

**MINUTES OF THE ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS SITTING AS A BOARD TO HEAR  
SUSPENSION AND TRANSFER APPLICATIONS  
2006-S&T-02 – February 8, 2006**

**I. Call to Order and Roll Call.**

The meeting was called to order by Chairman James Salopek on motion by Tom Simpson and Bill Gary. Robert Sloan was absent. Henry Magallanez, District Engineer, and Fernando Ortiz, Land Specialist, represented the Engineering Department for the presentation and Steve Hernandez, Legal Counsel was present. No applicants present were James and Marjorie Hogue and Robert Fietze. There were no Protestants present.

**II. Application and Publication.**

Chairman Salopek, announced the following:

- A. The applicants are identified in Exhibits A (Delinquent Suspension/Transfers) and Exhibits B (Volitional Stacking 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 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.

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

Mr. Magallanez made the Staff presentation. He 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 of 7.77 acres (6.57 volitional stacking and 1.20 suspension/transfer).

**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.

Tom Simpson motioned and Bill Gary seconded to table the application for volition stacking from Ted Johnson and Mary C. Smith to William B Smith in the amount of 1 acre due to lack of timely publication.

Bill Gary motioned and Robert Faubion moved to approve the transfer of 7.77 acres as noted on Exhibits A and B. The motion carried unanimously.

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 is 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 Faubion motioned and Bill Gary seconded to adjourn the hearing. The motion carried unanimously.

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James Salopek, Chairman

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Robert Sloan, Secretary