

**AMENDED AND RESTATED BYLAWS
AND RULES AND REGULATIONS
OF
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY**

WHEREAS, the Board of Directors (the "Board") of NIBLEY BLACKSMITH FORK IRRIGATION COMPANY (the "Company") deems it necessary to adopt these Amended and Restated Bylaws and Rules and Regulations pertaining to the administration and business affairs of the Company, the issuance and transfer of shares of stock in the Company, the distribution of Company water, the assessment of shares and procedures for the collection of delinquent assessments, and related matters for the purpose of assuring the orderly governance of the Company and a fair and equitable distribution of water to its shareholders.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Directors of the Company that the Bylaws and Rules and Regulations by which the Company shall hereafter be governed are as follows:

**ARTICLE I
LEGAL AUTHORITY**

These Amended and Restated Bylaws and Rules and Regulations ("Bylaws") are promulgated pursuant to and in conformance with the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et seq. (the "Act"), and pursuant to specific authority granted to the Board of Directors as set forth in the Company's Articles of Incorporation.

**ARTICLE II
BOOKS AND RECORDS**

1. **Books and Records.** The Company shall keep as permanent records, at its principal office, the following books, records and documents: (a) its Articles of Incorporation; (b) its Bylaws and Rules and Regulations; (c) resolutions adopted by the Board of Directors; (d) the minutes of all shareholders meetings; (e) records of all actions taken by shareholders without a meeting; (f) all written communications to shareholders generally as shareholders; (g) a list of the names and business or home addresses of its current directors and officers; (h) a copy of its most recent annual report delivered to the Division of Corporations annually; (i) all financial statements prepared for periods ending during the last three years; (j) minutes of all meetings of the Board of Directors; (k) a record of all actions taken by the Board of Directors without a meeting; (l) a record of all actions taken by a committee of the Board of

Directors in place of the Board of Directors on behalf of the Company; (m) a record of all waivers of notices of meetings of shareholders and of the Board of Directors or any committee of the Board of Directors; (n) a record of its shareholders in a form that permits preparation of a list of the name and address of all shareholders in alphabetical order, showing the number of votes each shareholder is entitled to cast; (o) stock transfer records; (p) appropriate accounting records; and (q) records showing the amount of business transacted with the Company by each shareholder.

2. **Inspection of Records.** A director or shareholder is entitled to inspect and copy any of the records of the Company during regular business hours, at the Company's principal office, so long as the director or shareholder gives the Company written demand, at least five business days before the date on which the director or shareholder wishes to inspect and copy the records. A director or shareholder may inspect and copy the records only if the demand is made in good faith, for a proper purpose, the director or shareholder describes with reasonable particularity the purpose and the records the director or shareholder desires to inspect, and the records are directly connected with the described purpose.

ARTICLE III MEMBERSHIP; STOCK

1. **Membership and Stock Issuance.** Membership in the Company shall be evidenced by the issuance of stock certificates, and shareholders may be referred to as either shareholders or members herein. Shares of Company stock shall be issued in the classes and with the respective rights set forth the Company's Articles of Incorporation. Certificates of stock shall be issued in numerical order, and each shareholder shall be entitled to a certificate signed by the President and the Secretary, or an assistant secretary, certifying to the number of shares owned by said shareholder. In the event any officer who has signed a certificate has ceased to be an officer before the certificate has been delivered, such certificate may, nevertheless, be adopted and issued and delivered by the Company as though the officer who signed such certificate or certificates had not ceased to be such officer of the Company. The issuance of any additional stock of the Company shall require the affirmative vote of at least 2/3 of the shares represented at a meeting of the shareholders.

2. **Transfers of Stock.** Transfers of stock shall be made only upon the stock transfer records of the Company, kept at the office of the Company, and shall be made in conformance with and subject to the following:

a. In order to effectuate a transfer of shares upon the stock transfer records of the Company, the shareholder requesting the transfer shall present to the Secretary such documentation as shall be legally sufficient, in the opinion of the Board of Directors and the Company's legal counsel, to justify the transfer of title of shares, including , but not limited to, the following documents, as applicable:

(1) a properly endorsed, original stock certificate as shown on the stock records of the Company (see Section 5 of this Article, below, regarding lost or mutilated stock);

(2) a death certificate and other probate records, as necessary to demonstrate a right to the stock by reason of inheritance;

(3) deeds signed by the record owner of the shares in which the intention of the owner to transfer the shares to the grantee named in the deed is clearly and unequivocally set forth; or

(4) any combination of the foregoing.

b. The Company shall establish, by separate resolution, a stock transfer fee which is to be paid by the shareholder requesting the transfer prior and as a condition to the transfer of the shares on the stock transfer records. The amount of the fee shall be sufficient to cover all actual out-of-pocket costs, including printing costs, administrative costs, and legal costs, if any, incurred by the Company in connection with making the transfer.

3. **Holders of Stock.** Only registered shareholders shall be entitled to be treated by the Company as the holders in fact of the stock standing in their respective names, and the Company shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any other person, whether or not it shall have express or other notice thereof, except as expressly provided by the laws of the State of Utah.

4. **Leased Shares.** Shares of stock of the Company may be leased by any shareholder to any other shareholder or non-shareholder subject to the following:

a. Any shareholder desiring to lease shares of stock shall, as a condition to authority to lease said shares, provide to the Company, in writing, no later than January 1 of any year in which said shares are to be leased, a written lease agreement or written authorization confirming the lease of said shares, including, but not necessarily limited to, the following information:

(1) name and address of the shareholder-lessor;

(2) name and address of the lessee;

(3) certificate number and number of shares to be leased;

(4) identification of the headgate(s) or structure(s) on the Company's diversion and canal system through which the water is to be delivered to the lessee;

(5) the term of such lease agreement;

(6) a provision to the effect that the lessee of said stock shall be subject to and agrees to abide by all lawfully adopted by-laws and rules and regulations of the Company; and

(7) such other information as may be required by the Board of Directors.

b. The term of any agreement for lease of shares of stock of the Company shall be for a period not less than a full irrigation season (April 1 through October 31).

c. The lessee of said stock shall have no right to sub-lease all or any portion of the stock leased by lessee.

d. No stock of the Company shall be leased in denominations of less than one (1) share.

e. The Company shall bill the shareholder-lessor of any leased stock for all annual and special assessments levied against any leased stock and the shareholder-lessor shall have the sole responsibility to pay said assessments as and when the same shall become due. It shall be the sole responsibility of the shareholder-lessor of any leased shares to seek reimbursement, if any, for payment of said assessments from the lessee of the stock.

f. All voting rights with respect to any leased shares of the Company shall be exercised by the shareholder-lessor of said shares, except by written proxy to the lessee of the stock.

g. The lessee of any stock of the Company shall be subject to and agree to abide by all lawful by-laws and rules and regulations of the Company as a condition to delivery of water.

5. **Lost or Mutilated Certificates.** In case of loss or destruction of any certificate of stock, another certificate may be issued in its place upon filing with the Board of Directors proof of such loss or destruction including an affidavit, duly sworn representing that the affiant is the owner of the shares to be transferred; that the original stock certificate or certificates have become mutilated or lost, and that after diligent search the certificate or certificates cannot be found; that the shares of stock represented by the certificate or certificates have not been sold or transferred; that the affiant is requesting that the Company issue new certificates; and that in the event lost stock certificates are later found, the same will be immediately surrendered to the Company for insertion in the stock transfer records. In addition, the Board of Directors may require the posting of a satisfactory bond of indemnity to the Company and/or to the transfer agent and registrar of such stock, in such sum as the Board of Directors, on a case-by-case basis, may reasonably provide.

6. **Rules.** The Board of Directors shall have power and authority to make all such rules and regulations as it may deem expedient concerning the issue, transfer, conversion and registration of certificates for shares of the capital stock of the Company, not inconsistent with the laws of the State of Utah, the Articles of incorporation and these Bylaws.

ARTICLE IV
SHAREHOLDERS MEETINGS

1. **Place of Meetings.** All meetings of the shareholders shall be held at such place as shall be determined from time to time by the Board of Directors, and the place at which such meeting shall be held shall be stated in the notice and call of the meeting.
2. **Annual Meeting.** An annual meeting of the shareholders of the Company shall be held during the month of January at such time and on such date as shall be stated or fixed in accordance with a resolution of the Board of Directors. The failure to hold an annual or regular meeting at the time and date determined shall not affect the validity of any corporate action. The business for the meeting shall include, but not be limited to, the following: (a) calling the meeting to order; (b) proof of notice of the meeting; (c) reading of the minutes of the previous annual meeting; (d) report of officers; (e) report of committees, if any; (f) election of directors; and (g) miscellaneous business.
3. **Special Meetings.** Special meeting of the shareholders, for any purpose or purposes, including emergencies, unless otherwise prescribed by stated law, may be called by the President of the Company, or in the event of his failure or refusal to act, by a majority vote of the Board of Directors, and shall be called at any time by the President or vice president, or the Secretary or treasurer, upon the request of shareholders owning not less than ten percent (10%) of the outstanding stock of the Company entitled to vote at such meeting. Business transacted at all special meetings shall be confined to the subjects stated in the call of the meeting.
4. **Notice of Meetings.**
 - a. **Time and Manner of Notice.** Notice of the date, time and place of any annual or special meeting of shareholders shall be given to each shareholder of record of the Company entitled to vote, in conformance with the following:

~~(i) Notice shall be given by mailing written or printed notice of the same at least ten (10) days prior to the meeting, and if notice is mailed by other than first-class or registered mail, not less than thirty (30) days nor more than sixty (60) days prior to the date of such meeting. Such notice shall be deemed to be delivered when deposited in the United States Mail, postage prepaid, and addressed to the shareholder's address appearing on the stock transfer records or other records of the Company. Notice may be waived in writing, signed by the shareholder entitled to the notice and delivered to the Company for inclusion within the minutes or for filing with the corporate records.~~

~~(2) In addition to written notice, notice may but need not be given by publication. If by publication, notice of the meeting shall be published three separate times, with the first of the publications being no more than sixty (60) days before the meeting and the last publication being no fewer than ten (10) days prior to the meeting.~~

(1) Notice of time and place for meetings shall be posted on the Utah Official Public Notice Website at Utah.gov/pmn/ not less than ten (10) days prior to the meeting.

(2) Notice of time and place for meetings shall be posted on the official website for the Nibley Blacksmith Fork Irrigation Company.

(3) An emergency meeting may be called using the most reasonable means of notice possible, including notice communicated in person, by telephone, by any form of electronic communication, including fax or e-mail, by mail, by private carrier or any combination of the above.

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b. **Contents of the Notice.** The notice may include any matter or matters to be approved or discussed and shall include a description of any matter or matters that must be approved by the shareholders or for which approval is sought in connection with conflict of interest transactions, indemnification of directors and officers, amendments to the articles of incorporation and bylaws, merger plan, sale of Company property other than in the ordinary course of business, and dissolution of the Company. The Company shall give notice of a matter a shareholder intends to raise at the meeting if requested in writing to do so by a person entitled to call a special meeting and the request is received by the Secretary or President of the Company at least ten (10) days before the Company gives notice of the meeting.

c. **Record Date.** The Board of Directors may fix in advance a date not exceeding thirty (30) days preceding the date of any meeting of shareholders, as a record date for the determination of the shareholders entitled to notice of and to vote at any such meeting. If a record date is not established for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, the date on which notice of the meeting is mailed shall be the record date. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided for in this section, such determination shall apply to any adjournment thereof.

5. **Quorum.** A quorum at any annual or special meeting of shareholders shall consist of the shareholders present at such meeting. Once a shareholder is represented for any purpose at a meeting, including the purpose of determining that a quorum exists, the shareholder is considered present for quorum purposes for the remainder of the meeting and for any adjournment of the meeting.

6. **Voting at Meetings.**

a. **Shareholder Voting List.** A complete list of the shareholders entitled to vote at the ensuing election, arranged in alphabetical order and sequentially numbered with a number for each shareholder, showing the

address of each shareholder entitled to notice of and to vote at the meeting, and the number of voting shares held by each, shall be prepared by or at the direction of the Secretary who shall have charge of the stock ledger and be filed in the office where the election is to be held, at least two (2) days before every election. The shareholder voting list shall, during normal business hours ~~and~~ during the proceedings of the election, be kept open to the examination of any shareholder. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original stock transfer record shall be prima facie evidence as to the shareholders entitled to examine such list or transfer record or to vote at the meeting of shareholders.

b. **Personal and Proxy Vote.** At the meeting of the shareholders, every shareholder having the right to vote shall be entitled to vote in person, or by proxy appointed by an instrument in writing subscribed by such shareholder and bearing a date of not more than eleven months prior to said meeting, unless said instrument provides for a longer period.

c. **Manner of Voting.**

(l) The voting at all meetings of shareholders shall be orally or by written ballot, which shall be issued to each shareholder. The ballot for a stock vote at a meeting shall identify thereon the number corresponding to the name of the shareholder from the shareholder voting list referenced in Article IV, Section 6(a) above and the number of shares authorized to be voted by such shareholder. If a ballot is to be cast by a person holding a proxy, the person holding the proxy shall produce the proxy in exchange for a ballot, which ballot shall indicate the number corresponding to the name of the shareholder from the shareholder voting list referenced in Article IV, Section 6(a) above, the number of shares for which the proxy applies and the name of the person holding the proxy.

(2) The Company, in good faith, may issue a ballot to an individual other than the person whose name appears on the shareholder voting list, and give the vote cast the same effect as the act of the shareholder if:

(a) the shareholder is an entity and the name of the individual to whom the ballot is issued is an officer or duly authorized agent of the entity, and evidence there of acceptable to the Company is submitted as requested by the Company;

(b) the individual to whom the ballot is issued is an administrator, executor, guardian, or conservator representing the shareholder and evidence of fiduciary status acceptable to the Company is submitted as requested by the Company;

(c) the individual to whom the ballot is issued is a receiver or trustee in bankruptcy of the shareholder and evidence of this status acceptable to the Company is submitted as requested by the Company;

(d) the individual to whom the ballot is issued is issued is a pledgee, beneficial owner, or attorney-in-fact of the shareholder and evidence acceptable to the Company is submitted as

requested by the Company;

(e) two or more persons are the shareholder as co-tenants or fiduciaries, and the individual to whom the ballot is issued is one of the co-tenants or fiduciaries, the person signing appears to be acting on behalf of all the co-tenants or fiduciaries, and evidence acceptable to the Company of the signatory's authority to sign for the shareholder is submitted as requested by the Company; or

(f) the acceptance of the written ballot is otherwise proper under rules established by the Company that are not inconsistent with this Subsection (2), including, without limitation, delivery of a written proxy as provided in Subsection b. immediately above.

(3) The Secretary or other officer or agent authorized to tabulate votes, acting in good faith, may reject a writing listed in Subsection (2) if said officer or agent has reasonable basis for doubt about the validity of the signature contained thereon, or the signatory's authority to sign for the shareholder.

(4) If a quorum is present when the vote is taken, the affirmative vote of the majority of the shareholders present at a meeting shall be the act of the shareholders, except as may be otherwise provided herein or by the Articles of Incorporation.

d. **Votes Per Share.** Each shareholder shall have one vote for each share of stock having voting power, registered in his/her name on the books of the Company. In those cases where a shareholder owns only a fraction of one share, he shall be entitled to one vote. Fractions of share above one share shall be rounded off to the nearest full share. If a stock certificate stands of record in the name of two or more persons, only one person may vote the share and that share shall still be entitled to only one vote.

e. **Inspectors of Election.** Two inspectors of election shall be appointed by the Board of Directors before or at each meeting of the shareholders of the Company at which votes shall be taken. The inspectors shall receive and take charge of all proxies and ballots and shall decide all questions touching upon the qualification of voters, the validity of proxies, and the acceptance and rejection of votes. In case of a tie vote by the inspectors on any questions, the presiding officer shall decide.

7. **Participation in Meetings by Telecommunication not Allowed.** A shareholder shall not be allowed to participate in an annual, regular, or special meeting by means of telecommunication.

8. **Action by Written Ballot Without a Meeting.**

a. Any action that may be taken at any annual, regular, or special meeting of share holders may be

taken without a meeting if the Company delivers in person, or by first class mail, a written ballot to every shareholder entitled to vote on the matter.

b. Such written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action to be decided by written ballot.

c. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum otherwise required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast at the meeting was the same as the number of votes cast by ballot.

d. All solicitations for votes by written ballot shall:

- (1) indicate the number of responses needed to meet the quorum requirements;
- (2) state the percentage of approvals necessary to approve each matter other than election of directors;
- (3) specify the time by which a ballot must be received by the Company in order to be counted; and
- (4) be accompanied by written information sufficient to permit each shareholder casting the ballot to reach an informed decision on the matter.

e. A written ballot may not be revoked by the shareholder casting the same.

f. Actions taken under this section have the same effect as actions taken at a meeting of shareholders and may be described as such in any document.

g. The shareholders voting list for meeting and action by written ballot without a meeting shall be prepared in conformance with the provisions of Subsection 6b, Shareholders Voting List, of this Article.

ARTICLE V BOARD OF DIRECTORS

1. Number, Tenure and Qualifications.

a. All corporate powers shall be exercised and the business and affairs of the Company shall be managed by a governing board consisting of five (5) directors (the "Board") to be elected as provided below. Notwithstanding the foregoing, the number of directors to serve may be modified at any

annual meeting or special meeting of the shareholders except that the Board of Directors shall in no event consist of fewer than three (3) nor more than nine (9) directors.

b. All directors must be natural persons of 18 years of age or older, own at least five (5) shares of stock in the Company, and be current in the payment of all outstanding assessments. ~~The term of office for directors shall be staggered terms of three (3) years.~~

c. Notwithstanding the foregoing, with regard to corporations or other business entities which own more than five (5) shares of stock in the Company, one natural person who is an officer, director, manager, or partner of any such shareholder, who is designated in writing by said shareholder as the corporate or business representative of said shareholder, shall be eligible to serve as a director on the Board.

2. **Election of Directors.**

a. The directors shall serve staggered 2-year terms with an equal (or as near as possible) number of directors to be elected each year. Elections shall occur at each annual meeting of shareholders.

b. Nominations of persons to serve on the Board shall be submitted, pursuant to such procedures as may be determined from time to time by the Board, by any shareholder no sooner than sixty (60) prior to the annual meeting.

c. Directors may be elected for successive terms.

3. **Powers.**

a. The Board of Directors shall have and may exercise all powers and do all such lawful acts and things as are now or may hereafter be authorized pursuant to the Act.

b. Specifically, but not by way of limitation of any authority, power or responsibility conferred pursuant to the Act, the Board of Directors shall have the power to adopt rules and regulations governing the management of the internal affairs of the Company, the operation and control of the Company's water rights, water stock, sources of water supply, and diversion and canal systems and appurtenant facilities and equipment, and the Board of Directors shall in the event of shortage prorate the available water supply so that each shareholder shall receive the same quantity of water per share as each other shareholder.

4. **Regular Meetings.** Regular meetings of the Board shall be held on a regular basis at the principal offices of the Company or at such other place or places within or without the State of Utah, and on such dates and times as the Board may from time to time designate.

5. **Special Meetings.** Special meetings of the Board may be called at any time by the President, or in his absence, by the vice president, or by any two directors, to be held at the principal office of the Company or at such other place or places within the State of Utah, and on such dates and times as the Board may from time to time designate.

6. **Action Without a Meeting.**

a. Any action required or permitted to be taken at a Board of Directors' meeting may be taken without a meeting if each and every director in writing either:

(1) votes for the action; or

(2) votes against the action or abstains from voting, and waives the right to demand that action not be taken without a meeting.

b. Action is taken under this section only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the directors then in office were present and voted.

c. An action taken pursuant to this Section 6 is not effective unless the Company receives a written document satisfying the requirements of subsection (1) of this section 6, signed by all directors, and which is not revoked pursuant to subsection (4) of this section 6. The writing may be received by electronically transmitted facsimile or other form of wire or wireless communication providing the Company with a complete copy of the document, including a copy of the signature on the document. A director's right to demand that action not be taken without a meeting shall be considered to have been waived if the Company receives a writing satisfying the requirements of this subsection (3) that has been signed by the requisite number of directors and not revoked pursuant to subsection (4) of this section 6. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Company, unless the writing describing the action

d. If the writing is received by the Company before the last writing necessary to effect the action is received by the Company, any director who has signed a writing pursuant to this Section 6 may revoke the writing by a writing signed and dated by the director describing the action and stating that the director's prior vote with respect to the writing is revoked.

e. An action taken pursuant to this Section 6 has the same effect as an action taken at a meeting of directors and may be described as an action taken at a meeting of Directors in any document.

7. **Quorum.** At any meeting of the directors, a majority of the directors in office immediately prior to the

beginning of the meeting shall constitute a quorum for the transaction of business, but if less than said number is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

8. **Manner of Acting.** Each director shall be entitled to one (1) vote on all matters brought before the Board. If a quorum is present when the vote is taken, the affirmative vote of the majority of the directors present at a meeting shall be the act of the Board.

9. **Notice of Meetings.**

a. Regular meetings of the Board may be held without notice of the date, time, place and purpose of the meeting.

b. Special meetings of the Board shall be preceded by at least five (5) days' notice of the date, time and place of the meeting. Notice may be delivered by written notice mailed to each director at said director's home or business address, or personally by telephone, or by electronic transmission including fax or e-mail. If mailed, such notice shall be deemed to have been delivered when deposited in the United States Mail so addressed, postage prepaid. The notice need not describe the purpose of the special meeting. A director may waive any notice of a special meeting before or after the time and date of the meeting, which waiver shall be in writing, signed by the director entitled to notice.

10. **Waiver of Notice; Presumption of Assent.** A director's attendance at or participation in a meeting waives any required notice to that director of the meeting unless at the beginning of the meeting or promptly upon the director's later arrival, the director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and after objecting, the director does not vote for or assent to action taken at the meeting; or if special notice was required of a particular purpose the director objects to transacting business with respect to the purpose for which the special notice was required; and after objecting, the director does not vote for or assent to action taken at the meeting with respect to the purpose.

11. **Committees.** An Executive Committee may be appointed by resolution passed by a majority of the Board shall have the powers provided by statute, except as specially limited by the Board. Additionally, other standing or temporary committees may be appointed from time to time by a majority vote of the Board among the members of the Board or from among the shareholders which committees shall be invested with such power as the Board may see fit, subject to such conditions as may be prescribed by such Board. All committees so appointed shall keep regular minutes of the transactions of their meetings, and shall cause them to be recorded in books kept for that purpose in the office of the Company and shall report the same to the Board. All committees shall serve at the pleasure of the Board.

12. **Compensation.** Compensation to directors for their service on the board may be authorized and fixed as determined, from time-to-time, by the shareholders. Directors shall be reimbursed, with approval of the Board,

for any actual and reasonable expenses incurred by a director in the performance of his duties as a director. Members of special or standing committees may likewise be reimbursed upon approval of the Board.

13. **Vacancy.** If a vacancy occurs on the Board, for any reason, the remaining members of the Board may fill the vacancy, for the unexpired term of the person vacating the office, by the affirmative vote of all the directors then remaining in office.

14. **Removal.** The shareholders may remove one or more directors, for cause. A director or directors may be removed only at a meeting called for the purpose of removing that director or those directors and the meeting notice shall state that the purpose, or one of the purposes of the meeting is removal of a director or directors. A director or directors may only be removed if the number of votes cast to remove the director or directors would be sufficient to elect the director at a meeting to elect directors. A director elected by the Board to fill the vacancy of a director elected by the shareholders may be removed for cause only by the shareholders and not by the Board.

ARTICLE VI OFFICERS

1. **Election; Term of Office; Qualification.** The officers of the Company shall be elected by the Board of Directors, and shall consist of a President and Vice-President, who shall be elected from among the membership of the Board of Directors for a term of one year by the directors at their first meeting after the annual meeting of shareholders; and a Secretary-Treasurer who may, but not need be a member of the Board of Directors. Each officer shall hold office until their successors are elected and qualify. All officers shall be natural persons of 18 years of age or older.

2. **Duties.**

a. **President.** The President shall be the principal executive officer of the Company and, shall exercise all executive, administrative, and ministerial powers not specifically reserved to the Board by law, these Bylaws or by order of the Board, and shall have general supervision and control of the business affairs of the Company and the operation and maintenance of the Company's water diversion and canal systems. ~~The President may, but need not be, a shareholder.~~ The President is charged with full responsibility for executing the policies and directives as established by the Board. The President shall when present, preside at all meetings of shareholders and directors. He may sign or countersign, with the Secretary or any other proper officer of the Company there unto authorized by the directors, all certificates for shares of the Company, as well as any deeds, mortgages, bonds, contracts and other instruments of the Company as authorized by the Board, and shall perform all such other duties as are incident to his office or are properly required of him, from time-to-time, by the Board and as authorized by the act. With reference to the Company's governance, the President shall have, but is not limited to, the following responsibilities:

(1) Manage, after consultation with the Board and the Engineer (if already retained by the Company) and with such other input as the President may determine, the system of water distribution established by the Board in order to effectuate the equitable distribution of water to the shareholders;

(2) Evaluate and modify existing procedures; enforce and observe applicable laws, rules, regulations, leases, permits, contracts, licenses and privileges granted to or enforceable by the Company; attend all meetings of the Board and participate in its discussion and deliberations; consult with and advise supervisory personnel and employees; direct the day-to-day activities of the Company; make inquiries into and conduct investigations into all Company activities; examine and be familiar with all proposed contracts to which the Company may be part; and prepare and maintain an up to date inventory of all the property of the Company;

(3) Be informed of and analyze the Company's financial condition; determine the adequacy of assessments and other charges; evaluate revenue streams to meet long term obligations; establish an adequate accounting system; prepare financial statements for the annual budgets and advise the Board of the financial condition and needs of the Company; approve expenditures and execute such contracts as authorized by the Board which are necessary for the good order and functioning of the Company, provided that such expenditures and contracts are within the appropriations contained within the appropriate budgets adopted by the Board;

(4) Establish policies and procedures addressing safety and other employee related programs within the Company; employ and maintain a qualified staff capable of carrying out assigned job responsibilities; terminate personnel when necessary; establish standards, qualifications and procedures to govern the employment of Company personnel; develop, implement and administer personnel rules and regulations approved by the Board, and establish employee and housekeeping rules deemed by him or her to be necessary for the efficient and effective operation of the Company;

(5) After consultation with the Board and the Engineer (if already retained by the Company), develop and maintain programs to provide the maximum beneficial use of the Company's water resources; file protests to water applications and changes after consultation with Company legal counsel to protect Company water rights; submit to the Board plans and programs relating to the development and needs of the Company;

(6) Operate and maintain Company facilities in a sound, safe and efficient manner;

(7) Develop an effective information and education program to build public relations for the Company, and maintain good relations with departments of Federal, State and local government;

(8) Notify the Board of any emergency;

(9) Keep the Board fully informed by regular reports on all important aspects of the Company's management; and

(10) Make an annual report at the annual meeting of the shareholders regarding the state of affairs of the Company.

The Board may periodically review and change the President's duties and responsibilities in order to provide adequate supervision and responsibility for Company activities.

b. **Vice-President.** In the absence of the President, or in the event of his/her death, inability or refusal to act, the Vice-President shall perform and exercise the duties and functions of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform and discharge such other and further duties as may be assigned from time-to-time by the President or by the Board.

c. **Secretary-Treasurer.** The Secretary-Treasurer shall have the following duties:

- (1) Keep and maintain as custodian, at the principal office of the Company, the books, records and documents set forth in Article II herein, in written form or in another form capable of conversion into written form within a reasonable time;
- (2) see that all notices regarding annual stock assessments, delinquencies and stock sales are duly given in accordance with the provisions of these By-laws;
- (3) have general charge of the stock transfer records of the Company;
- (4) have the charge and responsibility for all the funds and securities of the Company from any source whatsoever, and in such capacity shall deposit all such funds in the name of the Company in such banks, trust companies or other depositories as shall be selected in accordance with these By-laws, shall keep regular books of account, shall disburse the funds of the Company in payment of the just demands against the Company, or as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board from time to time as may be required an account of all such transactions and of the financial condition of the Company; and
- (5) in general perform all duties incident to the office of Secretary and Treasurer and such other duties as from time to time may be assigned by the President or the Board.

3. **Absence or Inability to Act.** In the case of absence or inability to act of any officer of the Company and of any person herein authorized to act in his/her place, the Board may from time to time delegate the powers or duties of such officer to any other officer or any director or any other person whom it may select. In the case of the President's extended absence or inability to act, the Board may appoint an interim President.

4. **Vacancies.** Vacancies in any office held by an officer arising from any cause may be filled by the Directors at any regular or special meeting.

5. **Other Officers.** The Board may appoint such other officers and agents as it shall deem necessary or expedient, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.
6. **Compensation.** Compensation to officers of the Company shall be authorized and fixed as determined from time to time by the ~~Board~~Share holders at an annual business meeting. The officers shall be reimbursed, with approval of the Board, for any actual and reasonable expenses incurred by an officer in the performance of his or her duties as an officer of the Company.
7. **Fidelity Bonds.** The Board, by resolution, may require any and all of the officers to give bonds to the Company, with sufficient surety or sureties, conditioned for the faithful performance of the duties of their respective offices, and to comply with such other conditions as may from time to time be required by the Board.
8. **Tenure and Removal from Office.** The officers of the Company shall hold office until their successors are chosen and qualify. Any officer may be removed at any time, ~~with~~or without cause by the affirmative vote of a majority of the entire Board.
9. **Resignation.** Any officer may resign his or her office by giving written notice of resignation to the Board. Such resignation shall be effective when the notice is received unless the notice specifies a later effective date.

ARTICLE VII CONTRACTS; LOANS; INDEMNIFICATION

1. **Contracts.** The ~~De~~irectors may authorize any officer or officers, and any duly authorized agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances; provided, however, that the Board shall have no authority to incur any expense in connection with the making of capital improvements without shareholder approval unless such expenditures are reasonably necessary to respond to an emergency or other urgent requirement.
2. **Loans.** The Board, upon resolution duly adopted, shall have the authority to incur indebtedness on behalf of the Company, in an amount not to exceed \$5,000 in any one-year period. Any loans or indebtedness in excess of that amount shall be incurred by the Company only upon a majority vote of shareholders in the Company; provided, however, that the Board shall have the authority to incur indebtedness in excess of such amount if reasonably necessary to respond to an emergency or other urgent requirement. The Board shall be authorized to issue notes, bonds, and/or make and perform contracts with the United States of America, the State of Utah, and other governmental entities and agencies and/or private lenders, pursuant to which the Company shall be authorized to sell, lease, exchange, mortgage and/or pledge all or substantially all of the assets of the Company as and for security for loans, or otherwise, for the purpose of acquiring water, water

rights, water stock, sources of water supply, and real and personal property, and for the development of and/or improvements to the Companies water diversion and canal systems and related appurtenances and equipment or otherwise for the purpose of attaining or furthering any of its lawful purposes and objectives; provided, however, that no such note, bond, contract or other evidence of indebtedness which exceeds \$5,000 in any one-year period and/or which requires a pledge of all or substantially all of the assets of the Company and for security therefor shall be authorized or valid unless: (i) the Board shall adopt a resolution recommending the same to the shareholders and directing that the resolution be submitted to a vote at a meeting of shareholders having voting rights, which may be either an annual or special meeting, (ii) written notice of such meeting shall have been duly given in conformance with the requirements of these Bylaws, and (iii) said resolution shall be approved by a majority vote of all the shareholders in person or by proxy at a meeting in which a quorum is present.

3. **Checks and Drafts.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company, shall be signed by such officer or officers, agent or agents of the Company and in such manner as shall from time to time be determined by resolution of the Board.

4. **Indemnification.**

a. **Indemnification of Officers, Directors, Employees, Fiduciaries, and Agents.** The Company shall indemnify and advance expenses to any individual made a party to a proceeding because the individual is or was an officer, director, employee, fiduciary, or agent of the Company against liability incurred in the proceeding; provided, however, that the Company shall only indemnify such individual if indemnification is in accordance with the following requirements:

(1) **Standard of Conduct.** The Company shall determine that: (1) The individual's conduct was in good faith; (2) the individual reasonably believed that his or her conduct was in, or not opposed to, the Company's best interests; and (3) in the case of any criminal proceeding, the individual had no reasonable cause to believe that his or her conduct was unlawful.

(2) **No Indemnification In Certain Circumstances.** The Company shall not indemnify an individual: (1) In connection with a proceeding by or in the right of the Company in which the individual was adjudged liable to the Company; or (2) in connection with any other proceeding charging that the individual derived an improper personal benefit, whether or not involving action in the individual's official capacity, in which proceeding he or she was adjudged liable on the basis that he or she derived an improper personal benefit.

(3) **Indemnification in Derivative Actions Limited.** Indemnification in connection with a proceeding by or in the right of the Company is limited to reasonable expenses incurred in connection with the proceeding.

Any indemnification or advancement of expenses hereunder shall, unless otherwise provided when the indemnification or advancement of expenses is authorized or ratified, continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of such person's heirs, executors, and administrators.

b. **Advance Payment of Expenses.** The Company may pay for or reimburse in advance of final disposition of any proceeding, the reasonable expenses incurred by an individual who is a party to a proceeding because he or she is or was a Director of the Company if (i) an authorization of payment is made, and (ii) a determination is made that the following has occurred:

(1) **Written Affirmation.** The individual has furnished to the Company a written affirmation of the individual's good faith belief that the individual has met the requisite standard of conduct.

(2) **Written Undertaking.** The individual has furnished to the Company a written undertaking, executed personally or on the individual's behalf, to repay the advance if it is ultimately determined that the individual did not meet the standard of conduct (which undertaking must be an unlimited general obligation of the individual, but need not be secured and may be accepted without reference to financial ability to make repayment).

(3) **Factual Determination.** A determination has been made that the facts then known to those making the determination would not preclude indemnification.

ARTICLE VIII DISTRIBUTION OF WATER

1. **Watermasters.** The Board may employ one or more Watermasters and such other employees, if any, as the Board deems necessary. Compensation to be paid to the Watermaster and other employees shall be fixed by the Board of Directors. Authority. The Watermasters are official representatives of the company, with authority to distribute the water of the Company to its shareholders in an equitable manner, by share, according to the water distribution system established by the Board. The Watermasters shall serve at the pleasure of and be answerable to the Board.

a. **Authority.** The Watermasters are official representatives of the Company, with authority to distribute the water of the Company to its shareholders in an equitable manner, by share, according to the water distribution system established by the Board. The Watermasters shall serve at the pleasure of and be answerable to the Board.

b. **Duties and Responsibilities.** The Watermasters have the duty and responsibility to implement the water distribution system promulgated by the Board in order to effectuate the distribution of water to the shareholders. The shareholders shall abide by the water distribution system implemented by the Watermasters. The

Watermasters will coordinate with the individual shareholders and cooperate with them to the extent possible, in carrying out the Watermasters' duties and responsibilities. The Watermasters shall monitor the Company's facilities on a frequent and regular basis, as necessary, for the purpose of inspecting the facilities and diversion devices, and checking usage. More frequent inspections of the facilities may be required, for safety reasons, depending on the circumstances. The Watermasters will prepare and maintain such records and reports as the Board may from time to time direct.

c. **Water Engineer.** Due to the complexity of the Company's distribution system, which includes flood irrigation, sprinkler irrigation, water turns, on-demand use and secondary uses, the Board may retain (and if so directed by the vote of the shareholders, shall retain) a qualified water engineer (the "Engineer") in connection with any revision in the distribution of water to the shareholders. Any recommendation of the Engineer shall take into account the following factors:

- (1) The actual quantity of water available for distribution;
- (2) The equitable distribution of water between and among all classes of users;
- (3) Required modifications due to drought or other water shortages;
- (4) The use of appropriate measuring devices; and
- (5) Such other matters as may be identified by the Engineer, the Board, Watermasters or the Shareholders.

d. **Appeal of Watermaster Decisions.** In the event a shareholder shall contest a decision of the Watermaster with regard to the distribution of water, the shareholder shall first attempt to resolve the issue with the Watermaster. The final decision of a Watermaster may be appealed by a shareholder first to the President, second to the Engineer (if already retained by the Company), and third to the full Board of Directors, which shall have the final say in such matters.

2. **Distribution.**

a. **Water Delivery.** Each shareholder in the Company shall be entitled to a flow of water bearing the same ratio to the total flow of water available for distribution to all shareholders as the number of shares owned by him/her bears to the total number of shares of stock issued and outstanding; provided, however, that this regulation shall not preclude the rotation and use of water among shareholders by agreement and with the consent and approval of the Board. Water shall be distributed to the shareholders only through authorized diversion devices installed and maintained by the Company. The timing and amount of water distributed to each shareholder at a given diversion device shall be determined by the Board, after consultation with the Engineer, if applicable, based upon the shares of stock assigned by said shareholder to that diversion device. The Company shall at all times have the right to measure the stream of water being delivered to a shareholder by meter, flume, weir or other measuring device as the Board may determine.

b. **Theft of Water.** The intentional taking of water by any shareholder exceeding the amount of water to which the shareholder is entitled pursuant to the shareholder's shares of Company stock without the express written approval of the Watermaster, shall constitute theft of the Company's water and such action will be prosecuted to the full extent of the law. The Company shall withhold the delivery of water to any shareholder who continues to take water to which he/she is not entitled until such time as the President is assured that the unlawful taking of water has been terminated and will not continue.

3. **Company Irrigation System and Shareholder Irrigation Systems; Title.**

a. **Company Irrigation System Described; Title; Operation and Maintenance.** The irrigation system of the Company (the "Company Irrigation System") shall consist of all rights-of-way, real property, easements, roads, lanes, canals, ditches, pipes, conduits, delivery headgates, weirs, flumes and meters and other measuring devices used in the delivery and measurement of water to shareholders, and all facilities and equipment related thereto (except individual shareholder and equipment). Title to the Company Irrigation System shall at all times be and remain vested in the Company and shall be operated, maintained, repaired and replaced by the Company, at its sole cost and expense.

b. **Shareholder Irrigation Systems.**

(1) All pumps, ditches and pipeline laterals and related facilities and equipment extending from the shareholder's side of the Company's delivery headgate or other diversion structure within the Company Irrigation System (the "Shareholder's Irrigation System"), shall be owned, operated, maintained, repaired and replaced by the individual shareholder, at the shareholder's sole cost and expense.

(2) All Shareholder Irrigation Systems shall be operated and maintained by the shareholders in good repair so as not to waste the valuable water supply of the Company.

4. **Exclusive Control.** The Company Irrigation System shall be under the exclusive control and management of the Board, the President, the Watermasters and other employees acting under authority of the Board or the President. Distributions of water to shareholders shall only be made by order of the Board or by the Watermasters and other employees as may be designated and acting under the authority of the Board. In all instances, the Board shall have the responsibility to assure that the water of the Company is used in a beneficial manner, efficiently and without waste.

5. **Checks, Dams & Obstructions.**

a. No shareholder shall place any check, dam or obstruction in the Company Irrigation System, for any purpose, without the express written or oral approval of the Watermaster. Shareholders who have received approval for the use of a check or dam shall have the sole and separate responsibility to clean and maintain the same, at the shareholder's expense. In the event a shareholder shall fail to clean and maintain a check or dam as required herein, the Company shall remove the same at the shareholder's cost and expense.

b. Shareholders who maintain checks or dams in the canal shall defend, indemnify and hold the Company and its directors, officers, employees and consultants harmless from and against any claim, liability or damage to the Company Irrigation System and/or other property, real or personal, of the Company, its shareholders or any other person, and for injury to persons or animals, resulting from or arising out of the shareholder's use and maintenance of said check or dam.

6. Responsible Persons and User Information.

a. A responsible person shall be designated for each diversion structure, in conformance with the following:

(1) When the shareholder receiving water from a diversion structure is a single shareholder, that shareholder shall be the responsible person. In those instances when the shareholder receiving water from a diversion structure is a corporation, association or entity, then such corporation or association or entity shall appoint a person to be designated as the responsible person for the diversion structure.

(2) A record of the name of the responsible person, together with said person's address, home and work telephone numbers and the number of the diversion structure for which said person is responsible, shall be maintained by the President of the Company. It shall be the duty of the individual shareholder, corporation, association or entity, as the case may be, to notify the President, in writing, of any changes in the responsible person for a diversion structure.

b. In order to provide for the reasonable and orderly conduct of the Company, the responsible persons designated for each diversion structure, at the request of the Board, shall provide information relative to the water users and the lands irrigate with water diverted through said diversion structure. Such information may include, but is not limited to, the names, addresses and telephone numbers of those persons who divert and use water through the diversion structure, a map identifying the location of secondary diversions off of the shareholder's system, if any, and the place of use of the water diverted through the diversion structure.

c. Responsible persons shall be obligated to ensure, to the extent possible, that water diverted through a diversion structure is only used by those who own or rent stock of the Company or are rightfully entitled to use water by virtue of membership in another corporation, association or entity which is a shareholder of the Company.

7. Company Irrigation System Encroachments.

a. No person, corporation, association or entity, public or private, shall be authorized to construct, install or place any structure, including, but not limited to, any bridge, fence, pipeline, utility line or other such structure which extends over, under, into, across or through or otherwise encroaches upon any part of the Company Irrigation System, without the express written approval of the Board. No such use of the Company

Irrigation System shall be authorized except by specific grant of license or easement from the Company, and no such license or easement shall be granted except upon the following conditions:

(1) The grantee shall first be required to submit to the Board plans and specifications setting forth in detail the proposed use of the right-of-way or other Company property. Such other and further information as shall be necessary, in the discretion of the Board, to properly review and consider said proposed use shall be submitted promptly by the grantee upon request.

(2) The grantee shall sign a written acknowledgment and agreement wherein the grantee shall agree to:

(a) construct and install any such structure, and to own, operate, maintain, repair and replace the same, in good working order, and to repair any canal or ditch bank or other property damaged as a result of any such structure, so long as the structure shall remain in place, all at grantee's sole cost and expense. Particularly with respect to bridges or other such structures extending over the top of the canal, a minimum freeboard clearance established by the Company must be provided between the canal water surface elevation at maximum design capacity of the canal;

(b) defend, indemnify and hold the Company and its directors, officers, employees, and consultants harmless from and against any liability or damage to the canal and/or other property, real or personal, of the Company, its shareholders or any other person, and for injury to persons or animals, resulting from or arising out of grantee's ownership, operation and maintenance of any such structure; and

(c) pay all costs and expenses of such engineering and other professionals retained by the Company in connection with the grantee's request.

b. No substance or material, of any kind or nature, including, without limitation, storm drainage water off of roadways or other developments, shall be introduced into any part of the Company Irrigation System, without the express written approval of the Board. Absent authority from the Board, any unauthorized encroachment or introduction of material into any part of the Company Irrigation System is prohibited and any such trespass may be prosecuted by the Company to the full extent of the law. The Board may authorize such lawful action as is necessary to secure the removal of any unauthorized structure or unauthorized material upon consultation with the Company's legal counsel.

c. Any person, corporation, association or entity, public or private, which owns, operates and maintains any existing structure that extends over, under, into, across or through the Company Irrigation System or otherwise encroaches upon any part of the Company Irrigation System, or allows any substance or material to be introduced into the Company Irrigation System, shall, as of the effective date hereof, be subject to the terms and provisions of this Section 7.

8. **Emergency Distribution.** In times of water shortage due to drought or any other natural or man-made

condition or occurrence, the Board shall have the full right and authority to declare a water emergency, and to ration or otherwise regulate the distribution and use of water to the shareholders, in a fair and equitable manner, until the emergency situation has been alleviated.

9. **Violations.** In the event any shareholder shall violate any provision of these Bylaws, or other lawfully adopted regulation promulgated by the Board as authorized herein, the Board and/or President may authorize the Watermaster to terminate water service to said shareholder until the violation is corrected.

ARTICLE IX

CHANGES IN POINT OF DELIVERY, PLACE AND NATURE OF USE OF WATER

1. **Requested Changes Within the Company Irrigation System.** A shareholder may not change the point of delivery and place of use of the Company's water from one point of delivery (the "Prior Delivery Point") to a new point of delivery on the same canal or on a different canal within the Company Irrigation System (the "New Delivery Point"), without the prior written approval of the Board.

a. In evaluating the request for such a change, the Board shall consider all relevant factors pertinent to the requested change, including, but not limited to, the following:

(1) Any shareholder, as a condition to making such a change, shall first be required to submit a formal application for such change to the Board prior to January 1 of the year in which the change is proposed to be made. The application shall contain the following information:

(a) the name and address of the applicant;

(b) the certificate number and number of shares to be changed;

(c) the place of use of water delivered at the Prior Delivery Point;

(d) the proposed point of delivery and place of use at the New Delivery Point, and the nature of use of Company water proposed at the new place of use; and

(e) the purpose for which the change is requested.

(2) The applicant shall be required to pay a non-refundable application fee of such amount as may be determined from time to time by separate resolution of the Board to cover administrative costs incurred by the Company in reviewing and processing the application.

(3) The applicant, at applicant's sole expense, shall pay all costs of constructing and installing the Shareholder's Irrigation System and related facilities at the New Delivery Point, including reimbursing the Company for all costs and expenses incurred by it in constructing and installing the Company's

delivery structure.

(4) The applicant, at applicant's sole expense, shall re-construct, install, alter, repair and/or replace any part of the Company Irrigation System and related facilities used in connection with the delivery of water to the applicant in connection with the Prior Delivery Point so as to avoid or remedy any adverse effect or interference to the Company or other shareholders resulting from the change requested by the applicant.

(5) If in the opinion of the Board, there is a need for the Company's attorneys, engineers or other consultants to review the application to ensure that the proposed changes do not adversely affect the Company and/or any other shareholder, then the Company shall provide the applicant with a detailed statement of the costs and fees incurred by the Company in connection with such review and the applicant shall be required to pay all such costs and fees as billed by the Company.

(6) The applicant shall defend, indemnify and hold the Company, its directors, officers, employees and consultants harmless from and against any claims, liability or damage to any property, real or personal, of the Company, its shareholders or any other person, and for injury to persons or animals, resulting from or arising out of the applicant's change.

(7) All fees, costs and expenses which are required to be paid by the applicant in connection with the application for a change as provided herein shall be deemed to be a special assessment against the applicant's shares of stock, collectible in conformance with the provisions of these Bylaws pertaining to special assessments.

2. **Requested Changes Outside the Company Irrigation System or Otherwise Involving a Change in the Underlying Water Rights of the Company.** No shareholder shall be permitted to file or cause to be filed with the Utah Division of Water Rights a permanent change application, temporary change application or exchange application involving a change to a point of diversion and place of use outside the Company Irrigation System and/or otherwise involving any element of the Company's underlying water right without the express written approval of the Board and full compliance with the requirements of Section 73-3-3.5,

Utah Code Annotated, 1953, as amended (the "Change Statute"¹), and the following rules and regulations:

a. **Applicable Changes.** Proposed changes which require approval of the Board under the provisions of this Section 2 include, but are not limited to, the following:

(1) A proposed change to a point or points of diversion different from the Company's authorized point or points of diversion, including proposed changes to a source or sources of water supply different from the Company's authorized source or sources of water supply;

(2) A proposed change to a place of use different from the Company's authorized place of use of water, including proposed changes to a distribution system different from the Company's existing canal system;

(3) A proposed change to a nature of use of water which is different from the Company's authorized nature of use of water, including, if applicable, a proposed change to a period of use different from

the Company's authorized period of use; and/or

(4) Any other proposed change which requires the filing of a permanent or temporary change application or exchange application with the Utah Division of Water Rights.

b. **Evaluation Factors.** In evaluating the request for a change under this Section 2, the Board shall evaluate all relevant factors pertaining to the change as requested including, but not limited to the following:

(1) any increased cost to the Company or its shareholders.

(2) interference with the Company's ability to manage and distribute water for the benefit of all shareholders.

(3) whether the proposed change represents more water than the shareholders prorate share of the Company's water rights;

(4) impairment of either the quantity or quality of water delivered to other shareholders under the existing water rights of the Company, including rights to carrier water;

(5) whether the proposed change would cause a violation of any statute, ordinance, regulation or order of a court or governmental agency.

(6) whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the Company's service area under the proposed change; and/or

(7) the cumulative effect that the approval of the change application may have on other shareholders or Company operations.

c. **Change Procedure.** The procedure to be followed by a shareholder requesting a change under this Section 2, and the procedure to be followed by the Board in reviewing and taking action on the request are as follows:

(1) **Written Application.** Any shareholder, as a condition to making any change referenced in subparagraph 2a. above shall first be required to submit a formal written application for such change with the Board prior to January 1 of the year in which the change is proposed to be made. The Board may provide a standard application form for such purpose.

(a) The application requesting the change shall contain the following minimum information:

(i) the name and address of the applicant;

(ii) the quantity of water sought to be changed;

(iii) the certificate number and number of shares affected by the change;

(iv) the proposed point or points of delivery for the Company's water under the shares prior to the change;

(v) the proposed point or points of diversion for the water under the shares after the change;

(vi) the current place of use of water under the applicant's stock and a legal description of the land proposed to be retired from irrigation if applicable.

(vii) the proposed place of use, including a legal description of the land upon which the water under the shares is proposed to be used after the change;

(viii) the proposed nature of use and period of use for the water under the shares after the change; and

(iv) an explanation of the proposed change including the need and purpose for which the change is requested.

(b) Within a reasonable time after receipt of the application for change, the Board shall specifically request any further information that may, in its discretion, be required for it to properly evaluate and consider the request and, if applicable, prepare any required change or exchange application, if any, which may be required to be filed with the State Engineer. The applicant shall fully cooperate with the Company providing such additional information as requested.

(2) Notice of Application.

(a) The Board, within thirty (30) days from the date of receipt of the application, may, but need not, send notice of the request to any or all other shareholders who, in the opinion of the Board, may be affected by the requested change. Such notice shall include a copy of the change request and provide that any affected shareholder may file a written objection to the request within ten (10) days of mailing such notice.

(b) The applicant, and any other shareholder who has filed a written objection to the change proposed in the request shall receive ten (10) days' written notice of the meeting at which the request is to be considered by the Board, and shall be allowed to attend.

(c) The cost of mailing all notices shall be an additional cost to the Company which shall be paid by the applicant pursuant to the provisions of Subparagraph d. of this Section immediately below.

d. **Payment of All Costs and Expenses Associated with the Change.** The applicant shall be required to pay all costs and expenses incurred by the Company in connection with the applicant's proposed

change, as follows:

- (1) The applicant shall pay, as billed by the Company, all costs and expenses relating to the Board's consideration and processing of the application, including, without limitation, all costs and expenses incurred by the Company which are associated with:
 - (a) all administrative costs and expenses as a result of the requested change, including, without limitation, all legal, engineering and other consultants' fees and costs;
 - (b) all costs and expenses incurred in connection with the preparation and filing with the State Engineer of any required change or exchange application to effectuate the applicant's requested change;
 - (c) all costs and expenses incurred in connection with any and all administrative and judicial proceedings in connection with any change or exchange application;
 - (d) all costs and expenses related in any way to the applicant's diversion of water at the new point of diversion, including, without limitation, the construction, installation, repair, maintenance and replacement of all facilities, structures, equipment and appurtenances related thereto;
 - (e) all costs and expenses associated with the re-construction, alteration, repair, maintenance and replacement of any existing or new delivery device and related facilities of the Company and/or any other shareholder which shall be necessitated in order to avoid or remedy any adverse effect or interference resulting from the change requested by the applicant; and
 - (f) all costs and expenses incurred in connection with the submission of proof of appropriation with respect to the change.
- (2) All costs and expenses which are required to be paid by applicant in connection with the application for change as provided above shall be deemed, individually and collectively, to be special assessments against the shares of stock of the applicant, enforceable and collectible in conformance with the provisions of the Bylaws pertaining to assessments.
- (3) Simultaneously with the filing of the application for change, the applicant shall surrender to the Board the applicant's shares of stock upon which the proposed change is based together with executed stock powers in favor of the Company. The Company shall hold said certificates as security for the payment of all costs and fees for which applicant is responsible as provided in subparagraph d. (1) (a) through (e). The applicant shall retain all voting and other rights with respect to the shares unless and until there is a default in the payment of any costs or fees to the Company. The certificates shall be returned to the applicant upon payment in full of all such costs and fees.

e. **Application Agreement.** As part of the application, the applicant shall be required to enter into an agreement with the Company wherein the applicant shall acknowledge and agree as follows:

(1) Not with standing the fact that the applicant may divert and utilize water from a point of diversion and/or at a place of use outside the Company distribution system and outside the authorized place of use of the Company's water supply, and for a purpose other than the purpose for which Company water has historically been used, the applicant, nevertheless, shall:

(a) be and remain a shareholder of the Company and be treated the same as and be subject to and shall agree to abide by the Company's Articles of Incorporation, these Bylaws, as well as any and all other reasonable rules and regulations which may be promulgated by the Board from time to time, as applicable, and

(b) continue to pay all stock assessments on applicant's share(s) of stock as and when the same become due.

(2) The applicant shall be subject to such conditions and/or limitations that may be reasonably necessary to ensure that the change requested by the applicant shall not adversely affect or otherwise interfere with any existing rights of the Company and/or any of its other shareholders.

(3) The applicant shall defend, indemnify and hold the Company, its directors, officers, employees and other consultants harmless from and against any claims, liability or damage to any property, real or personal, of the Company, its shareholders or any other person, and for injury to persons or animals, resulting from or arising out of the applicant's change.

(4) The applicant shall pay all costs and expenses which applicant is obligated to pay pursuant to the provisions of this Article, as billed by the Company.

f. **Action by the Board.** No later than 120 days from the date of receipt of a properly submitted application requesting a change, the Board, at a duly-called meeting, shall take action on the application. The Board shall notify the applicant of its decision in writing sent by regular mail or email. If the Company fails to respond to the change request within said time, the failure to respond shall be considered to be a denial of the request.

(1) Based on the facts and circumstances of each proposed change, the Company may, by resolution duly adopted by majority vote, approve the change request, approve the change request with conditions or deny the change request, subject to the following:

(a) If the requested change is approved, in connection with the change or exchange application to be filed with the Utah Division of Water Rights, the Board, in its sole discretion, may either require that the Company be a co-applicant with the applicant on such application, or that the applicant may file such application in applicant's own name. With respect to either method, a letter assenting to the change or exchange application shall be signed by the President of the Company as follows:

i. The letter of assent shall set forth all conditions imposed by the Board in conformance with these regulations and clearly state that the Company's assent to the filing of the change or exchange application is subject to the conditions imposed by the Board and that said conditions are to be included in the State Engineer's memorandum decision and certificate pertaining to the requested change.

ii. Each condition shall be clearly set forth and include, but not be limited to, as applicable, any required limitations and adjustments that the applicant must make in the quantity of water which the shareholder shall be authorized to divert and use from the shareholder's source of supply outside the System; the bearing of all losses or reductions caused by the change through evaporation, seepage, and percolation; the structuring of proper credits and/or deductions for carrier water or return flow; the duty to take water in turn; the obligation to pay for reorganizing the water distribution program or schedule of the Company so as to adjust for differing flows in the canal and required adjustments to other Company facilities; the modification of diversion structures, diversion devices, and connections; and any and all other adjustments and modifications to the Company Irrigation System, and the Shareholder Irrigation System, all as may be prescribed by the Board of the Company in its sole discretion.

iii. The applicant shall attach the letter of assent to the change or exchange application filed with the Utah Division of Water Rights.

iv. The applicant shall pay all costs, fees, and expenses associated with the preparation, filing and prosecution of the change or exchange applications through all administrative and legal proceedings, including costs of appeal.

(b) If the requested change is denied, the written notice shall contain a brief explanation for the denial.

(2) A change request shall not be denied, absent other factors, if any anticipated or potential cost, damage, or impairment to the Company or its shareholders can be reasonably mitigated by the applicant without cost to the Company.

g. **Accomplishing the Change/Exchange.** Upon final approval by the State Engineer of the change or exchange application, the applicant, at applicant's sole expense, shall have the responsibility of accomplishing the change or exchange subject to any conditions imposed by the Company and/or the State Engineer.

h. **Extensions.** If the Company is a co-applicant on the change or exchange application, all requests for extension of time in which to submit proof filed with the Utah Division of Water Rights shall be co-signed by the President of the Company, unless the Board directs otherwise, in which case the applicant alone may file such a request. If the applicant alone files the change or exchange application, the applicant may file requests for extension of time without further approval of the Company, so long as copies of such requests are sent to

the Company.

i. **Notation on Stock Ledger Books.** If the State Engineer approves the requested change or exchange, the Secretary shall make a notation thereof on the Company stock record reflecting the change and point of diversion, place or nature of use of the water represented by the shares which are the basis of the change or exchange.

J. **Continued Beneficial Use.** Subject to the provisions of Article X, while the change or exchange is being accomplished, the applicant shall be responsible for continued beneficial use of the water represented by the shareholder's stock at the existing point of diversion and place of use under the shares which are the basis of the change or exchange or by lease or otherwise as approved by the Board in conformance with these Bylaws.

k. **Compliance with Conditions.** If the applicant fails to comply with any condition imposed by the Board in its approval of the requested change, either before or after a certificate of change is issued by the State Engineer, the Board may, after written notice to the applicant and after allowing reasonable time to remedy any failure, withdraw its approval of the application and petition the State Engineer for an order canceling the application or certificate, as the case may be; provided, however, the Company shall not withdraw its approval so long as such conditions are being substantially complied with.

l. **Retirement of Acreage Upon Proof.** Upon submission of proof on any change, the applicant shall arrange for the retirement from irrigation of the required amount of land within the Company's certificated or decreed service area, if applicable, and shall so notify the Company in writing.

m. **Limited Voting Rights.** All outstanding shares of stock that are used outside of the Company Irrigation System by a shareholder under an approved change application shall continue to be assessable in the same amount as the remaining stock in the Company used within its historic irrigation service area; provided, however, that the voting privileges of the shareholder operating under an approved change application shall be restricted as of the date of the approval of the change application to only voting for directors and to voting on those matters that directly relate to the use of water by that shareholder under the change application.

ARTICLE X APPORTIONMENT OF WATER RIGHTS LOST BY FORFEITURE

l. **Legal Authority.** If, upon the issuance of a final decree or interlocutory decree in a judicial, quiet title or general adjudication action of a court of competent jurisdiction, it is determined that a portion of the water rights owned or held by the Company has been forfeited because of non-use under the laws of the State of Utah, the Board, pursuant to Section 73-1-4.5 Utah Code Ann. (2002), shall have the power and authority to apportion such loss or forfeiture to any and all shareholders whose failure to make beneficial use of the water caused the loss or forfeiture of that portion of the Company's water right. The procedure for allocating such forfeiture and loss of water shall generally follow the process set for in § 16-6a -609,

Utah Code Ann (2000) and the provisions of this Section, which shall control.

2. **Determination of Forfeiture.** Upon a court finding of forfeiture as set forth in Section 1 above, the Board shall conduct a survey or review of all beneficial uses of water within or without the Company's certificates or decreed service area, as changed from time to time by authority of the State Engineer. The survey and review shall attempt to identify those stockholders and the corresponding share of Company stock owned by each that have caused the loss of the Company's water rights, in conformance with the following:

- a. The survey or review shall include, but not be limited to:
 - (1) a review of the stock transfer records and other records of the Company;
 - (2) any reports, notes, or other data relative to the use and delivery of water kept by the Watermaster or other water distribution officials of the Company; and
 - (3) any records of the State Engineer, including, without limitation, hydrographic surveys, maps, water commissioner reports, and non-use applications or any other relevant data or information;
- b. The Board may retain such experts or consultants as it deems necessary to accomplish the survey and review.
- c. The identification of specific areas of non-use in the findings and decrees of any court shall be deemed conclusive evidence of such non-use.
- d. Shareholders having the longest period of non-use shall be considered first, proceeding to the next oldest in order to allocate the forfeiture among the responsible shareholders.
- e. Any non-use of water by a shareholder occurring after the date of the relevant court decree will not be considered for purposes of the then current allocation of the loss, but may be considered in any future forfeiture loss allocation.
- f. Shares of stock and corresponding beneficial uses which are covered by valid non-use applications approved by the State Engineer or shares beneficially used through Board approved trading or leasing of shares within the Company's then approved service areas shall not be considered as having caused the forfeiture to occur so long as the water thereunder has been beneficially used.

3. **Notice to Shareholders; Opportunity for Hearing.** If a shareholder is identified by the Board as causing, in whole or in part, the forfeiture of any water rights of the Company, the Board shall direct the Company Secretary to send each such shareholder written notice of its findings and notifying the shareholder that his or her shares may be subject to cancellation for failure to beneficially use the water and the reasons therefor, subject to the following:

- a. Any such notice shall give the affected shareholder thirty (30) days to file a written response to the Board and/or to request a hearing before the Board.
 - (1) If no response is received, the Board may proceed to take any action it deems reasonable and appropriate

relative to canceling all or a portion of the shares of the shareholder to allocate the forfeiture as it deems necessary and appropriate.

(2) If the shareholder files a response and/or requests a hearing, the Board shall schedule the hearing or a meeting to consider the shareholder's written response at the next regular meeting of the Board or at a special meeting of the Board called for that purpose. The Board may schedule the hearing at a later time when the shareholder's response raises issues on which additional information or data is needed.

b. Notice of any hearing shall be sent to the affected shareholder by regular mail, not less than ten (10) days prior to such hearing.

c. No shares will be canceled unless and until the Board has taken final action as set forth herein.

4. **Cancellation of Shares.** After holding a hearing and/or considering an affected shareholder's written response, the Board shall consider all relevant information and data relative to non-use of the water represented by the shares, and may cancel all or part of such shares, as the case may be, if the evidence demonstrates that the water represented by such shares has not been beneficially used and that the non-use of water under said shares has caused a forfeiture of a portion of the Company's water rights. If the Board apportions all or a portion of the forfeiture of the Company's rights to any shareholder as herein provided:

a. A sufficient number of shares as necessary to account for the water right lost by forfeiture, including necessary transportation or carrier water losses, shall be treated by the Company as shares redeemed by the Company from the shareholder responsible for the loss, and said shares shall be canceled; whereupon the total number of shares owned by that shareholder shall be reduced accordingly on the records of the Company, and the authorized shares of the Company shall be reduced by the amount of shares that were redeemed and canceled.

b. Notice of any such redemption and cancellation shall be sent by the Secretary of the Company to the affected shareholder by certified mail.

c. The redemption and cancellation of shares of any shareholder pursuant to this Section shall not relieve said shareholder of any liability for unpaid assessments on such stock or debts the shareholder may owe to the Company, including, without limitation, said shareholder's proportionate share of any underlying debt obligations incurred by the Company.

d. Any judicial proceeding to challenge the cancellation of shares as provided herein shall be commenced within sixty (60) days of the mailing of the notice of such cancellation.

5. **Reduction in Deliver y Pending Appeal.** In making the apportionment, the Company shall reduce the amount of water provided to the shareholder in proportion to the amount of lost water right during an appeal of a decision that reduced the Company's water rights, unless otherwise ordered by a court of proper jurisdiction.

ARTICLE XI
STOCK ASSESSMENTS; FEES AND CHARGES

1. Stock Assessments.

a. **Levy of Assessments.** All shares of Company stock shall be fully assessable. Assessments shall be levied on a per share basis, with a minimum assessment equivalent to the assessment on two (2) shares (i.e. each shareholder will pay a minimum assessment equivalent to the assessment of two shares irrespective of whether the shareholder actually owns less than two shares). In particular, and without limitation, the Board may levy assessments against treasury shares leased by the Company and shares supporting pump diversions at differing rates, and the Board may apportion assessments, particularly with respect to special assessments, when the equities appear to justify the imposition of assessments on other than a pro rata basis.

(1) **Annual Assessments.** All stock of the Company shall be subject to annual assessment to carry out the purposes and objectives of the Company as set forth in the Articles of Incorporation, including, without limitation, its obligation to operate, maintain, repair, modify, replace and improve the Company Irrigation System, as now owned or which may hereafter be owned by the Company.

(2) **Special Assessments.** The Company, by separate resolution, may levy special assessments for the purpose of defraying, in whole or in part, any extraordinary expenses not reasonably capable of being fully paid with funds generated by annual regular assessments, the costs of any unexpectedly required repair or replacement of any part of the Company Irrigation System, and for the construction, reconstruction, repair, or any improvement of the Company Irrigation System. The Board shall issue orders levying a special assessment in the same manner as orders levying annual assessments.

c. **Determination of Assessments.** The amount of the regular assessment shall be determined annually by the Board and the amount of any special assessment shall be determined if and when needed, in conformance with these Bylaws and applicable laws of the State of Utah regarding the levy of assessments. All assessments shall be due and payable as hereinafter set forth, except that special assessments shall be authorized and be due and payable as necessary in the discretion of the Board, as provided below.

d. **Assessment Lien.** All unpaid assessments shall constitute a lien against the delinquent stock, which shall have priority over any mortgage, lien, pledge, sales contract, escrow contract, lease, conditional or unconditional transfer, or any other encumbrance, lien, claim, attachment, execution, or other charge or interest in or upon or deemed or claimed to be against the stock, and the right of the Company to assess the stock for such assessments shall be paramount and superior to all those liens, claims, charges, or interests.

e. **Assessment Procedure.** The procedure for levying and enforcing the collection of assessments against the stock of the Company shall be as follows:

(i) The Board shall determine the amount necessary to pay in full, as the same become due, all administrative costs, costs of construction, improvement, operation, maintenance, repair, and replacement of the Company Irrigation System, the payment of all outstanding indebtedness of the Company, and payments for any and all other

purposes for which the Company is organized in that water year, and shall make and levy a regular assessment against the outstanding stock of the Company in an amount sufficient to generate the necessary revenue.

(a) The Board shall give to each shareholder a formal written notice levying the annual regular assessment. The Secretary shall issue the notice in the form attached as **EXHIBIT "A"** hereto. The notice shall be mailed to each shareholder or designated person at the address of said shareholder as set forth in the Company's records.

(b) All annual regular assessments shall be due and payable on or before the date established by the Board and shall be deemed delinquent as of said date. Special assessments shall be due as determined by the Board at the time of their levy. Any delinquencies after the due date for any regular or special assessment will accrue interest at the rate of 1.5% per month until paid. Delinquent stock shall be sold as provided herein. The date for the sale of delinquent stock shall be fixed at a date and time established by the Board following the delinquency date.

Q The Company shall not deliver water to any shareholder who is delinquent in the payment of any regular or special assessments as of the date of delinquency, without express authorization from the Board.

Q If the assessment, or a portion thereof remains unpaid on the date specified in the notice when the stock shall be deemed delinquent, the Secretary shall thereafter prepare a Notice of Delinquency and Sale which shall contain a list of all delinquent stock, and the date, time and place at which delinquent stock shall be sold as provided herein. The Notice of Delinquency and Sale be published in the form attached as **EXHIBIT "B"** hereto. The Notice of Delinquency shall be published in a newspaper of local circulation, once each week for at least two (2) weeks prior to the date of sale of the delinquent stock, the first publication of which shall be at least fifteen (15) days prior to the actual date of the sale of the delinquent stock as set forth in the notice. In addition, the Secretary shall also prepare and mail an Individual Notice of Delinquency and Sale to each of the shareholders identified in the Notice of Delinquency and Sale to be published as hereinabove set forth. The Individual notice of Delinquency and Sale shall be in the form attached as **EXHIBIT "C"** hereto.

Q Pursuant to the provisions of U.C.A. §16-4-15 (1961), the publication of the notice of Delinquency shall vest jurisdiction in the Company to sell and convey a perfect title to all stock listed therein upon which any portion of any regular or special assessment or expenses of advertising remains unpaid at the hour appointed for the sale, subject however to assessments subsequently levied; however, the Company shall sell no more of the stock than is necessary to pay the assessments due and expenses of advertising and sale, including interest, late fees and charges, and attorney's fees, incurred by the Company; except that no less than one full share be sold in connection with any delinquency.

Q On the day, at the place and at the time appointed in the Notice of Delinquency and Sale, the Board, in its discretion, may determine to sell the stock at public auction, or in lieu of public auction, the Board may determine to have the Company purchase the delinquent stock, subject to the following:

(a) In the event the Board determines to sell the stock at public auction, only so many shares of delinquent stock as shall be necessary to pay the past due assessment and charges thereon shall be sold (which may be less than the total shares owned by the delinquent shareholder). The stock shall be sold to the highest bidder, for cash. The person offering to accept the least number of shares in exchange for said offeror's payment of the total assessment and expenses due shall be deemed to be the highest bidder. (For example, if person A offers to accept three (3) shares in exchange for A's payment of the total past due assessment and expenses, and Person B offers to accept 2 shares in exchange for B's payment of the total past due assessment and expenses, Person B shall be the highest bidder). The stock purchased shall be transferred to the highest bidder on the stock transfer records of the Company upon payment by the highest bidder of said assessment and expenses.

(b) In the event the Board determines not to offer the stock for sale at public auction, the Board shall have the Company, through the Secretary or President, bid on and purchase the delinquent stock at the amount of the assessment and expenses due; whereupon, the amount of the assessment and expenses shall be credited as paid in full, and entry of the transfer of the stock to the Company shall be made on the stock transfer records of the Company. All purchases of stock by the Company for delinquent assessments shall vest the legal title to said stock in the Company, and the stock so purchased shall become treasury stock. While the stock remains the property of the Company it is not assessable.

The form of Sale and Assignment of Stock, to be used under either of the above scenarios, shall be in the form attached as **EXHIBIT "D"** hereto.

⑥ Upon conclusion of the sale, the Secretary of the Company shall prepare and file in the permanent corporate records three affidavits, as follows:

(a) The first affidavit, entitled "Affidavit of Assessment", shall state that the Secretary mailed the notice of order levying assessments as required herein. A form for the Affidavit of Assessments is attached as **EXHIBIT "E"** hereto.

(b) The second affidavit, entitled "Affidavit of Sale of Stock", shall state that the stock sale occurred at the time and place as set forth in the Notice of Order Levying Assessments and Notice of Delinquency and Sale, and set forth the particular quantity of stock sold, to whom and for what price the stock was sold, and acknowledge that the money was paid and received. A form for the Affidavit of Sale of Stock is attached as **EXHIBIT "F"** hereto.

(c) In addition, the Secretary of the Company shall obtain a "Proof of Publication" affidavit from the publisher of the newspaper that published the Notice of Delinquency and Sale indicating that the notice was published in the paper, the dates of publication, etc.

2. **Fees and Charges.** The Board, by separate resolution, may, from time to time, levy such fees and charges, other than and in addition to regular and special assessments, as it may deem necessary for the administration of the Company and otherwise in carrying out the purposes and objectives of the Company as set forth in the Articles of incorporation.

ARTICLE XII FISCAL YEAR

The Company shall operate on a calendar year basis.

ARTICLE XIII AMENDMENT OF BYLAWS

These Bylaws may be altered, amended or repealed and new Bylaws not inconsistent with the Articles of Incorporation may be adopted by the shareholders in conformance with the applicable provisions of the Act.

ARTICLE XVII AMENDMENT OF ARTICLES

Amendments to the Articles of Incorporation of the Company may be adopted only upon receiving at least two-thirds (2/3) of the votes which shareholders present, either in person or by proxy, are entitled to cast at a shareholders meeting that is duly noticed and held.

ARTICLE XVI DISSOLUTION/RETIREMENT OF ASSETS

1. **Dissolution.** Upon the dissolution of the Corporation, assets shall be distributed as follows:
 - a. First, to satisfy the liabilities to creditors other than shareholders, in the order of priority as provided by law;
 - b. Second, to satisfy the liabilities to shareholders in their capacities as creditors, in the order of priority as provided by law; and
 - c. Third, to pay the expenses and costs of winding up; and
 - d. Fourth, the remaining property and assets of the Company will be distributed among the shareholders, and former shareholders of record, in the proportion which the aggregate patronage of each bears to the total patronage of all shareholders during the ten

(10) years preceding the filing of the certificate of dissolution, insofar as is practicable, unless otherwise provided by law.

2. **Retirement of Assets.** Upon the retirement of any assets of the Corporation through the ordinary course of the Corporation's business, the proceeds from the assets shall be distributed as follows:

a. First, to satisfy the liabilities to creditors other than shareholders that are secured by the retired assets, in the order of priority as provided by law;

b. Second, to satisfy the liabilities to shareholders in their capacities as creditors, that are secured by the retired assets, in the order of priority as provided by law; and

c. Third, the remaining proceeds will be distributed among the shareholders, and former shareholders of record, in the proportion which the aggregate patronage of each bears to the total patronage of all shareholders during the ten (10) years preceding the retirement of the assets, insofar as is practicable, unless otherwise provided by law.

WE HEREBY CERTIFY that the foregoing is the original or a true and correct copy of the Amended and Restated Bylaws and Rules and Regulations adopted by NIBLEY BLACKSMITH FORK IRRIGATION COMPANY on the xx day of May, 2008.

President

Vice President

Secretary

Director

Director

Director

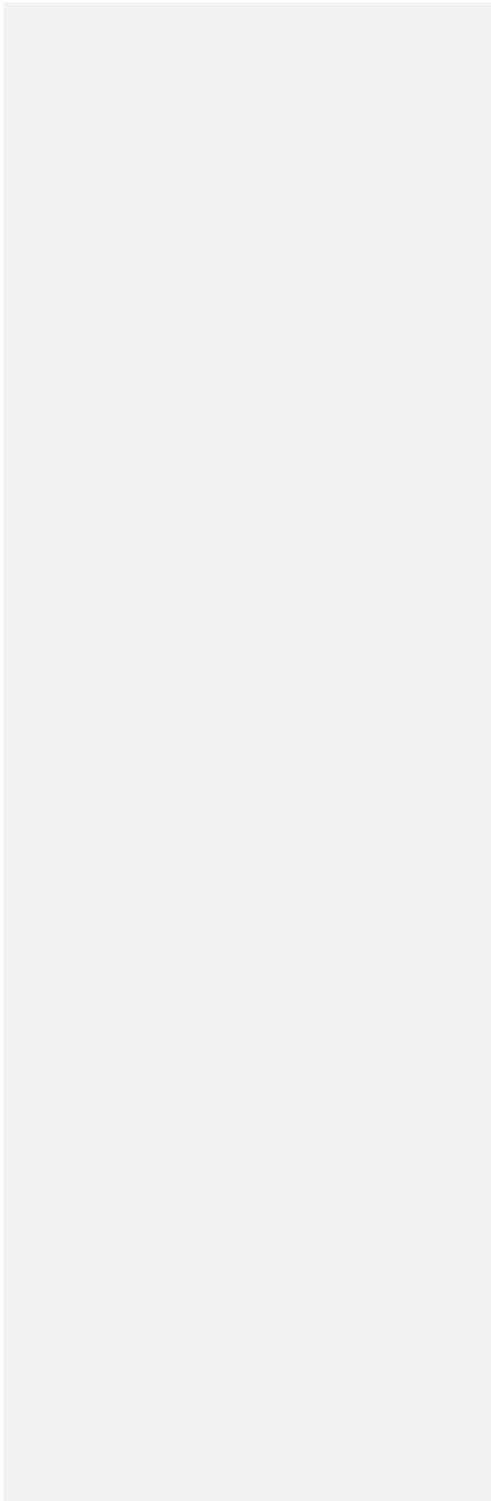


EXHIBIT "A"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

Nibley Blacksmith Fork Irrigation Company
4785 Hollow Road
Nibley, Utah 84321

STOCK ASSESSMENT NOTICE

DATE	DESCRIPTION	RATE PER SHARE	NO. OF SHARES	AMOUNT DUE
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Annual Assessment:

Past Due Amounts:

TOTAL DUE \$

Regular assessments are due and payable to the Company, in full, at the address set forth above, on _____, 20___. Interest at the rate of 18% per annum will be charged on all past due amounts. Any stock upon which any assessment remains unpaid on the above date will be delinquent and advertised for sale at public auction, and unless payment in full, plus interest, is made before will be sold on a date to be fixed by the Board of Directors to pay the delinquent assessment, together with the cost of advertising and expenses of sale.

ACCOUNT OF:

Shareholder No.

Invoice No.

Please include the above Invoice No. on your check.

EXHIBIT "B"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

NOTICE OF DELINQUENCY AND SALE

There are delinquencies upon the following described stock of the NIBLEY BLACKSMITH FORK IRRIGATION COMPANY, on account of assessments levied on the ___ day of _____, 20__, (and assessments levied previously thereto, if any) the several amounts set opposite the names of the respective shareholders as follows:

Name	Cert Number	Qty of Shares	Amount of Assessment
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In accordance with the laws of the State of Utah and the order of the Board of Directors made on the ___ day of ___, 20__, so many shares of such stock as may be necessary to pay the delinquent assessment thereon, together with the costs of advertising and expenses of the sale, will be sold at public auction to be held by the Company on the ___ day of _____, 20__, at _____, at _____ a.m./p.m.

DATED this ___ day of _____, 20__

Secretary

EXHIBIT "C"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

INDIVIDUAL NOTICE OF DELINQUENCY AND SALE

(Name) (Address)

NOTICE

According to the records of the NIBLEY BLACKSMITH FORK IRRIGATION COMPANY, the assessment levied on your stock in the Company has not been paid. §16-4-1 et seq., Utah Code Annotated (1953), as amended, sets forth the procedure for collecting delinquent assessments on stock in non-profit corporations. This section requires that the Secretary of the Company shall cause to be published, in a newspaper of general circulation in the area, a Notice of Delinquency and Sale specifying the name of the shareholder, number of the certificate of stock, number of shares it represents, and the amount due thereon. The law further provides that upon publication of notice in accordance with the provisions of the statute, the Company shall have the right to sell and convey clear title to all or part of the stock listed in the Notice of Delinquency and Sale for the purpose of recouping the assessment and all expenses of advertising and sale.

Please be advised that unless your past due assessment is immediately paid in full, your stock, or so much thereof as may be necessary to pay the delinquent assessments, together with the cost of advertising and expenses of sale, shall be sold as provided by law. The sale of said stock shall be held by the Company of the ____ day _____, 20____ at ____ am/pm. At the sale, the Board, in its discretion, may determine to sell the stock at public auction, or in lieu of public auction, the Board may determine to have the Company purchase the delinquent stock for the amount of the past due assessment plus incurred expenses.

It is absolutely imperative that the Company take immediate action to collect all delinquent assessments in order to ensure the continued operation and maintenance of the Company's canal diversion and distribution system.

NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

By: _____

Its: _____

EXHIBIT "D"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

SALE AND ASSIGNMENT OF STOCK

FOR VALUE RECEIVED, NIBLEY BLACKSMITH FORK IRRIGATION COMPANY (Assignor), hereby bargains, sells, conveys, transfers and assigns to _____ (Assignee), the following share(s) of stock:

<u>Number of certificate</u>	<u>Number of shares</u>
------------------------------	-------------------------

Assignor hereby irrevocably constitutes and appoints _____ (Secretary of the Company), Attorney-in-Fact, to transfer said stock on the books of the Company with full powers of substitution in the premises.

Assignee hereby agrees to abide by and obey all lawful bylaws and rules and regulations of the Company now or hereafter adopted by the Company's Board of Directors as a condition to receiving water from the Company.

The above-described stock certificates have been properly endorsed by Assignor over to Assignee and are attached hereto.

DATED this _____ day of _____, 20____

NIBLEY BLACKSMITH FORK IRRIGATION COMPANY,

ASSIGNOR:

By: _____

President

ASIGNEE:

EXHIBIT "E"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

AFFIDAVIT OF ASSESSMENTS

STATE OF UTAH)
 : ss
County of Cache)

The undersigned, _____ being first duly sworn upon oath, deposes and says:

1. That he/she is the Secretary of NIBLEY BLACKSMITH FORK IRRIGATION COMPANY, a nonprofit mutual water corporation.

2. That on the _____ day of _____, 20____, I mailed or caused to be mailed the Notice of Levy of Annual Assessment to each shareholder of the Company, postage prepaid, addressed to each shareholder at his/her place of residence, or principal place of business in those instances where such shareholder's place of residence was not known, all in accordance with the Bylaws and Rules and Regulations of the Company.

NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

By: _____
Secretary

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public

EXIDBIT "F"
NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

AFFIDAVIT OF SALE OF STOCK

STATE OF UTAH)
 :SS
County of Cache)

The undersigned, _____, being first duly sworn upon oath, deposes and says:

1. That he/she is the Secretary of NIBLEY BLACKSWTH FORK IRRIGATION COMPANY, a nonprofit mutual water corporation.
2. That on the _____ day of _____, 20____, at the principal business office of the Company, in accordance with the Notice of Levy of Annual Assessments and Notice of Delinquency and Sale, the following shares of stock were sold by NIBLEY BLACKSWTH FORK IRRIGATION COMPANY for the amount of the unpaid assessments, together with interest, costs and attorney's fees, equal to \$_____

Name	Cert #	Qty of Shares	Amount of Assessment
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3. That the money in the amounts set forth above was paid to and has been received by the Company.

NIBLEY BLACKSMITH FORK IRRIGATION COMPANY

By:

Secretary

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

Notary Public