

**MINUTES OF THE ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS SITTING AS A BOARD TO HEAR
SUSPENSION AND TRANSFER APPLICATIONS
2009-S&T-9 – September 9, 2009**

I. Call to Order and Roll Call. The meeting was called to order by Board President James Salopek on a motion by Joe Nelson, seconded by Robert Sloan. Motion carried. Bill Gary, Jerry Franzoy and Tom Simpson were absent. Henry Magallanez, Engineer, and Anjeanette Carlson, Land/Water Analyst, represented the Engineering Department for the presentation. Steve Hernandez, Steve Hubert and Lee Peters were also present.

II. Application and Publication.

President Salopek announced the following:

- A. The applicants are identified in Exhibit A (Volitional Transfers).
- B. The applicants seek to move the water rights from lands as identified in Exhibits A and B as "Move From" land.
- C. The applicants were required to publish notice in any newspaper published within Dona Ana County of EBID taking action to consider a resolution allowing the transfer. The publications did the following:
 - 1. Listed the time and place of this meeting.
 - 2. Listed the action to be taken by this board.
 - 3. Listed a description of the move to and move from lands.
 - 4. Listed the reason for the requested transfer.

The Applicants provided the staff with a copy of the Notice of Publication containing all of the required points in the publication. The last publication date was prior to this hearing

III. Testimony.

Mr. Salopek announced that the Board would proceed with the presentation by the Staff.

Anjeanette made the Staff presentation. She identified the tracts of land to the Board and said that the Engineering Department had visited the "move to" locations and analyzed the properties on their ability to receive surface water from EBID facilities. The suitability of the soil and other engineering criteria in the "move to" locations for irrigation had been analyzed and recommended approval of the applications for a total transfer 40.55 acres.

Mr. Salopek announced that at this point in the hearing, the Board would take evidence and testimony from the applicants or their representatives, any person(s) present to protest the application, and finally from the EBID staff. No applicants were present.

Mariano Martinez was present for Dona Ana Mutual Domestic. Upon discussion regarding the 3-1 variance request, Robert Sloan motioned and Joe Nelson seconded to deny the variance as it was not in compliance with the District's 2-1 stacking ratio. If DAMD would change its request to 2-1, the Engineer would recommend approval. The ratio was adjusted to 2-1. Robert Faubion motioned and Ramon Alvarez seconded to accept the variance as amended.

On the two Katerina matters: Logos and Katerina Inc. to City of Las Cruces and Logos Inc to Katerina, the City of Las Cruces has not signed the permits, so these matters were tabled on a motion by Robert Faubion, seconded by Robert Sloan. Motion carried.

IV. Resolution by the Board of Directors

Mr. Salopek announced that the chair would entertain a motion to have a resolution to approve or disapprove the applications. Willie Koenig motioned to approve the transfer as presented. Joe Nelson seconded the motion. Motion carried. The Transfer was approved in the amount of .95 acres as noted on Exhibit A.

Mr. Salopek asked that a Resolution be formalized as called for by Section 73-13-5 of the New Mexico Statutes Annotated, and that the Secretary of the Board certify and file with the State Engineer a true copy of the Resolution and action of the board. (See Resolution attached.)

Mr. Salopek also announced that if there be a protestant who disagreed with the action of the Board, he/she may appeal this decision directly to the district court as provided under Section 73-13-4 of the New Mexico Statutes.

V. Adjournment.

Mr. Salopek said he would entertain a motion to adjourn the Board sitting to hear these applications. Robert Sloan motioned and Ramon Alvarez seconded to adjourn the hearing. The motion carried unanimously.

James Salopek, President

Willie Koenig, Secretary