irrigation District,  
February 13, 2008  
and Effective Immediately

The Board amends the Right of Use and License Policy, as amended on August 2, 1995, Parts V(E)(1) ("Terms of licenses are subject to change at the discretion of the EBID Board of Directors") and V(F)(1) ("All fee assessments are approved by the EBID Board of Directors, and are subject to change at their discretion"), by the enactment of the following new provision, which is to be added to the "EBID Permit/License Fee Schedule for Telecommunications Providers Using EBID Lands/Facilities" adopted by the Board on August 21, 2007:

Once a license/permit to a telecommunications provider is approved by the Board of Directors and is issued by EBID, its term (duration), conditions and fee assessments are not subject to modification at the discretion of the Board of Directors: provided, however, that the license/permit remains subject to suspension or revocation for noncompliance by the licensee.

This amendment applies only to licenses and permits issued by EBID to telecommunications providers. The provisions of the Right of Use and License Policy Parts V(E)(1) and V(F)(1), as referenced above, remain applicable to all other licensees or permittees of EBID.

Severability. If any section, subsection, sentence, clause, word or phrase of this policy is for any reason held to be unconstitutional, unenforceable, or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The Board of Directors hereby declares that it would have adopted this policy and each part of its regardless of any part being declared unconstitutional, unenforceable or otherwise invalid.

ELEPHANT BUTTE IRRIGATION DISTRICT

Amendment to Right of Use  
and License Policy of  
November 1, 1994, as Amended  
August 2, 1995, October 12, 2005,  
August 21, 2007, February 13, 2008  
and March 12, 2008

Adopted by Board of Directors  
of EBID on April 9, 2008,  
and Effective Immediately

Part 3, "Land Use Fee", of the "EBID Permit/License Fee Schedule Board Approved 'Proposed' Fees on October 12, 2005" (which amends Part (V)(F)(1) through (4) of the Right of Use and License Policy of November 1, 1994, as Amended August 2, 1995), as amended August 21, 2007 and March 12, 2008, is hereby amended, effective April 9, 2008.

All fees to be determined and charged to a telecommunications provider and for a telecommunications use of EBID lands or facilities, as set forth in the Amendments adopted and effective on August 21, 2007, and on March 12, 2008, shall apply to all users of EBID lands and facilities. This amendment does not affect original provisions of the Right of Use and License Policy and amendments of February 13, 2008, and April 9, 2008, which contain other provisions for licenses/permits.

Severability. If any section, subsection, sentence, clause, word or phrase of these amendments or of the EBID Right of Use and License Policy, as amended, is for any reason held to be unconstitutional, unenforceable, or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The Board of Directors hereby declares that it would have adopted this policy and each part of it regardless of any part being declared unconstitutional, unenforceable or otherwise invalid. The Board of Directors also declares that it would leave intact any fee, fee schedule or related provision which was amended or replaced, should the change any such fee, fee schedule or related provision be declared by such a court to be unenforceable.

ELEPHANT BUTTE IRRIGATION DISTRICT

Amendments to EBID  
Right of Use and License Policy  
of November 1, 1994, as  
Amended August 2, 1995, and as  
Amended February 13, 2008

EBID Permit/License Fee Schedule for  
Telecommunications Providers Using  
EBID Lands/Facilities

Adopted by Board of Directors of EBID  
April 9, 2008, and Effective Immediately

The Board amends the February 13, 2008 Amendment, which applies only to licenses and permits issued to telecommunications providers by the addition of one word, "material":

Once a license/permit to a telecommunications provider is approved by the Board of Directors and is issued by EBID, its term (duration), conditions and fee assessments are not subject to modification at the discretion of the Board of Directors; provided, however, that the license/permit remains subject to suspension or revocation for material noncompliance by the licensee.

The Board also amends the Right of Use and License Policy, Part V(F)(5), by the enactment of the following new provision to be added following the existing provisions of Part V(F)(5):

The Board shall not waive fees or charges for any license or permit applied for, or to be used by, a telecommunications provider and for telecommunications purposes.

Severability. If any section, subsection, sentence, clause, word or phrase of these amendments or of the EBID Right of Use and License Policy, as amended, is for any reason held to be unconstitutional, unenforceable, or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The Board of Directors hereby declares that it would have adopted this policy and each part of it regardless of any part being declared unconstitutional, unenforceable or otherwise invalid. The Board of Directors also declares that it would leave intact any fee, fee schedule or related provision which was amended or replaced, should the change in any such fee, fee schedule or related provision be declared by such a court to be unenforceable.