

**MINUTES OF THE ELEPHANT BUTTE IRRIGATION DISTRICT
BOARD OF DIRECTORS SITTING AS A BOARD TO HEAR
SUSPENSION AND TRANSFER APPLICATIONS
2008-S&T-12
December 10, 2008**

I. Call to Order and Roll Call.

The meeting was called to order by Chairman James Salopek on motion by Tom Simpson, seconded by Bill Gary. Motion Carried. All board members are present. Linda Armijo, Engineering Land Specialist represented the Engineering Department for the presentation. Fernie Ortiz, CLC, Steve Hernandez, and Stephen Hubert, Legal Counsel, were also present.

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.

Linda Armijo 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 of 20.46 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.

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 so moved and Ramon Alvarez seconded. Motion carried. Jerry Franzoy abstained from vote.

Transfers were approved in the amount of 20.46 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. Bill Gary motioned and Robert Faubion seconded to adjourn the hearing. The motion carried unanimously.

James Salopek, Chairman

Willie Koenig, Secretary