

**FEASIBILITY STUDY
FOR PLATTE VALLEY RESERVOIR NO.1**

(Prepared in Support of CWCB Water Project Loan Application)

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December 1, 2022



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INTRODUCTION

Platte Valley Irrigation Company (PVIC) intends to construct an irrigation equalization reservoir to mitigate impacts of diurnal fluctuations in diversion from the South Platte River. Diurnal fluctuations in diverted flows currently have a negative impact on PVIC water users, especially those located near the end of the irrigation canal. The equalization reservoir will provide a more consistent water delivery to PVIC water users. In addition to daily equalization, additional storage provided in the reservoir could be used to store supplemental water available during periods of “free river conditions” on the South Platte River. Infrastructure related to the equalization reservoir will also provide for more accurate measurement of the irrigation diversions into the reservoir and released from the reservoir in support of the irrigation demands associated with the water users.

PROJECT SPONSOR

Platte Valley Irrigation Company (PVIC) is a Colorado Mutual Ditch Company and a Non-profit Corporation in good standing with the Secretary of State’s Office. Articles of Incorporation, Bylaws, and Certificate of Good Standing are included in Appendix D. PVIC was incorporated in 1883, operating continuously to deliver water and applying assessments since its inception. Assessments for the year 2022 were set at the annual stockholder meeting of \$650 per share of stock. The company has issued 344 shares of stock owned by 79 shareholders. The Company owns 2,513 units of C-BT water, which is used by 39 shareholders as supplemental water. Other shareholders may lease additional C-BT water as supplemental water.

PVIC diverts water for irrigation from the South Platte River near Fort Lupton, Colorado for the purpose of irrigation. PVIC has a part (2/3) ownership in Sand Hill Lake to store up to 400 acre-feet of CBT water. They have no other storage or equalizer reservoirs within their system. The majority of PVIC stock ownership remains as agriculture, with only 25 of the 344 shares listed as non-agriculture, all shares continue to be used for agriculture.

PROJECT SERVICE AREA

The proposed Equalization Reservoir is located 2 miles east and 2 miles north of Platteville in NE ¼ of Section 9, Township 3N, Range 66W of the 6th Principal Meridian, County of Weld, State of Colorado. A location map showing the PVIC facilities is provided in Appendix A.

The service area for PVIC (Evans No. 2 Ditch) includes approximately 14,832 acres of irrigated farm land in Weld County, Colorado. The approximate service area boundaries are shown on the map in Appendix A. The service area starts near Platteville and extends along the east side of State Highway 85 north and east for approximately 15 miles. Crops grown in the service area include corn, beets, grain including oats,

wheat and barley, alfalfa hay, and potatoes. An approximate distribution of crops and planted acreage is shown in Table 1.

Table 1 Distribution of Crops and Planted Acreage

Crop Type	No. of Acres
Corn	5,340
Alfalfa Hay	4,600
Grain	750
Beets	300
Potatoes	150
Other	3,692
Total	14,832

Average crop yields per acre in this area are: 4 tons of alfalfa hay, 18 tons of beets, 150 bushels of corn, 65 bushels of winter wheat, 50 bushels of spring wheat, 18 tons of silage, 1600 pounds of dry beans, and 78 bushels of barley.

LAND OWNERSHIP

Land in the project service area is primarily private farms, ranches, and some individual home sites. All the agricultural land serviced by PVIC is privately owned.

WATER RIGHTS

PVIC diverts water for irrigation from the South Platte River near Fort Lupton, Colorado. Both PVIC and Farmers Reservoir and Irrigation Company (FRICO) divert water from the river through a jointly owned headgate, which is located on the east bank of the south Platte River in the NE ¼ of Section 19, Township 2 North, Range 66 West of the 6th P.M. They share the same channel (the Platte Valley Canal, jointly owned with FRICO) for approximately 10 miles to a bifurcation structure, located in Section 9, Township 3 North, Range 66 West of the 6th P.M. At that point, the Evans No. 2 Ditch, owned by PVIC, serves to deliver water to irrigated lands under the ditch. The Evans No. 2 Ditch terminates at the inlet to Lake Christina. The decree for the Evans No. 2 Ditch is known as Priority No. 25, in the amount of 177.07 cfs (PVIC was also decreed Priority No. 40, which was later transferred to FRICO as part of a settlement agreement; it was later declared abandoned.) PVIC has successfully applied in Water Court for a direct flow right and storage right to fill and refill Platte Valley Reservoir No. 1 which involves the use of the Platte Valley Canal as well as the Evans No. 2 Ditch for delivery of water and for recharge. The application includes two recharge sites, a junior water storage right, and recharge by seepage from sections of the ditch using diversions from the junior priority. The Decree of the Water Court is included in Appendix F.

PVIC also currently owns 2,513 C-BT units of NCWCD. PVIC has part ownership in Sand Hill Lake (also known as Coal Ridge Dam) and can store up to 400 acre-feet of C-BT water in this reservoir. PVIC has no water decree associated with this reservoir.

NEED FOR THE PROJECT

Diurnal fluctuations in diverted flows currently have a negative impact on PVIC water users, especially those located near the end of the irrigation canal. PVIC has a need for some storage capacity and for an equalizer on the ditch to allow for more efficient management of the water diverted. At the present time they must balance the diversions with demand or lose a portion of the diverted flow. If there is excess water in the system, the only existing option is to divert water into Lake Christina and the Gilmore Ditch, neither of which are owned by PVIC. The water is lost to them with no return for any excess. Infrastructure related to the equalization reservoir will also provide for more accurate measurement of the irrigation diversions into the reservoir and released from the reservoir in support of the irrigation demands associated with the water users.

PROPOSED FACILITIES

The proposed project facilities include a new reservoir, dam embankment, reservoir inlet/bifurcation structure located on the FRICO ditch, reservoir outlet works, emergency spillway, and measurement structures at the reservoir inlet and outlet.

ALTERNATIVES EVALUATED

Starting in 2004, PVIC commissioned several studies and designs for an equalization reservoir. As part of a feasibility study completed In October 2018, Anderson Consulting Engineers (ACE) conducted a review and summary of previous studies. A summary of the most pertinent information from the previous studies is presented below.

Applegate Group, Inc. (2004): This work included a site survey completed by King Surveyors, reservoir layout based on a minimum reservoir of 200 acre-feet, preliminary geotechnical investigations completed with a backhoe, and an opinion of probable costs. This work resulted in an equalization reservoir of 166 acre-feet which encompassed 38 acres. Construction costs were estimated, ranging from a low of \$1,427,300 to a high of \$1,930,400. The construction estimate included reservoir excavation, dam embankment fill material, outlet structure/spillway, inlet structure, and slurry wall. Storage of irrigation water required utilization of the FRICO ditch facilities to promote the diversion into the reservoir.

WW Enterprises Consulting Engineering (2004): Subsequent to the completion of the work by the Applegate Group, WW Enterprises Consulting Firm completed a subsurface investigation and soils report at the location recommended for the equalization reservoir. In conjunction with Boesch Fisher

Engineering, Inc., a concept plan of the equalization reservoir was completed which reflected modifications to the existing bifurcation structure, construction of an intake canal into the reservoir, and a revised inlet/outlet structure from the reservoir.

Smith Geotechnical Engineering Consultants (2006 to 2013): A comprehensive geotechnical investigation was conducted by Smith Geotechnical Engineering Consultants (SGE, March 6, 2006) at the recommended site for the proposed equalization reservoir. The report included considerations for the reservoir design, seepage, and embankment construction. Design and seepage considerations included the following: (a) the soils encountered should contain enough clay to be suitable for sealing the reservoir from excessive seepage; (b) all soils encountered in the reservoir excavation will require compaction to ensure the permeability is suitable; and (c) soils should be processed, scarified, and compacted to a depth of 18 inches below the finished grade. Subsequent to the completion of the geotechnical investigation, SGE completed a detailed feasibility study of the equalization reservoir. This work included site surveying, field investigation, engineering, development of construction drawings, estimate of construction costs, and submittals to the USACE for a Section 404 permit and the State of Colorado Department of Water Resources for a reservoir permit (Platte Valley Reservoir #1). The reservoir permit submittal to the State of Colorado Department of Water Resources included a detailed design report (dated May 2007) and design/construction drawings for Platte Valley Reservoir #1 Dam (dated May 2007). The Colorado State Engineer approved the submittal for Platte Valley Reservoir #1 Dam on January 24th, 2008. Construction related to the reservoir permit was not initiated and the permit is no longer valid. However, pertinent information related to site survey data, design grading plans, geotechnical and soils data were reviewed and utilized in support of the current design.

Clear Water Solutions (2010-2012): Clear Water Solutions (CWS) was contracted in November 2010 to provide PVIC with a planning document that focused on: (a) magnitude and duration of diurnal flows and free water within the South Platte River that may be available to PVIC; (b) locations, potential benefits and cost estimates for equalization reservoirs within the PVIC canal system; and (c) an investigation of SCADA infrastructure to capture diurnal flows conveyed by the PVIC canal. The report provided by CWS in February 2011 recommended the following:

- Priority #1-implement SCADA improvements to capture excess flows from the South Platte River (estimated construction cost range of \$200,000 to \$250,000).
- Priority #2-construction of check structures in the lower third of the PVIC canal to improve delivery of irrigation water (estimated construction cost of \$30,000 to \$40,000 for each check structure).
- Priority #3-construction of Platte Valley Reservoir #1 along with a diversion structure west of the existing bifurcation structure (estimated construction cost of \$3,000,000).

Frachetti (2012-2015): In December 2012, Frachetti investigated the feasibility of pumping water from the PVIC Canal into small, non-jurisdictional storage ponds adjacent to the canal. The investigation recommended utilization of electric submersible pumps, power provided by an engine driven generator,

and integration of SCADA system. The construction costs were estimated to be \$2,000,000. Alternatively, the report recommended construction of a smaller version of the Platte Valley Reservoir #1 (less than 100 acre-feet). A subsequent technical memo in December 2012 investigated minor improvements to the bifurcation structure (installation of two Rubicon gates on the FRICO portion of the bifurcation structure), and installation of two Rubicon gates on the PVIC canal. The construction cost was estimated to be \$1,078,000 and did not include acquisition of private property for the storage reservoir.

In June of 2014, Frchetti issued another technical memo related to the PVIC equalization storage reservoir. The report evaluated two locations for the reservoir; one on property located by PVIC and one on land directly adjacent to the bifurcation structure but not owned by PVIC. The technical memo recommended: (a) construction of the reservoir on property owned by PVIC, (b) construction of a reservoir as large as practical and cost effective, (c) construction of a new bifurcation structure with integrated flow measurement capability for both PVIC and FRICO, and (d) removal of the existing bifurcation structure. No cost estimates were provided for construction of the proposed improvements.

Anderson Consulting Engineers, (2018): During a discussion at the board meeting with PVIC on November 8th, 2017, Anderson Consulting Engineers, Inc. (ACE) was requested to submit a scope of work to conduct a preliminary feasibility assessment of the equalization reservoir that would focus on the utilization of the existing bifurcation. The feasibility assessment was intended to address several considerations regarding the structure. The feasibility investigation focused on the following considerations:

- Rehabilitation or replacement of the existing bifurcation structure,
- Facilities and structures required to divert water from the PVIC canal into the reservoir and releases from the reservoir,
- Determination and limitations of the potential storage within the reservoir, and
- Potential costs related to the construction of the reservoir.

A copy of the 2018 feasibility study is provided in Appendix G.

SELECTED PROJECT

In November 2019, the PVIC Board of Directors decided to construct a 232 acre-foot equalization reservoir located in the Northeast ¼ of Section 9, Township 3 North, Range 66 West of the 6th Principal Meridian in Weld County, Colorado. The project site is approximately 2 miles northeast of Platteville, Colorado. A project location map is provided in Appendix A. ACE was hired to initiate the design, permitting and construction drawings related to the PVIC Equalization Reservoir.

The selected project includes a bifurcation structure and reservoir inlet works located on the FRICO canal, an 11-ft dam embankment, reservoir outlet works, emergency spillway, and measurement structures at the reservoir inlet and outlet. All project components are shown in Figure 1.

Bifurcation Structure and Reservoir Inlet Works

This project involves construction of a bifurcation structure within the FRICO Canal to divert all PVIC irrigation water into the proposed reservoir. The purpose of the proposed bifurcation structure will be to facilitate storage to divert and regulate the flows conveyed into the PVIC Ditch. Diversion of PVIC irrigation water conveyed within the FRICO Canal and diverted at the bifurcation structure has been designed to accommodate the maximum irrigation flow of 177 cfs associated with the PVIC water right. During the irrigation season, an overshot gate has been identified within the FRICO Canal and hydraulically designed to accommodate the diversion into the reservoir. Simultaneous with the overshot gate on the FRICO Canal, the reservoir inlet gate (undershot gate, either a slide gate or radial gate) has been selected and designed to promote diversions into the reservoir. Both gates will be utilized to control the diversions into the reservoir as well as those required to meet the requirements of the FRICO Canal water users. During the storage season, it is anticipated that the FRICO Canal gate will be fully recessed into the bifurcation structure thereby promoting the conveyance of FRICO water diversions. The reservoir inlet gate will be closed during the storage season.

Based on conversation with FRICO representatives, the maximum flow conveyed within the FRICO Canal in accordance with the storage right is 500 cfs. The proposed bifurcation structure is designed to accommodate flows of 500 cfs within the FRICO Canal during the storage season.

The inlet works integrated into the bifurcation structure to the reservoir also include a concrete channel and energy dissipation structure along with riprap stabilization at the outlet from the structure.

Dam Embankment

As discussed previously, the storage in the reservoir is necessary to control the diurnal fluctuations associated with the diversions from the South Platte River and ensure a more consistent delivery of irrigation water to the PVIC shareholders. Based on conversations with representatives of PVIC, the fluctuations may be as much as 40% to 50% of the maximum diversion. Assuming an irrigation diversion of 177 cfs at the headgate, a 50% diurnal fluctuation would result in a discharge reduction to 88 cfs due to the diurnal fluctuation. A daily storage volume of approximately 176 acre-feet would allow for a consistent irrigation discharge of 177 cfs during periods of diurnal fluctuations. The goal of the project is to optimize the storage available within the dam embankment to address the diurnal fluctuations, satisfy the daily demands of water users, and provide consistent releases from storage to the water users.

Reservoir Outlet Works

The reservoir outlet incorporates an undershot gate that is 20 feet in width. The design of the gate allows for a maximum release of approximately 180 cfs through the range of tailwater conditions created in the PVIC Ditch. All irrigation water diverted from the South Platte River will flow into the reservoir and either be partially or fully stored, or directly released through the radial gate to support the irrigation demands of the PVIC water users. Power provided to the site will provide for both manual and remote operation of

the radial gate. Measured releases from the reservoir outlet works will be based on real-time data collection of reservoir stage height, tailwater conditions in the outlet channel created by the flow depth in the PVIC Ditch, and inflows to the reservoir measured at the inlet structure. Operational rules will be developed to monitor and safely regulate the reservoir stage as well as the inflows and outflows to the reservoir. Reservoir stage and storage will also be measured with instrumentation placed at the outlet works.

A structural concrete floor and walls will be provided to support the installation and operation of the gate. Rock riprap will be placed immediately downstream of the outlet structure to promote stabilization of the receiving transition channel. A channel from the outlet works to the PVIC Ditch will be excavated to adequately convey the reservoir releases and will transition into the existing PVIC Ditch.

Emergency Spillway

Based on hydrologic analysis the PVIC equalization reservoir dam was determined to be a “high” hydrologic hazard. Given the “high” hydrologic hazard determination for the PVIC equalization reservoir dam, the spillway was sized to pass the 0.01% Annual Exceedance Probability (AEP) Inflow Design Flood (IDF) of 466 cfs, per the Colorado “Rules and Regulations for Dam Safety and Dam Construction” (Colorado Dam Safety Branch 2020). The selected spillway configuration has a crest elevation of 4828.0, a crest length of 50 feet, and 5:1 side slopes up to the dam crest elevation of 4831.5. The spillway was sized to pass the 0.01% AEP IDF flow with at least 1.4 feet of residual freeboard to the dam crest (3.5 feet of total freeboard).

Current Project Status

A hazard classification and hydrologic hazard analyses of the proposed project was submitted to Dam Safety for review in October of 2021. The study classified the proposed dam embankment as a “Significant Hazard Dam” with a “High Hydrologic Hazard.” Dam Safety approved the evaluation and hazard classifications in January of 2022.

A draft design of the project was completed and submitted to Dam Safety for review in June of 2022. Dam Safety provided design review comments in September of 2022. Final project design, in accordance with Dam Safety comments, is currently underway and expected to be completed at the end of 2022.

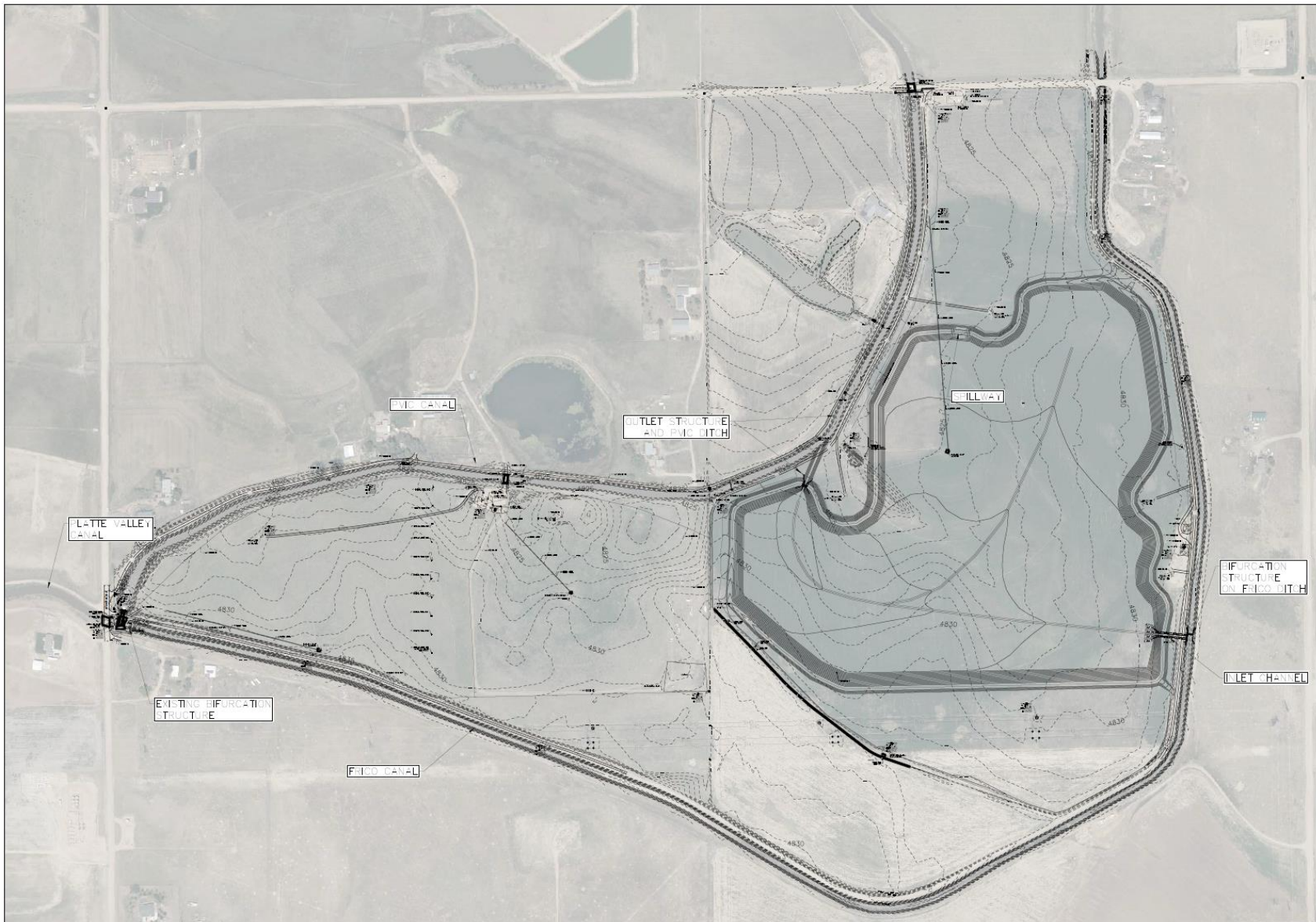


Figure 1 Location of Project Components

COST ESTIMATE

Below is a cost estimate of the current reservoir design developed by ACE in November of 2022.

Table 2 PVIC Equalization Reservoir Cost Estimate

Item No.	Description	Unit	Est. Qty	Unit Cost (\$)	Item Cost (\$)
1	Mobilization, Demobilization, and General Work	LS	--	\$490,344	\$490,344
2	Construction Surveying and Staking	LS	--	\$20,000	\$20,000
3	Water Control	LS	--	\$100,000	\$100,000
4	Earthwork (No Shrinkage or Swell Assumed)				
	Strip and Stockpile Topsoil (6" of Depth)	CY	63,033	\$5	\$315,165
	Replace Topsoil (6" of Depth)	CY	63,033	\$5	\$315,165
	Excavation (Scrapers) and Stockpile	CY	82,152	\$4	\$328,608
	Excavation (Hoe/Truck) and Stockpile	CY	60,501	\$6	\$363,006
	Excavation (Hoe/Truck) and Haul Off-Site	CY	211,964	\$6	\$1,271,784
	Fill On-Site from Stockpile	CY	142,653	\$4	\$570,612
5	Access Roads				
	North Access Road (Approx. 15' W x 80' L)	LS	1	\$5,000	\$5,000
	South Access Road (Approx. 15' W x 82' L)	LS	1	\$5,000	\$5,000
6	Cast-In-Place Diversion/Inlet Structure	LS	1	\$515,000	\$515,000
7	Cast-In-Place Outlet Structure	LS	1	\$130,000	\$130,000
8	Cast-In-Place Emergency Spillway	LS	1	\$18,000	\$18,000
9	Concrete Slurry Wall	CY	362	\$500	\$181,000
10	Toe Drain	LF	2,725	\$100	\$272,500
11	Gates				
	Outlet Gate	LS	1	\$50,000	\$50,000
	Inlet Gate	LS	1	\$45,000	\$45,000
	Check Gate	LS	1	\$250,000	\$250,000
12	Riprap				
	Type M Grouted Riprap	CY	420	\$180	\$75,600
13	Electrical and Controls				
	Electrical Services	LS	1	\$37,000	\$37,000
	Electrical Sitework	LS	1	\$35,000	\$35,000
TOTAL CONSTRUCTION COST					\$5,393,784

Total Construction Cost w/ 15% Contingency **\$6,202,852**

Engineering, Surveying \$300,000

TOTAL PROJECT COST **\$6,502,852**

FINANCIAL ANALYSIS

PVIC is applying for a 30-year loan from the CWCB in the amount of \$4,500,000 from the Water Project Loan Program Account to cover construction costs of the reservoir. The remaining amount of the expended cost of the reservoir (~\$2,000,000) will be paid from the capital improvements fund and other funds currently held by the Company. The loan application is attached in Appendix B.

Financial statements for fiscal years ended 2019, 2020, and 2021 are included in Appendix C of this feasibility study. For the fiscal year ended November 30, 2021, PVIC had income of \$897,155, with expenses of \$724,138. The Company had a cash balance of \$2,711,522 as of fiscal year end November 30, 2021. The cash balance included \$8,652 in a checking account, \$242,341 in a money market account, \$3,083 in a money market account and \$35,000 in a certificate of deposit (which was being held as the loan reserve account for the prior CWCB loan). In addition, PVIC had \$2,422,446 in a capital improvements account. PVIC's capital improvements account is funded through equity contributions in the amount of \$10,000 per share or partial share from the sale of allocated C-BT water sold from PVIC share certificates.

At the standard agricultural lending rate of 1.8%, the annual payments on a \$4,500,000 30-year loan would be \$195,441. Annual assessment rates would not increase; current assessments are \$650 per share. Assessments are presented to stockholders and approved at the annual stockholder meeting held in December of each year. The assessments may vary from year to year and are summarized in Table 3 for the years 1997 to 2021. Table 4 below shows a financial summary of the project.

Table 3 Assessment Rates 1997 - 2021

Year	Assessment Rate	CBT Increased Assessment Rate	Year	Assessment Rate	CBT Increased Assessment Rate
2021	\$ 650	\$ 26.20	2008	\$ 500	\$ 8.80
2020	\$ 650	\$ 25.40	2007	\$ 450	\$ 8.50
2019	\$ 650	\$ 26.70	2006	\$ 400	\$ 8.30
2018	\$ 650	\$ 25.90	2005	\$ 400	\$ 8.20
2017	\$ 550	\$ 24.90	2004	\$ 400	\$ 8.10
2016	\$ 550	\$ 17.60	2003	\$ 400	\$ 7.94
2015	\$ 550	\$ 10.90	2002	\$ 450	\$ 7.60
2014	\$ 550	\$ 10.00	2001	\$ 600	\$ 7.38
2013	\$ 550	\$ 9.86	2000	\$ 300	\$ 7.17
2012	\$ 550	\$ 9.50	1999	\$ 300	\$ 6.96
2011	\$ 550	\$ 9.32	1998	\$ 300	\$ 6.76
2010	\$ 500	\$ 9.32	1997	\$ 200	\$ 6.56
2009	\$ 500	\$ 9.06			

Table 4 Financial Summary

Total Project Cost	\$ 6,443,000
Loan Amount	\$ 4,500,000
CWCB Loan Payment Amount (Annual)	\$195,441
Number of Shareholders	79
Number of Share of Stock	344
Current Assessment Per Share	\$650
Future Assessment Per Share (approx.)	\$650
Annual Project Cost Per Acre Foot (Average annual diversion: 27,898)	\$7.00

The first 10 miles of the PVIC delivery system is jointly shared with the Farmers Reservoir & Irrigation Company (FRICO). Maintenance costs are generally shared 50/50. There have been collaborative discussions with FRICO about splitting the cost of the proposed bifurcation structure. The total estimated cost of the bifurcation structure (with 15% contingency) is \$988,000.

CREDIT WORTHINESS

PVIC has an existing CWCB loan as its only debt, which will be paid in full prior to December 1, 2022. In addition to assessment income, the Company has substantial income from oil and gas leases. Complete financial information may be found in the Company's annual reports provided in Appendix C.

ALTERNATIVE FINANCING CONSIDERATIONS

PVIC considered paying for the reservoir through a special stockholder assessment either as a one-time assessment or spread over a number of years. The Company did not consider this option to be fiscally responsible because the revenue derived from such an assessment would be taxable to the Company at a rate of over 43%.

OPINION OF FEASIBILITY

There do not appear to be significant roadblocks, other than cost, which would keep the PVIC from successfully completing this project.

COLLATERAL

As security for the CWCB loan, PVIC can pledge future assessment income and the project itself.

IMPLEMENTATION SCHEDULE

The following schedule is proposed for implementation for the project.

Table 5 Implementation Schedule

Task	Target Completion Date
Complete Design	12/31/2022
Review by SEO Completed	2/28/2023
Project Bid	3/15/2023
Award Bid	5/1/2023
Start Construction	5/15/2023
Complete Construction	1/31/2023

SOCIAL, ECONOMIC, AND PHYSICAL IMPACTS

The project is not expected to have any significant social impact as the facility is not expected to be utilized for recreational opportunities or for land development potential. The site is not suitable for any significant land development and the reservoir is not of the size, depth, or configuration to make it usable as a recreation source.

The project will have a positive economic impact by assisting PVIC to provide irrigation water more efficiently to over 14,000 acres of irrigated farm land.

The project will have no significant physical impacts except in the immediate vicinity of construction. These impacts will be minor in nature and will affect an area of approximately 65 acres.

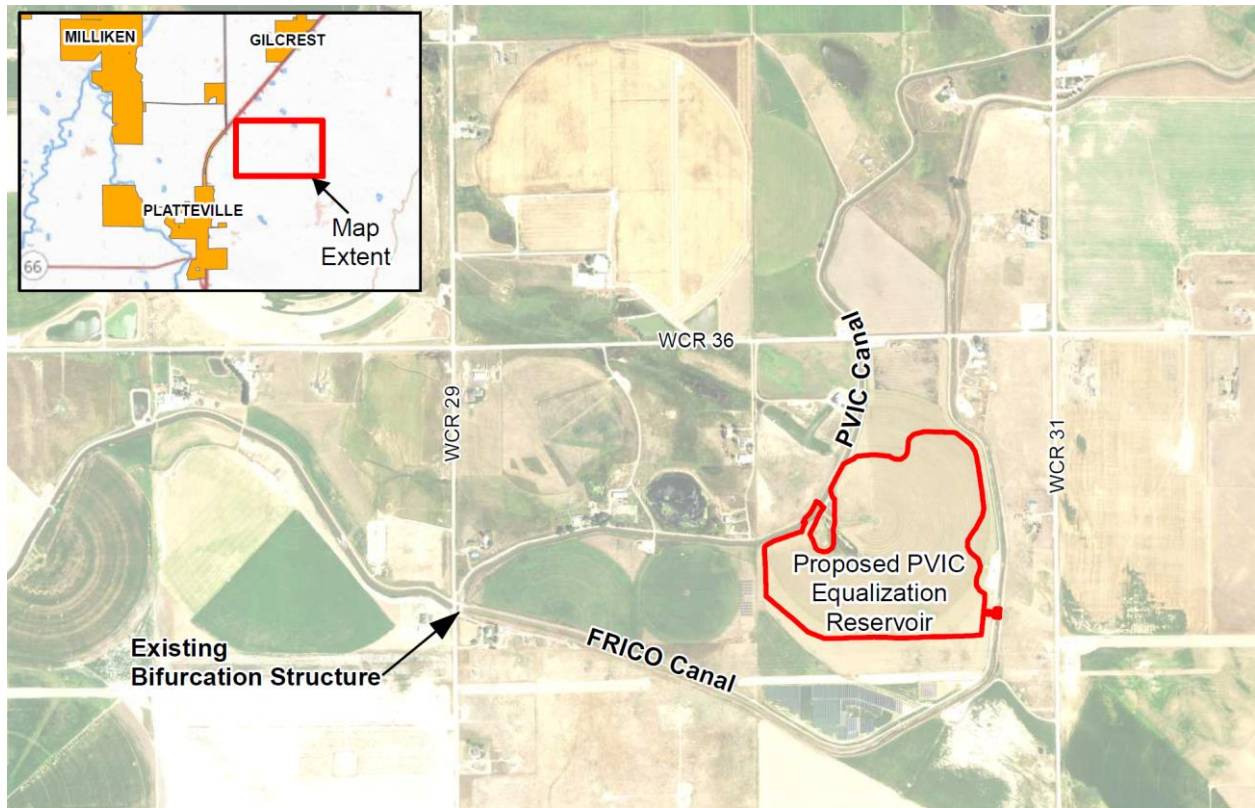
PERMITTING

The Corps of Engineers was contacted in June of 2021 to request an Approved Jurisdictional Determination for aquatic resources at the project site. The Corps responded with a ruling that a Department of Army Permit will not be required. A letter received from the Department of the Army, Corps of Engineers, Omaha District, dated July 19, 2021, is provided in Appendix H. The Approved Jurisdictional Determination provided in the letter is valid for a period of five years.

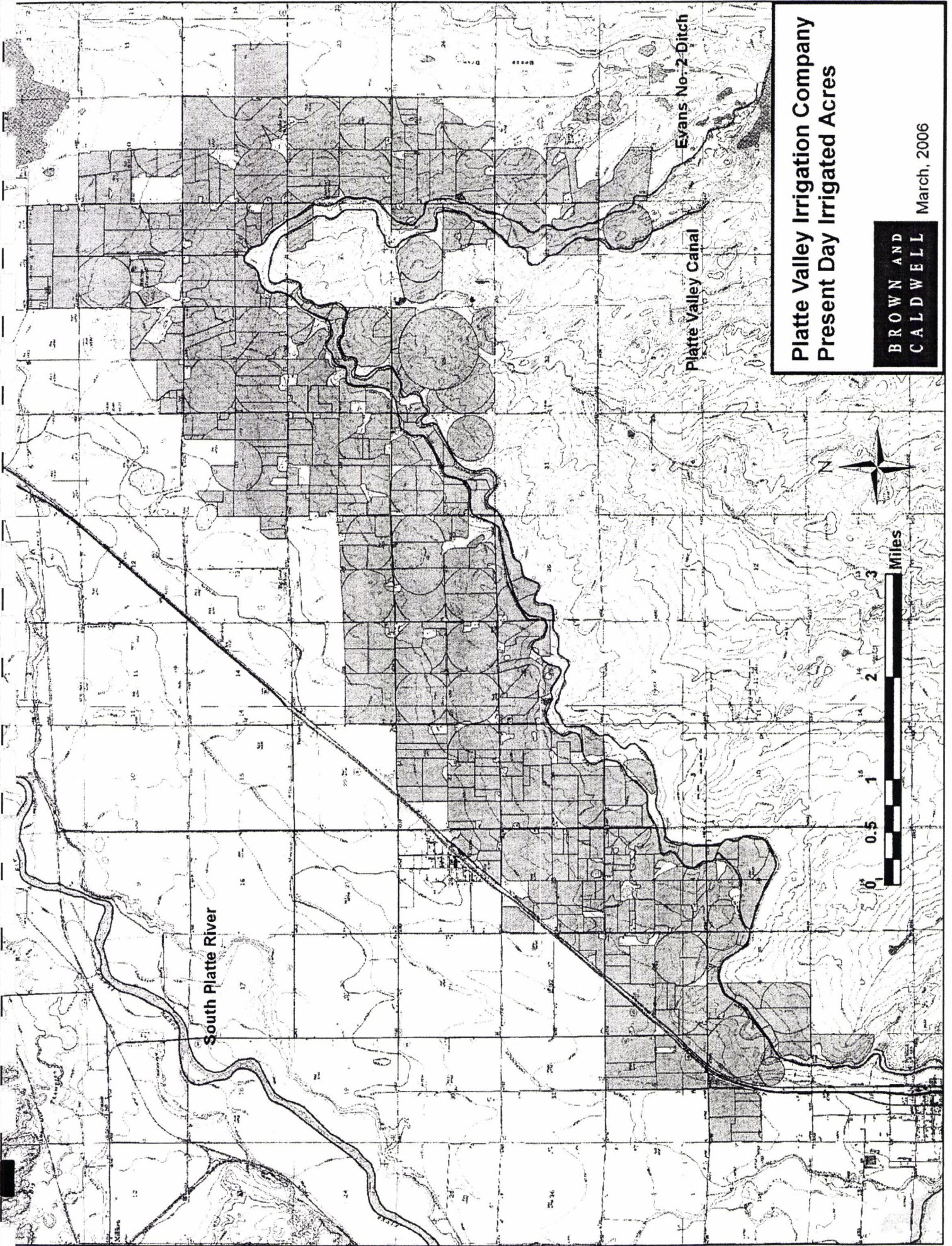
INSTITUTIONAL CONSIDERATIONS

No institutional considerations exist other than the proposed loan from the CWCB.

APPENDIX A. PROJECT LOCATION AND SERVICE AREA MAPS



Location Map



Platte Valley Irrigation Company
Present Day Irrigated Acres

**BROWN AND
CALDWELL**

March, 2006

APPENDIX B. CWCBC LOAN APPLICATION



COLORADO

Colorado Water
Conservation Board

Department of Natural Resources

Water Project Loan Program

Projects financed by the Water Project Loan Program must align with the goals identified in Colorado's Water Plan and its measurable objectives.

Application Type

☒ Prequalification (Attach 3 years of financial statements) ☒ Loan Approval (Attach Loan Feasibility Study)

Agency/Company Information

Company / Borrower Name: Platte Valley Irrigation Company

Authorized Agent & Title: Mr. Kevin Schmidt, President

Address: PO Box 336483 Greeley, CO 80633

Phone: (970) 352-9353

Email: plattevalley@pvciditch.com

Organization Type: ☒ Ditch Co, ☐ District, ☐ Municipality
☐ other: _____

Incorporated? ☒ YES
☐ NO

County: Weld

Number of Shares/Taps: 344

Water District:

Avg. Water Diverted/Yr 27,898 acre-feet

Number of Shareholders/Customers Served: 80

Current Assessment per Share \$ 650 (Ditch Co)

Federal ID Number: 84-0403445

Average monthly water bill \$ _____ (Municipality)

Contact Information

Project Representative: Tami Sullivan, Board Secretary

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Engineer: Aaron Hansen, PE

Phone: () 970-226-0120

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Attorney: Scott Holwick

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Project Information

Project Name: Platte Valley Reservoir No. 1

Brief Description of Project: (Attach separate sheets if needed)

Construction of a new 232 ac-ft irrigation equalization reservoir to mitigate impacts of diurnal fluctuations in diversion from the South Platte River.

The project includes construction of a bifurcation structure, reservoir inlet works, dam embankment, outlet works, and emergency spillway.

Project Start Date(s) Design: 2021 Construction: TBD 2023

General Location: (Attach Map of Area)

South of Weld County Road (WCR) 36 between WCR 29 and WCR31 - see attached map

Project Costs - Round to the nearest thousand

Estimated Engineering Costs: \$300,000

Estimated Construction Costs: \$6,203,000

Other Costs (Describe Above):

Estimated Total Project Costs: \$6,503,000

Requested Loan Amount: \$4,500,000

Requested Loan Term (10, 20, or 30 years):
30 Years

Signature

 Secretary 12/1/2022
Signature / Title Date

Return to: Finance Section Attn: Matt Stearns
1313 Sherman St #718
Denver, CO 80203
Ph. 303/866.3441
e-mail: matthew.stearns@state.co.us

APPENDIX D. ARTICLES OF INCORPORATION AND BYLAWS

**RESTATED ARTICLES OF INCORPORATION
OF
THE PLATTE VALLEY IRRIGATION COMPANY
AS AMENDED THROUGH DECEMBER, 1943**

**[NOTE: LEGAL DESCRIPTIONS MAY NOT BE ACCURATE.
ORIGINAL COPY NOT LEGIBLE.]**

This is to certify, that we, the undersigned, have this day associated ourselves together for the purpose of forming a body corporate under the laws of the State of Colorado, and do hereby declare: -

FIRST: - That the corporate name of said Company is:

THE PLATTE VALLEY IRRIGATION COMPANY

SECOND: - That the objects and purposes for which said Company is formed are, to acquire and become the owner of all the right, title, and interest in and to the ditch or irrigating canal known as "The Saint Louis Western Colony Ditch No. 2" and also known and designated as "The Evans Ditch No. 2", and also to acquire and become the owner of all the property, rights and franchises of every kind, nature and description whatsoever appertaining to said ditch, and especially its appropriation of water, said ditch being taken out of the South Platte River at or about the centre of section numbered nineteen (19) in Township Numbered Two (2) North, Range Numbered Sixty six (66) West, in the County of Weld in the State of Colorado; to enlarge and extend said canal and to change its course where and when deemed advisable; to acquire by purchase or otherwise all other ditch or water rights which may be of use or value to said Company; to construct laterals, lakes, plumes and reservoirs appurtenant to said canal, with the right to construct and maintain all necessary dykes, dams and plumes; to acquire, use, hold and enjoy such other property, real and personal, as may be deemed necessary or expedient by said Company for the uses and purposes for which said Company is organized; and to use and supply water from said canal, or from any of its lakes, ponds or reservoirs, for domestic, irrigating, milling and stock-watering purposes on such terms as the board of directors may prescribe.

THIRD: - The stream from which water is to be taken as aforesaid is the South Platte River, at the point above designated and the general course of said canal is in a Northerly direction from the place of beginning to the centre of Section Six, Township Two, North, Range Sixty-six West; thence running North, Thirty Degrees East, to the crossing of the Township line, thence through Section 31, T. 3, N.R. 66 W. on a North-westerly and then North-easterly course; thence through Section 30, same township and range on a North-easterly course; thence through Sections 19 and 18 in a Northerly course, thence through Section 7, North-easterly, and through Sections 8 and 9 in an Easterly direction, and from the point at which it emerges from Section 9, T.3, NR.66 W. it follows a North-easterly course to a point on the ridge known as the divide between the Platte River and Reese Draw, thence in a course generally South to a point in Section 10, T.3, N.R., 65, W; thence Easterly for a distance of nearly one mile and a half to a point

on a spur of the divide of Reese Draw; thence running South-easterly for nearly three miles; thence in a general North-easterly course for a distance of nearly ten miles to the crossing of the Box Elder Divide, thence in a general South-easterly course to the crossing of Box Elder Creek at a point in Section 17, T.8, N.R. 64, West.

FOURTH: - The capital stock of said Company shall be divided into three hundred and forty-four (344) shares of the par value of One Hundred Dollars (\$100.) each, and each share of said stock shall be of the same class and of equal rank and right, and shall entitle the holder thereof to an equal pro rata share of the available water supply of the Company, subject to such rules, regulations, and by-laws as may from time to time be adopted and made effective by the Board of Directors of the Company.

The stock certificates of the Company shall contain all appropriate provisions to carry into effect the purposes of these Articles.

The capital stock of the Company shall be subject to assessment for the purpose of defraying the expense incident to the maintenance and operation of the Company and its properties, and for the purpose of paying, funding or refunding any of the indebtedness of the Company.

The Company shall have the power to enforce the payment of any such assessment, through suit, by refusal to deliver water on any delinquent stock until such assessment shall be paid, by the forfeiture or sale of any delinquent stock, or otherwise, as may be permitted by the laws of the State of Colorado.

Cumulative voting shall be permitted at all meetings of the stockholders.

FIFTH: - Said Company shall exist in perpetuity.

SIXTH: - The affairs, concerns, business and management of said Company shall be under the control and management of five directors.

SEVENTH: - The directors shall have full power to make such prudential by-laws as they may deem proper for the management and control of the affairs and business of said Company.

EIGHTH: - The principal place of business of said Company is hereby declared to be the City of Greeley in the County of Weld, State of Colorado, and the principal office of said Company shall be and is hereby located in said City of Greeley.

NINTH: - The principal operations of said Company shall be carried on in the County of Weld, in the State of Colorado.

ARTICLES OF INCORPORATION

The shareholders of PVIC hereby amend Article 7 to read as follows:

The directors shall have full power to make such prudential by-laws as they may deem proper for the management and control of the affairs and business of said Company. The shareholders declare to the extent that the Company is governed by Colorado Revised Statutes, Title 7, Article 40: (1) the directors do not have the authority to impose greater shareholder voting requirements for any matter on the shareholders unless such greater voting requirement is approved by the shareholders; (2) the shareholders may amend and repeal bylaws approved by the Board of Directors; (3) the shareholders may adopt bylaws; and (4) the provisions of these Articles of Incorporation control over provisions of the Bylaws.

**AMENDED ARTICLES OF INCORPORATION
OF
THE PLATTE VALLEY IRRIGATION COMPANY
AS AMENDED ON DECEMBER 17, 2019**

This is to certify, that we, the undersigned, have this day associated ourselves together for the purpose of forming a body corporate under the laws of the State of Colorado, and do hereby declare:

FIRST: The name of the Corporation is The Platte Valley Irrigation Company.

SECOND: That the objects and purposes for which said Company is formed are, to acquire and become the owner of all the right, title, and interest in and to the ditch or irrigating canal known as "The Saint Louis Western Colony Ditch No. 2" and also known and designated as "The Evans Ditch No. 2", and also to acquire and become the owner of all the property, rights and franchises of every kind, nature and description whatsoever appertaining to said ditch, and especially its appropriation of water, said ditch being taken out of the South Platte River at or about the centre of section numbered nineteen (19) in Township Numbered Two (2) North, Range Numbered Sixty six (66) West, in the County of Weld in the State of Colorado; to enlarge and extend said canal and to change its course where and when deemed advisable; to acquire by purchase or otherwise all other ditch or water rights which may be of use or value to said Company; to construct laterals, lakes, flumes and reservoirs appurtenant to said canal, with the right to construct and maintain all necessary dykes, dams and flumes; to acquire, use, hold and enjoy such other property, real and personal, as may be deemed necessary or expedient by said Company for the uses and purposes for which said Company is organized; and to use and supply water from said canal, or from any of its lakes, ponds or reservoirs, for any and all lawful uses under Colorado law, including but not limited to domestic, irrigating, milling and stock-watering purposes on such terms as the board of directors may prescribe pursuant to the Company's Bylaws, as the same may be amended from time to time.

THIRD: The stream from which water is to be taken as aforesaid is the South Platte River, at the point above designated and the general course of said canal is in a Northerly direction from the place of beginning to the centre of Section Six, Township Two North, Range Sixty-six West; thence running North, Thirty Degrees East, to the crossing of the Township line, thence through Section 31, T 3 N, R 66 W, on a North-easterly and then North-westerly course; thence through Section 30, same township and range on a North-easterly course; thence through Sections 19 and 18 in a Northerly course, thence through Section 7, North-easterly, and through Sections 8 and 9 in an Easterly direction, and from the point at which it emerges from Section 9, T 3 N, R 66 W it follows a North-easterly course to a point on the ridge known as the divide between the Platte River and Beebe Draw, thence in a course generally South to a point in Section 10, T 3 N, R 65 W; thence Easterly for a distance of nearly one mile and a half to a point on a spur of the divide of Beebe Draw; thence running South-easterly for nearly three miles; thence in a general North-easterly course for a distance of nearly ten miles to the crossing of the Box Elder Divide, thence in a general South-easterly course to the crossing of Box Elder Creek at a point in Section 17, T 8 N, R 64 West.

FOURTH: Water that stockholders are entitled to receive as a result of ownership of stock in the Company shall not be transferred, or used by any stockholder or user of the water without such water first being delivered by the Company through the Company's river headgate as it is presently

located and operated or as it may be hereafter relocated, except for Colorado – Big Thompson project water allocated to the Company from the Northern Colorado Water Conservancy District (“C-BT Water”), which may be transferred outside of the Company and the Company’s delivery infrastructure pursuant to the Company’s rules and regulations therefor as described within the Company’s Amended and Restated Bylaws. The preceding exception notwithstanding, all water to which any stockholder is entitled by virtue of the stockholder’s ownership of the capital stock of the Company cannot be delivered past or around the Company’s river headgate prior to it being measured by the existing or future measurement structure(s) of the Ditch.

FIFTH: The capital stock of said Company shall be divided into three hundred and forty-four (344) shares of the par value of One Hundred Dollars (\$100.) each, and each share of said stock shall be of the same class and of equal rank and right, and shall entitle the holder thereof to an equal pro rata share of the available water supply of the Company, subject to such rules, regulations, and by-laws as may from time to time be adopted and made effective by the Board of Directors of the Company.

The stock certificates of the Company shall contain all appropriate provisions to carry into effect the purposes of these Articles.

The capital stock of the Company shall be subject to assessment for the purpose of defraying the expense incident to the maintenance and operation of the Company and its properties, and for the purpose of paying, funding or refunding any of the indebtedness of the Company.

The Company shall have the power to enforce the payment of any such assessment, through suit, by refusal to deliver water on any delinquent stock until such assessment shall be paid, by the forfeiture or sale of any delinquent stock, or otherwise, as may be permitted by the laws of the State of Colorado.

Cumulative voting shall be permitted at all meetings of the stockholders.

SIXTH: Said Company shall exist in perpetuity.

SEVENTH: The affairs, concerns, business and management of said Company shall be under the control and management of five directors.

EIGHTH: The directors shall have full power to make such prudential by-laws as they may deem proper for the management and control of the affairs and business of said Company. The stockholders declare to the extent that the Company is governed by Colorado Revised Statutes, Title 7, Article 42: (1) the directors do not have the authority to impose greater stockholders voting requirements for any matter on the stockholders unless such greater voting requirement is approved by the stockholders; (2) the stockholders may amend and repeal bylaws approved by the Board of Directors; (3) the stockholders may adopt bylaws; and (4) the provisions of these Articles of Incorporation control over provisions of the Bylaws.

NINE: The principal place of business of said Company is hereby declared to be the City of Greeley in the County of Weld, State of Colorado, and the principal office of said Company shall be and is hereby located in said City of Greeley.

TENTH: The principal operations of said Company shall be carried on in the County of Weld, in the State of Colorado.

ELEVENTH: The directors of the Company shall have no personal liability to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director; except that this provisions shall not eliminate or limit the liability of a director to the nonprofit corporation or to its stockholders for monetary damages for: any breach of the director's duty of loyalty to the Company or its stockholders; acts or omissions not in good faith, or which involve intentional misconduct or a knowing violation of law; acts specified in Sections 7-128-403 or 7-128-501, Colorado Revised Statutes; or any transaction from which the director derived an improper personal benefit.

**ARTICLES OF AMENDMENT TO THE
ARTICLES OF INCORPORATION
FOR A NONPROFIT CORPORATION**

Form 305 Revised October 1, 2002

Filing fee: \$25.00

Deliver to: Colorado Secretary of State
Business Division,

1560 Broadway, Suite 200

Denver, CO 80202-5169

This document must be typed or machine printed.

Copies of filed documents may be obtained at www.sos.state.co.us

FILED
DOMETTA DAVIDSON
COLORADO SECRETARY OF STATE

20041005422 N

\$ 25.00

SECRETARY OF STATE

01-07-2004 14:19:08

ABOVE SPACE FOR OFFICE USE ONLY

Pursuant to § 7-130-105 and part 3 of article 90 of title 7, Colorado Revised Statutes (C.R.S.), these Articles of Amendment to the Articles of Incorporation are delivered to the Colorado Secretary of State for filing. # 198 71005954

1. The entity name of the nonprofit corporation is: The Platte Valley Irrigation Company

(If this amendment includes a change of name for the corporation, indicate the corporation name PRIOR to this amendment)

2. Text of the amendment adopted (attach additional sheets if needed): The stockholders of Platte Valley Irrigation Company hereby add the following Article 10 to read as follows:

The directors of the Company shall have no personal liability to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director; except that this provision shall not eliminate or limit the liability of a director to the nonprofit corporation or to its stockholders for monetary damages for: any breach of the director's duty of loyalty to the Company or its stockholders; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; acts specified in Sections 7-128-403 or 7-128-501, Colorado Revised Statutes; or any transaction from which the director derived an improper personal benefit.

3. The amendment to the Articles of Incorporation was adopted on (date) December 16, 2003 in the manner indicated below (mark appropriate procedure):

☒ The amendment was adopted by the members AND the number of votes cast for the amendment by each voting group entitled to vote separately on the amendment was sufficient for approval by that voting group

4. The (a) name or names, and (b) mailing address or addresses, of any one or more of the individuals who cause this document to be delivered for filing, and to whom the Secretary of State may deliver notice if filing of this document is refused, are: Wendy S. Rudnik, Esq.
Bernard, Lyons, Gaddis & Kahn, P.C., P.O. Box 978, Longmont, CO 80502-0978

Causing a document to be delivered to the secretary of state for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed or the act and deed of the entity on whose behalf the individual is causing the document to be delivered for filing and that the facts stated in the document are true.

Disclaimer: This form, and any related instructions, are not intended to provide legal, business or tax advice, and are offered as a public service without representation or warranty. While this form is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form. Questions should be addressed to the user's attorney.

COMPUTER UPDATE
COMPLETE - SP

**ARTICLES OF AMENDMENT
TO THE ARTICLES OF INCORPORATION
PLATTE VALLEY IRRIGATION COMPANY**

FILED CUSTOMER COPY
DONETTA DAVIDSON
COLORADO SECRETARY OF STATE

Pursuant to the provisions of the Colorado Revised Statutes, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Platte Valley Irrigation Company.

SECOND: The following amendment to the Articles of Incorporation was adopted on September 14, 2001, as prescribed by the Colorado Revised Statutes, in the following manner: Such amendment was adopted by a vote of the shareholders. The number of shares which voted for the amendment was sufficient.

The shareholders of PVIC hereby amend Article 7 to read as follows:

The directors shall have full power to make such prudential by-laws as they may deem proper for the management and control of the affairs and business of said Company. The shareholders declare to the extent that the Company is governed by Colorado Revised Statutes, Title 7, Article 40: (1) the directors do not have the authority to impose greater shareholder voting requirements for any matter on the shareholders unless such greater voting requirement is approved by the shareholders; (2) the shareholders may amend and repeal bylaws approved by the Board of Directors; (3) the shareholders may adopt bylaws; and (4) the provisions of these Articles of Incorporation control over provisions of the Bylaws.

Date: October 11, 2001

Bill Schmidt
Signature

Title: President

Donna L. Cohen
Signature

Title: Secretary

20011203722 M
\$ 25.00
SECRETARY OF STATE
10-22-2001 16:01:40

STATE OF COLORADO,
County of Weld } ss.

To Whom It May Concern:

This is to certify that a special meeting of the stockholders of.....
The Platte Valley Irrigation Company,
a Colorado corporation, was held at City Hall, Greeley, Colo. on the 21st day of
December, A. D. 1943, such meeting having been called by the stockholders repre-
senting at least 10 per cent (10%) of the entire capital stock of the company outstanding. Notice of such
meeting as provided by law, was published at least once not more than thirty days and at least ten days
prior to the date fixed for said meeting in a newspaper printed at Greeley,
State of Colorado, and notice of said meeting was delivered personally or mailed to each stockholder thirty
(30) days prior to the date of such meeting, there being represented at such meeting ✓ 230 1/4
shares of the capital stock of said company out of a total of 344 shares outstanding.

At said meeting a resolution was passed to extend the corporate existence of the said corporation*
in perpetuity, from and after the date of the expiration of its corporate life,†
the resolution receiving a MAJORITY vote of all the outstanding stock of the corporation. The president
and secretary were authorized to certify this resolution under the corporate seal of the company, to file
such certificate with the Secretary of State of the State of Colorado, and to file duplicate certificate under
seal of the company in the office of the Recorder of Deeds in each county or counties wherein the com-
pany may do business in the State of Colorado, and in pursuance of such resolution, we do hereby certify
the same under the seal of the company.



Joseph Webber
President.

[Signature]
Secretary.

*Corporate existence may be renewed perpetually or for any specified number of years.
†This certificate of renewal shall be filed before or within one year after the expiration of the charter to be so
renewed. Fee for filing certificate of renewal is \$20.00 for \$50,000 or less and twenty cents for each additional or frac-
tional part of one thousand dollars of authorized capital stock, plus \$5.00 for certificate of renewal.

741

CERTIFICATE OF RENEWAL

OF THE 929094

CERTIFICATE OF INCORPORATION

OF

The Platte Valley Irrigation Company

DOMESTIC

STATE OF COLORADO, } SS.
COUNTY OF WELD. }

I HEREBY CERTIFY THAT THIS INSTRUMENT

WAS FILED IN MY OFFICE, AT *10⁰⁰*

O'CLOCK *A.M.* DEC 22 1943

Anna Spencer
COUNTY AND RECORDS
BY *Kathryn McWilliams*

FEE, \$ *50*

FILED

THE GRADFORD-ROBINSON FTS. CO., DENVER

IL-050 98282 DEC 22 43



RESOLUTIONS OF EXTENSION OF TERM OF EXISTENCE

And Renewal of life

OF

THE PLATTE VALLEY IRRIGATION COMPANY

KNOW ALL MEN BY THESE PRESENTS; That we, the undersigned, President and Secretary, respectively, of The Platte Valley Irrigation Company, a corporation, doing business under and by virtue of the laws of the State of Colorado, do, pursuant to said laws, make, execute and acknowledge, in triplicate, this Extension of Term and Renewal of Life of said company, as follows:

I.

That, on the 26th day of December, 1923, persons owning more than ten per cent of the capital stock of The Platte Valley Irrigation Company, a corporation, organized on the 23rd day of October, 1883, and whose corporate life has heretofore been extended to October 23, 1923 as by law provided, and whose corporate life expired on said last date, gave notice, as by law provided, that a special meeting of the stockholders of The Platte Valley Irrigation Company would be held in the City Hall, in Greeley, Colorado, on the 29th day of January, 1924, for the purpose of considering and voting upon the question of extending the corporate life of said corporation for a period of twenty years from the expiration thereof, which notice was duly mailed to each and every stockholder of said company more than 30 days prior to the date of said meeting, and was also duly published in the Greeley Tribune and Weld County Republican, a legal newspaper published in said City of Greeley, where the principal office of said corporation is located, as by law provided.

II.

Upon the day and time noticed for said meeting and at the place mentioned therein, said special meeting of stockholders was held for said purpose. That said meeting was duly organized and an inspection showed that 216 shares, being more than a majority of all the

shares of said company outstanding, were present in person or by proxy; that at said meeting the following resolution was adopted, the vote thereon being taken by ballot, and 210 shares being cast in favor thereof, the same being more than a majority of the stock of said company, to-wit:

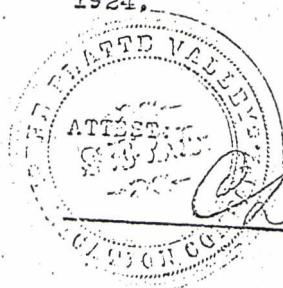
RESOLUTION:

WHEREAS, The Platte Valley Irrigation Company, a corporation, organized under the laws of the State of Colorado, was duly organized and became a corporation on the 23rd day of October, 1883, and was thereafter renewed and extended for a period of twenty years and until October 23, 1923, as by law provided; and at all times hitherto and ever since has been a corporation actually engaged in the business for the purposes mentioned in its said articles of incorporation, and said corporation has never been dissolved, and Whereas, the term of existence or life of said company expired on October 23, 1923, and the stockholders of said corporation desire to extend the life thereof for another period of twenty years;

NOW, THEREFORE, Be it Resolved, that the corporate life and term of existence of The Platte Valley Irrigation Company be renewed and the same be extended for another term or period of twenty years, from October 23, 1923 and to and including October 23, 1943; and that the President and Secretary of the company be and they are hereby empowered to make and execute under the seal of said corporation, a certificate showing that the life of said company has been extended for another period of twenty years as aforesaid.

That thereupon the corporate life of said company was extended for a period of twenty years and until October 23, 1943, and this certificate of said action is duly made, executed and filed in evidence thereof.

IN WITNESS WHEREOF, we have hereunto subscribed our names as such officers of said company, and have caused the corporate seal of said company to be hereunto affixed this 29th day of January, A.D. 1924,



Fred Jones PRESIDENT.

C. W. Todd SECRETARY.

shares of said company outstanding, were present in person or by proxy; that at said meeting the following resolution was adopted, the vote thereon being taken by ballot, and 210 shares being cast in favor thereof, the same being more than a majority of the stock of said company, to-wit:

RESOLUTION:

WHEREAS, The Platte Valley Irrigation Company, a corporation organized under the laws of the State of Colorado, was duly organized and became a corporation on the 23rd day of October, 1883, and was thereafter renewed and extended for a period of twenty years until October 23, 1923, as by laws provided; and at all time hitherto and ever since has been a corporation actually engaged in the business for the purposes mentioned in its said articles of incorporation, and said corporation has never been dissolved, and

Whereas, the term of existence or life of said company expired on October 23, 1923, and the stockholders of said corporation desire to extend the life thereof for another period of twenty years;

NOW, THEREFORE, Be it Resolved, that the corporate life and term of existence of The Platte Valley Irrigation Company be renewed and the same be extended for another term or period of twenty years from October 23, 1923 and to and including October 23, 1943; and that the President and Secretary of the company be and they are hereby empowered to make and execute under the seal of said corporation, a certificate showing that the life of said company has been extended for another period of twenty years as aforesaid.

That thereupon the corporate life of said company was extended for a period of twenty years and until October 23, 1943, and this certificate of said action is duly made, executed and filed in evidence thereof.

IN WITNESS WHEREOF, we have hereunto subscribed our names as such officers of said company, and have caused the corporate seal of said company to be hereunto affixed this 29th day of January, A.D. 1924.



Fred Benson PRESIDENT

W. J. Todd SECRETARY.

STATE OF COLORADO,)
) SS.
COUNTY OF WELD.)

I, John W. Henderson, a Notary Public
in and for said county and State, do hereby certify, that Fred Arens
President and C. D. Todd, Secretary, of The Platte Valley Irrigation
Company, a corporation, personally know to me to be such officers
of said company, and personally known to me to be the persons whose
names are subscribed to the annexed and foregoing certificate of
extension of term and renewal of life of The Platte Valley Irrigation
Company, appeared before me this day in person and acknowledged, that
they signed, sealed and delivered the said instrument of writing as
their free and voluntary act and that of said corporation, being duly
authorized so to do, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29th day
of January, 1924.

My commission expires

Feb 24, 1924

John W. Henderson
Notary Public.



CERTIFICATE OF STOCK
OF CORPORATE LINE OF
THE PLATE VALLEY
IRRIGATION COMPANY.

STATE OF CALIFORNIA,
COUNTY OF YUBA

I HEREBY CERTIFY THAT THE FOLLOWING
WAS 100 ¹⁰/₁₀₀ OF THE CAPITAL STOCK
OF THE PLATE VALLEY IRRIGATION COMPANY
ON THE 5th DAY OF JULY 1904

AND IS NOW OWNED BY THE SAID

NAME

BY Geo. B. Bode

FOR \$ 50

CERTIFICATE OF AMENDMENTS TO ARTICLES OF
INCORPORATION OF THE PLATTE VALLEY IRRIGATION COMPANY.

KNOW ALL MEN BY THESE PRESENTS, That we, W. B. GARDNER as President, and E. R. STADLER as Secretary, of THE PLATTE VALLEY IRRIGATION COMPANY, a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, do hereby CERTIFY:

First: That we are, respectively, the President and Secretary of said corporation.

Second: That on the 1 day of May, A.D. 1923, a special meeting of the stockholders of said corporation was held at the office of the Company, at which all of the stockholders, to-wit, the owners of the two hundred and fifty (250) shares, being all of the outstanding stock of the Company, were present in person; that all of said stockholders consented in writing to the holding of said meeting, and in writing waived the notice of calling of said meeting, and approved in writing all the actions and proceedings of the stockholders taken at said meeting.

Third: That at said meeting three resolutions were unanimously adopted, the entire 250 shares of the capital stock of said Company being voted in favor of the adoption thereof; that the following is a true and correct copy of said three resolutions:

"RESOLVED, That the Articles of Incorporation of THE PLATTE VALLEY IRRIGATION COMPANY be, and the same are hereby, amended by striking out and rescinding the whole of Article Fourth of said Articles and substituting the following in lieu thereof:

'Article Fourth: The capital stock of said Company shall be divided into three hundred and forty-four (344) shares of the par value of One Hundred Dollars (\$100.) each, and each share of said stock shall be of the same class and of

equal rank and right, and shall entitle the holder thereof to an equal pro rata share of the available water supply of the Company, subject to such rules, regulations, and by-laws as may from time to time be adopted and made effective by the Board of Directors of the Company.

The stock certificates of the Company shall contain all appropriate provisions to carry into effect the purposes of these Articles.

The capital stock of the Company shall be subject to assessment for the purpose of defraying the expense incident to the maintenance and operation of the Company and its properties, and for the purpose of paying, funding or re-funding any of the indebtedness of the Company.

The Company shall have the power to enforce the payment of any such assessment, through suit, by refusal to deliver water on any delinquent stock until such assessment shall be paid, by the forfeiture or sale of any delinquent stock, or otherwise, as may be permitted by the laws of the State of Colorado.

Cumulative voting shall be permitted at all meetings of the stockholders."

"RESOLVED, That Article Sixth of the Articles of Incorporation of THE PLATTE VALLEY IRRIGATION COMPANY, which now reads as follows:

'The affairs, concerns, business and management of said Company, and the use and control of its property and franchises, shall be under the control and management of three directors, and James Duff, Samuel J. Gilmore and Thomas Pirie Dunbar are hereby selected to act as said directors, and to have full power as aforesaid, for the first year of the existence of said Company, and until their successors are duly elected and qualified,'

be, and the same is hereby, amended so as to read as follows:

'The affairs, concerns, business and management of said Company shall be under the control and management of five directors.'

"RESOLVED, That Article Eighth of the Articles of Incorporation of THE PLATTE VALLEY IRRIGATION COMPANY be, and the same is hereby, amended so as to read as follows:

'The principal place of business of said Company is hereby declared to be the City of Greeley in the County of Weld, State of Colorado, and the principal office of said Company shall be and is hereby located in said City of Greeley.' "

IN WITNESS WHEREOF, We, W. B. GAUMER as President,
and E. R. STADLER as Secretary, of said THE PLATTE VALLEY IR-
RIGATION COMPANY, have hereunto set our hands and seals, this
1 day of May, A. D. 1923, and have caused the
seal of said corporation to be affixed hereto.



W B Gaumer (SEAL)
President.

ATTEST:

E R Stadler (SEAL)
Secretary.

....STATE OF COLORADO....)
City and County of Denver) ss.

W. B. GAUMER and E. R. STADLER, being first duly
sworn upon oath, each for himself and not one for the other,
depose and say:

That they are the President and Secretary, respec-
tively, of THE PLATTE VALLEY IRRIGATION COMPANY, a corporation
organized and existing under and by virtue of the laws of the
State of Colorado; that they have read the above and fore-
going certificate of amendments to the Articles of Incorpora-
tion of the said The Platte Valley Irrigation Company, and
know the contents thereof; and that the statements set forth
in said certificate are true; and that the resolutions,
copies of which are set forth in said certificate, are true
and correct copies of the resolutions adopted by the stock-
holders of said Company as in said certificate stated; and
that they, as such President and Secretary respectively of
said corporation made, signed and executed the said certificate.

W B Gaumer
E R Stadler

Subscribed and sworn to before me this 1 day of
May, A. D. 1923.

My commission expires _____ My Commission Expires October 11, 1926

Marie C. Foley
NOTARY PUBLIC



U. 218-4

This document has been inspected
and properly entered on the Re-
cords of the Flat Tax Department

May 3rd 1963
Elna Darby Luddy, Clerk

77590

P. 5

Certificate of Amendments

TO THE

Certificate of Incorporation

The Platte Valley
Irrigation Company

DOMESTIC

FILED IN THE OFFICE OF THE CLERK OF
SIOUX COUNTY, IOWA, ON
May 3rd 1963
A. C. 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
-Elna Darby Luddy-
Clerk

(3 Amendments)
P. 5

BOOK 221 PAGE 56

This document has been inspected
and properly entered on the Re-
cords of the Flat Tax Department

OK

Date August 31, 1968

Nemec Clerk

THIS IS TO CERTIFY that at a meeting of THE PLATTE VALLEY
IRRIGATION COMPANY, organized under the laws of the State of Colorado,
at which all of the Capital Stock of said Company, amounting to \$62,500,
fully paid, was represented by stockholders and by proxy, and on motion
duly made and seconded, it was resolved that the corporate life of said
Company be renewed for a further period of twenty years, dating from
the 23rd day of October, 1903; that said Company has not been adminis-
tered upon as an expired corporation or gone into liquidation or had
any settlement of its affairs or its capital stock increased or de-
creased.

Dated May 1st 1906,

THE PLATTE VALLEY IRRIGATION COMPANY,

By

S. J. Gilman
President.

Attent:

James Thompson
Secretary

ARTICLES OF INCORPORATION
OF

THE PLATTE VALLEY IRRIGATION COMPANY.

THIS IS TO CERTIFY, THAT WE, THE UNDERSIGNED, HAVE THIS DAY ASSOCIATED OURSELVES TOGETHER FOR THE PURPOSE OF FORMING A BODY CORPORATE UNDER THE LAWS OF THE STATE OF COLORADO, AND DO HEREBY DECLARE:-

FIRST:- THAT THE CORPORATE NAME OF SAID COMPANY IS

THE PLATTE VALLEY IRRIGATION COMPANY.

SECOND:- THAT THE OBJECTS AND PURPOSES FOR WHICH SAID COMPANY IS FORMED ARE, TO ACQUIRE AND BECOME THE OWNER OF ALL THE RIGHT, TITLE AND INTEREST IN AND TO THE DITCH OR IRRIGATING CANAL KNOWN AS 'THE SAINT LOUIS WESTERN COLONY DITCH NO. 2,' AND ALSO HEREIN KNOWN AND DESIGNATED AS 'THE EVANS DITCH NO. 2', AND ALSO TO ACQUIRE AND BECOME THE OWNER OF ALL THE PROPERTY, RIGHTS AND FRANCHISES OF EVERY KIND, NATURE AND DESCRIPTION WHATSOEVER APPERTAINING TO SAID DITCH, AND ESPECIALLY ITS APPROPRIATION OF WATER, SAID DITCH BEING TAKEN OUT OF THE SOUTH PLATTE RIVER AT OR ABOUT THE CENTRE OF SECTION NUMBERED NINETEEN :19: IN TOWNSHIP NUMBERED TWO :2: NORTH, RANGE NUMBERED SIXTY SIX :66: WEST, IN THE COUNTY OF WELD IN THE STATE OF COLORADO; TO ENLARGE AND EXTEND SAID CANAL AND TO CHANGE ITS COURSE WHERE AND WHEN DEEMED ADVISABLE; TO ACQUIRE BY PURCHASE OR OTHERWISE ALL OTHER DITCH OR WATER RIGHTS WHICH MAY BE OF USE OR VALUE TO SAID COMPANY; TO CONSTRUCT LATERALS, DITCHES, FLUMES AND RESERVOIRS APPURTENANT TO SAID CANAL, WITH THE RIGHT TO CONSTRUCT AND MAINTAIN ALL NECESSARY DYKES, DAMS AND FLUMES; TO ACQUIRE, USE, HOLD AND ENJOY SUCH OTHER PROPERTY, REAL

AND PERSONAL, AS MAY BE DEEMED NECESSARY OR EXPEDIENT BY SAID COMPANY FOR THE USES AND PURPOSES FOR WHICH SAID COMPANY IS ORGANIZED; AND TO USE AND SUPPLY WATER FROM SAID CANAL, OR FROM ANY OF ITS LAKES, PONDS OR RESERVOIRS, FOR DOMESTIC, IRRIGATING, MILLING AND STOCK-WATERING PURPOSES ON SUCH TERMS AS THE BOARD OF DIRECTORS MAY PRESCRIBE.

THIRD: - THE STREAM FROM WHICH WATER IS TO BE TAKEN AS AFORESAID IS THE SOUTH PLATTE RIVER, AT THE POINT ABOVE DESIGNATED, AND THE GENERAL COURSE OF SAID CANAL IS IN A NORTHERLY DIRECTION FROM THE PLACE OF BEGINNING TO THE CENTRE OF SECTION SIX, TOWNSHIP TWO, NORTH, RANGE SIXTY-SIX WEST; THENCE RUNNING NORTH, THIRTY DEGREES EAST, TO THE CROSSING OF THE TOWNSHIP LINE, THENCE THROUGH SECTION 31, T. 3, N. R. 66 W. ON A NORTH-EASTERLY AND THEN NORTH-WESTERLY COURSE; THENCE THROUGH SECTION 30, SAME TOWNSHIP AND RANGE ON A NORTH-EASTERLY COURSE; THENCE THROUGH SECTIONS 19 AND 18 IN A NORTHERLY COURSE, THENCE THROUGH SECTION 7, NORTH-EASTERLY, AND THROUGH SECTIONS 8 AND 9 IN AN EASTERLY DIRECTION, AND FROM THE POINT AT WHICH IT EMERGES FROM SECTION 9, T. 3, N. R. 66 W. IT FOLLOWS A NORTH-EASTERLY COURSE TO A POINT ON THE RIDGE KNOWN AS THE DIVIDE BETWEEN THE PLATTE RIVER AND BEEBE DRAW, THENCE IN A COURSE GENERALLY SOUTH TO A POINT IN SECTION 10, T. 3, N. R. 65 W.; THENCE EASTERLY FOR A DISTANCE OF NEARLY ONE MILE AND A HALF TO A POINT ON A SPUR OF THE DIVIDE OF BEEBE DRAW; THENCE RUNNING SOUTH-EASTERLY FOR NEARLY THREE MILES; THENCE IN A GENERAL NORTH-EASTERLY COURSE FOR A DISTANCE OF NEARLY TEN MILES TO THE CROSSING OF THE FOX ELDER DIVIDE, THENCE IN A GENERAL SOUTH-EASTERLY COURSE TO

THE CROSSING OF BOX ELDER CREEK AT A POINT IN SECTION 17, T.3,
N.R.04, WEST.

FOURTH:- THE CAPITAL STOCK OF SAID COMPANY IS HEREBY DECLARED
TO BE SIXTY TWO THOUSAND FIVE HUNDRED DOLLARS, DIVIDED INTO TWO
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FIFTH:- SAID COMPANY SHALL EXIST FOR THE TERM OF TWENTY YEARS

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SAID COMPANY, AND THE USE AND CONTROL OF ITS PROPERTY AND FRAN-
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AND UNTIL THEIR SUCCESSORS ARE DULY ELECTED AND QUALIFIED.

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PRUDENTIAL BY-LAWS AS THEY MAY DEEM PROPER FOR THE MANAGEMENT AND
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HEREBY DECLARED TO BE THE CITY OF DENVER, IN THE COUNTY OF ARAP-
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PANY SHALL BE, AND HEREBY IS, LOCATED IN SAID CITY.

NINTH:- THE PRINCIPAL OPERATIONS OF SAID COMPANY SHALL BE
CARRIED ON IN THE COUNTY OF WELD, IN THE STATE OF COLORADO.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS AND SEALS
THIS TWENTY-THIRD DAY OF OCTOBER A.D. 1900.

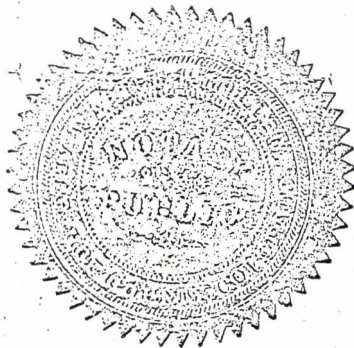
Samuel James Gilmore *James Duff*

Thomas Pirie Dunbar

STATE OF COLORADO, :
: ss.
COUNTY OF ARAPAHOE, :

I, WALTER P. MILLER, A NOTARY PUBLIC IN AND FOR THE COUNTY OF ARAPAHOE, IN THE STATE OF COLORADO, DO HEREBY CERTIFY THE JAMES CUFF, SAMUEL J. GILMORE, AND THOMAS PIRIE DUNBAR, WHO ARE PERSONALLY KNOWN TO ME TO BE THE PERSONS WHO SIGNED THE FOREGOING CERTIFICATE OF INCORPORATION, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED, SEALED AND DELIVERED THE SAID INSTRUMENT OF WRITING AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN SET FORTH.

IN WITNESS WHEREOF I HAVE HEREBY SET MY HAND AND AFFIXED MY NOTARIAL SEAL THIS 23^d DAY OF OCTOBER, A.D. 1883.



Walter P. Miller
Notary Public

of
The State Valley Land
Company

STATE OF COLORADO,
COUNTY OF WELD.
I hereby certify that this in-
strument was filed in my office,
at 9 o'clock A. M., Oct.
25th 1883.
J. H. Dautland,
County Clerk and Recorder.
By J. H. Dautland,
Filing, at 9 o'clock A. M.,
Dated.

ARTICLES OF INCORPORATION

OF

THE PLATTE VALLEY IRRIGATION COMPANY.

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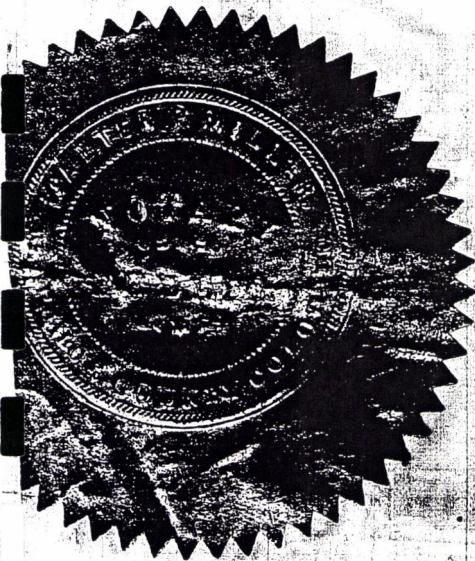
Samuel James Gilmore *James Duff*
Thomas Pirie Dunbar

STATE OF COLORADO,
 COUNTY OF ARAPAHOE,

I, WALTER P. MILLER, A NOTARY PUBLIC IN AND FOR THE COUNTY OF ARAPAHOE, IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT JAMES RUFF, SAMUEL J. GILMORE AND THOMAS FARRIS CUNNINGHAM, WHO ARE PERSONALLY KNOWN TO ME TO BE THE PERSONS WHO SIGNED THE FOREGOING CERTIFICATE OF INCORPORATION, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED, SEALED AND DELIVERED THE SAID INSTRUMENT OF WRITING AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN SET FORTH.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL THIS 23^d DAY OF OCTOBER, A.D. 1883.

Walter P. Miller
 Notary Public.



**PLATTE VALLEY
IRRIGATION COMPANY**

BYLAWS

AMENDED AND RESTATED

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**AMENDED AND RESTATED
BYLAWS
OF
THE PLATTE VALLEY IRRIGATION COMPANY**

BYLAW 1

ADOPTION AND AMENDMENT OF BYLAWS

Section 1.1. By the Board of Directors. These Bylaws, except for Sections 1.1, 1.2, 3.1, 3.12, 6.1 and Bylaw 4, and any rules and regulations from time to time duly adopted by the Board of Directors of the Company, may be amended or repealed at any meeting of the Board of Directors called for that purpose or at which all of the directors of the Company are present, by a majority vote of the entire Board, provided the amendments or additions are not inconsistent with the laws of the State of Colorado, or of the United States, or the Articles of Incorporation, or any contractual or other obligations assumed by the Company. Notwithstanding the other provisions of this Bylaw, if an existing bylaw of the Company calls for greater than a majority vote of the directors of the Board of Directors to authorize action by the Board, the Bylaw must be adopted by that greater vote and may only be amended by at least the percentage of the votes of the directors of the Board of Directors required to take the action.

Section 1.2. By the Stockholders. The Bylaws may be amended or repealed by the stockholders at an annual or special meeting for which notice is given for the proposed action as provided by the laws of the State of Colorado. Any amendments or repeals of Sections 1.1, 1.2, 3.1, 3.12, 6.1 of the Bylaws and Bylaw 4 may only be amended or repealed with approval by a majority of the shares of stock represented by the owners in person or by proxy at an annual or special meeting of the stockholders called for that purpose. Bylaws adopted or amended by the stockholders may not be further amended or repealed by the Board of Directors unless the Bylaws adopted or amended by the stockholders provide for amendment or repeal by the Board of Directors.

Section 1.3. Restated Bylaws. The Secretary shall annually provide to the stockholders a restated compilation of the Bylaws with all amendments and deletions with a history of amendments. The restated compilation approved by the Board of Directors shall be the operating Bylaws of the Company.

BYLAW 2

SEAL OF THE COMPANY

The seal of the Company, when required by law or deemed convenient or necessary by the Board of Directors, may be used to authenticate any document of the Company. The seal shall contain the words “THE PLATTE VALLEY IRRIGATION COMPANY” around the margin of a circle containing the word “SEAL” within the circle. Unless required by law, the

seal of the Company is not necessary to authenticate any document or instrument of the Company.

BYLAW 3

WATER

Section 3.1. Rights to Water.

(a) *Water Delivery to Stockholders.* The Company shall carry and deliver water that stockholders are entitled to receive as a result of ownership of stock in the Company.

(b) *Stockholder Entitled to Water Delivery Based on Share Allocations.* Each stockholder is entitled to an allocation of water obtained by the Company to be carried in the ditch for the beneficial use by stockholders in the ratio that the number of shares of stock owned by the stockholder bears to the whole number of shares issued and outstanding. The allocation of water shall be made available for delivery at the stockholder's headgate subject to the provisions in the Bylaws and the Rules and Regulations. Transfers of water, which would change the allocation of water delivered to a stockholder, may occur in accordance with the Bylaws and the Rules and Regulations.

Section 3.2. Water Delivery.

(a) *Delivery Through Company Headgate.* Water that stockholders are entitled to receive as a result of ownership of stock in the Company shall not be transferred, used, or utilized by any stockholder or user of the water without first being diverted through the headgate of the Company as presently constructed or as may be hereafter constructed, except for C-BT Water transferred outside of the ditch system.

(b) *Deliveries Measured at Headgates.* Deliveries of water to the stockholders of the Company shall be measured at the stockholders' headgates in the ditch of this Company.

(c) *Company Not Responsible for Private Laterals.* The Company in no event assumes any responsibility for the maintenance, operation, repair of, or distribution of water after delivery to the stockholders' headgates.

Section 3.3. No Deliveries to Stockholders with Overdue Debts or Assessments. The Company shall not carry or deliver water to any person or entity:

(a) who as principal, surety, or otherwise, has an overdue debt to the Company, or

(b) who is the owner of stock or is otherwise entitled to a water allocation if the stock for which the water allocation is attributable has an unpaid overdue installment, or an unpaid overdue assessment made upon the stock.

Section 3.4. Board Runs Water; No Liability for Shortage. The Board of Directors and the Superintendent as directed by the Board of Directors shall have all authority to determine

how and when to run water in the Company's ditch system for the collective benefit of the stockholders in the discretion of the Board of Directors. The Company and the Board of Directors shall not be liable for a shortage of water from any cause whatsoever, and shall have the right at all times, when in the judgment of the Board of Directors it may be reasonably necessary, to stop the running of water in order to make repairs, changes, or alterations.

Section 3.5. Division of Ditch; Proration of Water. The Board of Directors may divide the Company's ditch into sections, and rotate or prorate the available water carried through the ditch in a manner and at times as determined by the Board of Directors to best assure each stockholder their pro rata share of that part of the Company's water supply to which the stockholder may be entitled.

Section 3.6. Transfer of Water Allocations on a Temporary Basis. A stockholder who does not desire to use the water allocated to the stockholder from any source, including C-BT Water, in any water year as specified by the Board of Directors may, upon application and approval by the Board of Directors, transfer the water allocated for the water year to other stockholders for beneficial use within the Company's ditch system. The Company assumes no responsibility for delivery of the transferred water and under no circumstances will the Company construct new gates in the Company's ditch or obstruct the flow of water in the Company's ditch by checks or otherwise to accommodate an intrastockholder transfer. Any transfer of a certificate, right, or the right to use water is subject to the review and approval of the Board of Directors, which may refuse to approve the transfer if the transfer would adversely affect the ability of the Company to deliver stockholders their full allocation of water.

Section 3.7. Ditch Headgates Exclusively Operated by Company. All stockholders' headgates in the Company's ditch shall be recorded on the records of the Company and new headgates may only be installed upon approval by the Board of Directors at the stockholder's expense. All stockholders' headgates in the Company's ditch shall be operated and maintained by, and be under the exclusive control of, the Company, and no stockholder or any other person shall have the right to interfere with, reconstruct, repair, change, alter, or open or close any of the headgates in any manner whatsoever.

Section 3.8. Stockholder Maintenance of Headgates and Weirs of Less Than Two Shares. The Company is not obligated to, but may at times in its sole discretion, maintain any headgate or weir where the amount of water being delivered through the stockholder's headgate or weir is less than two full shares of stock of water delivery excluding any C-BT Water. In the event the Company provides maintenance of such headgates or weirs at its sole discretion, it is not obligated to provide such maintenance in the future. A stockholder receiving less than two shares of stock of water delivery through a headgate or weir is responsible for the cost and maintenance, at the direction of the Board of Directors, of the stockholder's headgate and weirs.

Section 3.9. Board May Adopt Rules to Operate Ditch. The Board of Directors of the Company may, to meet an emergency or in the general operation of the Company's system, adopt and promulgate other rules and regulations for the collection and distribution of the Company's water supply.

Section 3.10. Rights to Run Foreign Water in the Ditch.

(a) *Requirements.* A person, including stockholders, may only run foreign water in the Company's ditch under license or permit and as provided in this Section 3.10 and Section 3.11.

(b) *License to Others.* The Board of Directors may, at its sole discretion, grant persons or entities a license to use the ditch system of this Company for the purpose of transporting water under terms and conditions, and at times, as will not interfere with the Company's obligation to deliver water to the stockholders for agricultural purposes, or the Company's ability to maintain its ditches and structures. In accepting a license, the person or entity shall hold the Company harmless from any and all liability or damage that may be suffered by the Company, or by any person or stockholder, by reason of the licensee's use of the Company's ditch system and structures, without regard to the licensee's negligence or the negligence of the Company, and the licensee shall have no right of contribution or indemnity from the Company. The licensee shall be strictly liable to the Company for any damage to the Company's ditch, structures, or operations by reason of its use of the Company's ditch or structures. The Board of Directors shall set a fee to be charged for the license. The license fee, plus any additional expenses incurred by the Company in accommodating the request of the licensee, shall be deposited, or prepaid, or otherwise secured as determined by the Board of Directors.

Section 3.11. Private Water Carriage for Stockholders.

(a) *Right and Permission for Private Water Carriage.* Any stockholder who desires the carriage of foreign water acquired by the stockholder may use the Company ditch system for carriage of the foreign water that flows through the stockholder's headgate to be used on the stockholder's land subject to this Section 3.11. A stockholder who desires carriage to make up any diminished delivery of C-BT Water allocation for shares from which no C-BT Water has been transferred shall have priority over carriage of foreign water for other stockholder purposes.

(b) *Company System Capacity Limitation and Priorities.* The carriage of foreign water in the Company ditch system by a stockholder shall be limited by the excess capacity remaining as determined by the Board of Directors after water acquired or contracted by the Company for the stockholders collectively and the carriage of water by others who have a legal right or priority under preexisting agreements is delivered. If the approvals for the carriage of foreign water carried for stockholders exceeds the excess capacity of the Company system to carry the foreign water at any time as determined by the Board of Directors, then the Board of Directors shall reduce the approved carriage volume of foreign water for stockholders based on any class of priority as determined by the Board of Directors on a pro rata basis.

(c) *Compatible Water Quality.* A stockholder may only use the Company ditch system for the carriage of any foreign water of a quality that is comparable with other water in the Company system as determined by the Board of Directors.

(d) *Seepage, Evaporation and Carriage Losses.* Any foreign water carried by the Company system by a stockholder shall be charged with the seepage, evaporation, and carriage losses as determined by the Board of Directors for other water on the Company ditch system at the time the stockholder water is carried.

(e) *Fee for Private Water Carriage.* Each stockholder shall be charged, and if not paid, assessed a carriage fee determined by the Board of Directors for foreign water that is carried by the Company ditch system under this section for the stockholder.

(f) *Carriage Permit.* Prior to any foreign water being carried by the Company ditch system, the stockholder shall obtain from the Board of Directors a carriage permit or easement identifying the source, amount, point of transfer in the Company ditch system, and other information requested by the Board of Directors. Upon 45 days after receipt of the permit or easement request, the Board of Directors shall (1) approve the request; (2) approve the request with modifications; or (3) disapprove the permit request stating the reasons for disapproval.

Section 3.12. Restrictions on Transfer of Water.

(a) *Restrictions on Board.* The Board of Directors shall not sell, transfer, or otherwise alienate any waters obtained for the beneficial use of the stockholders, including the allocations of the waters of the Northern Colorado Water Conservancy District, without approval by a majority of the shares of stock represented by the owners in person or by proxy at an annual or special meeting of the stockholders. Notwithstanding the restriction in this section, the Board of Directors shall have the authority to transfer use of waters allocated for a water year that have not been run by the end of the season as determined by the Board of Directors to others for use within or outside of the Company ditch, as set forth in the Rules and Regulations, for the purpose of managing the Company ditch system. Any stockholder desiring to take delivery of water resulting from the units of the Colorado-Big Thompson Project assigned for delivery from the Platte Valley Irrigation Company account (“C-BT Water”) must either: (1) take delivery of the water on or before October 15 of the current year; or (2) on or before October 15 schedule delivery of the water with the Company Superintendent, with the water to be run during the period that the ditch is in operation during the current year.

In accordance with the Company’s rules and regulations, the Company will authorize the Northern Colorado Water Conservancy District (“Northern”) to retain the maximum amount of any of the Company’s C-BT Water remaining undelivered or unordered after October 15 and to allocate such maximum amount into the Company’s carry-over account at Northern. When the Company is invoiced by Northern for the allowable carryover capacity the following year, the Company allows those shareholders who have retained C-BT Water to pay their pro rata share of the invoiced amount for use of the carryover capacity during that irrigation season. If any such shareholder elects not to pay for their pro rata share of the carryover water, the Company pays for any unclaimed carryover capacity and uses it, as necessary, for the benefit of all shareholders.

Pursuant to Northern’s rules and regulations, any unused C-BT Water less that amount directed into the Company’s C-BT Water carry-over account will be returned to Northern’s project supply. At Northern’s discretion, all or a portion of such unused C-BT Water may be allocated to Northern’s Regional Pool Program. If Northern allocates any such unused C-BT Water to its Regional Pool Program, and the Company receives revenue from Northern pursuant to proceeds generated by Northern from its Regional Pool Program, the Company shall apply such proceeds as follows:

(1) The Board of Directors shall estimate, and retain from such proceeds, an amount considered sufficient to pay any income tax liability which the Company reasonably expects to owe that is attributable to the Company's receipt of such proceeds. Any deficit or surplus in the amount retained pursuant to this subparagraph shall be required to be paid from or to the holders of Company shares with allocations of C-BT Water described in subparagraphs (3) to (4) hereof, as applicable, within 60 days of notice by the Company accountant of the actual determination of such payment in connection with the filing of any Company income tax return. Under no circumstances will the Company retain, or otherwise be responsible for, the payment of any applicable income taxes owed by such holders of Company shares individually, based on the application of such proceeds described herein. Upon confirmation by the Company accountant that the amount retained by the Company pursuant to this subparagraph is inadequate to fully pay the taxes owed by the Company for the proceeds received, the Company shall assess, pro-rata, the holders of the Company shares who shall reimburse the Company for their pro rata amounts within thirty (30) days of receipt of such assessment. The Company shall treat failure to timely pay such assessment in accordance with Section 6.2.

(2) After retention from such proceeds of the amount described in subparagraph (1) hereof, the Board of Directors shall retain from such proceeds an additional amount of \$_____¹ per unit of C-BT Water that generated such proceeds, which additional amount shall be considered an administrative fee reasonably estimated to cover any costs of calculating and applying the proceeds as outlined in these subparagraphs (1)-(5), including but not limited to costs associated with C-BT Water accounting for each such participating stockholder and reconciling, as necessary, stockholder C-BT accounts to confirm pro rata entitlement to proceeds and obligations incurred pursuant to these subparagraphs.

(3) After retention from such proceeds of the amounts described in subparagraphs (1) and (2) hereof, the Board of Directors shall deposit, pro rata based on the number of stockholder C-BT units contributing towards such proceeds, unless a stockholder elects not to participate in such a deposit, such remaining amounts in the Capital Improvements Account (described in Section 4.1, paragraph (d)) of each holder of shares with allocations of C-BT Water that generated such proceeds, up to \$10,000 for each such share with allocations of C-BT water. The Company may spend proceeds so deposited pursuant to this subparagraph in accordance with Section 4.1, subparagraph (d). The Company shall consider such deposits pre-payment(s) of the Contribution required for transfers or leases of C-BT Water described in Sections 4.1, 4.2 and 4.3. Application of any proceeds that exceed the required \$10,000 per-share Capital Improvements Account Contribution for each holder of shares with allocations of C-BT Water that

¹ \$2/unit has been identified as a possible administrative fee, but such amount will require further evaluation and may be increased or decreased prior to being set to ensure that the Company captures its reasonable costs in administering this bylaw modification. This administrative fee is intended to offset cost and not produce revenue.

generated such proceeds shall occur as described in subparagraphs (4) and (5) hereof.

(4) After retention from such proceeds of the amounts described in subparagraphs (1) – (3) hereof, the Board of Directors shall apply any remaining amounts of such proceeds as a credit against the amount that would be owed for the next year's regular Company assessments by each holder of shares with allocations of C-BT Water that generated such proceeds who, after any deposit of their pro rata portion of such proceeds up to the required \$10,000 per-share Capital Improvements Account Contribution described in subparagraph (3) hereof, has a portion of such proceeds remaining. Application of any proceeds that exceed the amount that would be owed for such regular assessments by such shareholders shall occur as described in subparagraph (5) hereof.

(5) After retention from such proceeds of the amounts described in subparagraphs (1) – (4) hereof, the Board of Directors shall next apply any remaining amounts of such proceeds to offset the Company's expenses for Northern Colorado Water Conservancy District assessments imposed for the next year for the C-BT units that remain allocated to Company shares. Once the Company's expenses for Northern Colorado Water Conservancy District assessments imposed for the next year are fully offset, as described in this subparagraph, then 100 percent of any remaining proceeds shall be applied as determined by the Board of Directors, in its discretion. If a stockholder elects not to participate in the application of proceeds pursuant to subparagraphs (3)-(5) hereof, then 100 percent of that stockholder's remaining proceeds after the Company's operation of subparagraphs (1)-(2) hereof, shall be applied as determined by the Board of Directors, in its discretion.

(6) Receipt and application of the proceeds from the Northern Colorado Water Conservancy District Regional Pool Program as outlined in this Section 3.12 shall not constitute a "Transfer" of C-BT Water for purposes of Bylaw 4 of the Company Bylaws.

(7) Prior to application of any such proceeds for the benefit of a holder of Company shares with allocations of C-BT Water described in subparagraphs (3) to (4) above, such shareholder shall execute (and any lienholders or other interest holder of record shall consent to the shareholder's execution of) a document or documents approved by the Board of Directors that:

- (i) Holds the Company harmless from any claims or liability resulting from the application of proceeds as described in subparagraphs (1)-(5) above or, only with respect to such proceeds received by the Company prior to January 1, 2017, as previously applied in the Company's discretion; and

- (ii) Indemnifies the Company for any unpaid liability of the Company relating to the application of the corresponding amount of the proceeds for

the benefit of such holder as described in paragraphs (3) to (4) described above, and granting to the Company a contractual right to assess the stock of the Company held by the holder and to enforce and collect the amount assessed against the stock for such unpaid liability of the Company. The indemnity obligation under this indemnity and the Company's assessment right in the stock shall exist for a period of seven years after the last date of application of proceeds for the benefit of a holder, or if liability is in dispute, until such later time as a final determination as a matter of law is made in respect to the dispute (referred to as the "Indemnity Period"). The Company's right to enforce this indemnity shall continue throughout the Indemnity Period. The Company's right to enforce this indemnity will continue in the stock after a transfer of the stock to another person or entity unless the Board of Directors determines in its discretion that the Company is otherwise adequately protected. This required indemnity shall not be the sole or exclusive remedy of the Company to enforce the indemnity. The required document shall state that the Company retains all other rights against a holder.

(8) *Notice on Certificate.* Notice of the indemnity agreement and the Company's assessment right in the shares shall be noted on the stock certificate for the shares to which the Company applies Northern Regional Pool Program proceeds. The notice on the stock certificate shall provide:

- (i) the Company has an assessment right for any Company liability during the Indemnity Period, as provided in this Bylaw 3.12(a);
- (ii) the Company may enforce the indemnity agreement against the shares by the assessment right under this Bylaw 3.12(a) through a lien, foreclosure of a lien, or other remedies;
- (iii) that subsequent stock transfers may be rejected;
- (iv) that failure to pay any Company liability may result in no delivery of water to the stockholder as provided in the Company's Bylaws; and
- (v) other notice information deemed necessary or appropriate as determined by the Board of Directors as consultation with legal counsel.

(b) *Changes of River Water Rights.*

(1) *Application to Board.* Any stockholder desiring a change of water right ("Applicant"), other than a transfer of C-BT water which is subject to Bylaw 4 and not the provisions of this Section 3.12(b), including, but not limited to, a change in point of diversion, place of use, or type of use of any water that the Applicant is entitled to receive as a result of stock ownership, must first make a written application therefor to the Board of Directors of the Company ("Change Application"). A change of water right includes the use of water as augmentation water in a plan for augmentation or exchange and/or in a substitute water supply

plan. The Change Application should detail the requested change and include any terms and conditions necessary to prevent injury to the Company and its stockholders. If, in the reasonable opinion of the Board of Directors, such change may be approved without injury to the Company and all of its stockholders, the Board of Directors shall then approve the Change Application subject to all necessary terms and conditions to prevent injury to the Company and its stockholders. In evaluating whether the requested change of water rights can be made without injury to the Company and its stockholders, the Company may obtain an engineering and legal analysis of the Change Application by the Applicant and the terms and conditions offered by the Applicant.

(2) *Ditch-wide Analysis.* Upon commission by the Company, a Ditch-wide Analysis was completed in June 2006 by Brown and Caldwell for the river water right decreed to the Company ditch ("Water Right"). The Ditch-wide Analysis calculated the amount of transit loss in the Company ditch; the number and location of lands historically irrigated by the Company ditch; the time, place, and amount of historical return flows; the historical consumptive use of the Water Right and the pro rata portion of the historical consumptive use associated with each share of the Company and any other information relating to the historical use of the Water Right and delivery of the Water Right.

(3) *Decision on Application.* The Company shall approve or disapprove the Change Application within 120 days of submission by an Applicant.

(4) *No Application to District Court or the State Engineer Without Company Approval.* No application for approval of a change of water right or plan for augmentation as described above may be made to the Water Court nor may an application for a substitute water supply plan including river water associated with Company shares of stock be made to the State Engineer, unless the same has been approved by the Company. If a Change Application has been approved by the Company, the Applicant must include terms and conditions at least as restrictive as those approved by the Company in an application to the District Court for Water Division No. 1, State of Colorado and/or in an application for substitute water supply plan to the State Engineer.

(5) *Reimbursement of Company Costs.*

(i) An Applicant for a change of water right must reimburse the Company for the Company's reasonable costs and fees in analyzing the Change Application and in any judicial litigation that follows, including a challenge to the Company's denial of a Change Application. Prior to obtaining legal and engineering analyses of the Change Application, the Company shall obtain an estimate of the costs. The Company shall obtain said estimate of cost within 30 days of submission of a Change Application and the Applicant shall have 30 days after receipt of the estimate from the Company to make the deposit of the estimated costs to the Company. For every day past 30 days in which the Applicant does not

make its deposit, the deadline for the Company to approve or disapprove the Applicant's Change Application shall be extended. The Company shall not take final action on any Change Application until, and unless, the Applicant makes said deposit. If the estimate and deposit need to be adjusted by further payment or reimbursement, said adjustment shall be made upon the completion of the analysis. In no event shall the Company be required to finally approve or disapprove the Change Application until all fees incurred by the Company are reimbursed.

(ii) The Applicant shall reimburse the Company a portion of the cost of the Ditch-wide Analysis according to the number of Company shares of stock in the Change Application. Upon the completion of the Ditch-wide Analysis, the Board shall calculate the cost of obtaining the Ditch-wide Analysis and divide that amount by the number of shares in the Company to determine the pro rata cost for each share ("Pro Rata Cost"). The Company shall not be required to finally approve or disapprove the Change Application until the Pro Rata Cost for each share of stock in the Change Application is reimbursed to the Company.

(6) *Void Sections Don't Affect Other Sections.* If any portion of this Section 3.12(b) is declared void by a court of law, the remaining portions of this bylaw shall remain in full force and unaffected.

Section 3.13. Use of Water Resulting in Increase in Interest Rate. Any stockholder who makes any use of water, whether directly or by lease, sale, or exchange, or who adjudicates a change of water right or takes any other action that causes the Company to pay a higher interest rate on any loan or other obligation of the Company, including any loan from the Colorado Water Conservation Board ("CWCB"), shall be solely responsible for paying to the Company, within 30 days of billing, the full amount of the incremental payment that is due from the Company.

Example: If the Company has a \$100,000 loan at an interest rate of 3% resulting in an annual interest payment of \$3,000 and a stockholder who adjudicates a change of water or uses water in such a fashion so as to cause the interest rate to increase to 4% resulting in an annual payment of \$4,000, the stockholder shall owe the Company the incremental amount of the annual interest payment, or \$1,000, within 30 days of billing.

BYLAW 4

TRANSFER C-BT WATER OUT OF DITCH

Section 4.1. Transfer of C-BT Water.

(a) *General Requirements.* The stockholders of the Company have had the beneficial use of waters (referred to as "C-BT Water" for purposes of these Bylaws) that were allocated to the Company by the Northern Colorado Water Conservancy District (referred to as the

“District”) for use by the stockholders, and such beneficial use includes the ability to carry over a portion of C-BT Water annually. A stockholder may transfer the beneficial use of C-BT Water or carryover capacity associated with C-BT Water (“Carryover Capacity”) to other persons or entities whose beneficial use of the C-BT Water or the Carryover Capacity will be outside of the Company ditch system if the conditions of this Bylaw 4 are satisfied as determined by the Board of Directors and any such transfer is contingent upon those conditions.

(b) *Bylaw Transfer Conditions Met.* The stockholder who desires to transfer the beneficial use of C-BT Water to other persons or entities who will take delivery of or use the C-BT Water outside of the Company ditch system (referred to as the “Transferring Stockholder”) must meet the conditions set forth in Section 4.1 and Section 4.2 for transfers of C-BT Water requiring a change in the allotment contract with the District. The stockholder who desires to lease the beneficial use of C-BT Water or Carryover Capacity to persons or entities who will take delivery of or use the C-BT Water or Carryover Capacity outside the Company ditch system (also referred to as the “Transferring Stockholder”) must meet the conditions set forth in Section 4.1 as applicable and Section 4.3 for leases that do not require a change in the allotment contract with the District.

(c) *District Audit Not Required.* The transfer must not require or request a District audit of C-BT Water use in the Company ditch system. “Transfer” for purposes of this Bylaw 4 means any act that results in the allocation or diversion of the C-BT Water or Carryover Capacity outside of the Company ditch system or a beneficial use outside of the Company ditch system, regardless of whether the transfer requires a change in the allotment contract with the District or whether the transfer is a lease that does not require a change in the allotment contract with the District.

(d) *\$10,000 Per Share Equity Contribution.* The Transferring Stockholder must make or commit, in a manner satisfactory to the Board of Directors, a contribution to the equity of the Company of \$10,000 per share or a proportional amount from a partial share of stock on a certificate from which an allocation of C-BT Water is transferred (referred to as the “Contribution”). For example, for a transfer of C-BT Water from a certificate of 0.65 shares is a Contribution of \$6,500 and a transfer of C-BT Water from a certificate of 2.333 shares is a Contribution of \$23,330. Each Contribution shall be credited as paid in capital of the stockholder and upon liquidation of the Company shall have a priority to be paid over other equity of the stockholders. The collective Contribution of the stockholders under this paragraph (d) shall be credited to a separate capital improvements account (referred to as the “Capital Improvements Account”) and except as provided in paragraph (k), may be spent only for capital expenditures for projects to improve ditch flow, to reduce seepage and loss and otherwise keep the facilities of the Company in good repair, to construct improvements, to acquire sources of water and to pay taxes and administrative costs associated with the Capital Improvements Account. Except as provided in paragraph (k) and to pay taxes and administrative costs associated with the Capital Improvements Account, any expenditures from the Capital Improvements Account must be approved by a majority of the shares of stock represented by the holders in person or by proxy at an annual or special meeting of the stockholders. The Contribution is only required on the initial transfer of the allocation of C-BT Water from the share after the adoption of this bylaw. If a certificate designates more than one share of stock,

the transfer will be deemed to have occurred equally from all shares represented by the certificate.

(e) *Attorney Opinion Letter.* The Transferring Stockholder must provide with the application for transfer an opinion letter of an attorney addressed to the Transferring Stockholder and the Company that is satisfactory to the Company stating that:

(1) the attorney has reviewed the transfer and the business transaction or transactions associated with the transfer (referred to as the “transaction”), the facts underlying the transfer and the transaction, federal and state law applying to the transfer and transaction including, but not limited to, statutory and case law and Internal Revenue Service regulations and rulings, and all transaction documents to make the opinion;

(2) the transfer and transaction are consistent with the Internal Revenue Service’s PLR 200307009, and particularly with the characterization of tax liability to the Company as described in PLR 200307009;

(3) for federal income tax purposes the Transferring Stockholder is the beneficial owner of the C-BT Water rights to be transferred based on the records of the Company and information known to the attorney and that the transfer is not a sale or disposition of the CB-T Water to be transferred by the Company to any transferee or a distribution of the CB-T Water to be transferred or the proceeds of the transfer by the Company to the Transferring Stockholder with respect to the Transferring Stockholder’s stock;

(4) the transfer and the transaction are enforceable and legal and comply with Bylaw 4 of the Company’s Bylaws; and that the only contingency is the District approval of a change in the allotment contract with the Company, unless otherwise agreed to by the Board of Directors; and

(5) the Company can reasonably rely on the opinion letter and the facts represented in the opinion letter when approving the transfer.

In the event the Company approves the transfer, it will be presumed that the Company has relied on assertions of material fact contained in the opinion letter. The opinion letter may be rejected by the Company as inadequate as determined by the Board of Directors.

Prior to submitting an application for transfer, the Transferring Stockholder may submit a form of opinion for review by the Company. The costs for the review, including legal fees, must be agreed to be paid by the Transferring Stockholder prior to any review by the Company as set forth in paragraph (g).

(f) *Company Held Harmless.* The Transferring Stockholder and any person or entity with an interest in the stock including all stockholders and lienholders of record (referred to as “All Interest Holders of Record”) must sign a statement approved by the Board of Directors holding the Company harmless from any claims or liability resulting from the transfer.

(g) *Stockholder Pays Company's Cost of Transfer.* Prior to the Company reviewing an application for transfer or any pre-application materials such as a form of an attorney opinion letter, the Transferring Stockholder must agree in writing to directly pay the Company's costs of the transfer, including but not limited to reasonable attorneys' fees and costs incurred by the Company relating to the transfer. All Interest Holders of Record must also sign the agreement regarding the payment of costs and agreeing that the shares from which the C-BT Water would be transferred may be assessed for these costs in the event the Transferring Stockholder fails to pay the Company, and that the Company may enforce the right to assess the shares as provided in paragraph (m). Such agreement shall also provide that the Transferring Stockholder shall be responsible for paying the Company's costs in reviewing any pre-application materials and/or an application for transfer, including reasonable attorneys' fees, even if the Company does not approve the transfer or the Transferring Stockholder does not complete the transfer for any reason. The Company shall keep a separate accounting of the costs to the Company for the review of the proposed transfer and for transferring the beneficial use of C-BT Water. All costs of the Company related to the transfer and stated in the account as determined by the Board of Directors shall be charged to the Transferring Stockholder and if unpaid the Transferring Stockholder and All Interest Holders of Record agree that as a condition of considering the application for transfer, the unpaid amounts may be assessed against the shares from which the C-BT Water would be transferred.

(h) *Indemnity Agreement.* The Transferring Stockholder shall provide a written agreement (referred to as the "Indemnity Agreement"), signed by the Transferring Stockholder and consented to by All Interest Holders of Record as specified below for the Transferring Stockholder to indemnify the Company for any unpaid liability of the Company relating to the transfer (referred to as "Company Transaction Liability") and granting to the Company a contractual right to assess the stock of the Company held by the Transferring Stockholder and to enforce and collect the amount assessed against the stock for any unpaid liability of the Company relating to the transfer as provided in this Bylaw 4 (referred to as the "Assessment Right"). The Company Transaction Liability includes the amount necessary to protect the Company on an after-tax basis from any loss due to the liability resulting from the transfer, including any additional tax or penalties assessed to the Company resulting from the transaction and any costs and attorneys' fees incurred by the Company in contesting such liability resulting from the transfer of the C-BT Water. The indemnity obligation under the Indemnity Agreement and the Company's Assessment Right in the stock shall exist for a period of seven years after the last date of transfer of and payment for the C-BT Water; or if liability is in dispute, until such later time as a final determination as a matter of law is made in respect to the dispute (referred to as the "Indemnity Period"). The Company's right to enforce the Indemnity Agreement, including the Assessment Right, against the Transferring Stockholder individually and against the stock of the Company held by the Transferring Stockholder, shall continue throughout the Indemnity Period. The Company's right to enforce the Indemnity Agreement, including the Assessment Right, will continue in the stock after a transfer of the stock to another person or entity unless the Board of Directors determines in their discretion that the Company is otherwise adequately protected from the amount of the Company Transaction Liability which may include the Transferring Stockholder's retained stock, assets which the Transferring Stockholder may pledge, the ability of the Transferring Stockholder to pay the Company Transaction Liability, or other criteria. The Assessment Right may be enforced as provided in paragraph (m), and when enforced will reduce the Transferring Stockholder's equity contribution in paragraph (d) in the

amount being enforced through the Assessment Right. The Assessment Right is not the sole or exclusive remedy of the Company to enforce the Indemnity Agreement. The Company retains all other rights against the Transferring Stockholder and stock held by the Transferring Stockholder including, but not limited to, an action against the Transferring Stockholder to enforce the debt arising from the indemnity, imposing a lien upon stock held by the Transferring Stockholder, foreclosure of the lien upon stock held by the Transferring Stockholder and stopping delivery of water associated with the stock. The Indemnity Agreement shall include the following provisions:

(1) that the transfer of the C-BT Water from the share or shares represented in the certificate are subject to the provisions of this Bylaw 4;

(2) that the Indemnity Agreement of the Transferring Stockholder related to the transaction on the share or shares represented by the certificate may be enforced as provided in paragraph (m), the Indemnity Agreement, this Bylaw 4, or as provided by Colorado law;

(3) that all claims to and interests in the share or shares represented by the certificate shall be subordinated to the Company's Indemnity Agreement and Assessment Right in the stock;

(4) that in the event there is Company Transaction Liability resulting from the transaction, and the Company enforces the Assessment Right as provided in paragraph (m), the Company shall automatically have a perpetual lien with first priority on the shares of stock and the water rights represented by the same for any and all amounts due as Company Transaction Liability, which the Company may enforce and foreclose in accordance with Colorado law and these Bylaws;

(5) that the Company's Assessment Right in the stock shall be noted on the certificate as provided below in paragraph (j) and subsequent transfers of stock may be rejected as provided in paragraph (i); and

(6) that the Transferring Stockholder and All Interest Holders of Record are responsible for providing to the Company their current post office address and physical address and notifying the Company in writing of any changes to their address during the Indemnity Period.

(i) *Subsequent Stock Transfer May Be Rejected.* The Transferring Stockholder and All Interest Holders of Record must agree in writing that the Company may reject the transfer of any shares subject to the Assessment Right during the Indemnity Period if the Company in its sole discretion, on a stockholder by stockholder and transaction by transaction basis, believes the Company will not have an adequate right of assessment or claim against a stockholder, the stockholder's heirs, or assigns to cover Company Transaction Liability and the Transferring Stockholder has not provided an acceptable alternative surety as determined by and in the discretion of the Board of Directors. In any event, a transfer of stock during the Indemnity Period, shall not relieve the Transferring Stockholder of individual liability under the Indemnity Agreement, or the Company's Right of Assessment or other remedies against the stock, unless

the Board of Directors in the Board's discretion does not continue or waives the Company's right to enforce the Indemnity Agreement, including the Assessment Right after the transfer of stock.

(j) *Notice on Certificate.* Notice of the agreement and the Company's Assessment Right in the shares shall be noted on the stock certificate for the shares from which the C-BT Water will be transferred. The notice on the stock certificates shall provide:

- (1) the Company has an Assessment Right for any Company Transaction Liability during the Indemnity Period, as provided in this Bylaw 4;
- (2) the Company may enforce the Indemnity Agreement against the shares by the Assessment Right under this Bylaw 4 through a lien, foreclosure of a lien, or other remedies;
- (3) that subsequent stock transfers may be rejected as provided in paragraph (i) of this Section 4.1.;
- (4) that failure to pay any Company Transaction Liability may result in no delivery of water to the stockholder as provided in the Company's Bylaws; and
- (5) other notice information deemed necessary or appropriate as determined by the Board of Directors, all of which shall be in a form approved by the Board of Directors after consultation with legal counsel.

(k) *Funds from Capital Improvements Account to Pay Company Liability.* The Transferring Stockholder and All Interest Holders of Record must agree in writing that the Board of Directors in its sole discretion may apply any unencumbered funds in the Capital Improvements Account under paragraph (d) to satisfy any Company Transaction Liability regardless of whether the Company Transaction Liability arises from the Transferring Stockholder's transfer transaction or another transaction under this Bylaw 4. As a part of this agreement, the Transferring Stockholder and All Interest Holders of Record must agree that in the event the Board of Directors applies funds from the Capital Improvements Account to satisfy the Company Transaction Liability or any portion thereof, the Company may still enforce the Indemnity Agreement and collect the amount of Company Transaction Liability arising from the Transferring Stockholder's transaction from the Transferring Stockholder and/or from the stock through the enforcement of the Assessment Right or other remedies against the stock as provided in this Bylaw 4 in order to reimburse the Capital Improvements Account.

(l) *Assessments Must Be Current.* All assessments on stock from which C-BT Water is to be transferred must be paid in full before a transfer can be approved by the Board of Directors.

(m) *Enforcement of Assessment Right.* The Assessment Right of the Company may be enforced as provided in this paragraph (m). The Company's right to enforce the Assessment Right under this paragraph is in addition to and is not exclusive of other remedies of the Company to enforce the Indemnity Agreement and collect any Company Transaction Liability. The Company may enforce the Assessment Right by following the procedures below.

(1) *Notice and Demand to Pay Company Transaction Liability.* The Company must notify any Transferring Stockholder in writing at the Transferring Stockholder's address of record with the Company by physical delivery or mail with return receipt of any Company Transaction Liability for which the Company has determined the Transferring Stockholder is liable and demand payment pursuant to the Indemnity Agreement by a specified date not less than 30 days after the date the notice is physically delivered to the Transferring Stockholder or has been deposited in the post office, properly addressed to the address of record for the Transferring Stockholder. The Company shall have properly delivered notice if the notice is addressed to the Transferring Stockholder's address of record and deposited in the mail even if actual delivery does not occur or the address is not correct. The Transferring Stockholder is responsible for notifying the Company of their current address. The notice must include a copy of this paragraph (m).

(2) *Notice of Meeting to Determine Enforcement of Assessment Right.* If the Transferring Stockholder does not pay the amount demanded to be paid for the Company Transaction Liability, the Company must notify the Transferring Stockholder at the Transferring Stockholder's address of record with the Company, All Interest Holders of Record, and, if applicable, the successor or assignee of the Transferring Stockholder who is the record owner of the stock, by physical delivery or mail with return receipt that the Board of Directors will hold a meeting to consider enforcement of the Assessment Right as provided in the Bylaws, which may include restriction or removal of the right to receive delivery of water associated with the holding of shares of the Company, foreclosure of the lien on the shares including forfeiture or sale of the shares of stock to collect the amount due for the Company Transaction Liability, and other remedies as determined by the Board of Directors. The Company shall have properly delivered notice if the notice is addressed to the Transferring Stockholder, All Interest Holders of Record, and, if applicable the successor or assignee of the Transferring Stockholder as shown in the Company's records and deposited in the mail even if actual delivery does not occur or the address is not correct. The Transferring Stockholder, All Interest Holders of Record and any successor stockholders are responsible for notifying the Company of their current address. The notice must include a copy of this paragraph (m).

(3) *Meeting.* The Board of Directors shall hold a special meeting or designate a separate agenda item during a meeting to consider enforcement of the Assessment Right as provided in the Bylaws. The notice of the Board of Directors meeting must include the agenda item to consider enforcement of the Assessment Right. The Transferring Stockholder, All Interest Holders of Record, and, if applicable, the successor or assignee of the Transferring Stockholder who is the record owner, against whose stock the Assessment Right would be enforced, must be allowed to attend the meeting and shall be given an opportunity to be heard on the matter of enforcement of the Assessment Right.

If the Board of Directors determines that it will not enforce the Assessment Right under this paragraph, written notice of the determination shall be provided to the Transferring Stockholder, All Interest Holders of Record, and, if applicable, the successor or assignee of the Transferring Stockholder who is the record owner, at their address of record with the Company by physical delivery or mail with return receipt. The same terms and conditions as set forth in paragraph (m)(2) above regarding the delivery of notice shall apply. A decision not to enforce the Assessment Right under this paragraph does not preclude the Company from pursuing other remedies to enforce the Assessment Right or the Indemnity Agreement. The notice that the Company will not enforce the Assessment Right must include a statement that the Board of Directors' determination not to pursue enforcement of the Assessment Right under this paragraph is not the exclusive remedy of the Company relating to any Company Transaction Liability.

(4) Enforcement Order of Board of Directors. If the Board of Directors determines the Company should enforce the Assessment Right under this paragraph, the Board of Directors shall prepare and approve an enforcement order. The enforcement order must be addressed to the Transferring Stockholder, All Interest Holders of Record, and, if applicable, the successor or assignee of the Transferring Stockholder who is the record owner of the stock, and delivered to their address of record with the Company by personal delivery or by mail with return receipt. The same terms and conditions as set forth in paragraph (m)(2) above regarding the delivery of notice shall apply. The Board of Directors may determine any or a combination of the following and provide in the order to:

- (i) stop the delivery of water associated with the shares of stock subject to the Assessment Right;
- (ii) transfer future rights to receive water to other stockholders on a temporary basis or permanently, and apply the proceeds from any such transfer to the amount owed by the Transferring Stockholder to the Company, providing any transfer is made on a commercially reasonable basis;
- (iii) cancel the shares of stock subject to the Assessment Right and offer a similar number of shares for sale to others, and apply the proceeds of any such sales of stock to the amount owed by the Transferring Stockholder to the Company, providing any such sale of stock is made on a commercially reasonable basis; and
- (iv) redeem the stock held by the Transferring Stockholder, or the subsequent record owner of the stock subject to the Assessment Right, for a commercially reasonable amount determined by appraisal, and the redemption amount shall be applied to the amount owed by the Transferring Stockholder to the Company with any excess to be paid to the Transferring Stockholder.

The Board of Directors and the Transferring Stockholder, All Interest Holders of Record, and, if applicable, the successor or assignee of the Transferring Stockholder who is the record owner of the stock, may mutually agree in writing to alternative procedures to enforce the Assessment Rights under this paragraph.

Section 4.2. Requirements for Transfers Involving a Change in District Allotment Contract.

(a) *Transfer Requirements Must Be Met.* The Board of Directors shall not execute a change in allotment of C-BT Water from stockholders to beneficial uses outside the Company ditch system and the transfer of C-BT Water from stockholders shall not be completed until each of the conditions in Sections 4.1. and 4.2. has been met.

(b) *Transfer Application to Company.* The Transferring Stockholder must provide to the Board of Directors:

- (1) the stockholder's name;
- (2) the share certificates from which the beneficial use of C-BT Water is to be transferred;
- (3) the party to whom the beneficial use of C-BT Water will be transferred, which must be a party eligible to receive C-BT Water under the District rules and criteria;
- (4) the consideration for the transfer acknowledged by both the Transferring Stockholder and the party to whom the beneficial use of the C-BT Water will be transferred or a copy of all transfer documents;
- (5) the proposed date of transfer;
- (6) affirmation that the transfer when submitted to the District does not require or request a District audit under Section 4.1., paragraph (c);
- (7) designation of the manner and form of equity contribution under Section 4.1., paragraph (d);
- (8) the opinion signed by the stockholder's attorney under Section 4.1, paragraph (e);
- (9) the agreements signed by the stockholder under Section 4.1., paragraphs (f), (g), (h), (i), (k); and
- (10) an executed proxy in the form of Schedule 4.4. (b), assigning the stockholder's right to vote concerning C-BT Water assessments for the transferred water which shall become effective when the stockholder's transfer of C-BT Water is approved by the District.

(c) *District Review.* The Northern Colorado Water Conservancy District staff has provided preliminary favorable review of the transfer of beneficial use of C-BT Water to another person or entity whose beneficial use will be outside the Company ditch system.

(d) *District Application; Recordation of Transfer.* After the Board of Directors has determined the transfer application has met the conditions to transfer C-BT Water, the Board of Directors shall forward the transfer to the District, and upon, or as a condition, of District approval of the transfer, shall execute the application for change in allotment of C-BT Water from the District. The President shall cause entries to be made on the books of the Company and a restriction to be recorded on the Transferring Stockholder's share certificates: (1) reflecting the reduction of the pro rata share of waters received by the Company for beneficial use by the stockholders as a result of the transfer of the C-BT Water; and (2) the proxy for the shares reflecting the proxy for votes on assessments as provided in Section 4.4., paragraph (b).

Section 4.3. Leases of the Use of C-BT Water or Carryover Capacity.

(a) *Lease Defined.* "Lease" means any transaction in which the Transferring Stockholder transfers the beneficial use of C-BT Water or Carryover Capacity outside of the Company ditch system for a temporary period so that the transfer does not require a change in the allotment contract between the District and the Company.

(b) *Requirements for Leases.* The Board of Directors of the Company shall not authorize a lease of C-BT Water or Carryover Capacity for use outside the Company ditch system until each of the conditions and documents supplied in this Section 4.3 have been met and are in a form acceptable to the Company and that create no further obligation, cost or liability to the Company. The Board of Directors of the Company shall act reasonably in requesting modifications or changes to these ends but nevertheless, the authorization of a lease of C-BT Water or Carryover Capacity shall be at the discretion of the Board of Directors. The conditions are as follows:

(1) *Stockholder's Application to the Company.* Each Transferring Stockholder shall provide an application for the Lease to the Board of Directors, which contains:

- (i) the stockholder's name;
- (ii) the share certificate numbers from which the beneficial use of C-BT Water or the Carryover Capacity is to be leased;
- (iii) the party who is leasing the beneficial use of C-BT Water or the Carryover Capacity. Such party must be eligible to receive C-BT Water or Carryover Capacity under the District's rules and criteria;
- (iv) the District water year covered by the Lease;
- (v) the original share certificates from which the beneficial use of C-BT Water or Carryover Capacity is to be transferred under the Lease;

(vi) the consideration for the Lease acknowledged by both the Transferring Stockholder and the party leasing the C-BT Water or the Carryover Capacity or a copy of all of the Lease documents;

(vii) the proposed date of the Lease;

(viii) affirmation that the Lease of C-BT Water or Carryover Capacity when submitted to the District does not require or request a District audit under Section 4.1, paragraph (c);

(ix) demonstration that the equity contribution under Section 4.1, paragraph (d) has been paid in full for the shares from which C-BT Water or Carryover Capacity will be transferred, or if the equity contribution has not been paid in full, the transfer documents showing that all proceeds from the Lease shall be paid directly to the Capital Improvements Account and a written statement from the Transferring Stockholder agreeing to the terms and conditions set forth in Section 4.1., paragraph (d) and Section 4.3., paragraph (b)(2) regarding the equity contribution;

(x) an Indemnity and Assessment Agreement as described under Section 4.3, paragraph (b)(3) must be provided to the Company;

(xi) an agreement that a legend giving notice of the Indemnity and Assessment Agreement and the Transferring Stockholder's obligations under this agreement be placed on the stock certificate for shares from which C-BT Water or Carryover Capacity will be transferred under the Lease;

(xii) an agreement as described in Section 4.1., paragraph (g) for payment of the Company's costs signed by all of the stockholders of record on the stock certificate for shares from which C-BT Water or Carryover Capacity will be transferred under the Lease; and

(xiii) the proposed form of the Lease. The minimum requirements of the Lease shall be: that it is for a term of no greater than one year; that the lessee agrees to be bound by any restrictions already existing on such C-BT Water or Carryover Capacity imposed or thereafter imposed by the Company; that the lessee agrees to be bound by the Indemnity and Assessment Agreement in the case of the lessor's default; and that the lessee agrees to subordinate its interest to any interest of that of the Company and will provide an agreement affirming such subordination upon the request of the Company.

(2) *\$10,000 Per Share Equity Contribution.* The Transferring Stockholder must make or commit an equity contribution, according to the terms described in

Section 4.1., paragraph (d), for all shares from which Lease of C-BT Water or Carryover Capacity occur. The Transferring Stockholder may lease C-BT Water or Carryover Capacity without paying the full amount of the equity contribution if all the proceeds from the Lease are paid directly to the Capital Improvements Account as described in Section 4.1., paragraph (d). Such proceeds shall be credited toward the Transferring Stockholder's one-time equity contribution for the shares, and the Transferring Stockholder shall identify such proceeds as taxable income to the Transferring Stockholder when filing taxes with the Internal Revenue Service. The Transferring Stockholder is responsible for providing the proper transfer documents, which provide to the satisfaction of the Board that the proceeds from the Lease will be paid directly to the Capital Improvements Account. The Board of Directors in its sole discretion may apply any unencumbered funds in the Capital Improvements Account to satisfy any Company Transaction Liability as defined in Section 4.1., paragraph (h) regardless of whether the Company Transaction Liability arises from the Transferring Stockholder's transfer under the Lease or another transaction under this Bylaw 4. In the event the Board of Directors applies funds from the Capital Improvements Account to satisfy any Company Transaction Liability, the Company may still enforce its rights to receive indemnification from the Transferring Stockholder and/or its rights to assess the stock or enforces its other remedies against the stock as provided in this Bylaw 4 in order to reimburse the Capital Improvements Account.

(3) *Indemnity and Assessment Agreement.* The Transferring Stockholder shall provide a written agreement (referred to as the "Indemnity and Assessment Agreement") agreeing to hold the Company harmless from any claims or liability and indemnifying the Company for any Company Transaction Liability resulting from any Lease of C-BT Water and/or Carryover Capacity occurring now and in the future from the Transferring Stockholder's stock in the Company. Also, the Transferring Stockholder shall grant the Company a contractual right to assess the stock of the Company held by the Transferring Stockholder and to enforce and collect the amount assessed against the stock for any unpaid liability of the Company relating to any Lease of C-BT Water or Carryover Capacity from the Transferring Stockholder's shares of stock, including future transfers of C-BT Water or Carryover Capacity under the same Lease or future Leases. The terms of the Indemnity and Assessment Agreement shall include the terms and conditions set forth in Section 4.1., paragraphs (f), (h), (k), and (m).

(i) The Indemnity and Assessment Agreement shall be signed by all of the stockholders of record on the stock certificate for shares from which C-BT Water or Carryover Capacity will be transferred under the Lease, and all lien holders in the Company's records shall be given written notice of the Indemnity and Assessment Agreement. Notice of the Indemnity and Assessment Agreement shall be placed on the original stock certificate(s) in accordance with Section 4.1, paragraph (j) and Section 4.3, paragraph (b)(1)(xi).

(ii) The Board of Directors in its sole discretion may require the Transferring Stockholder to provide title work, such as UCC-1 searches and ownership and encumbrance reports on the Transferring Stockholder's property, in order to prove what encumbrances exist on the stock. Further, the Board of Directors may require the Transferring Stockholder to obtain subordination agreements from any lien holders agreeing to subordinate their interest to the Company's rights granted under the Indemnity and Assessment Agreement.

(iii) The Transferring Stockholder may obtain a release of the indemnity obligation as set forth in the Indemnity and Assessment Agreement from the Company at the end of a period of seven years after the termination or expiration of the Lease or the last transfer of C-BT Water or Carryover Capacity provided no dispute exists concerning liability for the Lease. In the event the Company releases the indemnity obligation, the Transferring Stockholder will not be able to lease the beneficial use of the C-BT Water or Carryover Capacity for use outside of the Company ditch system until a new Indemnity and Assessment Agreement is signed.

(4) *Assessments Must Be Current.* All assessments on the stock from which C-BT Water or Carryover Capacity is to be leased must be paid in full before a Lease can be approved by the Board of Directors.

(5) *District Approval.* After the Board of Directors has determined that the application meets the requirements of this section, the Board of Directors shall forward the appropriate documents to the District to transfer the C-BT Water or Carryover Capacity to the person or entity leasing the C-BT Water or Carryover Capacity. The Board of Directors' approval shall be contingent upon the District's approval of the transfer of C-BT Water or Carryover Capacity under the Lease and upon the fact that the District's approval does not require a change in the District allotment contract with the Company.

(6) *Recordation.* The Board of Directors shall record all Leases on the records of the Company.

(7) *Stock Transfers.* The stock from which the C-BT Water or Carryover Capacity is leased may not be transferred unless all persons or entities desiring to receive title to the stock consent in writing to the terms of the Indemnity and Assessment Agreement.

(c) *Transfer of C-BT Water Forfeited to Company.* The Company may lease any C-BT Water that has been delivered to the Company's ditch system at the request of a stockholder and that has been forfeited to the Company due to failure to pay fees for C-BT Water according to the Rules and Regulations adopted by the Board of Directors. Such transfers of C-BT Water by the Company are exempt from Bylaw 4 requirements.

Section 4.4. Assessments Proxy.

(a) *Increased Assessment.* After the date of transfer of C-BT Water under Section 4.2. or 4.3., the shares from which the C-BT Water is transferred shall be assessed and pay any increased assessments by the District between fixed (current rate) and open (new rate after transfer) rate contracts for the allocation and agricultural use of C-BT Water. The stockholders understand that the current assessment rate will change regardless of whether a transfer occurs and at some point there may only be open rate contracts. If at any time all of the District contracts for agricultural use are open rate, with the same assessment, the obligation of the transferring shares to pay the increased C-BT Water assessment shall cease.

(b) *Proxy of Votes.* A stockholder who transfers C-BT Water under Section 4.2 and during the term of transfer under Section 4.3, agrees, as a condition of the transfer, to execute a proxy for the C-BT Water transferred in favor of the majority decision of shares with allocations of C-BT Water on issues relating to collecting or payment of assessments for the use of C-BT Water that are to be paid to the District.

(c) *Assessments in Trust.* Assessments or payment to the District relating to the C-BT Water shall be collected by the Company as a trustee and accounted for separately for the shares with allocations of C-BT Water. The Company shall pay the assessments to the District according to the agreements with the District and in a timely manner to maintain the beneficial use of C-BT Water by the nontransferring shares.

(d) *Costs of Sand Hill Lake Improvements Paid by All Shares.* All shares of stock shall pay their pro rata assessment for the cost for maintenance, repair, or improvement of Sand Hill Lake, whether or not the beneficial use of C-BT Water is transferred by the stockholder.

Section 4.5. Rights of Others in Ditch System. FRICO and others have certain legal rights in conjunction with the operation and use of the Company ditch which may limit the use and availability of the Company ditch. Those legal rights remain as they are and this Bylaw does not alter or impact those prior existing legal rights.

BYLAW 5

STOCK

Section 5.1. Stock Is Right of Stockholder to Receive Beneficial Use of Water. The stock of this Company shall be issued to stockholders to represent an allocable share of the beneficial use of water obtained by the Company for the beneficial use of the stockholders as provided in these Bylaws, and the shares of stock represent the stockholders' rights and ownership in the ditch system and other assets of the Company.

Section 5.2. Certificated Shares. All stockholders shall be entitled to certificates of stock duly signed by the President or Vice President and countersigned by the Secretary, and all certificates shall be duly numbered and registered as they are issued. A full record of each certificate of stock as issued must be entered on the books and records of the Company.

Section 5.3. Records Determine Ownership of Stock. Possession of stock certificates shall not be regarded as evidence of ownership of the stock unless the records of the Company provide that the certificate was issued or duly transferred to the holder.

Section 5.4. Recordation of Water Allocation.

(a) *Records of the Company.* The allocation of C-BT water for each share shall be recorded in the records of the Company.

(b) *Legends on Certificates.* Any stockholder may present their stock certificate or certificates to the Board of Directors and have the allocation of C-BT water associated with the shares represented in that certificate recorded on the same or new certificate or certificates as determined by the Board of Directors.

Section 5.5. Acceptance of Stock Waives Company Damage Liability. Notwithstanding any statute, law, or custom to the contrary, each stockholder of the Company and any successor or assign of the stockholder, by the acceptance of the stock of the Company waives and releases the Company from any and all claims for loss and damage by reason of any unforeseen or unavoidable accident, or of any leakage or overflow or breaking of its ditches, reservoirs, lakes, or laterals.

Section 5.6. Stock Transfers and Fees. A transfer of stock shall be made only on the books of the Company, either in person or by attorney, and must be accompanied by the surrender of the duly endorsed certificate or certificates representing the transferred stock. Surrendered certificates shall be canceled and recorded as canceled, and new certificates issued to the new transferee stockholder. The Company may charge a fee, which shall be set by the Board of Directors, for reissuing certificates, placing legends on certificates and transferring stock on the books of the Company. The stockholder requesting the transfer shall pay all reasonable attorneys' fees and other costs incurred by the Company related to the transfer of stock, including but not limited to research, reviewing documents, and, if necessary, filing and prosecuting an interpleader action to determine ownership of certificates of which the Company receives conflicts, claims, or requests to transfer.

Section 5.7. Transfer Restrictions for Debt to Company; First Lien of Company. A transfer of stock is not valid against this Company if the stockholder is indebted to this Company upon any past due debt, either as principal, surety, or otherwise unless the transfer and the debt to the Company is specifically considered and approved by the Board of Directors. The Company shall have and retain a first and valid lien upon all shares of stock of each stockholder as security for the payment of any sum or sums for which a stockholder is indebted to this Company, either as principal, surety, or otherwise. Stock cannot be transferred upon the books of the Company without the consent of a majority of the directors if the stockholder is indebted to this Company.

Section 5.8. Transfer of Less Than Full Shares. A proposed transfer of shares of stock that would result in the transferor having less than one full share or would give a transferee less than one full share is not valid without specific Board approval.

Section 5.9. Sale of Stock Acquired by Company. If the Company acquires or becomes the owner of any stock of this Company, the stock shall remain authorized and shall not

be canceled or extinguished except as provided by law. The Board of Directors shall cause the stock to be sold at its discretion, unless the stock is acquired as a result of a delinquent assessment, in which case the procedures in Section 6.7 of these Bylaws shall be followed. While the stock is held by the Company, the shares hold no voting rights and although authorized the shares shall not be considered issued or outstanding.

Section 5.10. Lost Certificates.

(a) *Stockholder Responsible for Costs.* The Board of Directors shall order a new certificate or certificates of stock to be issued in place of any certificate or certificates of the Company alleged to have been lost or destroyed, upon the stockholder paying all costs and attorneys' fees incurred by the Company in issuing the new certificate or certificates, including but not limited to attorneys' fees associated with research, reviewing documents, and, if necessary, filing and prosecuting an interpleader action to determine ownership of the lost or destroyed certificate(s), and complying with the requirements of paragraph (b) below.

(b) *General Requirement to Replace Certificates.* The stockholder must comply with the requirements of CRS 7-42-113, 114, 115, and 116 (2014) as they now exist or hereafter are amended:

(1) In the event the stockholder desires to obtain a replacement certificate prior to the notice requirement in the statute, the stockholder may obtain a replacement certificate by complying with the requirements of CRS 4-8-405 (2014) as it now exists or hereafter is amended, including the posting of a sufficient indemnity bond. However, the stockholder, or their successors or assigns, must still comply with the requirements of CRS 7-42-113, et seq., in order to terminate all rights to the lost certificate, including publishing notice of demand as set forth in CRS 7-42-115 after giving the Company notice of the lost certificate.

(2) In the event that the stockholder or their successors or assigns fails to comply with the provisions in CRS 7-42-113, et seq., as they now exist or hereafter are amended and they have received a replacement certificate by posting a bond, the Board of Directors may suspend the right to receive water associated with the stock represented by the lost certificate until the stockholder complies with the requirements in CRS 7-42-113, et seq.

BYLAW 6

ASSESSMENT ON STOCK

Section 6.1. Authorization of Assessment. This Company shall make an assessment on stock annually in an amount as will raise funds sufficient to keep the Company's ditch, reservoirs, and other property in good repair, to pay the costs of maintenance and operation of the ditch system, to pay any indebtedness and all interest thereon, including any amounts to be paid into a sinking fund or otherwise for the retirement of funded or other debts, and for any other necessary Company purpose. The question of making an assessment shall first be

submitted to the stockholders at the annual meeting, or at a special meeting called for that purpose, and the assessment shall be authorized and made effective by a majority of the stock issued and outstanding, represented by the owners in person or by proxy at the stockholders' meeting, voting in favor of making the assessment. If the stockholders fail to hold a meeting, or fail to make or authorize by the first of March in any year an assessment, or an assessment in amount sufficient to provide for the repair of the Company's ditches, reservoirs, and other property, for the payment of the cost of maintenance and operation of said system, for the payment of any indebtedness and all interest thereon, including any amounts to be paid into a sinking fund or otherwise for the retirement of funded or other debts, and for any other necessary Company purpose, then the Board of Directors shall make an assessment by resolution in the amount as may be necessary in order to fulfill the requirements of this section at any regular meeting or at a special meeting of the Board of Directors called for that purpose.

Section 6.2. Delinquent Assessment; Right to Vote and to Receive Water Suspended.

An action may be maintained by the Company to recover any assessment that is not paid when due against the stockholder or the holder of the stock on which the assessment was made. The stock may be declared forfeited by the Board of Directors for the failure to pay assessments and sold by the Company as by law and these Bylaws provided, and the Company reserves the right to recover the assessments either by action or by forfeiture and sale, or both. The right of a stockholder to vote at any meeting of the stockholders shall be suspended during the period that any assessment is overdue and not paid as determined by the Board of Directors. The right of a stockholder to receive water shall be suspended during the period that any assessment is overdue and not paid as determined by the Board of Directors.

Section 6.3. Lien on Stock for Assessments. The Company shall have a perpetual lien upon such shares of stock and the water to be delivered for any and all assessments and portions of assessments until the assessments are fully paid.

Section 6.4. Determination of Amounts and Time for Payments. All assessments levied or made under the provisions of these Bylaws or the laws of the State of Colorado are due and payable at times and in installments as the stockholders may determine, or the stockholders may make the assessment and fix the amount leaving the time or times of payment and the installments in which the same shall be paid to be determined by the Board of Directors.

Section 6.5. Interest on Delinquent Assessment. If the assessment or any portion is not paid when due, interest shall be charged on the unpaid amount from the date the assessment becomes due at the rate of two percent per month or fraction thereof, or at such other rate as may be adopted and set by the Board of Directors from time to time, but the right to charge interest shall not in any manner impair the right to forfeit and sell stock for unpaid assessments as provided in these Bylaws, or to maintain an action for the recovery of the delinquent assessments and enforce the lien against the stock.

Section 6.6. Legal Action by Company to Recover Assessment. An action may be maintained in the name of this Company to recover any installment of any assessment that is due and unpaid for the period of twenty days after personal demand therefor, or in case personal demand is not made, within thirty days after a written or printed demand has been deposited in the Post Office properly addressed to the last known address of the holder of stock upon which

the assessment was made, but the remedy shall be cumulative only, and shall not affect or impair the right of this Company to forfeit and sell the stock as provided in these Bylaws.

Section 6.7. Demand for Delinquent Assessment. All shares of stock upon which an assessment or any installment has been made and levied and is not fully paid when due shall be considered delinquent, and the Secretary of this Company shall, as soon as conveniently possible after the last installment of the assessment becomes due, make demand upon the holder of the stock upon which the assessment was made for the amount due on all stock held by the holder for the unpaid assessments, together with interest, which said demand shall be made either in person or by written or printed notice and duly mailed to the last known address of the stockholder, at least thirty days prior to the time when the stock shall be forfeited and sold. The notice and demand shall also state the time when and place where the stock will be sold unless the amount due thereon, including interest, reasonable attorneys' fees incurred by the Company related to the collection of the past due assessments, and the cost of advertising, is not paid before the time fixed for the sale.

The Secretary shall also, as soon as conveniently possible after the last installment of the assessment is due, make a list of all the shares of stock on which the assessments have not been fully paid, together with interest, giving the names of the stockholders as shown upon the books of the Company, the number of the certificates, the number of shares, and the amount of the assessment remaining unpaid, and shall, if directed by the Board of Directors, have the same advertised by publication at least once each week for four consecutive weeks in a daily or weekly newspaper published in the City of Greeley, Colorado, the first publication thereof to be at least thirty days prior to the date fixed in such notice for the sale, which said notice shall also state the time and place at which the shares of stock shall be forfeited and sold unless payment of the amount due thereon shall have been made prior to the time of sale. If the owner or owners of the stock fail to pay the amount due, together with the accrued interest thereon, and the cost of advertising, before the time fixed in the notice for the sale, the stock shall be forfeited and the Secretary shall proceed to sell at auction at the time and place designated in the notice, to the highest bidder for cash in hand, the stock, or so many shares of the stock belonging to the stockholder as may be necessary to pay the amount of the delinquent assessments, together with interest, and the cost of advertising. If the price for which the necessary share or shares are sold exceed the amount of the past due assessments, interest, and all costs, including but not limited to reasonable attorneys' fees incurred by the Company related to the collection of the past due assessments or the sale of the stock, costs of advertising, and other expenses of the sale, the excess shall be paid to the holder of the sold shares. No sale of stock shall take place within less than sixty days from the date the assessment was made.

Section 6.8. Company May Purchase Stock at Forfeiture Sale. The Company may become the purchaser of any stock forfeited and sold for the failure to pay assessments, and if at the sale there are no bids made for the stock, the Secretary of this Company shall bid the same in the name of the Company for the amount due thereon, including interest, reasonable attorneys' fees, cost of advertising, and other expenses of the sale.

Section 6.9. Remedies for Collection of Assessment Are Cumulative. The remedies herein provided for the collection of assessments are cumulative, and shall be in addition to every other remedy now or hereafter existing or provided by law.

Section 6.10. Assessments Are Payable Without Regard to Water. An assessment imposed by the Company is payable, without reference to the quantity of water desired by, or deliverable to, a stockholder in any particular season, and whether or not any water is so desired.

BYLAW 7

STOCKHOLDERS' MEETINGS

Section 7.1. Stockholder Representation at Meetings.

(a) *Attendance.* A stockholder may attend a meeting in person or by proxy. For stockholders that are not natural persons, the stockholder may designate a natural person to represent the stockholder. Any representative must have written authority of the stockholder. The authority of a stockholder may be exercised by the duly authorized representative of the stockholder.

(b) *Voting.* Each stockholder that is not a single natural person must designate a natural person vote for the stockholder, except that for stock held as joint tenants, any joint tenant may vote so long as no other joint tenant objects to that tenant voting. Stockholders who are not single natural persons must give written authority to a natural person to vote the stockholder's shares, except for stockholders who are:

(1) common tenants with written authority for a tenant to vote for other common tenants; or

(2) joint tenants who do not object to the joint tenant who intends to vote.

Section 7.2. Annual Meeting.

(a) *Location and Date.* The annual meeting of the stockholders shall be held on the third Tuesday in December of each year, or on such other date as no less than three (3) of the Directors determine at any regular or special meeting thereof. Notice of the meeting shall be given and published as required by law, and shall designate the place, time of day, and to the extent necessary, the format of such meeting, if an in-person meeting can't be held due to health and safety concerns.

(b) *Election of Directors.* At the annual meeting, five directors and one alternate director shall be elected by the stockholders. The election may be by ballot or acclamation. The alternate director shall be elected by a separate vote after the election of directors. A candidate who receives more than fifty percent of the vote shall be elected alternate director on the first ballot. If no candidate is elected on the first ballot, the two candidates with the highest number of votes shall be placed on a second ballot. In the event of a tie, the Board shall elect an alternate director from the candidates on the second ballot.

Section 7.3. Special Meeting. A special meeting of the stockholders may be called at any time by the Board of Directors of the Company, and the Board of Directors shall call a special meeting of the stockholders upon the written request of the record owners of one-third of

the outstanding stock. A special meeting of the stockholders shall be held at the location designated by the Board of Directors in Weld County, Colorado, and notice of the special stockholders' meeting shall be given and mailed to stockholders in the same manner as required by law for an annual meeting of the stockholders, unless a different manner of notice is required by law. The business transacted at a special meeting is limited to the business specified and referred to in the notice of the special meeting.

Section 7.4. Quorum. Stockholders or stock representatives eligible to vote a majority of all the stock issued and outstanding shall constitute a quorum for the transaction of business at any and all general and special meetings of the stockholders, but a lesser number may adjourn the meeting from time to time.

Section 7.5. Voting. Each stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by the stockholder. Cumulative voting shall be permitted. Only stockholders of record or the representatives of the stockholders of record shall be entitled to vote at the regular and special meetings of the stockholders.

Section 7.6. Alternate Date of Annual Meeting. If, for any reason, the annual meeting is not held on the day fixed in Section 7.2 of this Bylaw, or not adjourned by the stockholders to a time certain, the meeting may be held on any day fixed by the Board of Directors, or at the written request of the stockholders of the Company representing one-third of the issued stock.

Section 7.7. Business at Annual Meeting.

(a) *Agenda.* The Board of Directors shall consider and set the agenda for the stockholders' meeting at its regular monthly meeting in November of each year, including any item or issue which is being referred to the stockholders by the Board of Directors for the stockholders' consent or approval.

(b) *Regular Order of Business.* The regular order of business at the annual meeting, and so far as practicable at all other meetings, of the stockholders shall be as follows:

- Roll call.
- Proof of notice of meeting.
- Introduction of guests.
- Reading and disposal of any unapproved minutes.
- Reports of officers.
- Reports of committees.
- Election of directors and alternate director.
- Unfinished business.
- Business being referred for stockholder action.
- Stockholder comments.
- Adjournment.

The agenda shall specifically state any matter which is to be referred to the stockholders by the Board of Directors for consideration or action by the stockholders.

(c) *Stockholder Proposal for Annual Meeting Agenda Items.* A stockholder of the Company may propose to the Board of Directors that the Board of Directors refer a matter or an issue to the stockholders for the stockholders' consideration at the Company's annual meeting. A stockholder proposal must be in writing addressed to the Board of Directors and be presented to the Secretary prior to the Board of Director's regular monthly meeting in October of each year. A stockholder proposal shall be considered at the regular Board of Directors meeting in November and if approved by a majority of the directors of the Board of Directors, the agenda item as approved or modified by the Board of Directors shall be placed on the agenda for consideration by the stockholders at the Company's regular annual meeting.

(d) *Mailing to Stockholders.* The agenda, as approved by the Board, shall be mailed or delivered electronically to the stockholders of record with the notice of stockholders meeting.

(e) *Voting Approval by Stockholders.* Any matter referred to the stockholders shall require approval by a majority of the shares of stock represented by stockholders in attendance in person or by proxy at the annual meeting or a special meeting of stockholders, unless a greater voting requirement is required by the Articles of Incorporation, these Bylaws or the laws of the State of Colorado.

(f) *Stockholder Recognition at Meetings.* Any stockholder of the Company shall have the right to be recognized and heard at an annual meeting of the stockholders under the agenda item entitled "Stockholder comments." The chair of the meeting has the discretion to limit the amount of time allotted to any stockholder for comments.

(g) *Robert's Rules of Order.* Robert's Rules of Order shall be followed at all stockholders' meetings except as modified by these Bylaws.

BYLAW 8

INAPPROPRIATE BEHAVIOR AT MEETINGS

At any meeting of the Board of Directors or the Company, the President, chairman, or other person in charge of the meeting shall have the authority to ask anyone in attendance to leave the meeting for displaying behavior deemed inappropriate by the President, chairman, or other person in charge of the meeting.

BYLAW 9

BOARD OF DIRECTORS

Section 9.1. Directors Must Be Stockholders. The directors must be natural persons who are stockholders of the Company or representatives of stockholders that are entities.

Section 9.2. Authority of the Board of Directors. The corporate powers of the Company shall be exercised by the Board of Directors, which shall have general control and supervision over the property, affairs, and management of the Company and its officers. The

Board of Directors may require, and shall approve, reports from the officers of the Company, and in addition to its general powers shall have all the specific rights, powers, and authority mentioned, conferred, or implied in or under the statutes of the State of Colorado, the Articles of Incorporation of the Company, and these Bylaws.

Section 9.3. Meetings.

(a) *Notice of Meetings.* The meetings of the Board of Directors shall be held at the office of the Company as designated by resolution of the Board of Directors, unless all the directors shall agree to the holding of or approve the minutes of a meeting held elsewhere. A meeting of the Board of Directors may be called at any time by the President or by three directors upon three days' notice by mail or twenty-four hours' notice in person, by telephone or by electronic communication. Three directors shall constitute a quorum. Directors may attend meetings by teleconference or other electronic means approved by the Board of Directors.

(b) *Meetings Without Prescribed Notice.* For a meeting that does not have the notice prescribed in paragraph (a), the acts of a meeting shall be valid as if the meeting had been duly and regularly called and held if: (1) all of the directors are present at the meeting, however called or notified; (2) all directors sign a written consent to the meeting on the records of the meeting; or (3) all directors sign an approval of the minutes of the meeting.

(c) *Binding of Directors.* A director who is present at a meeting, or who has signed a written consent to or approval of the minutes of a meeting, shall be bound by the acts and proceedings of the meeting.

(d) *Attendance by Telephone.* A director may attend a meeting by telephone or electronically when the necessary equipment is available. When attending a meeting by telephone or electronically, a director shall be entitled to vote on all matters, and the director's attendance by telephone shall count towards the quorum.

(e) *Robert's Rules of Order.* Robert's Rules of Order shall be followed at all meetings except as modified by these Bylaws.

Section 9.4. Authority to Indemnify Directors. In accordance with CRS 7-40-104 and 7-109-102, the Company may indemnify a person made a party to a proceeding because the person is or was a director of the Company against liability if the director's conduct was in good faith and in accordance with the terms of CRS 7-109-102.

Section 9.5. Appointment of Superintendent of the Ditch. The Board of Directors shall authorize the appointment of a Superintendent. The Superintendent, under the supervision of the Board of Directors, shall have charge of the ditch at such compensation and for such time as the Board shall determine. The Superintendent shall have control of all headgates and the measuring boxes and the flow of water into the ditch, and of its distribution therefrom to the stockholders of the Company. The Superintendent shall have such additional duties as the President or Board shall delegate from time to time.

BYLAW 10

OFFICERS

Section 10.1. Designation of Officers. The officers of this Company shall consist of a President, Vice President, Secretary, and a Treasurer, all of whom shall be elected annually by the Board of Directors at their first meeting following the annual meeting of the stockholders, or as soon as practicable after the annual meeting. The President and Vice President shall be members of the Board of Directors. The Secretary and Treasurer may or may not be directors. The office of Secretary and Treasurer may be held by one person. The Board may, in its discretion, appoint or elect other officers and agents as it deems necessary or proper.

Section 10.2. Duties of the President. The President shall:

- (a) preside at the meetings of the Board of Directors and stockholders;
- (b) sign and execute certificates of stock, notes, bonds, agreements, deeds, and other documents to be entered into by the Company and perform all actions as executory officer for the Board of Directors;
- (c) call special meetings of the Board of Directors at such time or times as the President may deem necessary;
- (d) have general charge and supervision of the conduct of the Company's business; and
- (e) perform other duties as are usually performed by the chair and chief executive officer of a company.

Section 10.3. Duties of the Vice President. The Vice President, in case of the death, disability, or absence of the President, or by delegation of the President, shall have and exercise all of the powers and perform all of the duties of the President.

Section 10.4. Duties of the Treasurer. The Treasurer shall:

- (a) be custodian of the funds of the Company;
- (b) keep or cause to be kept true and accurate accounts of all receipts and disbursements;
- (c) in the discretion of the Board of Directors, provide a bond for the faithful performance of the Treasurer's duties in an amount as the Board of Directors may determine appropriate;
- (d) deposit the funds of the Company in banks or depositories designated by the Board of Directors; and
- (e) when requested by the Board of Directors, submit a complete statement of accounts of the Company, accompanied by vouchers.

Section 10.5. Duties of the Secretary. The Secretary shall:

- (a) keep a record of the meetings of the Board of Directors and stockholders, and other records that are required to be kept by the Board of Directors;
- (b) be the custodian of the corporate seal and affix the same to all certificates of stock and to other contracts or documents when attestation is required or desired;
- (c) give notice of the meetings of the stockholders and directors; and
- (d) perform other duties as the Board of Directors or President may direct.

Section 10.6. Vacancies of Officers and Directors.

- (a) *Officers.* Any vacancies in the offices in the Company, whether occurring through death, disability, resignation, removal, or otherwise, may be filled by the Board of Directors at any regular or special meeting.
- (b) *Directors.* A vacancy of a director whether occurring through death, disability, resignation, or otherwise, shall be filled by the alternate director. The Board of Directors or the stockholders may call a special meeting of the stockholders to elect a replacement alternate director.

Section 10.7. Compensation of Officers. The directors and the officers of the Company shall receive compensation as may be fixed by the Board of Directors. The Superintendent shall be paid compensation fixed by resolution of the Board of Directors in advance, at, or before the time the Superintendent begins those duties for the term.

Section 10.8. Indemnification. Each person, who is or was a director or officer of this Company, shall be indemnified by the Company against all costs and expenses, including legal fees reasonably incurred by or imposed upon the person in connection with or resulting from any action, suit, or proceeding, or the settlement of the action, suit, or proceeding prior to final adjudication, to which the person is or may be a party by reason of the person being or having been an officer or director of the Company (whether an officer or director at the time the costs or expenses are incurred by or imposed upon the person), except in relation to matters as to which the person is finally adjudged in such action, suit, or proceeding to have been derelict in the performance of the person's duty as an officer or director. The right of indemnification in this bylaw shall not be exclusive of other rights to which the person may be entitled as a matter of law.

BYLAW 11

FISCAL YEAR

The fiscal year of the Company shall be December 1 to November 30.

History of Amended and Restated Bylaws:

- (1) Amended and Restated Bylaws adopted March 25, 2004
- (2) Bylaw 4, Section 4.1, subparagraph (d) amended October 14, 2004
- (3) Bylaw 3, Section 3.12 amended June 21, 2005
- (4) Bylaw 4 amended December 20, 2005
- (5) Bylaw 3, Section 3.13 added January 10, 2007
- (6) Bylaw 7, Section 7.7, subparagraph (b) amended January 10, 2007
- (7) Bylaw 3, Section 3.12, subparagraph (a) amended December 18, 2007
- (8) Bylaw 3, Section 3.12, subparagraph (b)(6) added December 18, 2007, with existing subparagraph (b)(6) changed to subparagraph (b)(7)
- (9) Bylaw 5, Section 5.10, subparagraph (b) amended January 14, 2015
- (10) Bylaw 9, Section 9.5, added January 14, 2015
- (11) Bylaw 10, Section 10.1, amended January 14, 2015
- (12) Bylaw 10, Section 10.6, deleted January 14, 2015, with existing Section 10.7 changed to Section 10.6; existing Section 10.8 changed to Section 10.7; and existing Section 10.9 changed to Section 10.8
- (13) Bylaw 3, Section 3.12, subparagraph (b)(1), (b)(2) and (b)(3) amended June 20, 2017, deleting subparagraph (b)(6) and existing subparagraph (b)(7) changed to subparagraph (b)(6)
- (14) Bylaw 3, Section 3.12(a), amended May 15, 2019, deleting the fourth sentence, adding two subsequent paragraphs to 3.12(a), and adding subparagraphs (1) – (7)
- (15) Bylaw 3, Section 3.12(a), amended December 17, 2019, adding to the first sentence in paragraph (3), adding the last sentence in paragraph (5), and adding paragraph (8)
- (16) Bylaw 7, Section 7.2, amended November 11, 2020

Schedule 4.4 (b)

PROXY OF TRANSFERRING SHARES
RELATING TO ASSESSMENTS OF COLORADO-BIG THOMPSON WATER ("C-BT WATER")

The undersigned stockholder hereby grants, as a condition of transfer of C-BT Water as provided by Bylaw 4 as approved by the stockholders, a proxy for all votes relating to collecting or paying assessments for the use of C-BT Water to be paid to the Northern Colorado Water Conservancy District for all shares from which all C-BT Water has been transferred and in favor of the majority vote of shares with allocations of C-BT Water. This proxy shall be recorded and applies on the transferring shares listed below:

Stockholder

By: _____

Its: _____

This proxy applies to the following shares (include certificate numbers):

_____ ; _____ ; _____ ; _____ ;

_____ ; _____ ; _____ ; _____ .

BYLAWS CERTIFICATE

The undersigned certifies that she is the Secretary of The Platte Valley Irrigation Company, a Colorado corporation, and that, as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that attached hereto is a complete and correct copy of the presently effective bylaws of said corporation.

Dated: _____

Secretary

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

THE PLATTE VALLEY IRRIGATION COMPANY

is a

Nonprofit Corporation

formed or registered on 10/14/1883 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871005954 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 10/25/2022 that have been posted, and by documents delivered to this office electronically through 10/27/2022 @ 13:19:38 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 10/27/2022 @ 13:19:38 in accordance with applicable law. This certificate is assigned Confirmation Number 14421431 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

APPENDIX E. WARRANTY DEED FOR RESERVOIR SITE

GENERAL WARRANTY DEED

CHARLES T. ANDERSON (Grantor), whose legal address is 14900 Weld County Road 36, Platteville, CO 80651, for the consideration of **THREE-HUNDRED NINE-THOUSAND THREE-HUNDRED SIXTY and NO/100ths (\$309,360.00) DOLLARS**, in hand paid, hereby sells and conveys to the **PLATTE VALLEY IRRIGATION COMPANY** (Grantee), a Colorado mutual ditch and reservoir company, whose legal address is c/o Donna Coble, Secretary, P.O. Box 1318, Greeley, CO 80632, County of Weld, and State Colorado, the following real property in the County of Weld, and State of Colorado, to wit:

Lot B, RECORDED EXEMPTION NO. 1211-9-1-RE 4227, recorded December 12, 2005 at Reception No. 3346704, being part of Lot C, AmRE 2246, located in the NE ¼ of Section 9, Township 3 North, Range 66 West of the 6th P.M., County of Weld, State of Colorado.

TOGETHER, with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee, its successors and assigns forever. And the Grantor, for itself, its successors and assigns, does covenant, grant, bargain and agree to and with the Grantee, its successors and assigns, that at the time of the enrolling and delivery of these presents, it is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever:

See Attached Exceptions on Exhibit A

The Grantor shall and will **WARRANT AND FOREVER DEFEND** the above bargained premises in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

IN WITNESS WHEREOF, the Grantor has executed this Warranty Deed on this 17 day of FEB, 2006.

Charles T. Anderson
Charles T. Anderson

STATE OF COLORADO)
) ss
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 17th day of February, 2006, by Charles T. Anderson.

WITNESS my hand and official seal.

My commission expires 12/31/06

STEWART TITLE

20058652

Doc Fee
\$30.94

Lynda P. Chitt
Notary Public

**APPENDIX F. DECREE OF THE WATER COURT & NCWCD WATER
ALLOTMENT CONTRACT**

District Court, Water Division No. 1 State of Colorado P. O. Box 2038 Greeley, CO 80632 (970) 351-7300	EFILED Document CO Weld County District Court 19th JD Filing Date: Jul 21 2006 3:27PM MDT Filing ID: 11865782 Review Clerk: Connie S Koppes
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PLATTE VALLEY IRRIGATION COMPANY IN WELD COUNTY	<div style="text-align: center;">▲ COURT USE ONLY ▲</div> <div>Case No. 02CW236</div>
<div style="text-align: center;">FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF THE WATER COURT</div>	

This claim having been filed with the Water Clerk, Water Division No. 1, on October 30, 2002, and all matters contained in the application having been reviewed, and testimony and evidence having been taken as necessary, the Water Judge hereby enters the following Findings of Fact, Conclusions of Law and Decree:

FINDINGS OF FACT

1. Applicant: The name and address of Applicant is the Platte Valley Irrigation Company, c/o Donna Coble, Secretary, 1025 Ninth Avenue, #309, Greeley, Colorado 80631.
2. Notices and Jurisdiction: All notices of this matter required by law have been fulfilled, and the Court has jurisdiction over the subject matter of this application and over all persons and property affected by it, irrespective of whether they or the owners of the property have appeared.
3. Statements of Opposition: Statements of opposition were filed by the City of Aurora, Centennial Water and Sanitation District, City of Boulder and the Farmers Reservoir and Irrigation Company. No other statements of opposition have been filed and the time for filing statements of opposition has expired. Stipulations have been entered into between Applicant and Centennial Water and Sanitation District, the City of Aurora and the City of Boulder.
4. Name of Structure: Platte Valley Recharge and Storage Project.
5. Legal Description of Diversion: The diversion works of the Platte Valley Canal are located on the east bank of the South Platte River in the NE ¼ of Section 19, Township 2 North, Range 66 West of the 6th P.M., Weld County, Colorado approximately 1,360 feet west of the east line and 968 feet north of the south line of Section 19.

6. Source of Water: South Platte River.

7. ~~Date of Appropriation:~~ October 29, 2002.

8. Description of Appropriation for Recharge: Water will be diverted at the existing headgate of the Platte Valley Canal and allowed to percolate into the underground aquifer and return to the river for Applicant's stated beneficial uses. Applicant will use the following facilities to recharge the water diverted from the South Platte River: the Platte Valley Canal, which will be separated into two sub-reaches; the Evans No. 2 Ditch, which branches off from the Platte Valley Canal and will include one sub-reach; and the two recharge sites identified below. Both recharge sites will be excavated below the land surface and will not have dams.

8.1 Recharge Site No. 1 (Thompson Site): SE $\frac{1}{4}$ of Section 6, Township 3 North, Range 66 West of the 6th P.M., more particularly described in Exhibit A.

8.1.1 Surface area of high water line: 2.30 acres.

8.1.2 Total active capacity of the reservoir: 34 acre-feet.

8.2 Recharge Site No. 2 (Hunt Site): NW $\frac{1}{4}$ of Section 33, Township 4 North, Range 66 West of the 6th P.M., more particularly described in Exhibit B.

8.2.1 Surface area of high water line: 2.62 acres.

8.2.2 Total active capacity of reservoir: 39 acre-feet.

9. Amount Claimed: 215.95 cfs, CONDITIONAL.

10. Use: Augmentation, recharge, replacement, exchange and irrigation. Recharge credits received from this water right shall be used for augmentation, replacement and exchange. Irrigation will be of lands currently irrigated by water from the Platte Valley Canal and the Evans No. 2 Ditch. Applicant intends to fully consume the water to 100 percent extinction for its first use of the water for augmentation, recharge and exchange purposes to the extent it is feasible to account for the same.

11. Reaches Where Credits Accrue:

11.1 Recharge Site No. 1 (Thompson Site): The recharge credits will accrue to the South Platte River between the Jay Thomas Ditch headgate and the Union Ditch headgate.

11.2 Recharge Site No. 2 (Hunt Site): The recharge credits will accrue to the South Platte River between the Jay Thomas Ditch headgate and the Godfrey Ditch (Section No. 3 Ditch) headgate.

11.3 Sub-reach No. 1: (Located in the Platte Valley Canal beginning at the headgate of the Platte Valley Canal and ending in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 3 North, Range 66 West where the Platte Valley Canal crosses Weld County Road 30) The recharge credits will accrue to the South Platte River between the Platte Valley Canal headgate and the Farmers Independent Ditch headgate.

11.4 Sub-reach No. 2: (Located in the Platte Valley Canal beginning where Sub-reach No. 1 ends and ending where the Evans No. 2 Ditch branches off the Platte Valley Canal in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 3 North, Range 66 West) The recharge credits will accrue to the South Platte River between the Farmers Independent Ditch headgate and the Union Ditch headgate.

11.5 Sub-reach No. 3: (Located in the Evans No. 2 Ditch beginning where the ditch reaches a point where it turns to the southeast in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, Township 4 North, Range 65 West and ending at the terminus of the Evans No. 2 Ditch located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, Township 3 North, Range 65 West) The recharge credits will accrue to Beebe Draw.

12. Description of Appropriation for Storage: Water will be diverted at the existing headgate of the Platte Valley Canal and delivered to the Evans No. 2 Ditch, which branches off the Platte Valley Canal to the reservoir described below:

12.1 Name of Structure: Platte Valley Reservoir No. 1.

12.2 Legal Description of Location of Dam: NE $\frac{1}{4}$ of Section 9, Township 3 North, Range 66 West of the 6th P.M., Weld County, Colorado as shown in Exhibit C.

12.3 Ditches used to fill reservoir: Water shall be delivered into the Platte Valley Canal, the diversion point for which is described in paragraph 5 above and delivered to the Evans No. 2 Ditch to the reservoir.

12.4 Amount Claimed: ~~300~~ acre feet, with the right to refill, ~~CONDITIONAL~~. Rate of diversion in cfs for filling the reservoir is 215.95 cfs.

12.5 Surface area of high water line: 43 acres.

12.5.1 Maximum height of dam: 11 feet.

12.5.2 Length of dam: 5500 feet.

12.6 ~~Use: Augmentation, recharge, replacement, exchange, recreation and irrigation.~~ Water stored in the reservoir may be delivered into recharge sites or the Evans No. 2 Ditch to be recharged back to the river. Recharge credits received from this water right shall be used for augmentation, replacement and exchange. Irrigation

will be of lands currently irrigated by water from the Platte Valley Canal and the Evans No. 2 Ditch. Applicant intends to fully consume the water to 100 percent extinction for its first use of the water for augmentation, recharge and exchange purposes to the extent it is feasible to account for the same.

12.7 Source: South Platte River.

12.8 Appropriation Date: October 29, 2002.

CONCLUSIONS OF LAW

13. Incorporation by Reference: The Court incorporates the foregoing Findings of Fact to the extent that these might constitute conclusions of law.

14. Jurisdiction: The Court concludes that the application herein is one contemplated by law, and this Court has jurisdiction of the subject matter of this application and all persons affected hereby, whether they have appeared or not, pursuant to §37-92-203(1), §37-92-302 and §37-92-304, C.R.S.

15. Statements of Opposition: Statements of opposition were filed by the City of Aurora, Centennial Water and Sanitation District, City of Boulder and the Farmers Reservoir and Irrigation Company. No other statements of opposition have been filed and the time for filing statements of opposition has expired.

16. Notice: Full and adequate notice of the claim adjudicated herein has been given in the manner required by law.

JUDGMENT AND DECREE

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

17. Incorporation by Reference: Each of the foregoing Findings of Fact and Conclusions of Law is incorporated herein as if set out in full and is hereby made a part of this Judgment and Decree.

18. Terms and Conditions:

18.1 Administration of Sub-reaches: Water diverted from the South Platte River will percolate into the underground aquifer. The water will be measured into the Platte Valley Canal through the headgate located in the NE ¼ of Section 19, Township 2 North, Range 66 West of the 6th P.M. approximately 1,360 feet west

of the east line and 968 feet north of the south line of Section 19. A flume will be installed at end of Sub-reach No. 1 and the start of Sub-reach No. 2 located in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 3 North, Range 66 West of the 6th P.M. The water shall be measured again at the flume located at the bifurcation structure where the Evans No. 2 Ditch branches off of the Platte Valley Canal and Sub-reach No. 2 ends, which is located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 3 North, Range 66 West of the 6th P.M. For Sub-reach No. 3 on the Evans No. 2 Ditch, a measuring flume shall be installed at the beginning of the sub-reach where the ditch reaches a point where it turns to the southeast in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, Township 4 North, Range 65 West of the 6th P.M., and the water will be measured at the end of Sub-reach No. 3 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, Township 3 North, Range 65 West of the 6th P.M. (No recharge shall be claimed in the Evans No. 2 Ditch between Sub-reach No. 2 and Sub-reach No. 3.) Applicant shall make daily measurements of water flow in the three sub-reaches and monthly computations of recharge credits in the three sub-reaches of the ditch. The net recharge volume shall be determined by subtracting from the measured inflow, the evaporation from the free water surface and any outflow.

18.2 Evaporation: The amount of water lost to evaporation shall be determined by multiplying the exposed water surface area by the rate of evaporation. Applicant shall use monthly evaporation data published by the NOAA Technical Report NWS 33 as follows:

Month	Percent of Annual Evaporation (A)	Gross Lake Evaporation (ft) (B)	Gross Lake Evaporation (in) (C)
Jan	3.0%	0.11	1.35
Feb	3.5%	0.13	1.58
Mar	5.5%	0.21	2.48
Apr	9.0%	0.34	4.05
May	12.0%	0.45	5.40
June	14.5%	0.54	6.53

July	15.0%	0.56	6.75
Aug	13.5%	0.51	6.08
Sept	10.0%	0.38	4.50
Oct	7.0%	0.26	3.15
Nov	4.0%	0.15	1.80
Dec	3.0%	0.11	1.35
Total	100%	3.75	45.00

18.3 Calculation of Seepage: Ditch seepage for each sub-reach shall be calculated by subtracting the amount of surface evaporation from the amount of water attributed to that sub-reach. The amount of water in each sub-reach shall be determined by measuring the difference in the volume at the beginning of the sub-reach and at the end of the sub-reach.

18.4 Calculation of Recharge Credits: The effects on the South Platte River resulting from the recharge of water will be calculated by means of the analytical equations described by Glover (Glover 1977) and others. Although there are various methods for applying the analytical equations described by Glover, the primary method to be used in this case shall represent a parallel no-flow boundary, which requires the following parameters: (1) a boundary condition for the alluvial aquifer indicating that the boundary constitutes a "no-flow" condition; (2) the width of the aquifer on the side of the river where the recharge structure is located, commonly referred to as "W"; (3) the distance from the river to the location of the recharge structure, commonly referred to as "X"; (4) the transmissivity of the aquifer in the vicinity of the recharge structure, commonly referred to as "T", and (5) the specific yield of the aquifer, commonly referred to as "S". A program which incorporates the Glover no-flow boundary method, shall be used to determine the timing of recharge to the South Platte River. The parameters for each recharge structure are shown in the table below:

	T (gpd/ft)	X (ft)	W (ft)	S
Thompson Recharge Pond	144500	12349	12721	0.2
Hunt Recharge Pond	138400	14780	17184	0.2

Sub-reach No. 1 Ditch Recharge	80800	3643	7665	0.2
Sub-reach No. 2 Ditch Recharge	77800	6929	8390	0.2
Sub-reach No 3. Ditch Recharge	50000	5280	5500	0.2

18.5 Daily Credits: Daily credits shall accrue to Applicant only if there is a call on the river. No carryover of daily, weekly or monthly credit shall be permitted.

18.6 Use of Sub-reaches in Ditch: Applicant shall not recharge water through the ditch sub-reaches in the Platte Valley Canal and the Evans No. 2 Ditch under this decree while Applicant is delivering water to its stockholders for irrigation. Before Applicant can claim recharge credits from Sub-reaches Nos. 1 and 2 while water is being delivered through the Platte Valley Canal to Milton Reservoir, the historical seepage of water decreed to Milton Reservoir and a procedure for calculating seepage attributable to Applicant's recharge water must be established. To establish the historical seepage of the Milton Reservoir water right, PVIC shall install the measuring devices at the beginning of Sub-reach No. 1, the end of Sub-reach No. 1 and the end of Sub-reach No. 2 and collect daily measurements during an entire storage season. PVIC shall analyze the daily measurements and establish a curve for each sub-reach relating flow to seepage as a percentage of that flow for the Milton Reservoir water right. On or before June 1, 2008, Applicant shall file with the Court, the State Engineer and the Division Engineer and all the Objectors a report proposing a procedure for calculating the amounts of seepage from the Milton Reservoir water right and from Applicant's recharge water, the analysis behind that procedure and the data collected, including the daily measurements. If the State Engineer, Division Engineer or any Objector disagrees with the calculations submitted by the Applicant, an objection shall be filed within 60 days from the date the calculations are filed with the Court and served on the Objectors, and the Court shall hold a hearing on the limited issue of calculating the historical seepage from the Milton Reservoir water right and determining a procedure for calculating the amount of seepage attributable to Applicant's recharge water in Sub-reaches Nos. 1 and 2 while the Milton Reservoir water right is being delivered including but not limited to the appropriate data, assumptions, model specifications and interpretation of results.

After such a procedure is established, Applicant shall continue to measure and report the amount of seepage from the Milton Reservoir water right and report such amounts to the Division Engineer. Applicant shall have a continuing obligation to revise

the curve for each sub-reach in accordance with the updated data when appropriate and report any revisions to the Division Engineer and Objectors.

18.7 Recharge Sites: The ponds at the recharge sites shall be constructed so that the pond bottoms are at least 2 feet above the water table. The ponds shall be kept free of vegetation. Applicant shall construct 3 monitoring wells, with minimum depths of 6 feet, at each recharge site. Applicant shall measure and record the water depth in each monitoring well each month beginning two months prior to the first delivery of recharge water to the recharge sites and ending three years after the first delivery of recharge water to the recharge sites. The measurements from each monitoring well shall be submitted to the Division Engineer and the objecting parties in this case (Objectors) each month. At the end of the 3-year monitoring period, Applicant shall submit current aerial photographs of each recharge site to the Division Engineer and the Objectors that display the current vegetation surrounding the recharge sites.

18.8 Notification to Objectors. Applicant shall give written notice to the Objectors when water is first recharged under this decree, which shall start the time period for the retained jurisdiction required in Section 22. Additionally, Applicant shall give written notice to the Objectors when water diverted under this decree is first delivered to the recharge sites, which shall start the time period for the 3-year monitoring well use required in Section 18.7. Such notice, and any other information and accounting required to be sent to the Objectors under this decree, shall be sent to the addresses listed below. Any Objector may waive notice or change the address to which such notice and information are sent by informing the Applicant in writing with the address set forth in Section 1 and filing a copy of written waiver or change of address with the Court.

City of Aurora

John M. Dingess, Esq.
Duncan, Ostrander & Dingess, P.C.
4600 South Ulster Street, Suite 1111
Denver, CO 80237-2875

FRICO

John P. Akolt, III, Esq.
80 South 27th Avenue
Brighton, CO 80601

City of Aurora

Steven Sims, Esq.
Adam DeVoe, Esq.
Brownstein Hyatt & Farber PC -
Denver
410 17th Street, Ste 2200
Denver, CO 80202

City of Boulder

Centennial Water & Sanitation District

Veronica A. Sperling, Esq.
Gabriel D. Carter, Esq.
Moses, Wittemyer, Harrison and Woodruff,
P.C.
P. O. Box 1440
Boulder, CO 80306-1440

18.9 Measuring Devices: Applicant shall provide measuring devices satisfactory to the Division Engineer for purposes of administration. Accounting shall be submitted on forms and at times acceptable to the Division Engineer. Upon request and payment

of reasonable costs, Applicant shall send copies of the accounting to the Objectors. While not specifically decreed herein, the accounting forms shall be similar to those attached as Exhibit D. These forms may be modified in the future with the approval of the Division Engineer.

18.10 Water Storage: Water shall not be impounded in the Platte Valley Reservoir No. 1, except pursuant to the operation of a lawful exchange, unless entitled to do so by virtue of the priority herein awarded. At all other times, all inflow of water into the reservoir from any source, including precipitation, shall be removed by Applicant or Applicant's successors-in-interest by draining, pumping, or other means, and released into the nearest natural watercourse below the reservoir, and not utilized by Applicant or Applicant's successors-in-interest in any manner.

18.11 Reservoir Specifications: Applicant shall provide elevation, surface area and capacity data for Platte Valley Reservoir No. 1 and a description of the method used to derive such data to the Division Engineer and the objectors prior to storing water in the reservoir.

18.12 ~~Lining Reservoir~~ Prior to storing water, Applicant shall line the Platte Valley Reservoir No. 1 in a manner that complies with the State Engineer's guidelines for gravel pit lining criteria to ensure that groundwater does not flow into the proposed reservoir.

19. No Augmentation Plan or Exchange Decreed: No augmentation plan or exchange is decreed herein. To the extent water lawfully recharged under this decree or lawfully stored under this decree is used in a plan for augmentation or exchange, said augmentation plan or exchange shall be operated under a separate decree of the water court or substitute water supply plan approved pursuant to § 37-92-308, C.R.S. or successor statutes.

20. Call on River: The water rights granted herein shall be out-of-priority when there is a valid call for water from a location downstream of the point of diversion for such water rights and such call is by a water right that is senior to the priority date awarded herein. For the purposes of this matter only and not to be construed as precedent in subsequent matters, the term "call" as used in this decree means a demand, recorded or unrecorded, by a senior priority for the curtailment of diversions by junior, upstream priorities in order that water be made available to the calling senior to satisfy the need for water of its senior priorities.

21. Administration: This decree shall be administered by the Division Engineer. The data to be collected pursuant to this decree shall be furnished to the Division Engineer or his representative annually or more frequently if required. In no event shall Applicant be authorized to augment, recharge, replace or exchange the waters diverted hereunder during any periods when accounting and reporting are not completed and submitted to the Division Engineer or his representative on a timely basis.


22. Retained Jurisdiction: The Court shall retain jurisdiction for 5 years from the date that water is first recharged under this decree to resolve any disputes regarding whether the recharge water is coming to the surface or is being consumed rather than resulting in accretions to the South Platte River or Beebe Draw and modifying the terms and conditions of this decree, if necessary, to correct and resolve such matters. The Court shall retain jurisdiction indefinitely for the sole purpose of determining whether, after a substantial change to the Platte Valley Canal's structure, the method being used by Applicant to measure and calculate the seepage back to the river from its recharge water in the Platte Valley Canal is accurate. The retained jurisdiction may be invoked by any existing party to this case, or successors-in-interest thereto, by motion or petition to the Court, and proper notice to all other parties.

23. Diligence: The conditional water rights herein are continued in full force and effect until July 31, 2012. If Applicant desires to maintain such conditional rights, an application for finding of reasonable diligence shall be filed on or before July 31, 2012, or a showing made on or before such date that the conditional water rights have become absolute water rights by reason of the completion of the appropriation.

24. Priority Awarded: The priority herein awarded said Applicant was filed in the Court in the year of 2002 and shall be administered as having been filed in that year; and shall be junior to all priorities filed in previous years. As between all rights, filed in the same calendar year, priority shall be determined by historical date of appropriation and not affected by date of entry of ruling.

DATED: July 21, 2006.

BY THE COURT:


Roger A. Klein
Water Judge
Water Division No. 1

This order was filed electronically pursuant to Rule 121, 81-26. The original signed order is in the Court's file.

Application To
NORTHERN COLORADO WATER CONSERVANCY DISTRICT
For
WATER ALLOTMENT CONTRACT
(Corporate Form)

Applicant, **Platte Valley Irrigation Company a Mutual Ditch Company**, organized in the State of Colorado and authorized to do business in the State of Colorado, hereby applies to Northern Colorado Water Conservancy District (Northern Water), a political subdivision of the State of Colorado, organized and existing by virtue of Article 45, Title 37, Colorado Revised Statutes, 1973 for an allotment contract for beneficial use of water under the following terms and conditions:

1. The quantity of water herein requested by Applicant for annual application to a beneficial use is **2,513** acre-feet to be used so long as the Applicant fully complies with all of the terms, conditions, and obligations hereinafter set forth.
2. It is understood and agreed by the Applicant that any water allotted by the Board of Directors of Northern Water shall be for domestic, irrigation, or industrial use within or through facilities or upon lands owned, operated, or served by said Applicant, provided however, that all lands, facilities, and serviced areas which receive benefit from the allotment (whether water service is provided by direct delivery, by exchange, or otherwise) shall be situated within the boundaries of Northern Water.
3. Applicant agrees that an acre-foot of water as referred to herein is defined as being one-three-hundred-ten thousandth ($1/310,000$) of the quantity of water annually declared by the Board of Directors of Northern Water to be available for delivery from the water supplies of Northern Water. Applicant agrees that such water shall be delivered from the works of Northern Water at such existing Northern Water delivery point or points as may be specified by the Applicant and that the water delivery obligation of Northern Water shall terminate upon release of water from said works. Further, the Applicant agrees that on November 1 of each year, any water undelivered from the annual quantity made available to the Applicant shall revert to the water supplies of Northern Water.
4. Applicant agrees to pay annually for the amount of water herein allotted by the Board of Directors of Northern Water for use within such class of water service as said Board may annually determine to be applicable and at a price per acre-foot to be fixed annually by said Board; and, further, agrees that the initial annual payment shall be made, in full, within fifteen (15) days after the date of a notice from Northern Water that the initial payment is due hereunder. Said notice will advise the Applicant, among other things, of the water delivery year to which the initial payment shall apply and the price per acre-foot which is applicable to that year. Annual payments for each year thereafter shall be made by the Applicant on or before each March 1.

If annual payment, as herein provided, is not made by due date, written notice thereof will be given by Northern Water to the Applicant at the following designated address:

P.O. Box 336483 Greeley, CO 80633

If payment is not made within ten (10) days after the date of said written notice, Applicant shall have no further right, title, or interest under this contract; and the allotment of water, as herein made, shall be transferred, leased, or otherwise disposed of at the discretion of the Board of Directors of Northern Water.

5. As security to Northern Water, the Applicant agrees that the foregoing covenant of annual payments in advance of water delivery will be fully met by annual budget and appropriation of funds from such sources of revenues as may be legally available to said Applicant.
6. Applicant agrees that the water allotment shall be beneficially used for the purposes and in the manner specified herein, and that this agreement is made for the exclusive benefit of the Applicant and shall not inure to the

benefit of any successors, assigns, or lessees of said Applicant without prior specific approval of the Board of Directors of Northern Water.

7. Applicant agrees to be bound by the provisions of the Water Conservancy Act of Colorado; by the Rules, Regulations, and Policies of the Board of Directors of Northern Water; and by the repayment contract of July 5, 1938, between said Northern Water and the United States and all amendments thereof and supplements thereto.
8. Applicant agrees, as condition of this contract, to enter into an "Operating Agreement" with Northern Water if and when the Board of said Northern Water finds and determines that such an agreement is required by reason of additional or special services requested by the Applicant and provided by Northern Water or by reason of the delivery or use of water by the Applicant for more than one of the classes of service which are defined in the Rules, Regulations, and Policies of the Board of Directors of said Northern Water. Said agreement may contain, but not be limited to, provision for water delivery at times or by means not provided within the terms of standard allotment contracts of Northern Water; additional annual monetary consideration for extension of Northern Water delivery services and for additional administration, operation and maintenance costs; or for other costs to Northern Water which may arise through services made available to the Applicant.
9. Applicant attaches hereto a true and correct copy of the Applicant's records authorizing the officers, whose names appear hereon, to make this application.

PLATTE VALLEY IRRIGATION COMPANY

(Name of Applicant)

ATTEST:

Emily Sullivan

By: Kevin W. Schmidt

(Signature of Authorized Officer)

Kevin W. Schmidt

President

(Title)

Emily Sullivan, Secretary

(Title)



ORDER ON APPLICATION

Application having been made by or on behalf of all parties interested in the water allotment and after a Hearing by the Board, it is hereby ORDERED that the above application be granted and an allotment contract for 2,513 acre-feet of water is hereby made to **Platte Valley Irrigation Company** for the beneficial uses set forth in said application upon the terms, conditions, and manner of payment as therein specified.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT

By: Dale Howbridge

President

I hereby certify that the above Order was entered by the Director of Northern Colorado Water Conservancy District on the 8th day of September, A. D. 2022.

ATTEST: Brady R. [Signature]

Secretary

APPENDIX G. 2018 FEASIBILITY STUDY

MEMORANDUM



ANDERSON CONSULTING ENGINEERS, INC.
Civil • Water Resources • Environmental

DATE: October 15, 2018
TO: Kevin Schmidt, Platte Valley Irrigation Company (PVIC)
FROM: Brad Anderson, Anderson Consulting Engineers, Inc. (ACE)
SUBJECT: Equalization Reservoir Concept Review and Evaluation

ACE PROJECT NO.: COPVIC2018



BACKGROUND INFORMATION

It is our understanding that the Platte Valley Irrigation Canal (PVIC) has contracted engineering services for the completion of numerous studies and design/construction documents related to a proposed irrigation equalizing reservoir. The primary need for the reservoir relates to the impact of the diurnal fluctuation in diversions from the South Platte River. These impacts result in fluctuations in water deliveries to all water users, especially those located at the end of the irrigation canal. Additional benefits may be realized by enlarging the equalization reservoir to store supplemental water available during periods of spring runoff or “free river conditions” within the South Platte River.

During a discussion at the board meeting with the PVIC on November 8th, 2017, Anderson Consulting Engineers, Inc. (ACE) was requested to submit a scope of work to conduct a preliminary feasibility assessment of the equalization reservoir that would focus on the utilization of the existing bifurcation structure. The PVIC board members subsequently approved the proposed work during the December 2017 board meeting. As indicated in the scope of work, the feasibility assessment was intended to address several considerations regarding the diversion of irrigation water into the PVIC canal system and re-routing the water into an equalization reservoir. These considerations included the following:

- limitations of the bifurcation structure pertaining to the water surface necessary to divert and store water in the equalization reservoir,
- Structures required to divert water from the PVIC canal into the reservoir and releases from the reservoir,
- limitations regarding the storage potential of the reservoir, and
- potential costs related to the construction of the reservoir.

A location map of the location of the bifurcation structure and area identified for potential construction of the equalization reservoir is presented on Figure 1.

PREVIOUS WORK

As discussed above, several studies have been completed that relate to the feasibility and design of the equalization reservoir and other facilities utilized by the PVIC. This information was reviewed to

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determine the availability of information that could be utilized to complete this complete the work described in this memo. The intent of the compilation and review of previous studies was to: (a) benefit from the work completed by others that would support completion of our concept evaluation, and (b) compile digital information for the previous studies that can reside with the PVIC. A summary of the previous studies is presented below.



Figure 1. Equalization Reservoir Bifurcation Structure Location Map.

Applegate Group, Inc. (2004): This work included a site survey completed by King Surveyors, reservoir layout based on a minimum reservoir of 200 acre-feet, preliminary geotechnical investigations completed with a backhoe, and an opinion of probable costs. This work resulted in an equalization reservoir of 166 acre-feet which encompassed 38 acres. Construction costs were estimated, ranging from a low of \$1,427,300 to a high of \$1,930,400. The construction estimate included reservoir excavation, dam embankment fill material, outlet structure/spillway, inlet structure, and slurry wall. Storage of irrigation water required utilization of the FRICO ditch facilities to promote the diversion into the reservoir.

WW Enterprises Consulting Engineering (2004): Subsequent to the completion of the work by the Applegate Group, WW Enterprises Consulting Firm completed a subsurface investigation and soils report

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at the location recommended for the equalization reservoir. In conjunction with Boesch Fisher Engineering, Inc., a concept plan of the equalization reservoir was completed which reflected modifications to the existing bifurcation structure, construction of an intake canal into the reservoir, and a revised inlet/outlet structure from the reservoir.

Smith Geotechnical Engineering Consultants (2006 to 2013): An additional geotechnical investigation was conducted by Smith Geotechnical Engineering Consultants (SGE) at the recommended site for the equalization reservoir. The report included considerations for the reservoir design, seepage, and embankment construction. Recommendations to mitigate potential seepage from the reservoir included: (a) compaction of the bottom of the reservoir to a depth of 18 inches below the finished grade; and (b) utilization of bentonitic clay with the sandy soil material to seal the bottom of the reservoir. Subsequent to the completion of the geotechnical investigation, SGE completed a detailed feasibility study of the equalization reservoir. This work included site surveying, field investigation, engineering, development of construction drawings, estimate of construction costs, and submittals to the USACE for a Section 404 permit and the State of Colorado Department of Water Resources for a reservoir permit (Platte Valley Reservoir #1).

Clear Water Solutions (2010-2012): Clear Water Solutions (CWS) was contracted in November 2010 to provide the PVIC with a planning document that focused on: (a) magnitude and duration of diurnal flows and free water within the South Platte River that may be available to the PVIC; (b) locations, potential benefits and cost estimates for equalization reservoirs within the PVIC canal system; and (c) an investigation of SCADA infrastructure to capture diurnal flows conveyed by the PVIC canal. The report provided by CWS in February 2011 recommended the following:

- Priority #1-implement SCADA improvements to capture excess flows from the South Platte River (estimated construction cost range of \$200,000 to \$250,000).
- Priority #2-construction of check structures in the lower third of the PVIC canal to improve delivery of irrigation water (estimated construction cost of \$30,000 to \$40,000 for each check structure).
- Priority #3-construction of Platte Valley Reservoir #1 along with a diversion structure west of the existing bifurcation structure (estimated construction cost of \$3,000,000).

Frachetti (2012-2015): In December 2012, Frachetti investigated the feasibility of pumping water from the PVIC Canal into small, non-jurisdictional storage ponds adjacent to the canal. The investigation recommended utilization of electric submersible pumps, power provided by an engine driven generator, and integration of SCADA system. The construction costs were estimated to be \$2,000,000. Alternatively, the report recommended construction of a smaller version of the Platte Valley Reservoir #1 (less than 100 acre-feet). A subsequent technical memo in December 2012 investigated minor improvements to the bifurcation structure (installation of two Rubicon gates on the FRICO portion of the bifurcation structure), and installation of two Rubicon gates on the PVIC canal. The construction cost

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was estimated to be \$1,078,000 and did not include acquisition of private property for the storage reservoir.

In June of 2014, Frchetti issued another technical memo related to the PVIC equalization storage reservoir. The report evaluated two locations for the reservoir; one on property located by PVIC and one on land directly adjacent to the bifurcation structure but not owned by PVIC. The technical memo recommended: (a) construction of the reservoir on property owned by PVIC, (b) construction of a reservoir as large as practical and cost effective, (c) construction of a new bifurcation structure with integrated flow measurement capability for both PVIC and FRICO, and (d) removal of the existing bifurcation structure. No cost estimates were provided for construction of the proposed improvements.

HYDRAULIC CONSIDERATIONS AND DESIGN CONCEPT

Following the review of previous work, this effort focused on the considerations and details related to development of a design concept for the equalization reservoir. Development of the design concept relied on several assumptions which are itemized below:

- The existing bifurcation structure is utilized in its present configuration without improvements. Furthermore, no enlargement of the radial gate controlling the diversions into the PVIC canal is assumed.
- The FRICO weir elevation at the east end of the bifurcation structure was established as the maximum water surface elevation for control of the diversions into the PVIC canal. This assumes limited flow is conveyed into the FRICO canal during the irrigation season.
- Two flows are utilized to represent irrigation operational demands for determination of the design concepts for the proposed improvements. These flows include a maximum diversion into the PVIC canal of 177 cfs to reflect the peak irrigation demand along with a flow diversion of 100 cfs to provide a lower irrigation demand scenario.
- The flow diversions discussed above are reduced by 40% to reflect the impact of the diurnal fluctuations during the irrigation season. The reduction results in a maximum diversion into the PVIC canal of 108 cfs and a lower demand diversion of 60 cfs into the PVIC canal.
- The amount of storage is intended to equalize the difference in the maximum and lower demand diversions attributed to the diurnal fluctuations. For one day, this storage necessary to sustain 180 cfs in the PVIC canal is 144 acre-feet, and approximately 80 acre-feet to sustain a flow diversion of 100 cfs.
- The design concept relied on a detailed review of the stage-storage information for the two equalization reservoirs previously investigated and documented by Frchetti (June 2014). Based on property ownership and storage potential, the equalization reservoir located on property owned by PVIC was assumed for the assessment.

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Storage Potential in Equalization Reservoir

The estimate of the active storage potential for the equalization reservoir depends on three factors: (a) the maximum water surface elevation represented by the FRICO weir and hydraulic losses attributable to the radial gate; (b) losses conveying diversions into the reservoir and storage releases out of the reservoir; and (c) tailwater on the outlet structure for the equalization reservoir which is represented by the depth of water in the PVIC Canal. These concept design issues are discussed below.

FRICO Weir. The elevation of the FRICO weir was determined to be 4828.5 ft. Losses associated with the maximum diversion of 177 cfs through the radial gate were determined to be 0.6 feet which reduces the maximum water surface elevation to 4827.9 ft to facilitate the diversion of water into the equalization reservoir intake channel. It is assumed that flows available for diversion at the South Platte River may closely reflect the maximum diversion associated with the direct flow water right regardless of the irrigation demand. If additional water (free water) is available for diversion from the South Platte River, the proposed improvements were also evaluated to support a diversion of 200 cfs through the radial gate.

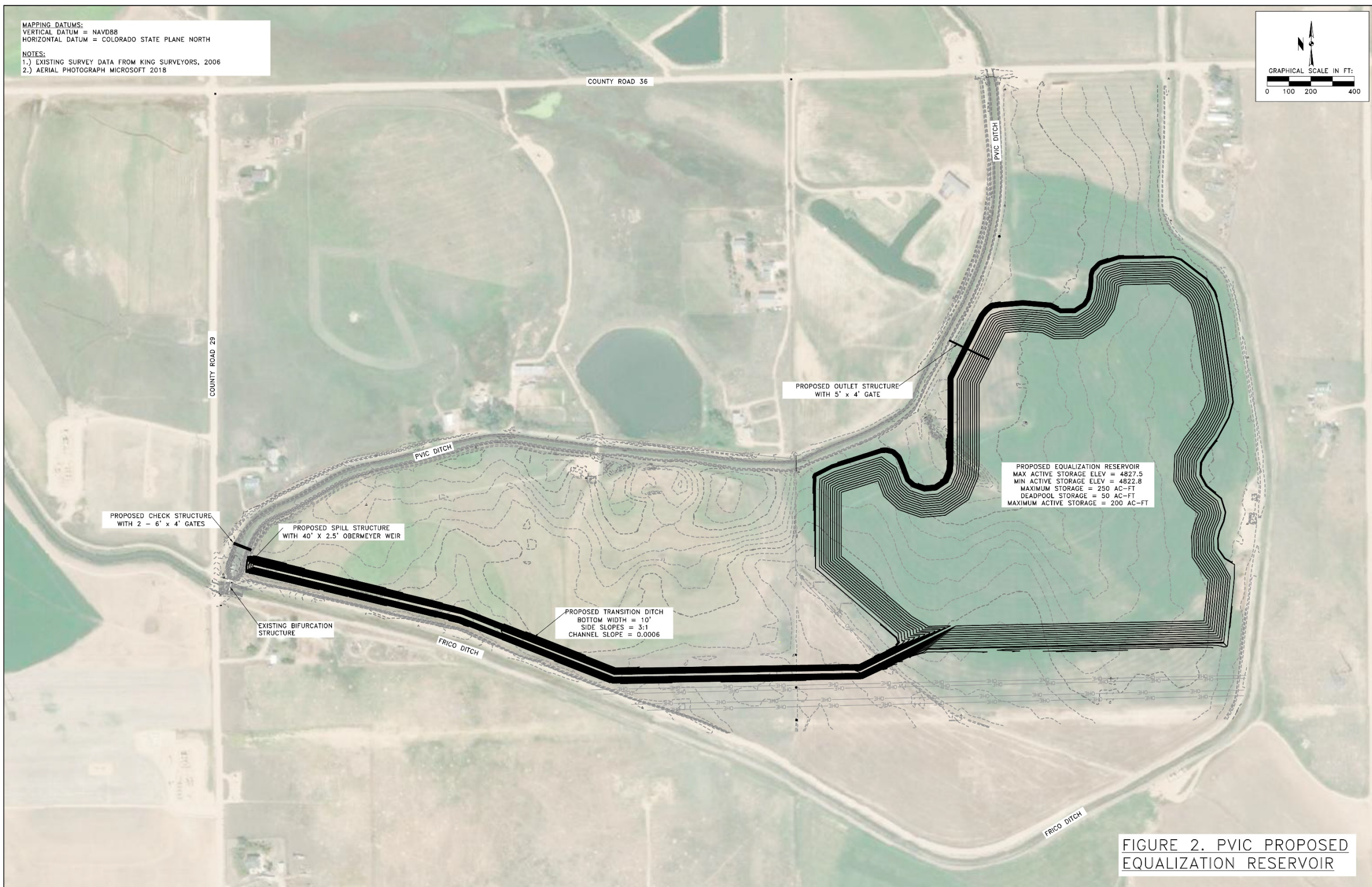
Intake Losses to Equalization Reservoir. Losses attributed to the diversion of water from the PVIC canal and along the conveyance channel to the reservoir were estimated to be 0.4 feet. This value is utilized to determine the maximum water surface in the reservoir of 4827.5 ft.

Tailwater at Outlet Structure. A hydraulic model was utilized to determine the water surface elevation in the PVIC canal in the vicinity of the outlet structure from the equalization reservoir. The water surface in the reservoir must exceed the water surface in the canal to achieve the releases from storage necessary to meet the irrigation demand. For the purposes of this assessment, the minimum water surface in the reservoir was determined to satisfy ditch flows related to a minimum demand of 100 cfs and a maximum demand of 177 cfs in the PVIC canal. The tailwater elevations corresponding to the minimum and maximum demands in the PVIC canal are estimated to be 4822.6 ft and 4823.6 ft, respectively.

Losses during Release from Storage. These losses were estimated to determine the minimum storage pool elevation and provide for release of water into the PVIC canal. A headloss of 0.2 feet (for flows ranging from 60 cfs to 100 cfs) and 0.5 feet (for flows ranging from 108 cfs to 177 cfs) were estimated to convey water from the storage pool into the PVIC canal. Based on this information, the minimum elevation of the storage pool was determined to be 4822.8 ft and 4824.1 ft to divert releases when flows in the PVIC canal are 108 cfs and 177 cfs, respectively.

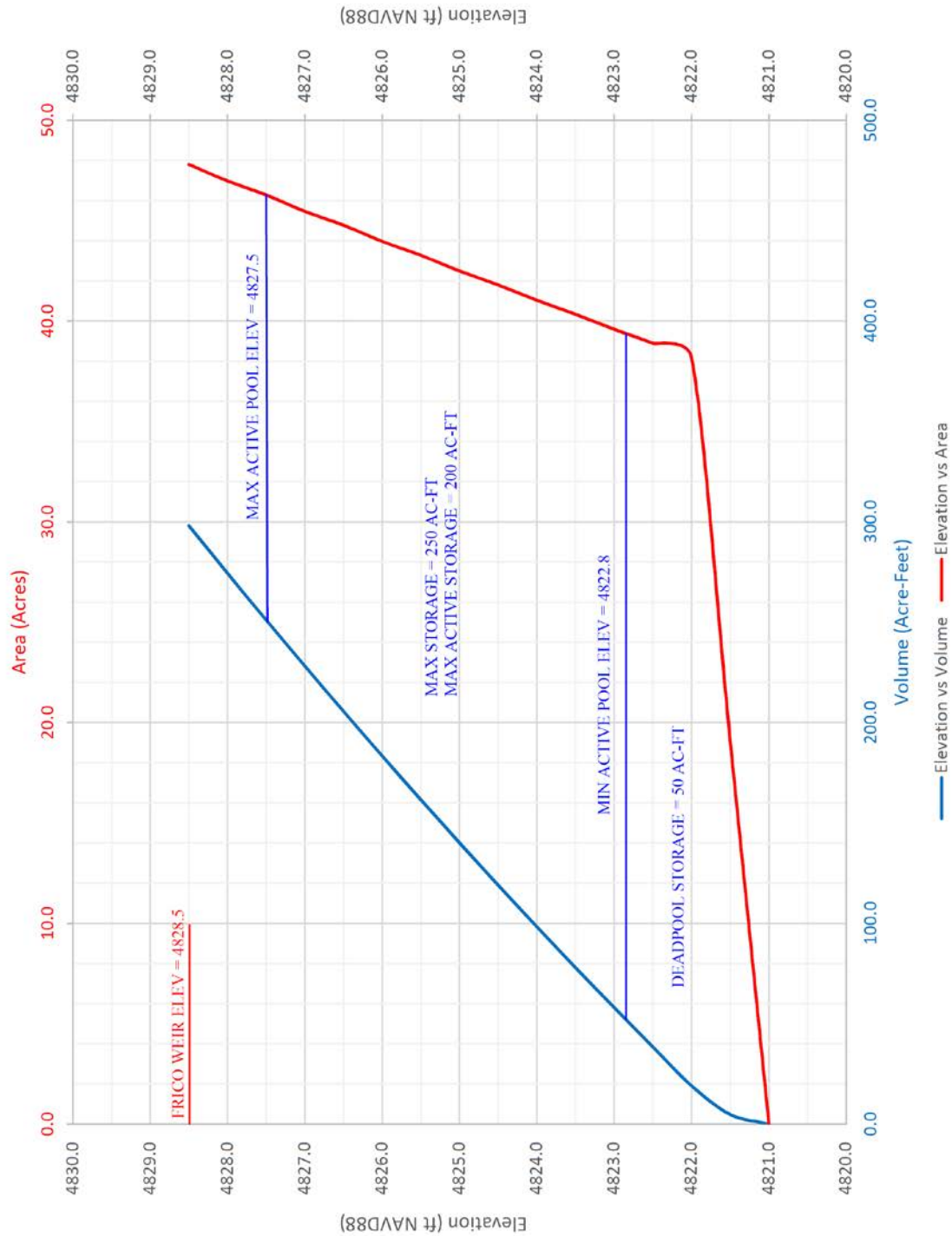
With the information presented above, the active storage pool within the reservoir ranges from 4822.8 ft to 4827.5 ft. Assuming the grading footprint and stage-area-storage curve for the reservoir from the Frachetti report (June 2014) as depicted in Figures 2 and 3, the active storage volume in the reservoir was determined to be:

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Figure 3. Proposed Reservoir Elevation vs Area and Elevation vs Volume Curves



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- 200 acre-feet available to supplement a minimum demand of 100 cfs, and
- 150 acre-feet available to supplement a maximum demand of 177 cfs.

The results of the assessment related to storage potential are also presented in Table 1.

Table 1. Assessment of Storage Potential

Item Description	Data	Notes
FRICO Weir Elevation	4828.5 ft	Maximum WSEL
Radial Gate Losses	0.6 ft	Maximum loss for Q=177 cfs
Maximum Diversion Elevation	4827.9 ft	Maximum for Q = 177 cfs
Inlet Losses to Reservoir	0.4 ft	Maximum for Q = 177 cfs
Maximum Storage Pool Elevation	4827.5 ft	Top of Storage Pool
Outlet Tailwater at PVIC Canal (average)	4822.6 ft	Q = 60 cfs to 100 cfs in PVIC Canal
	4823.6 ft	Q = 108 cfs to 177 cfs in PVIC Canal
Outlet Losses from Reservoir (maximum)	0.2 ft	Q = 100 cfs in PVIC Canal
Outlet Losses from Reservoir (maximum)	0.5 ft	Q = 177 cfs in PVIC Canal
Minimum Storage Pool Elevation	4822.8 ft	Q = 100 cfs in PVIC Canal
	4824.1 ft	Q = 177 cfs in PVIC Canal
Active Storage Pool	200 acre-feet	To support demand of 100 cfs
	150 acre-feet	To support demand of 177 cfs

Concept Design Information for Structures

Concept design information was developed to determine the construction costs related to the proposed improvements. The concept design pertained to:

- Weir and gate structure for diversion of flows from the PVIC canal to the equalization reservoir,
- Outlet weir and gate structure for releasing water from storage into the PVIC canal,
- Gate structure in the PVIC canal immediately downstream of the bifurcation structure to facilitate diversion of excess flow into the storage reservoir while conveying flows within the PVIC canal to meet the irrigation demand, and
- Concept details for the embankment required to convey and store the water diverted from the PVIC canal.

With respect to gate structures, an overshot gate typically is more hydraulically efficient than undershot gates. For the purposes of this effort, an overshot gate was utilized for the diversion from the PVIC canal to the reservoir. An undershot gate was assumed for the structure within the PVIC canal to convey the irrigation demand and promote the diversion of flows in excess of the irrigation demand into the reservoir as well as the reservoir outlet structure to control the releases from the reservoir. The

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undershot gate also provides for removal of any sediment trapped within the section of the canal between the bifurcation structure and the gate. Based on the existing topographic mapping and survey data, supplemented by the design information for the reservoir embankment from previous studies, the concept design information for the gates was developed and presented in Table 2.

Table 2. Concept Design for Gate Structures

Gate Location	Gate Description	Details
PVIC Canal Gate Downstream of Bifurcation Structure	Undershot Gates (two)	6 ft wide x 4 ft high slide gate Invert elev-4020.0 ft Top of gate-4024.0 ft Top of concrete wall-4830.0 ft
Diversion Gate from PVIC Canal to Reservoir	Overshot Gate (one)	20 ft wide x 2.5 feet high Invert elev-4025.5 ft Top of gate-4028.0 ft
Reservoir Outlet Gate	Undershot Gate (one)	5 ft wide x 4 ft high slide gate Invert elev-4822.5 ft Top of gate-4826.5 ft Top of embankment-4832.5 ft

The reservoir embankment assumed a cross section as indicated in previously referenced documents. These included the following:

- An upstream embankment slope of 10H:1V
- A downstream embankment slope of 2.5:1V
- Topwidth of 15 feet
- Elevation of the top of embankment of 4832.5 ft.
- Elevation of the bottom of embankment estimated to be 4822.0 ft.

The channel from the PVIC canal to the reservoir was conceptually designed to convey flows to the reservoir. The channel design reflects the following:

- Channel slope of 0.0006 ft/ft
- Bottom width of 10 feet
- Side slopes of 3:H:1V
- Maximum berm height of 4832.5 ft

Based on the information from previous geotechnical reports and associated documents, the materials excavated for the storage pool are assumed to be adequate for construction of the reservoir embankment. The excavation and embankment volume for the embankment is estimated to be 429,000 cubic yards and 58,000 cubic yards, respectively. This results in an excess of fill material of 371,000 cubic yards.

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The results of a previous geotechnical exploration report (Smith Geotechnical Engineering, March 2006), indicated groundwater within the reservoir footprint ranged from 8 feet to 15 feet below existing ground elevations. Consequently, exposure of existing groundwater to evaporation losses is not anticipated. Seepage issues may need to be addressed. Considerations regarding this assessment should include the maximum stage in the reservoir, duration associated with the maximum stage, and properties of the soils utilized in construction of the embankment. If necessary, an impermeable core within the embankment may be required.

Concept Design Cost Information

Conceptual cost information was developed for the improvements presented in the previous sections of this letter report. Information provided in previous reports was reviewed and utilized to the extent possible and updated to reflect current pricing. As discussed above, the grading plan for the equalization reservoir assumed placement on property owned by PVIC and reflects the plan that was previously developed. It is important to note that the conceptual cost estimate did not include items pertaining to: (a) acquisition of property for the intake channel; (b) seepage measures if determined necessary by future design efforts; and (c) automation/ SCADA control equipment and measurement structures for operation and monitoring of the gates. The conceptual cost estimate for the improvements discussed previously is presented in Table 3.

CONCLUSIONS AND RECOMMENDATIONS

The feasibility of the proposed equalization reservoir is largely dependent on the frequency of the PVIC to divert water into the reservoir. Due to the priority of the direct flow water rights associated with the PVIC, previous studies have indicated that there is a reasonable likelihood of filling the reservoir. Depending on the demand during the irrigation season, if the water available for diversion from the South Platte River exceeds the irrigation demand, it would be prudent to maximize the diversion and spill the excess water into the equalization reservoir. During times of “free water”, typically during the spring runoff, the opportunity to divert into the reservoir is enhanced. Assuming an irrigation demand of 160 cfs in the PVIC canal, as much as 200 cfs can be diverted through the bifurcation structure with 40 cfs directed toward the reservoir before spilling occurs over the FRICO weir.

In addition to the above, the following conclusions and recommendations are provided for consideration:

- The benefit of the equalization reservoir is limited by the diversions from the South Platte River in accordance with the PVIC water rights priority and the potential volume available in the reservoir.
- Two demand scenarios were evaluated during the completion of this work. These included a maximum irrigation diversion of 177 cfs and a minimum irrigation diversion of 100 cfs. Assuming the flow diversions are reduced by 40% due to a diurnal fluctuation, the impact reduces the maximum diversion to 108 cfs and the minimum diversion to 60 cfs. The storage needed to equalize the difference is estimated to be 144 acre-feet to sustain 177 cfs in the PVIC canal and approximately 80 acre-feet to sustain a flow diversion of 100 cfs. Based on the potential storage evaluation, as much as 200 acre-feet of storage space is available to sustain a flow diversion of 100 cfs for one day,

MEMORANDUM

while 150 acre-feet is available to sustain a flow diversion of 177 cfs for one day. These results also indicate that a continuous delivery of water to the equalization reservoir will be necessary to sustain a delivery of 177 cfs for more than one consecutive day.

Table 3. Conceptual Cost Estimate

Item Description	Item Cost	Total Cost
PVIC Canal Gates		
6'W x 4'H Undershot Gates (2)	\$20,000	
Structural Concrete	\$28,000	
Rock Riprap	\$5,000	
		\$ 53,000
PVIC Canal Diversion Gate		
40'W x 2.5'H Overshot Gate	\$55,000	
Structural Concrete	\$25,000	
Rock Riprap	\$5,000	
		\$ 85,000
Reservoir Outlet Gate		
5'W x 4'H Undershot Gate	\$9,000	
Structural Concrete	\$40,000	
Rock Riprap	\$10,000	
		\$ 59,000
Excavation		
429,000 CY	\$858,000	\$ 858,000
Embankment		
58,000 CY	\$232,000	\$ 232,000
On-Site Excess Excavation Haul/Placement		
371,000 CY	\$742,000	\$ 742,000
Subtotal		\$ 2,029,000
Contingency (20%)		\$ 405,800
Engineering/Permitting (5%)		\$ 100,000
TOTAL COST		\$ 2,534,800

- The success of the equalization reservoir will depend on the ability to optimize the irrigation demand with the water available to PVIC associated with its water rights. All diversions at the bifurcation structure that exceed the irrigation demand should be diverted to the equalization reservoir.

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- Collection of data that affords an opportunity for PVIC to remotely adjust the diversions from the South Platte River to accommodate the impact of the diurnal fluctuations will improve the feasibility of the equalization reservoir and may reduce the size or need for the improvements.
- The conceptual cost estimates in this document did not include improvements related to: (a) SCADA, automation of the structures; (b) measurement of flows into the PVIC canal, into the reservoir or released from the reservoir; (c) costs for easements or land acquisition; and (d) seepage measures if deemed necessary.

APPENDIX H. DEPARTMENT OF ARMY – PERMIT LETTER



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BOULEVARD
LITTLETON, COLORADO 80128-6901

July 19, 2021

SUBJECT: Approved Jurisdictional Determination – Corps File No. NWO-2021-01137-DEN, Platte Valley Irrigation Company Equalization Reservoir, Weld County, CO

Aaron Hansen
Anderson Consulting Engineers, Inc.
375 Horsetooth Road
Fort Collins, CO 80525

Dear Mr. Hansen:

This letter is in reference to the proposed project located at approximate latitude 40.241875, longitude -104.779709, in Weld County, Colorado. The submittal dated June 21, 2021, consists of a request for an Approved Jurisdictional Determination for aquatic resources located within the above project. The delineated areas located on the subject property have been reviewed in accordance with Section 404 of the Clean Water Act under which the U.S. Army Corps of Engineers regulates the discharge of dredged and fill material, and any excavation activity associated with a dredge and fill project in waters of the United States.

At your request, an Approved Jurisdictional Determination (JD), a written indication that wetlands and waterways within your project area are not waters of the United States has been prepared. The Corps has determined that the two aquatic resources referenced in your request are not waters of the United States.

The JD is attached to this letter. If you are not in agreement with the JD decision, you may request an administrative appeal under regulation 33 CFR 331, by using the attached Appeal Form and Administrative Appeal Process form. The request for appeal must be received within 60 days from the date of this letter. It is not necessary to submit a Request for Appeal if you do not object to the JD.

This JD is valid for a period of five years from the date of this letter, unless new information warrants revisions of the JDs before the expiration date, or unless the Corps has identified, after a possible public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

If there are any questions please feel free to contact Aaron Eilers at (303) 979-4120 or by e-mail at Aaron.R.Eilers@usace.army.mil, and reference **Corps File No. NWO-2021-01137-DEN**.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Downing', with a stylized flourish at the end.

Kiel Downing
Chief, Denver Regulatory Office

Enclosures:

Approved Jurisdictional Determination (July 19, 2021)
Notice of Administrative Appeal Options
Administrative Appeal Process Flowchart



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 7/19/2021

ORM Number: NWO-2021-01137-DEN

Associated JDs: N/A

Review Area Location¹: State/Territory: CO City: Platteville County/Parish/Borough: Weld

Center Coordinates of Review Area: Latitude 40.241875 Longitude -104.779709

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Estimated Open Water Area	0.13	acre(s)	(b)(7) Artificially irrigated area, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease.	The open water area and wetlands at this location are artificially irrigated areas that would revert to upland should application of irrigation water to that area cease. Open water and wetlands are located within a depression located in agricultural field. A closed diversion structure located within the Evans No. 2 Ditch is now abandoned and the fields are now irrigated through the use of an agricultural center pivot which spans the aquatic resources. Without application of irrigation water from either the ditch or the pivot, the aquatic resources in the depression would dry up and revert to uplands.
Estimated Wetland Area	0.43	acre(s)	(b)(7) Artificially irrigated area, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease.	The open water area and wetlands at this location are artificially irrigated areas that would revert to upland should application of irrigation water to that area cease. Open water and wetlands are located within a depression located in agricultural field. A closed diversion structure located within the Evans No. 2 Ditch is now abandoned and the fields are now irrigated through the use of an agricultural center pivot which spans the aquatic resources. Without application of irrigation water from either the ditch or the pivot, the aquatic resources in the depression would dry up and revert to uplands.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: [Request for an Approved Jurisdictional Determination \(July 1, 2021\)](#) and the [Platte Valley Irrigation Company Equalization Reservoir Site and Grading Plan \(April 13, 2021\)](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☐ Photographs: [Select. Title\(s\) and/or date\(s\).](#)

☒ Corps site visit(s) conducted on: [July 2, 2021](#)

☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- ☐ USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- ☐ USGS topographic maps: [Title\(s\) and/or date\(s\)](#).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: [N/A](#)