

**MINUTES OF THE ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS SITTING AS A BOARD TO HEAR
SUSPENSION AND TRANSFER APPLICATIONS
2008-S&T-5 – May 15, 2008**

I. Call to Order and Roll Call.

The meeting was called to order by Chairman James Salopek on motion by Bill Gary, seconded by Willie Koenig. Motion Carried. Robert Sloan and Ramon Alvarez were absent. Henry Magallanez, District Engineer represented the Engineering Department for the presentation. Steve Hernandez, Legal Counsel, was also present. Also present from the Engineering Department were Linda Armijo and Susana Bravo.

Also in attendance were Marilyn Brule, Elissa Ruddick, Paul Prange, Ralph Cristofaro, Sandy Geiger, Arturo O. Lucero, Jimmy Dirk, Wade Deerman, Paul Pompeo, Marvin Walker, Fernando Ortiz and Ralph DiMauro.

II. Application and Publication.

Chairman 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.

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 150.15 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.

Mr. Paul Pompeo addressed the board and asked for approval of his request for transfer in the amount of 2.0 acres on 2008-WT-010. Mr. Paul Prange, a resident of La Mancha Estates discussed La Mancha's protest to having Mr. Pompeo's transfer approved on the grounds that it is an illegal purpose per La Mancha Subdivision Covenants. Additionally, he talked about an irrigation of Mr. Pompeo's 34 trees that the group felt was illegal due to the fact that Pompeo used EBID surface water illegally as per letter from the State Engineer which is attached.

Mr. Fernie Ortiz of the City of Las Cruces protested Transfer No. 2008-WT-009, Katerina Inc. to Philippou LLC in the amount of 8.95 acres on the grounds that the City had not had time to research this 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 as follows.

- On 2008-WT-010, Robert Faubion motioned and Willie Koenig seconded to approve the transfer as presented. Motion carried.
- On 2008-WT-009 – Joe Nelson motioned and Robert Faubion seconded to table this matter until the next transfer hearing.
- On 2008-WK-007, 2008-WK-008, 2008-WK-015, Robert Faubion motioned and Willie Koenig seconded to approve these transfers as presented. Motion carried.
- On 2008-WK-011, 2008-WK-012, 2008-WK-013, 2008-WK-014, 2008-WK-016, Jerry Franzoy motioned and Joe Nelson seconded approval of these transfers as presented. Motion carried.

Transfers were approved in the amount of 141.20 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 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. Bill Gary motioned and Willie Koenig seconded to adjourn the hearing. The motion carried unanimously.

James Salopek, Chairman

Willie Koenig, Secretary