

Feasibility of Piping a Section Of the East Mesa Water Company

Sponsored by the
East Mesa Water Company
In conjunction with the
Colorado Water Conservation Board

May 2013

FEASIBILITY STUDY APPROVAL
Pursuant to Colorado Revised Statutes 37-60-121 & 122, and
in accordance with policies adopted by the Board, the
CWCB staff has determined this Feasibility Study meets all
applicable requirements for approval.

Signed

Date

7/5/13

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Not used at this time Information is in application and feasibility study.

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East Mesa Water Company

Marty Nieslanik, President

Paul Nieslanik, Vice President

Mark Nieslanik, Secretary - Treasurer

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Acknowledgement of those who assisted in the preparation of this report:

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Engineering Tech, NRCS

Kirk Russel, P.E.
Colorado Water Conservation Board

Anna Mauss, P. E.
Colorado Water Conservation Board

Feasibility Study
East Mesa Water Company
Ditch Lining Project

Pipe

Introduction (Need for the Project)

This project lies in the Crystal River Valley in the western portion of Pitkin County, Colorado. The East Mesa Water Company operates the East Mesa Water Company system for the benefit of the shareholders by providing irrigation water from water rights out of the Crystal River. About, one mile down ditch from the diversion the water flows through a 650 foot long rock tunnel that is collapsing. The owners of the ditch want to avoid the chance of losing the water delivery system due to complete failure of the tunnel. Also, the earthen ditch loses as much as 35% of the water in the ditch due to seepage through the course and rocky soil in the 9 mile length of the ditch. The East Mesa Water Company wants to install a lining or pipeline to make a permanent fix of this section. Proposed work will take place in the fall and winter of 2013 while the ditch is not in use.

The proposal is to pipe 1450 ft. around the collapsing tunnel. The pipeline will be rerouted to avoid the tunnel and will prevent water loss due to ditch seepage.

The project consists of a concrete water inlet structure, and 1450 feet of HDPE plastic pipe.

Without controlling or avoiding the collapsing of the tunnel the ditch will become inoperable. Seepage and water loss will continue through this section until the ditch is piped.

Project Sponsor

The East Mesa Water Company is an incorporated ditch company in the State of Colorado. The Company has an elected board of directors that manage the day-to-day business and operation of the ditch. The Ditch has a hired "ditch walker" to manage flows of water to the users of the ditch and to do some maintenance work. The East Mesa Water Company articles of incorporation and by-laws are included in Appendix A.

Project Service Area and Facilities

This project and service area lies in the Crystal River Valley in the western portion of Pitkin County and serves an area in the southeastern portion of Garfield County, Colorado. The Ditch Company has approximately 8.5 miles of distribution ditch starting at the Diversion 9 miles south of the intersection of Highway 82 and 133 at Carbondale, Colorado. The service area is 740 acres in size and is known locally as East Mesa of the Crystal River and lies 1 to 5 miles south of Carbondale, Colorado.

The diversion is specifically located at: 39 degrees 17' 37.05" N 107 degrees 12' 59.81" W.
The elevation at the diversion is 6530 feet.

The ditch company serves 12 users including private landowners and homeowners associations. The users are approximately 100% agricultural. The East Mesa Water Company provides water to irrigate about 740 acres of land. Irrigated acreage within the service area is primarily used for cattle

ranching, nursery trees, and to grow hay and forage crops. The hay crop is used as cattle and horse feed, or is sold.

The Crystal River Valley area, Pitkin County and Garfield County, is seeing rapid population growth and development. This growth puts demands on the water in the Crystal River and Roaring Fork River for agriculture irrigation, recreation, municipal and industrial uses. The East Mesa Water Company has increased its number of shareholders of 6 in 1977 to 12 shareholders currently.

The area is greatly influenced by recreation, tourism and increased population, creating major changes in agriculture uses of the land and water. The water resources are having additional demands from domestic uses and industrial uses because of this growth.

Hydrology and Water Rights

Water for the East Mesa Water Company is supplied by a direct diversion from the Crystal River delivered through an open ditch to shareholders of the East Mesa Water Company. The diversion from the river is located 9 miles south of the intersection of highway 82 and 133 on the east side of the River.

Total Water Rights are 41.8 CFS.

31.8 CFS direct flow irrigation right in the East Mesa Ditch on the Crystal River, decreed in Civil Action No. 990, District Court, Garfield County, with an adjudication date of December 12, 1902, and an appropriation date of August 10, 1894.

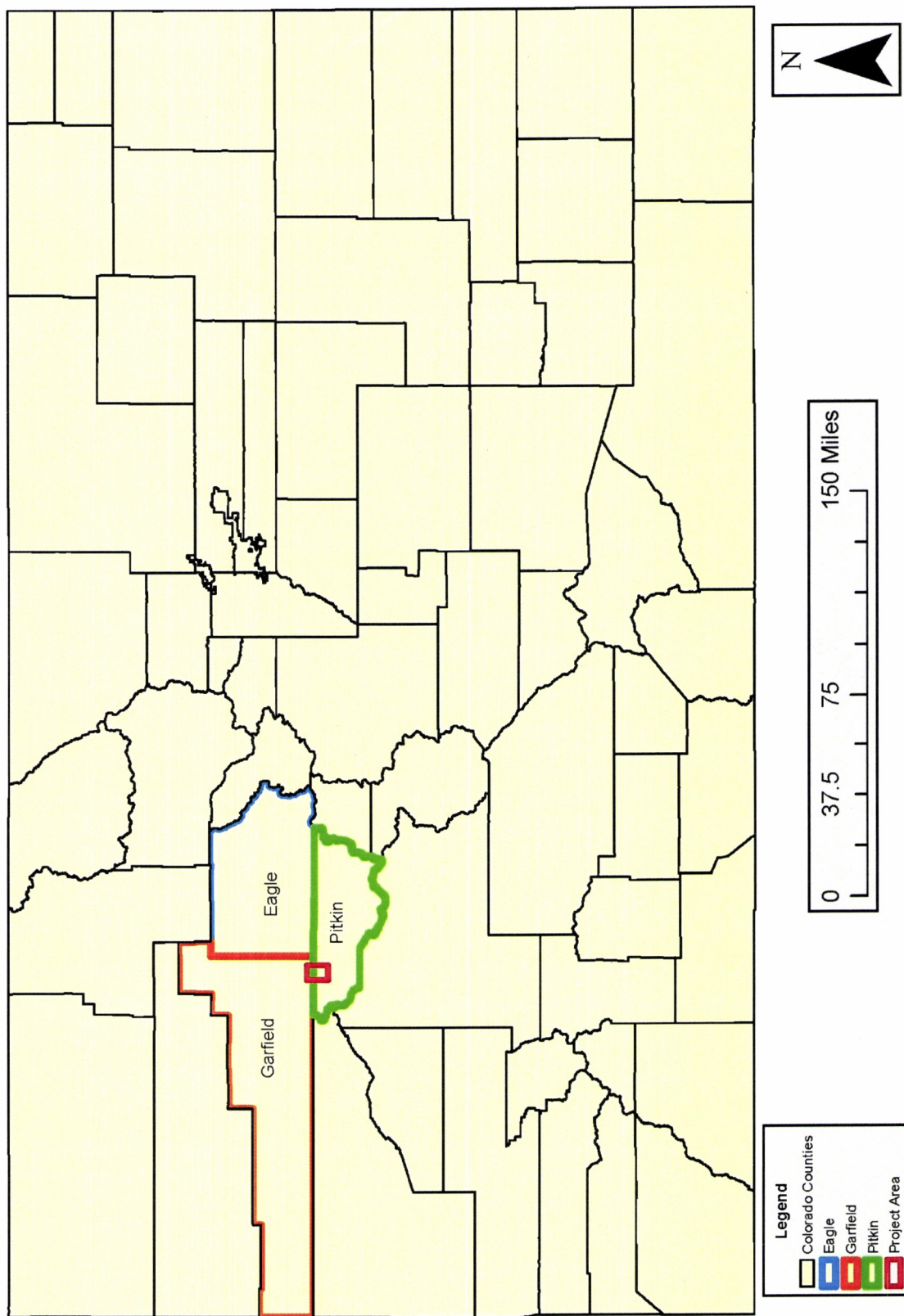
10.0 CFS direct flow irrigation, domestic and other beneficial use water right in the East Mesa Ditch on the Crystal River, decreed in Civil Action No. 4033, District Court, Garfield County, with an adjudication date of October 24, 1952, and an appropriation date of May 1, 1942.

The Ditch is usually turned on in the first two weeks of May and runs until about the middle of October.

East Mesa Water Company Pipeline Project

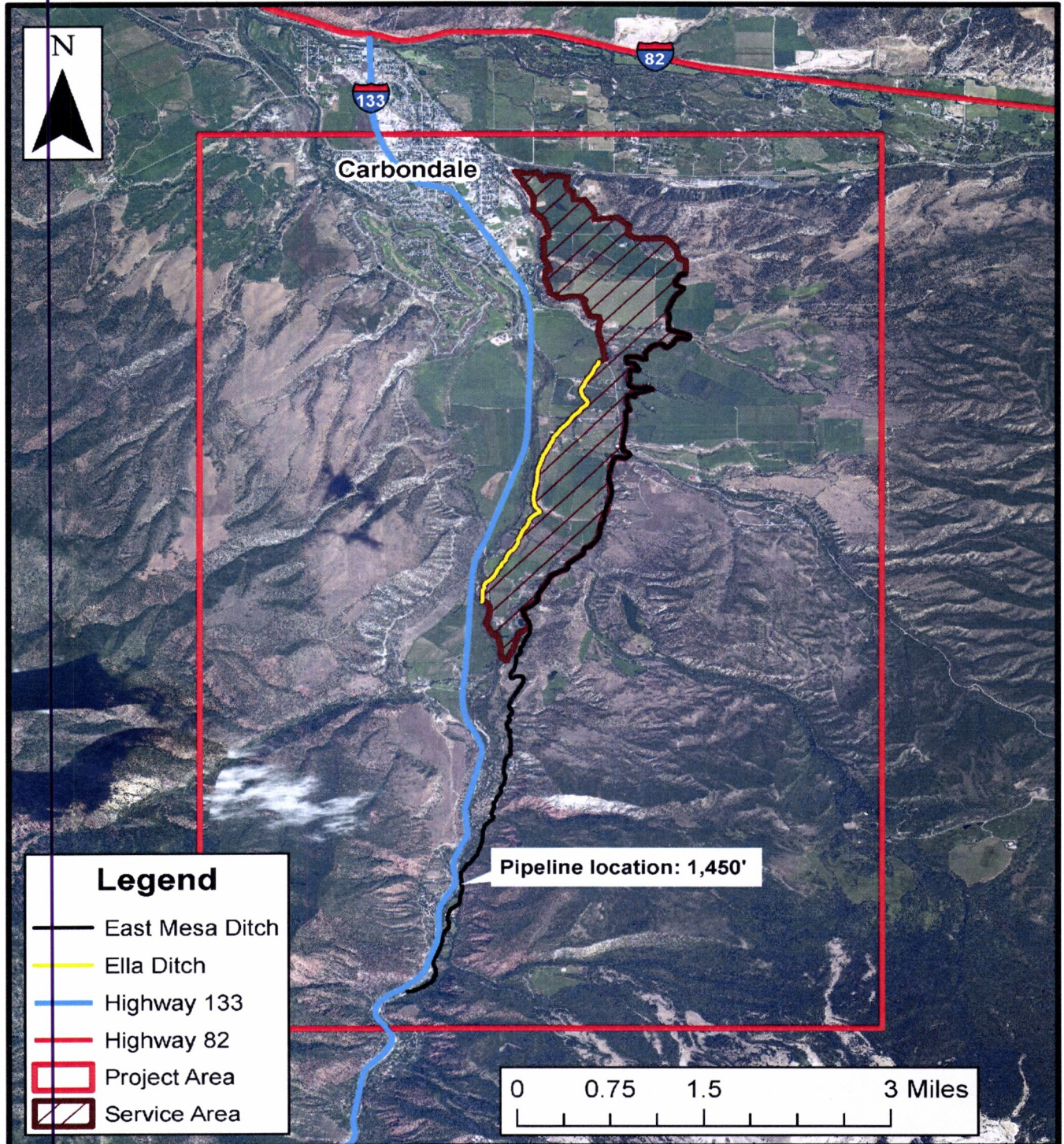
State Overview Map

General Location Map



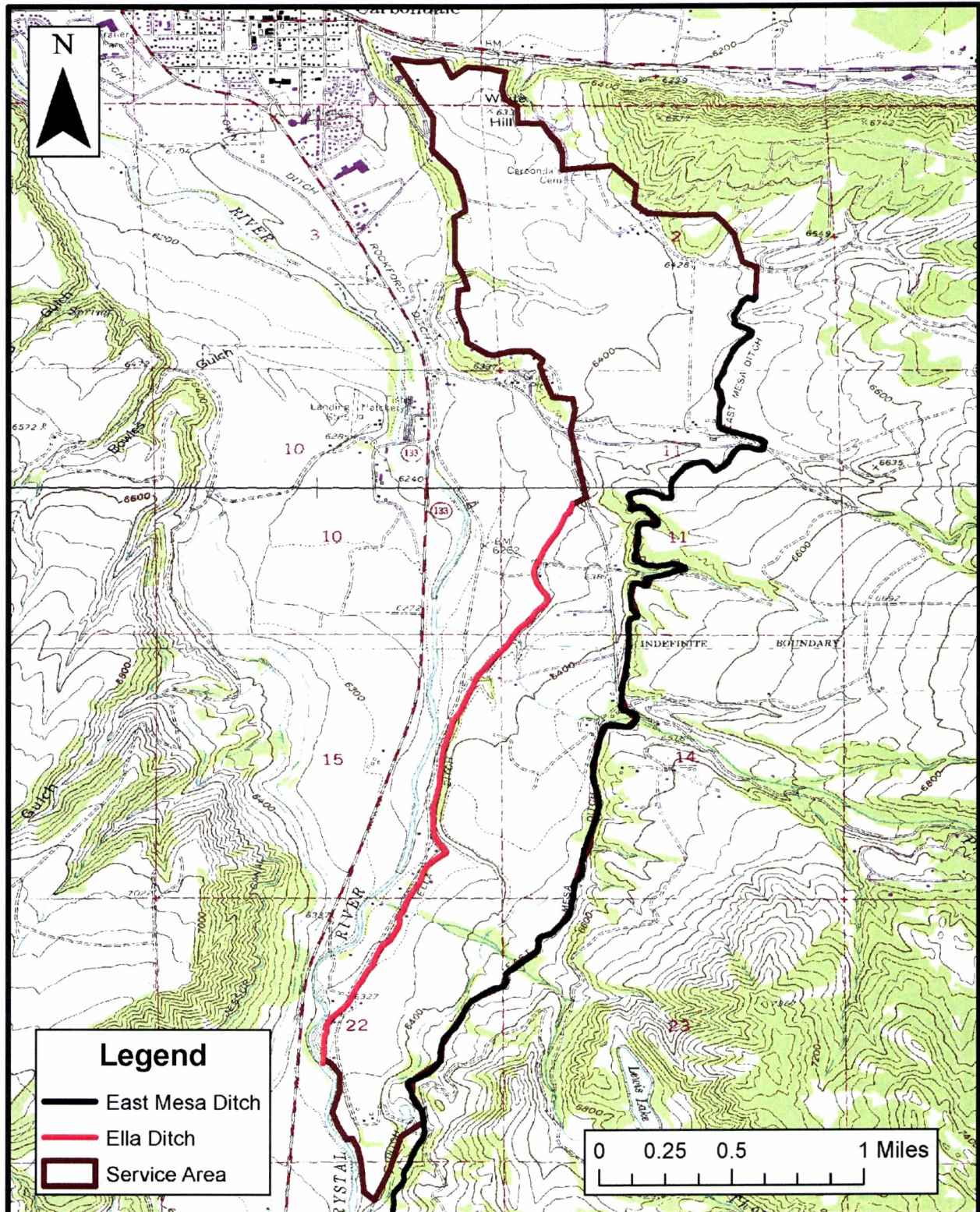
Detailed Location Map

East Mesa Water Company Pipeline Project Project Area Map

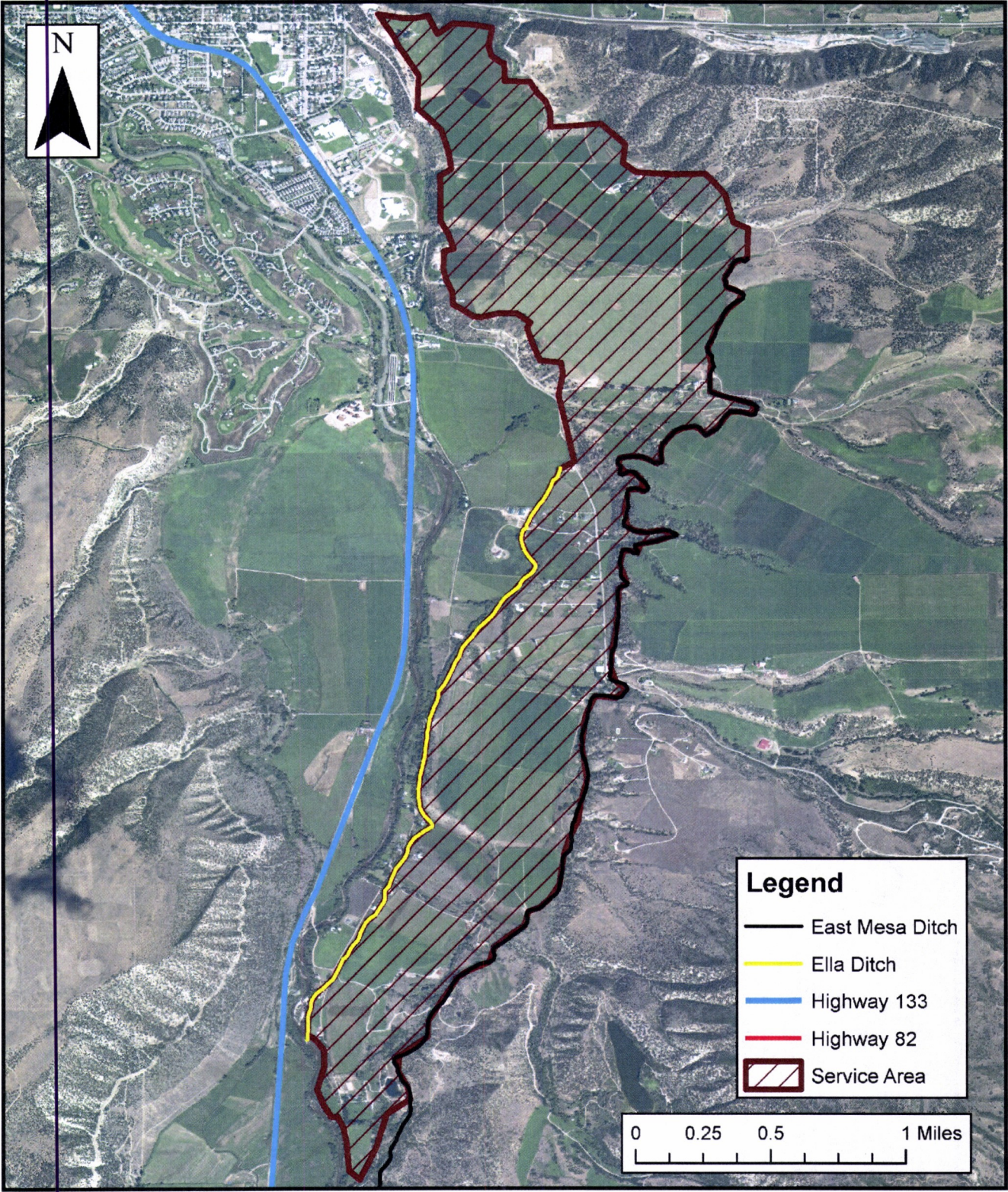


Topography Map of Project Area

East Mesa Water Company Pipeline Project



East Mesa Water Company Pipeline Project Service Area Map



Photos of Project area



Town of Carbondale, CO waterline in area of proposed East Mesa Pipeline



Photo showing elevation difference between existing ditch and Crystal River



One of several rock slide and debris flow areas along proposed pipeline section



End of pipeline and start of Rock tunnel.



Repair of collapsing pipeline.



Existing pipeline to be replaced by new pipeline route



Typical Ditch just upstream from proposed beginning of new pipeline



Typical ditch downstream from outlet of existing tunnel and near location of new pipeline to outlet



Tunnel outlet looking out (downstream)



Tunnel outlet looking into tunnel (upstream)



Tunnel outlet overview



Proposed route to leave lower roadway and rise up to existing ditch below tunnel
Blue flags show Carbondale Town Water pipeline route



Proposed Pipeline route in old road way with phone line box and inlet to Bain Thomas Ditch

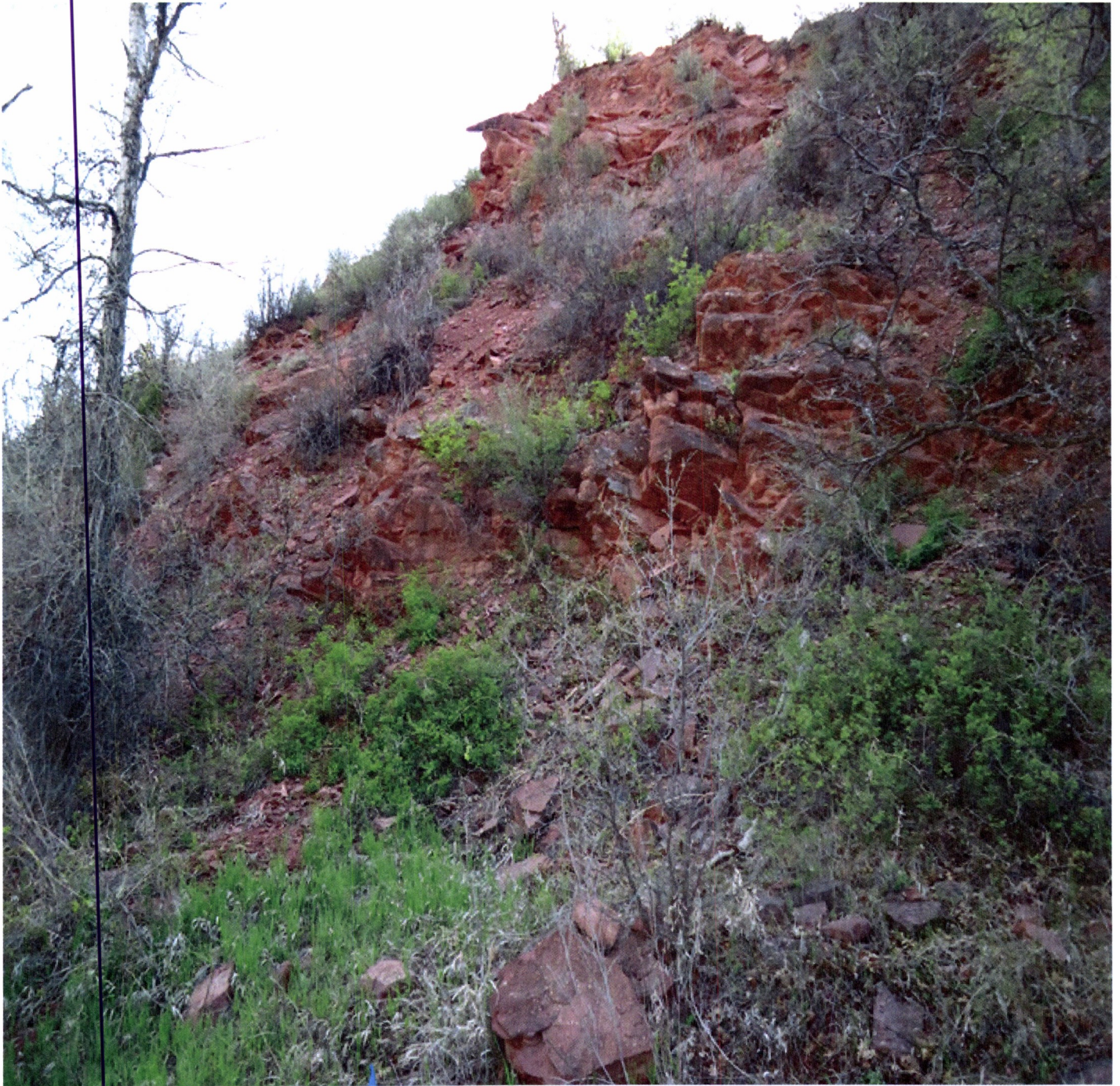


Photo showing steep rock cliff the existing tunnel and ditch traverse

Project Description and Alternatives

The purpose of this project is to provide a means for the East Mesa Water Company to continue providing irrigation water to shareholders while minimizing water loss and maintaining the operation of the existing delivery system. Three alternatives were considered:

1. The no-action alternative.
2. Bore a new tunnel and or rebores and support existing tunnel.
3. Piping the ditch with 42 inch diameter HDPE plastic pipe for 1450 feet.

Alternative No. 1 was considered unacceptable since it means the East Mesa Water Company will be subject to failure of the ditch due to collapse of the tunnel and continue to lose water due to seepage.

Alternative No. 2 this alternative is not feasible because of accessibility and cost.

Alternative No. 3 was selected, since it is considered to be the least costly reliable approach.

The selected alternative, Alternative No. 3, involves purchase and installation of 1450 ft. of HDPE plastic pipe to construct an inverted siphon to bypass the existing collapsing tunnel. Design will be completed by the suppliers Glenwood Springs NRCS office Colorado State NRCS Engineer and Staff. This also includes needed concrete and other structural needs and rock riprap designed by the Glenwood Springs Office of the Natural Resources Conservation Service (NRCS). NRCS is preparing any additional engineering designs and cost estimates for the project. Engineering design and plans as prepared by the NRCS will be provided.

The estimated cost of the completed project is \$550,000. The cost breakdown is summarized in Table 1. The NRCS Preliminary Design report and detailed cost estimate are included in Appendix D.

Table 1. East Mesa Water Company

Irrigation Ditch Lining Project - Cost Estimate

Estimated Budget:

Mobilization	\$5,000.00
Earthwork	\$10,000.00
Concrete inlet Structure 5 CY	\$10,000.00
HDPE plastic pipe 1450 ft of 42 diameter	\$200,000.00
Installation	\$275,000.00
10% engineering and contingencies permits	\$50,000.00
Total	\$550,000.00

Implementation Schedule

The NRCS is expected to complete the final design by mid-October 2013. Construction is expected to begin November 2013 and to be completed before water is turned on in May 2014.

Permitting

All easements and rights of way are being arranged. The Company expects to be exempt from 404 permitting by statutory exemption, 33 CFR Section 323.4(a) 3. This will be confirmed with the Army Corps of Engineers. And the preferred option will not be within the flood plain of the Crystal River.

Some permits may be required by Pitkin County.

Institutional Considerations

Entities that are, or may be, involved in the design, construction, and financing of the project include:

East Mesa Water Company;--financing and project management
Natural Resources Conservation Service (NRCS); -- design, and construction.
Colorado Water Conservation Board (CWCB); -- financing and construction,

The Ditch Company will be applying for additional grants to assist in the funding of this project. Some of the sources of fund to be applied for are:

USDA - NRCS Environmental Quality Incentive Program has be approved for \$300,000.00
Colorado River Water Conservation District - Grant Program (may apply in Jan 2014)

The East Mesa Water Company will be the lead for the financing, design, and construction of the project and will be the entity entering into contracts and agreements with the various entities for the services provided by each.

Entities that are, or may be, involved in the design, construction, and financing of the project include:

1. East Mesa Water Company; financing and project management.
2. Natural Resources Conservation Service (NRCS); design, and construction.
3. Colorado Water Conservation Board (CWCB); financing and construction,

Several entities will be involved in financing the estimated total project cost of \$550,000. The East Mesa Water Company is applying for a loan from the CWCB in maximum amount of \$550,000.00. The actual or estimated amounts by entity are given in Table 2.

**Table 2. Sources of Funding
(actual as of 1-31-2013)**

Funding Sources:

NRCS EQIP cost share	\$300,000.00
Colorado Water Conservation Board Revolving Loan	\$250,000.00
Total	\$550,000.00

The East Mesa Water Company will cover any costs that exceed the estimated project cost.

The East Mesa Water Company is requesting \$550,000.00 loan for 30-year from the CWCB. The standard agricultural lending rate would be 3%, resulting in annual payments of \$24,458. To this would be added \$2,446 per year for the first 10 years to fund the emergency reserve account, for a total annual cost of \$26,903. estimated

Table 3 is a summary of the financial aspects of the project. Annual assessments are \$15.00 per share. With project future assessments will be \$35.00 to \$45.00 per share.

**The increase in annual assessments is to be determined.

Table 3. Financial Summary

Project Cost	\$550,000
Loan Amount (75% of Project Cost)	\$250,000
CWCB Loan Payment Amount, including 10% loan reserve	\$15,903
Number of Shareholders	12
Number of Shares of Stock	1003
Current Assessment per Share	\$15.00
Future Assessment per Share	**see above
Annual Project Cost per acre-foot (Average annual diversions: 4,480 acre-feet)	

Since all other funding for the project is in the form of grants, the Company would have no other debt service on this project. Operation and maintenance costs are expected to decrease with the new diversion structure, and can be accommodated by the Company's existing budget.

Potential Funding

The Ditch Company will be applying for additional grants to assist in the funding of this project. Some of the sources of fund to be applied for are:

USDA - NRCS Environmental Quality Incentive Program
Colorado River Water Conservation District - Grant Program

A Grant application may be submitted requesting additional help to the Colorado River Water Conservation District in January of 2014. The amount requested will be determined at the time of application. Any Funding received will be used to pay off the loan from the Colorado Water Conservation Board revolving Loan.

Funds received will vary from requested amount because of program limits as actual funds are approved.

East Mesa Water Company employer id number is 84-1612324.

East Mesa Water Company

The ditch assessment is normally \$15.00 to \$18.00 per share. 1003 Shares in Company

2012 Assessed income \$15120.00

Expenses for 2012 were:

Insurance \$ 2309.00

Transportation \$380.00

Fuel \$545.50

Repairs and Main \$2781.00

Professional fees \$2951.00

Engineering cost \$250.00

Bank fees \$75.00

Depreciation \$2709.00

Total expenses \$12000.50

If all Grants were approved at requested amounts

Sources of Funding

Ditch Company funds	\$0.00
USDA - NRCS Environmental Quality Incentive Program	\$300,000.00
Colorado River Water Conservation District - Grant Program	\$????
Colorado Water Conservation Board Revolving Loan	\$250,000.00
Total	\$550,000.00

Credit worthiness: East Mesa Water Company has no existing debt. Table 4 shows the Financial Ratios for the East Mesa Water Company and indicates average to strong ability to repay with the project in place.

The East Mesa Water Company operates on assessments of the water users. For many years the Ditch Company has kept the assessments as low as possible as many of the users are just getting by. A major project like this could cause the failure of the ditch company and leave the water unused if loans and grants are not obtained.

Table 4. Financial Ratios

Financial Ratio	Without the project	With the project
Operating Ratio (revenue/expense)		
Debit Service Coverage Ratio (revenues-expenses)/debt service		
Cash Reserves to Current Expense		
Annual Cost per acre-foot (15,000 acre-feet diverted.)		

Annual income at \$15.00 per (1003 Shares) \$15,045.00. Expenses run an average of \$15,000.00 per year.

Alternative financing considerations: The East Mesa Water Company has investigated alternative financing sources. They have obtained an in-kind grant from the NRCS for engineering design and construction inspection.

The Ditch Company has requested and are tentatively approved for a grants from Natural Resources Conservation Service, USDA, EQIP (Environmental Quality Incentive Program)

Collateral: As security for the CWCB loan the East Mesa Water Company can pledge assessment income, water rights and the structure and pipeline itself.

Economic Analysis

The economic benefit of the project is considerable. The Mount Sopris Conservation District estimates the value of property affected to be \$7.8 million (780 ac.X \$10,000.00), within the 780 - acre service area. The short-term damage in the event of ditch failure to this area is loss of hay and pasture production and physical and environmental effects. Hay production loss alone would be almost \$500,000 (780 ac. At 3 ton per acre times \$200 per ton = \$468,000.00 per year) the loss in land value and water value is unknown and may be incalculable.

Social and Physical Impacts

This project lies in the Crystal River Valley in the northern portion of Pitkin County and in the southern portion of Garfield County, Colorado. The Ditch is approximately 8 miles long, starting at diversion out of the Crystal River about 9 Miles south of Carbondale Colorado. The area is known locally as East Mesa and is located south of Carbondale, Colorado. Increased population, recreation and tourism are causing increased demands on water resources in the valley for both domestic uses and recreation uses. The water resources are having additional demands and uses put on them because of this growth.

The project will have no significant *social impacts*, since it will assure the continued operation of a currently existing irrigation system. The project will have minor physical impacts, once construction is complete.

The East Mesa Water Company is experiencing changes in Agriculture use of water. The Agricultural use is changing to smaller land owners growing hay and pasture, some nursery and tree farms and conventional agriculture crops.

Conclusions

1. The East Mesa Water Company is an incorporated entity in the State of Colorado with the ability to enter into a contract with the CWCB for the purpose of obtaining a Construction Fund loan.
2. Rights-of Way easements are adequate for the construction of this project.
3. The project would provide for the continued delivery of irrigation water to share holders.
4. The total estimated cost of the project is \$550,000.00 and this will be financed, in part, by in-house financing, in-kind services, and various grants that are being applied for. The East Mesa Water Company is applying for a \$550,000 loan from the CWCB Construction Fund for the amount not covered by other grants.
5. East Mesa Water Company is eligible for a loan from the CWCB Emergency Infrastructure Repair Account because the project is necessary to avoid unreasonable risk of injury or damage to human health or well-being or to property or crops, and because the emergency condition is not the result of negligence in the operation or maintenance of the infrastructure.
6. The project is technically and financially feasible.

Appendix A

Articles of Incorporation

**See attached pdf File named
East Mesa Water Company Articles of Incorporation**

By-Laws

**See attached pdf File named
East Mesa Water Company Bylaws**

Appendix B

USDA NRCS Economic Value Report

Appendix C

Water Rights Summary And State Engineer Diversion Reports

**See Attached pdf file named
State Engineer record reports**

Appendix D

NRCS Preliminary Design Report And Cost Estimate

This information included throughout this report.

Appendix E

CWCB Loan Application CWCB Memorandum of Loan Approval

COLORADO WATER CONSERVATION BOARD

CONSTRUCTION FUND LOAN APPLICATION

Instructions: This application should be typed or printed neatly with black ink. Attach additional sheets as necessary to fully answer any question or to provide additional information that would be helpful in the evaluation of this application. When finished, please return this application to:

THE COLORADO WATER CONSERVATION BOARD
Water Supply Planning and Finance Section

1580 Logan St., Suite 750

Denver, CO 80203

Attn: Anna Mauss, P.E.

Phone (303) 866-3441 - Fax (303) 894-2578

e-mail: anna.mauss@state.co.us

Kirk Russell P. E.

e-mail: Kirk.russell@state.co.us

Part A. - Description of the Applicant (Generally, the applicant is also the prospective owner and sponsor of the proposed project. If this is not the case please contact the CWCB staff before completing this application.)

1. Name of applicant East Mesa Water Company

Mailing Address 0979 County Road 101 ✓ Carbondale CO 81623

Business Phone (970) 948 3587 Fax Phone (970)

Federal ID Number 84-1612324 e-mail Address

2. Person to contact regarding this application:

Name Marty Nieslanik

Position/Title President

Address 977 County Road 101, Carbondale, CO 81623

Phone (970) 948 3587 Home Phone (

e-mail Address

3. Type of organization (Ditch Co., Irrigation District, Municipality, etc.): Ditch Co.

Date of Annual Meeting - Mid March each year

Is the organization incorporated in the State of Colorado? YES x NO (If YES, please

Include a copy of the articles of incorporation, and the bylaws with this application form.)

4. Please provide a brief description of the owner's existing water supply facilities and describe any existing operational or maintenance problems. Attach separate sheets if needed, and a map of the service area. We have a diversion from Crystal River about 9 miles south of the intersection of highway 82 and 133. The diversion is across the river from Highway 133 on the east side of the Crystal River.

For existing facilities indicate:

Number of shareholders 12 or Number of customers served 54

Current Assessment per share \$ \$15.00 to \$18.00 Number of shares 1003

Number of acres irrigated About 780 Water Right: 41.8 CFS.

Average water diverted per year: acre-feet.

Part B. - Description of the Project

1. Name of the project or facility East Mesa Water Company Pipeline

2. Purpose of this loan application. Check one.

New project

☒ Rehabilitation or replacement of existing facility

Enlargement of existing facility

Emergency Repair to replace tunnel.

Other (describe)

3. If the project is for rehabilitation of an existing reservoir, is the reservoir currently under a storage restriction order from the State Engineer? YES NO X

1. General location of the project. (Please include county, and approximate distance and direction from nearest town, as well as legal description, if known. Pitkin County, Colorado. Section 3, R 88 W, T 9 S. About 7 miles South of Carbondale, Colorado, On the East side of Crystal River along Highway 133.

5. Please provide a brief narrative description of the proposed project including purpose, need, facilities, type of water uses to be served and service area. Attach separate sheet, if needed.

Description of Project:

This project lies in the Crystal River Valley in the northern portion of Pitkin County and the southern portion of Garfield County, Colorado. The East Mesa Water Company operates the East

Mesa Water Company for the benefit of the shareholders by providing irrigation water from the Crystal River,

The East Mesa Ditch has a tunnel that is about 700 feet long that is collapsing as well as a section of ditch that is on a very steep hillside and slides and catches much debris and rock. The East Mesa Water Company wants to install a HDPE plastic pipeline to make a permanent fix of this section. Proposed work will take place in the fall and winter of 2013 while the ditch is not in use.

The proposal is to pipe the 1450 ft. to bypass the existing tunnel. The new route will provide a stable base and prevent future lose of use of the water due to ditch and tunnel failure.

6. Will the acquisition of additional water rights be necessary? YES _____ NO X

If YES, please explain.

7. Please list the names, addresses and phone numbers of the Applicants' engineer(s) and attorney(s).

NAME

ADDRESS and PHONE

Mike Kishimoto _____ Engineer, NRCS, 970-945-5494
258 Center Drive
Glenwood Springs CO 81601

Attorney:

Arthur B. Ferguson Jr. Attorney
600 East Main Street , Suite 104
Aspen, CO 81611
970-429-6884
Fax 970-840-9360

8. List any feasibility studies or other investigations that have been completed or are now in progress for the proposed project. Please submit one copy of each completed study with this application.

9. Estimated cost of the project. Please include estimated engineering costs, and estimated construction costs, if known.

Estimated Engineering Costs:\$ 10,000.00

Estimated Construction Costs:\$ 550,000.00

Estimated Other Costs:\$ 50,000.00_ (land acquisition, water rights purchase, etc.)

Estimated Total Costs:\$ 550,000.00

10. Loan amount and terms you are requesting.

Requested Loan Amount:\$ 550,000_ (Maximum 75-90 % of Est. Total Costs)

Term (length) of loan: 30_ years (Usually 10, 20, or 30 years)

Interest Rate: 3_ % (Please call for our current rates)

Part C. - Project Sponsor Financial Information

Because the CWCB Construction Fund is a revolving fund, it is important that the project sponsor have the financial capacity to repay any loans made by the CWCB. The following information is needed to assist the CWCB in a preliminary assessment of the applicant's financial capacity. It is also requested that the project sponsor submit with this application, copies of the three most recent annual reports, financial statements, corporate reports or other current documentation of financial condition and operations.

1. List any existing long-term liability (multi-year) or indebtedness that exceeds one thousand dollars. For example, bank loans, government agency loans, bond issues, accounts payable, etc. Include names and addresses of lenders, amounts, due dates and maturity dates. Attach a separate schedule, if needed.

<u>Remaining</u> <u>Lender Name & Address</u>	<u>Annual</u> <u>Amount</u>	<u>Maturity</u> <u>Payment</u>	<u>Date</u>
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Not applicable

2. Are any of the above liabilities now in default, or been in default at any time in the past?
YES ____ NO X_. If YES, please give detailed explanation.

3. Please provide a brief narrative description of sources of funding, in addition to the CWCB, which have been explored for this project (Examples would be Banks, USDA Rural Development, NRCS, Colorado Water Resources and Power Development Authority, Colorado Division of Local Government, etc.).

The Ditch Company members have signed up for and approved pending acceptance and reviews a cost share grant from the Environmental Quality Incentive Program through the Natural Resources Conservation Service, USDA.

Annual assessment.

1. What collateral will you be offering for this loan? Possibilities include a pledge of revenues, the project itself, real estate, water rights.

Pledge of revenues, the project itself and water rights if required.

The above statements are true, to the best of my knowledge:

Signature of Applicant Richard McDodge - Vice President - for Marty Nieslanik

Printed Name Marty Nieslanik

Title President

Date June 7, 2013

Printed Name Mark Nieslanik

Title Secretary Mark Nieslanik

Date June 7, 2013 _____

Reception#: 796593
12/30/2010 03:38:46 PM Jean Alberico
1 of 24 Rec Fee: \$126.00 Doc Fee: 0.00 GARFIELD COUNTY CO

**ACTION BY UNANIMOUS WRITTEN CONSENT OF THE
STOCKHOLDERS OF CRYSTAL RIVER EAST MESA DITCH COMPANY**

The undersigned stockholders of Crystal River East Mesa Ditch Company, a Colorado nonprofit corporation (the "Company"), hereby consent to, vote in favor of and adopt the following resolutions without a meeting:

I. APPROVAL OF MERGER

WHEREAS, the Board of Directors of the Company (the "Board") believes it to be in the best interest of the Company to merge with an into East Mesa Water Company pursuant to the terms and conditions set forth in a plan of merger (the "Merger"), and

WHEREAS, the Board has approved and adopted a plan of merger in substantially the form attached hereto as Exhibit A, (the "Plan of Merger") and has submitted the Plan of Merger to the stockholders for approval.

NOW, THEREFORE BE IT RESOLVED, that the Merger and Plan of Merger, as approved and adopted by the Board be, and the same hereby is, approved and adopted;

RESOLVED FURTHER, that the appropriate officers of the Company be, and each of them hereby is, authorized, directed and empowered, in the name and on behalf of the Company, to execute and deliver the Plan of Merger and are hereby authorized and directed to take all such further action and/or execute and deliver all such instruments and documents in the name of and on behalf of the Company as are necessary, proper or advisable in order to fully carry out the intent and to accomplish the purposes of the foregoing resolutions.

This Consent may be executed in one or more counterparts and transmitted via facsimile or other electronic means, and each such counterpart shall be deemed an original, and all such counterparts, taken together, shall constitute one document.

II. ADOPTION OF BYLAWS

RESOLVED, that the Bylaws attached hereto as Exhibit B be, and they hereby are, adopted as the Bylaws of and for the Company; and

RESOLVED FURTHER, that the Secretary of the Company be, and he hereby is, authorized and directed to certify the Bylaws and insert them in the Company's Minute Book, and to see that a copy of the Bylaws is kept at the Company's principal office, as required by law.

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12/30/2010 03:38:46 PM Jean Alberico
2 of 24 Rec Fee: \$126.00 Doc Fee: 0.00 GARFIELD COUNTY CO

This Written Consent of the Stockholders of Crystal River East Mesa Ditch Company. is
executed to be effective as of October 22, 2010.

STOCKHOLDERS:

Naty L FOR MJN

Thomas H. Biny for Iron Horse Ranch

Elizabeth Canning for Colorado Corp

Richard M. Doherty

Thomas Hal Harvey P.O. by Robert M. Doherty

Kerna Burtz HOA Mountain Meadows

John Niedzwiedz

Dave Adams

Mark M.

John R. J. case

Thomas Steel
for Prince Creek HOA

Paul Thorne



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12/30/2010 03:38:46 PM Jean Alberico
3 of 24 Rec Fee:\$126.00 Doc Fee:0.00 GARFIELD COUNTY CO

EXHIBIT A

PLAN OF MERGER

(See attached)

Exhibit A

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated effective as of October 22, 2010, provides for the merger of Crystal River East Mesa Ditch Company, a Colorado non-profit corporation ("Crystal River") with and into East Mesa Water Company, a Colorado non-profit corporation (the "Corporation" or the "Surviving Corporation"). The name of the surviving corporation shall be East Mesa Water Company.

RECITALS

The Boards of Directors of Crystal River and the Corporation deem it advisable and in the best interest of the respective corporations that Crystal River be merged into the Corporation in accordance with this Agreement and Plan of Merger (this "Plan") and the law of the state of Colorado (the "Merger") on terms described below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

- The Merger.** Crystal River shall be merged with and into the Corporation and the separate existence of Crystal River shall cease. The effect of filing the Articles of Merger shall be as set forth in Section 7-131-101 *et seq.* of the Colorado Revised Nonprofit Corporation Act. The Corporation, as the Surviving Corporation, shall continue its corporate existence unaffected and unimpaired by the Merger and continue to be governed, have all the rights, privileges, immunities and powers granted, and be subject to all the duties and liabilities imposed by the Colorado Revised Nonprofit Corporation Act. The corporate identity and existence of Crystal River, together with all of its rights, privileges, immunities, powers and franchises, both of a public and private nature, and all of its property, real, personal and mixed, and all debts due to it on whatever account and all of its liabilities and obligations and outstanding indebtedness, and all and every other interest of it shall be taken and deemed to be transferred and to vest, and shall be vested, in the Surviving Corporation as of the Effective Date (as defined in paragraph 2 below), without further act or deed and as effectively as they were formerly vested in Crystal River.
- Effective Date of Merger.** The Effective Date of the Merger shall be the date of filing of the Statement of Merger in the office of the Colorado Secretary of State.
- Membership; Stock; Voting Rights.** The membership and stock ownership of both Crystal River and the Corporation are identical. Accordingly, upon the Effective Date, each share of stock in Crystal River owned by a stockholder shall merge into a corresponding share of stock owned by such stockholder in the Corporation. The number of issued and outstanding shares in the Corporation shall remain 1,000 shares. Each stockholder of Crystal River shall be a member of the Surviving Corporation and (subject to the terms of the bylaws of the Corporation) shall be entitled to one vote upon all matters submitted to a vote of the members for each share of stock owned.

4. Beneficial Ownership of Water Rights. Beneficial ownership by the stockholder members in water rights and other real and personal property owned by Crystal River and the Corporation shall remain vested in each stockholder, with each such stockholder owning a beneficial interest in such water rights and property in proportion to the number of shares of stock in the Corporation owned by such stockholder.

5. Articles of Incorporation; Bylaws. The Articles of Incorporation of the Corporation shall be amended and restated to substantially conform to the Articles of Incorporation of Crystal River. Except as amended by the foregoing, the Articles of Incorporation and Bylaws of the Corporation as they exist on the date hereof shall, upon the Effective Date of the Merger, continue to be the Articles of Incorporation and the Bylaws of the Corporation until the same shall hereafter be altered, amended or repealed in accordance with the laws of the State of Colorado and in accordance with said Articles and Bylaws.

6. Management of Surviving Corporation.

(a) Directors. The directors of the Surviving Corporation prior to the Merger shall continue to be the directors of the Surviving Corporation after the Merger, and shall hold office until their respective successors are duly elected and qualified.

(b) Officers. The officers of the Surviving Corporation prior to the Merger shall continue to be the officers of the Surviving Corporation after the Merger, and shall hold their respective offices until their respective successors are duly appointed and qualified.

7. Abandonment of Plan. The Corporation may abandon the Merger at any time prior to the Effective Date of the Merger.

[Signature Page follows]

[Signature Page – Agreement and Plan of Merger]

CERTIFICATION

The undersigned, as the presidents of East Mesa Water Company and Crystal River East Mesa Ditch Company, respectively, hereby certify that the foregoing Agreement and Plan of Merger has been approved by the Boards of Directors of the foregoing corporations and has been approved by the requisite number of members of each company as required by Section 7-31-103 of the Colorado Revised Nonprofit Corporation.

Dated as of the 22nd day of October, 2010.

East Mesa Water Company,
a Colorado mutual ditch company

By: _____

Name: _____

Title: President

Crystal River East Mesa Ditch Company,
a Colorado non-profit corporation

By: _____

Name: _____

Title: President



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EXHIBIT B

BYLAWS

(See attached)

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AMENDED BYLAWS
OF THE
EAST MESA WATER COMPANY

ARTICLE I.
ADOPTION OF BYLAWS

The following Bylaws were adopted on the 5th day of November, 2010, at the annual meeting of the shareholders of the East Mesa Water Company (the "Corporation") held on said date.

ARTICLE II.
OFFICES

The principal office of the Corporation shall be located in Carbondale Colorado. The mailing address of the principal office is 0979 County Road 101. The Board of Directors may change the principal place of business at any time. The Corporation may also have offices at other places within Colorado as the Board of Directors may from time to time approve.

ARTICLE III.
CORPORATION'S MAILING ADDRESS

Payment of assessments and all correspondence to the Corporation (other than correspondence and notices from the Secretary of State to the Corporation) shall be sent to East Mesa Water Company, 0979 County Road 101, Carbondale Colorado 81623.

ARTICLE IV.
NONPROFIT STATUS

A. **Net Earnings.** No part of the income or net earnings of the Corporation shall inure to the benefit of or be distributable to any shareholder, director or officer of the Corporation or any other Corporation or private individual; however, reasonable compensation may be paid for services actually rendered to or for the Corporation and any officer, director, agent or employee or any other person or corporation may be reimbursed for expenses advanced or incurred for the Corporation's benefit upon authorization of the Board of Directors. No shareholder, director or officer of the Corporation, nor any other corporation or private individual, shall be entitled to share in any distribution of any of the corporate assets upon dissolution of the Corporation or otherwise except as expressly set forth herein or in the Articles of Incorporation.

B. **Prohibited Activities.** No substantial part of the activities of the Corporation shall consist of carrying on lobbying activities, propaganda campaigns or other activities designed to influence legislation. The Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office.

C. **Dissolution.** In the event of the dissolution of the Corporation, the assets of the Corporation shall be distributed to all shareholders and all lien holders as their interest may appear as provided by section 501(c)(12) of the Internal Revenue Code of 1986 and Colorado

law then in effect. The proceedings for dissolution shall be conducted in accordance with Article 134, Title 7 of the Colorado Revised Statutes, as the same may be amended.

D. **Prohibited Income.** Notwithstanding any other provision hereof, this Corporation shall not conduct or carry on any activities nor permit or receive any income which is prohibited under the applicable provisions of Section 501 of the Internal Revenue Code as amended.

ARTICLE V. SHAREHOLDERS

A. **Shareholders.** Each person who owns a share of capital stock in the Corporation shall be a shareholder of the Corporation.

B. **Preemptive Rights.** No shareholder of the Corporation shall have any preemptive or similar right to acquire or subscribe for any additional un-issued or treasury shares of stock, or other securities of any class, or rights, warrants or options to purchase stock or scrip.

ARTICLE VI. MEETINGS OF SHAREHOLDERS

A. **Annual Meeting.** The annual meeting of the shareholders of the Corporation shall be held on the First Monday in March, at such hour and place in or near Carbondale, Colorado, as the Board shall designate in the notice therefore. If for any reason the annual meeting should not be held on such day, it may be held on any day subsequent to the first Monday in March upon giving notice of such meeting as hereinafter provided. The annual meeting shall be for the purpose of electing directors for the next ensuing year, the fixing of assessments on the stock of the Corporation, and for the transaction of such other business as may properly come before such meeting.

B. **Special Meetings.** Special meetings of the shareholders may be called at any time by resolution of a majority of the Board, or shall be called by the Board at a written request signed and dated by shareholders representing at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the meeting, as provided in C.R.S. §7-107-102, as the same may be amended from time to time. Such special meeting shall be held in or near Carbondale, Colorado, at the time and place stated in the notice thereof, and the business of such meeting shall be limited to that set out in such notice.

C. **Notice of Meetings.** Notice of any meetings, annual or special, shall specify the time, place and purpose of the meeting and shall be delivered, either personally, by mail or by facsimile, to all shareholders. Notice for meetings shall be sent not less than ten (10) and no more than fifty (50) days prior to such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the shareholder at his address as it appears on the stock transfer books of the Corporation.

D. **Quorum.** At all meetings of shareholders, except as provided in Section G below, fifty percent (50%) of the total votes entitled to vote at such meeting, represented in person or by proxy, shall constitute a quorum; and at any such meeting at which a quorum is

present the affirmative vote of fifty-one percent (51%) of the votes represented at such meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater proportion or number is required by these Bylaws, the Articles of Incorporation or the laws of Colorado. If a majority of the outstanding stock is not present at any shareholders' meeting, the minority present shall have no power to transact any business or take any action except to adjourn.

E. **Voting.** Each holder of record shall have the right to one (1) vote at any shareholder's meeting for each share of stock issued by the Corporation and fully paid as to assessments. Except as otherwise provided herein or in the Articles of Incorporation, all acts and resolutions of the shareholders shall be deemed adopted upon a favorable vote of a majority of the votes cast. Any shareholder may participate in person or by proxy executed in writing by the shareholder or the shareholder's duly authorized attorney-in-fact. Corporate stock records shall be closed to transfer ten (10) days before any shareholders' meeting and shall remain closed until the day following the meeting. Any shareholder may demand a vote by ballot on any question, in which event all ballots shall be signed, the number of shares voted written thereon, and the amount verified with the stock records of the Corporation before the result is announced.

F. **Election of Directors.** Notwithstanding the foregoing, in the election of directors, each shareholder shall have the right to vote that shareholder's number of shares by secret ballot for as many persons as there are directors to be elected. Cumulative voting of shares of stock is not authorized for any purpose.

G. **Additional Voting Requirements.**

1. At any meeting of shareholders called for the purposes of approving capital improvements to the assets of the Corporation, fifty one percent (51%) of the total votes entitled to vote at such meeting shall constitute a quorum, and at any such meeting at which a quorum is present the affirmative vote of a majority of the total votes of the Corporation entitled to vote on the subject matter shall be the act of the shareholders.

2. At any meeting called for purposes ending the terms of Article VII, Sections B or C of these Bylaws or for approval to sell, transfer or convey all or any portion of the Ditch or the Corporation's associated water rights (other than a sale of shares of the Corporation entitling the holder thereof to use such assets), the affirmative vote of ninety percent (90%) of the total votes of the Corporation entitled to vote on the subject matter shall be the act of the shareholders.

3. At any meeting of the shareholders called for the purposes of incurring indebtedness, an affirmative vote of one hundred (100%) of the total votes of the Corporation entitled to vote on the subject matter shall be required to approve the terms of the indebtedness.

H. **Action Without Meeting.** Any action which might be taken at a meeting of the shareholders may be taken without a meeting if a consent in writing, setting forth the action taken, is signed by all of the shareholders entitled to vote.

ARTICLE VII. SHARES

A. **Private Water System.** The Corporation's Water System is a private irrigation water system. Only shareholders of the Corporation in good standing shall be entitled to and shall receive water from the Corporation's Water System as set forth herein.

B. **Authorized Shares.** There shall be one thousand (1,000) shares of authorized capital stock, each having a par value of \$1.00.

C. **Rights, Preferences and Obligations.** The designations, preferences, rights and obligations of the shares of stock which the Corporation is authorized to issue, and the limitations thereof, are as follows:

1. Ownership thereof shall entitle the holder(s) to a proportional share (in the ratio of one (1) share to the total number of shares issued by the Corporation) of water directed into the Ditch by the Corporation, less any carriage losses incurred along the ditch to that point on the ditch where the shareholder removes its pro rata share.

2. All shares of the Corporation's common stock shall be subject to and shall obligate the holders thereof to comply with all accounting and reporting requirements, and any other obligations imposed by the Corporation pursuant to its authority under these Bylaws and its Articles of Incorporation, regarding the use of water from the Ditch. Failure of a stockholder to comply with the provisions of such requirements or obligations may result in suspension of service to such stockholder, or forfeiture of such stockholder's shares of the Corporation's common stock pursuant to Article VIII, Section G below.

D. **Shares Tied to Real Property.** Shares of stock shall be transferred, sold and issued, or reissued, only to the owners of the land to be served by the Corporation's Water System and its enlargements and extensions. This provision is intended to prevent injury to other shareholders which could result from any shareholder transferring its water right out of the Ditch.

E. **Joint or Co-Owners of Shares.** A share of capital stock of the Corporation may be issued to more than one (1) individual either in joint tenancy or in tenancy in common. If a share is issued to two (2) or more persons, any notice required to be served upon the shareholders under the Articles of Incorporation of the Corporation or these Bylaws shall be deemed properly served or service thereof waived if service is made upon one of said persons/shareholders or if service thereof is waived by one of said persons/shareholders. A shareholder shall be entitled to vote all the shares held by him and others in joint tenancy or tenancy in common (in the absence of the other joint or co-tenant shareholders from any meeting) as though he or she were the sole owner of said shares; however, only one (1) vote shall be allowed for each share issued.

F. **Certificates of Stock.** Certificates of stock of the Corporation shall be signed by the President or Vice-President and attested by the Secretary, or by the Secretary/Treasurer if such an officer is elected, and the corporate seal is to be thereunto affixed. Each certificate shall express upon its face, its number, the date of issuance, the number of shares issued and the person or persons to whom the shares are issued. A certificate book shall be maintained by the

Corporation containing the certificate number, date, number of shares, transferring party (if any) and person or persons owning such shares for each certificate issued or transferred.

G. **Transfer of Ownership.** Stock may be transferred at any time by the holders thereof, their attorney-in-fact or legal representatives. Such stock transfers shall be made by endorsement on the certificate or by a written assignment separate from the certificate, and surrender of the endorsed certificate or surrender of the certificate and written assignment if the certificate is not endorsed. Stock transfers shall not be effective until transferred upon the books of the Corporation and surrender of the certificate and any assignment thereof to the Corporation. The surrendered certificate shall be canceled and a new certificate in lieu thereof shall be issued. No transfer of any shares of stock shall be valid or allowed upon the books of the Corporation upon which any assessments are due and unpaid. The transfer books of the Corporation shall be closed ten (10) days preceding the date of any shareholders' meeting and remain closed until the day following said meeting.

H. **Transfer Fee.** A transfer fee shall be established annually by the Board of Directors and shall be charged for each single transfer of any shares of the capital stock of the Corporation. Transfer fees shall be collected by the Secretary of the Corporation at the time of transfer. Any transfer fee shall be paid by the transferee of the shares.

I. **Lost or Destroyed Certificates.** In the event that a certificate is stolen, lost or has been destroyed, if more than three years have elapsed since such stockholder, legal representative, or assignee has notified the Corporation that such certificate has been lost, mislaid, or destroyed, and such stockholder, legal representative, or assignee has paid all assessments levied by such Corporation against such stock since such notification, the stockholder or his legal representative or assignee may file with the secretary of said Corporation a statement under oath that the certificate of stock has been lost, mislaid, or destroyed and that the certificate is the property of the person making such statement and has not been transferred or hypothecated by him, and demand the issuance of a duplicate certificate in accordance with C.R.S. §§ 7-42-114 to 7-42-117. Upon receipt of such demand, the Corporation shall publish, at the expense of the person making such demand, at least once a week for five successive weeks, the fifth publication being on the twenty-eighth day after the first publication, in a newspaper of general circulation in the county in which the principal office of the Corporation is located or, if there is no newspaper in such county, then in such a newspaper of an adjoining county, a notice that such a demand has been filed with the Corporation, setting forth such demand in full and stating that said Corporation will issue, on or after a date therein stated, following the last publication of said notice by at least thirty days, a duplicate certificate to the registered owner or his legal representative or assignee unless a contrary claim is filed with said Corporation prior to the date stated in the notice. If no claim of interest or ownership other than that made by the person filing such notice or his legal representative or assignee is filed with the secretary of the Corporation prior to the date stated in the notice, the Corporation shall issue, on or after said date, a duplicate certificate to said person or his legal representative or assignee, and all rights under the original certificate shall immediately cease and determine and no person shall at any time thereafter assert any claim or demand against the Corporation or any other person on account of such original certificate. In addition, the Corporation may require any legal representative or assignee of a stockholder of record to prove his legal right to such certificate as a legal representative or assignee of said stockholder of record.

J. **Movement of Diversions Along the Ditch.** Any shareholder seeking to divert water from a point along the Ditch other than the point at which it was historically diverted shall notify the Corporation in writing before making such a transfer and shall be responsible for all costs associated with the transfer, including the costs of ditch enlargement, if necessary; the cost of modification of diversion boxes, if necessary; and the cost of any engineering fees required to be incurred by the Corporation in conjunction with such a transfer. No such transfer shall be made if injury or increased expense will result to other shareholders or the Corporation.

K. **Restrictions on Shares.** Each certificate of stock issued by the Corporation shall be endorsed with language restricting shareholder use and alienation in accordance with these Bylaws.

L. **Minimum Number of Shares.** To avoid excessive administrative costs associated with small ownership interests, the Corporation shall not issue stock certificates nor process transfer requests for ownership interests consisting of less than twenty (20) shares.

ARTICLE VIII. ASSESSMENTS

A. **Purposes.** The shareholders set assessments for the purposes of keeping the Corporation's property in good repair; for the purposes of constructing, repairing, enlarging, maintaining, extending, relocating and improving the Ditch and other components of its Water System; for the purpose of adjudicating water rights and augmentation or exchange plans; for the purpose of obtaining well permits; for the purpose of acquiring additional water, water rights, change of water right decrees, rights-of-way and water storage reservoirs; for the purpose of paying obligations or indebtedness; for the legal and other costs of organizing and carrying out the business of the Corporation; for the payment of compensation to employees, agents, officers, directors or other parties engaged by the Corporation in the furtherance of its purposes; for the purpose of creating such reserve or contingent fund as the Board of Directors may deem from time to time necessary and proper for the financial stability and welfare of the Corporation; and for any other purpose as set out in its Articles of Incorporation and these Bylaws; provided, however, that:

1. Assessments for operating, repairing and maintaining the Corporation's Water System shall be limited to actual or projected expenses, and shall be made equally against all shares of outstanding stock. For purposes of this paragraph, ordinary operating, repair and maintenance expenses shall consist of the cost of insurance and the repair and maintenance of the Water System and appurtenant facilities.

2. Assessments for capital improvements (those improvements other than operating and maintenance activities and repair or replacement of existing facilities or structures) shall be made only upon the affirmative vote of sixty-six percent (66%) of the quorum present. Assessments for capital improvements shall be made against all shares of outstanding stock.

3. Assessments for administrative, engineering, legal and professional services, compensation to the Corporation's employees and/or agents, and reserve and contingent funds deemed necessary by the Board of Directors shall be made against all shares

outstanding stock without regard to the individual shareholder's position in the Corporation's Water System.

B. Minimum Assessment. To encourage the timely and cost-effective collection of assessments by the Corporation, the minimum assessment amount collected by the Corporation, for either annual or special assessments, shall be fifty dollars (\$50.00) per share, or the amount set by the Board of Directors.

C. Payment of Assessments. The Corporation shall make annual assessments on the capital stock thereof to be levied on a pro rata basis as hereinabove provided, and to be payable in money. Any annual assessments levied shall be paid in full on or before April 15 of the year for which such assessment shall be made.

D. Determination of Assessments. The question of assessments shall be submitted by the Board of Directors to the shareholders of the Corporation at the annual meeting, or at a special meeting called for that purpose, at which a quorum is present. An assessment shall be made if a majority of stock represented at such meeting, either by the owner in person or by proxy, entitled to vote thereon shall vote in favor of making the assessment. In the event any annual assessment shall prove to be insufficient to meet the requirements of the Corporation for the year for which such annual assessment has been levied, the Board of Directors, without a vote of the shareholders, may at any time levy a further assessment for the purpose of providing for any deficiency in revenue up to the amount of the original total assessment, which further assessment shall be paid as determined by the Board and collected in a like manner as the annual assessment.

E. Failure of Shareholders to Make Assessments. In the event shareholders holding a majority of the stock shall fail to attend the annual meeting or shall fail to make assessments within ten (10) days of the date of the annual meeting in any year, then the Board of Directors shall have the power to make any such assessments at any regular or special meeting of such Board held subsequent thereto in any year and called for such purpose. Such action shall have the same force and effect as though made by the shareholders.

F. Notice of Assessments. Upon authorization of the annual assessments by the shareholders or the Board as set forth herein, the Secretary of the Corporation shall notify all of the shareholders of such assessment no later than the March 1st. All notices of assessments shall state the time and manner of payment, the amount due and shall be deposited in the United States Post Office, postage prepaid, directed to the last known mailing addresses of the shareholders as shown on the books of the Corporation.

G. Failure to Pay Assessments. In the event any shareholder fails, within 60 days after receipt of written notice of such failure, sent certified mail, return receipt requested, to pay any assessment on his stock, the Corporation shall have the following remedies:

1. The Corporation may withhold or terminate the delivery of water to the shareholder until such assessment is paid.

2. In addition thereto, or in lieu thereof, the Corporation may file a lien against the property associated with the delinquent shareholder's stock or any number of shares

of said stock. The Corporation shall be entitled to recover from a delinquent shareholder all its attorney's fees and other costs incurred to recover unpaid assessments, including, but without limitation, costs and fees to file and foreclose upon a lien.

3. In addition thereto, or in lieu thereof, the Corporation may commence a civil action against such delinquent shareholder to recover the amount of any assessment which may remain unpaid, together with interest, court costs and reasonable attorney's fees.

4. In addition thereto, or in lieu thereof, the Corporation may declare a forfeiture or sale of the delinquent shareholder's stock or any number of shares of said stock. In the event the Board of Directors determines to pursue this remedy, written notice shall be given to the delinquent shareholder demanding payment within thirty (30) days of said notice. If the assessment has not been paid at the end of said thirty (30) days, the Board of Directors may declare said stock forfeited and order the same sold at an auction to other shareholders of the Corporation for cash and to the highest and best bidder. The secretary of the Corporation shall publish a notice stating the time and place of the sale of such stock once a week for two (2) weeks in newspaper published at or near the principal place of business. Any proceeds derived from the sale of such stock exceeding the amount of the delinquent assessment and the costs and expenses incident to and occasioned by the sale of the stock shall be paid over to the delinquent shareholder.

5. The Corporation shall have the authority to dispose of any of the Corporation's stock forfeited by a shareholder at such price and on such terms and conditions as the Board of Directors shall deem advisable.

6. In addition to all of the above listed remedies, the Corporation may take such other actions as are allowed under Colorado law.

H. **Interest on Delinquent Assessments.** Interest at the rate of two percent (2%) per month, with a minimum charge of Twenty-Five Dollars (\$25.00), shall be charged on any annual assessments not paid in full on or before April 30th of the year for which such assessment has been made, or on any special or other assessment not paid in full within sixty (60) days after said assessment is due and payable. Interest charges shall be collected in the same manner as prescribed in these Bylaws for the non-payment of assessments levied against the stock of the Corporation.

ARTICLE IX. DIRECTORS

A. **Directors.** The Corporation shall have a Board of Directors consisting of at least three (3) and not more than five (5) shareholders. The initial Board of Directors shall consist of five (5) Directors. Directors shall not be required to be residents of the State of Colorado, but must be shareholders of the Corporation to serve. Directors shall serve a term of one (1) year or until their successors are elected and qualified.

B. **Vacancies.** Vacancies on the Board of Directors may be filled for the unexpired term of the predecessor in office by a majority vote of the remaining Directors at any meeting of

the Board of Directors. A vacancy created by an increase in the number of Directors maybe filled for a term of office continuing only until the next election of Directors.

C. **Power of the Directors.** The Board of Directors shall have control and general management of the affairs, property and business of the Corporation and, subject to these Bylaws, may adopt such rules and regulations for that purpose and for the conduct of its meetings as the Board of Directors may deem proper. Such powers shall include, but not be limited to, the following:

1. Appoint and remove the officers of the Corporation specified herein;
2. Call special meetings of the shareholders whenever such meeting is necessary in the manner and form herein provided;
3. Appoint and remove at pleasure all employees and agents of the Corporation, prescribe their duties, fix their compensation and, when they deem it necessary, require security for the faithful performance of their duties;
4. Make rules and regulations not inconsistent with the laws of the State of Colorado, the Articles of Incorporation of the Corporation and these Bylaws for the guidance of the officers and the management of the affairs of the Corporation;
5. Make assessments on the issued stock of the Corporation necessary to carry out the objects and purposes of the Corporation as expressed in the Articles of Incorporation and these Bylaws, and to provide the time of payment of such assessments and the manner of collecting the same;
6. Pursue remedies against delinquent shareholders;
7. Approve any and all bills, payrolls and items of expense against the Corporation;
8. Incur such indebtedness as all of the shareholders have approved and deemed necessary for carrying out the objects and purposes of the Corporation and authorize certain officers to execute any documents necessary to incur such indebtedness
9. Authorize an officer or director to enter into a contract on behalf of the Corporation or ratify a contract so entered. No contract for the purposes of a capital improvement may be authorized or ratified unless and untill all assessments made pursuant to Article VIII Section A(2) have been paid to the Corporation.
10. Determine what compensation, if any, shall be paid to board members and officers of the Corporation; and
11. Require shareholders to install and maintain diversion devices approved by the Board of Directors to measure diversions from the Ditch to the shareholders. All devices shall be constructed and maintained at the shareholders' expense and the Board of Directors shall

Handwritten signatures and initials: DM, JFN, NBB, and a cluster of initials including JRS, TAT, TH, 27, MSN, and 12AM.

have the power to order the shareholders to discontinue any and all diversion of water from the Water System until acceptable means of diverting water from the ditch have been installed.

D. **Water Measurement.** The Board of Directors shall determine any and all acceptable means of measuring water for diversion from the ditch by the shareholders.

E. **Duties of Board of Directors.** The duties of the Board of Directors shall include, but not be limited to, the following:

1. Cause to be kept a complete record of all meetings and acts, present full statements at the regular annual meetings of the shareholders showing in detail the assets and liabilities of the Corporation and the condition of its affairs in general;

2. Supervise all the acts of the officers and employees, require the Secretary or Secretary-Treasurer to keep full and accurate books of account and prescribe the form and mode of keeping such books; and

3. Cause to be issued to the persons entitled thereto certificates of stock according to the several interests, not exceeding in the aggregate the authorized capital stock of the Corporation.

F. **Ratification of Board of Directors.** No contract by any officer or director of the Corporation shall be valid as against the Corporation without the previous authorization or subsequent ratification of the Board of Directors.

ARTICLE X. MEETINGS OF DIRECTORS

A. **Annual Meeting.** The annual meeting of the Board of Directors shall be held immediately after and at the same place where the annual meeting of the shareholders has been held. The meeting will be held for the purpose of electing officers, appointing committees and for the transaction of any other business as may properly come before the Board of Directors. No notice shall be required for the annual meeting of the Board of Directors.

B. **Special Meetings.** Special meetings of the Board of Directors may be called by or at the direction of the President, a majority of the Board, the chairperson of the Board, or as provided in the Articles of Incorporation.

C. **Notice of Meetings.** Except for the annual meeting of the Board of Directors, notice of the time, place, and purpose of any meeting of the Board of Directors shall be given in writing, no more than ten (10) days prior to the meeting.

D. **Quorum.** At all meetings of the Board of Directors, a majority of the Board of Directors shall constitute a quorum for the transaction of business. In the event there is not a quorum at any meeting, those Directors present may adjourn the meeting to an agreed upon date upon giving notice to the absent Directors of such adjournment.

E. **Voting.** The act of the majority of the Directors present when there is a quorum shall be the act of the Directors.

F. **Action Without Meeting.** Any action which might be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action taken, is signed by all of the Directors entitled to vote.

ARTICLE XI. OFFICERS AND DUTIES

A. **Officers.** The officers of the Corporation shall consist of a President, a Vice President, a Secretary and a Treasurer. They shall be elected by the Board of Directors at its annual meeting, and shall hold office for one (1) year or until their successors are elected and qualified. The officers shall be members of the Board of Directors. The offices of Secretary and Treasurer may be combined.

B. **President.** The President shall, subject to the direction and supervision of the Board of Directors, be the chief executive officer of the Corporation and shall have general and active control of its affairs and business and general supervision of its officers, agents and employees. The President shall report to the Board of Directors any negligence or misconduct of any such officers, agents and employees. The President shall preside at all meetings of the shareholders and the Board of Directors (unless the Board elects a Chairman). The President shall have the authority to sign all contracts and other instruments on behalf of the Corporation, except as the authority may be restricted by resolutions of the Board of Directors adopted from time to time. It shall be the responsibility of the President to make sure that all of the Corporation's ditches are in adequate condition to carry water and that water is running in said ditches, unless an emergency exists.

C. **Vice President.** The Vice President shall perform the duties of the President in case of his absence or inability to act and shall perform such other duties as the Board shall direct.

D. **Secretary and Treasurer.** The Secretary shall act as secretary of all shareholders' and directors' meetings and shall preserve the minutes thereof, unless a Secretary-Treasurer shall perform such duties. The Secretary or Secretary-Treasurer shall maintain the stock ledger book of the Corporation, which ledger shall indicate the shares issued and transferred, the date of all transactions, and the names and addresses of all shareholders. The Secretary shall submit a full report of the activities of his/her office to the shareholders at their annual meeting. The Secretary shall give written notice of all shareholders' and directors' meetings as required by law, by the Board, or by these Bylaws.

The Treasurer or the Secretary-Treasurer, if such has been designated, shall collect all monies due the Corporation and shall keep all corporate funds in an account or accounts of the Corporation in FDIC insured banking institutions as the Board of Directors may from time to time designate. After the appropriate authorization by the Board of Directors as set forth herein, any accounts of the Corporation shall be withdrawn to pay the Corporation's debts by check only, signed by any two (2) of the corporate officers. The Treasurer or the Secretary-

Treasurer shall keep accurate accounts of all financial transactions of the Corporation, shall submit a complete financial statement and report of the Corporation for the past year, and shall keep the books available and open to inspection of all Directors or shareholders at their annual meeting, and to the Directors as they shall require. The Treasurer/Secretary-Treasurer shall show in full all receipts and disbursements to the date thereof, and such other information of the Treasurer/Secretary-Treasurer's office as the Directors may require.

ARTICLE XII. INDEMNIFICATION

The Corporation shall indemnify, at its discretion, its current and former officers, directors, employees, fiduciaries, and agents, and the legal representatives of any such persons, to the full extent permitted by Colorado law.

ARTICLE XIII. LIMITATION OF LIABILITY

A. **Breach of Fiduciary Duty.** The personal liability of a director to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director is limited to the full extent provided by Colorado law, except that the foregoing shall not eliminate or limit such director's liability to the Corporation or to its shareholders for monetary damages for the following: (a) any breach of such director's duty of loyalty to the Corporation or to its shareholders, (b) any of such director's acts or omission not in good faith or which involve intentional misconduct or a knowing violation of law, (c) acts specified in C.R.S. § 7-128-403 or 7-128-501, as those sections now exist or hereafter may be amended (regarding a director's assent to a distribution made in violation of C.R.S. § 7-133-101 or participation in the making of any loan by the Corporation to any director or officer of the Corporation), or (d) any transaction from which such director derived an improper personal benefit. If the Colorado Nonprofit Corporation Act hereafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided herein, shall be further eliminated or limited to the fullest extent permitted by the Colorado Nonprofit Corporation Act. Any repeal or modification of this Article XIII shall be prospective only and shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

B. **Obligations of Corporation.** The directors, officers, employees and shareholders of the Corporation shall not, as such, be personally liable for its acts, debts, liabilities, or obligations.

ARTICLE XIV. INSURANCE

The Corporation shall at all times maintain comprehensive general liability insurance, in such amounts deemed sufficient in the judgment of the Board of Directors of the Corporation to protect the Corporation and its officers, directors, employees, fiduciaries, agents and shareholders from liability relating to the ownership and operation of the Ditch and associated water rights, appurtenances and easements, and the diversion and storage of water in connection

therewith. The Corporation shall make every effort to obtain said insurance from a company rated at least A+ in Best's Insurance Guide. To the extent insurance is available, it shall cover the Corporation and its officers, directors, and employees, fiduciaries, agents and shareholders all as additional named insureds. A certificate (and a copy of the policy) evidencing such insurance shall be provided to each shareholder.

ARTICLE XV. SUPERINTENDENT/DITCH WALKER

A superintendent/ditchwalker may be hired by the Board of Directors. Said superintendent/ditchwalker shall direct and control all labor and business pertaining to the business and operation of the Water System of the Corporation, subject to the direction and control of the Board of Directors, who shall have the direct management of the Water System of the Corporation. The superintendent/ditchwalker shall divide the water from the ditches to all persons entitled to receive the same according to the rules and regulations of the Corporation as certified to him from time to time by the Secretary of the Corporation. The superintendent/ditchwalker shall discharge all such other duties as may be from time to time prescribed by the Board of Directors, and shall make correct returns to the Board of all persons hired and employed, with a statement of the wages, at such stated periods as may be prescribed by the rules of the Corporation or requested by the Board.

ARTICLE XVI. COMPENSATION

Board members, the secretary-treasurer and the superintendent/ditchwalker shall receive such compensation for their services as the Board of Directors shall determine.

ARTICLE XVII. DELIVERY OF WATER

A. **Persons Entitled to Water.** Each share of stock shall entitle the holder to receive water at such shareholder's pro rata entitlement to the total amount of water available to be diverted from the Crystal River into the Ditch during the irrigation season (approx. April 15 - October 31 of each year), less ditch losses due to evaporation and seepage from the point of diversion to the shareholder's take-out. Each shareholder will install, at the shareholder's expense, an accurate measuring device capable of measuring, controlling, and curtailing the rate of flow of water from the Ditch into such shareholder's lateral. The Board of Directors will, through an employee or agent acting as a ditch rider, regularly monitor the flow of water into each shareholder's lateral, and will control such flow to ensure that each shareholder is receiving no more water than such shareholder is entitled to on a pro rata basis. Nothing in this provision grants authority to any shareholder to manage, manipulate, or disturb the measuring device of another shareholder except through the Board of Directors as set forth herein. The Board of Directors will curtail deliveries of water to any shareholder who fails to install a measuring device adequate to comply with the provisions of this Article XVII(A).

B. **Operation of Water System.** The Corporation intends to use its best efforts to operate the Water System in such a manner that the shareholders will receive and be entitled to

use water consistently with what they received and used under the historical operation of the system prior to adoption of these Bylaws. The Corporation may adopt such rules and regulations as may be helpful or necessary to provide for and aid in the administration of the Water System and distribution of water to the shareholders, provided that such rules and regulations shall not prevent a shareholder from receiving its pro rata entitlement of water at any time during the irrigation season (approx. April 15 – October 31).

C. **Future Transfer of Water.** Effective upon the date of these Bylaws, no shareholder shall transfer the use of water outside of the system operated by the Corporation, or change any of the water rights associated with the system, except under the following conditions:

1. The shareholder shall comply with all conditions and requirements of transfer or reconveyance specified in the Articles of Incorporation or the Bylaws.
2. The shareholder shall provide written notice of the intended transfer or change to the Corporation at its principal place of business (Article II) and to its P.O. Box (Article III), and shall provide the Corporation with copies of any lease and/or water court application at those addresses within five (5) days of filing the application.
3. The transfer or change, and any decree therefore, will not result in "injury" to the water system or any of the water rights associated with the system, as the term is defined by C.R.S. § 37-92-305 and judicial decisions interpreting the same.
4. The shareholder will pay any costs incurred by the Corporation to comply with the terms of the said decree.
5. The shareholder will continue to pay all assessments associated with the transferred or changed shares.

D. **Completed Transfer of Water.** The Corporation intends to use its best efforts to operate the Water System in a manner consistent with its historic operation, including implementation or administration of any prior change and/or augmentation decrees involving the Water System. Holders of shares associated with or dedicated to any change and/or augmentation decrees shall continue to be responsible for their pro rata share of the assessments to operate, maintain, improve, and administer the system (see, e.g., Article VII). The Corporation may adopt such rules and regulations as may be helpful or necessary to provide for and aid in the administration of the Water System with respect to such changes or transfers.

ARTICLE XVIII. ASSETS

A. **Ownership of Assets.** The Land, Ditch and all water rights and appurtenances thereto, and all other property and assets of the Corporation, including without limitation the dam/headgate, spillway/tail ditch, and any outlet works, shall constitute assets of the Corporation and not of the shareholders, and the shareholders shall have no right to partition of such assets.

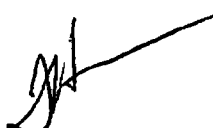
**ARTICLE XIX.
CORPORATE SEAL**

The design of the corporate seal shall be in the usual form, containing the words "East Mesa Water Company" and the word "Colorado" around the margin of the circle, with the word "Seal" in the middle thereof Said seal be kept with the record books to be maintained by the Secretary.

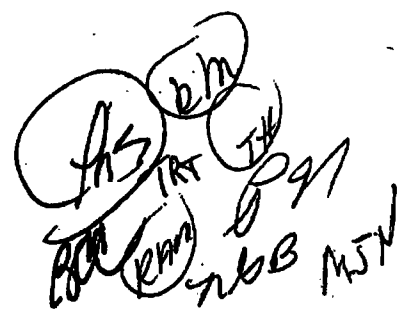
**ARTICLE XX.
AMENDMENT OF BYLAWS**

Except as otherwise provided elsewhere in these Bylaws, these Bylaws may be amended or repealed by the affirmative vote of the owners of 85% of the shares of stock of the Corporation. Any other provision of these Bylaws notwithstanding, Article VI Section G(3), Article VII Section J and Article IX Sections C(8) and (C)(9) may be changed, amended or repealed only by unanimous consent of the shareholders.

Jim DM



JFN


AS, DM, JH, PPT, RMB, MSN, nbb

CERTIFICATE

I, the Secretary of the EAST MESA WATER COMPANY, do hereby certify that the above and foregoing is a true, correct and complete copy of the Bylaws of said Corporation and adopted and approved by the shareholders and Board of Directors at a meeting held at Carbondale, Colorado, on the 5th day of November, 2010.

Matt Nustalik
Secretary

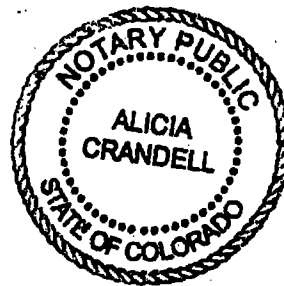
STATE OF COLORADO

County of GARFIELD

The foregoing instrument was acknowledged before me on November 5, 2010 (date) by Matt Nustalik

8-31-2014 Date Commission Expires

Alicia Crandell
Notary Public



This written Consent of the Stockholders of East Mesa Water Company, is executed to be effective as of November 5, 2010.

STOCKHOLDERS:

Marty for East Mesa Land
Paul

Don R. Jones
Mark M. for John M.
Richard M. Dye
Thomas Hal Harvey by Richard M. Dye

Thomas H. J. for Jean Rose French.
Elizabeth President for Carbondale Corp.
Norma Bess for Mountain Meadows HOA
David Holt
Marty
Thomas H. Keel
for Prince Creek HOA

ARTICLES OF INCORPORATION
OF
CRYSTAL RIVER EAST MESA DITCH COMPANY
(A COLORADO NONPROFIT CORPORATION)

The undersigned adult natural persons, acting as incorporators, hereby establish a nonprofit corporation under the Colorado Nonprofit Corporation Act and Article 42 of Chapter 7, Colorado Revised Statutes, as amended, pertaining to ditch and reservoir companies, and adopt the following Articles of Incorporation.

ARTICLE I

Name

The name of the Corporation is the CRYSTAL RIVER EAST MESA DITCH COMPANY.

ARTICLE II

Members

The Corporation shall have voting members (who may be referred to hereinafter as "members" or "shareholders"). Membership in the Corporation shall not be recognized until the person or entity desiring membership has executed a membership agreement with the Corporation and delivered a quit claim deed regarding the Water System (as described below) to the Corporation. The said agreement and quit claim deed will be in a form approved by the Corporation. Upon execution of the quit claim deed, the shareholder will retain beneficial ownership of a proportional interest in the Water System and will be entitled to use the Water System in accordance with Colorado law and the Articles and the Bylaws of the Corporation. Membership shall be memorialized by issuance of a stock certificate from the Corporation to the shareholders.

ARTICLE III

Purposes and Powers

A. **Purposes.** The purposes for which the Corporation is organized are as follows:

1. To own, hold title to, operate and maintain the Corporation's water system (hereinafter "Water System") which includes, but not exclusively, the following real property interest and water rights which are used for irrigation, domestic, stockwater and other beneficial purposes:

a. That portion of Sections 3 and 10, Township 9 South, Range 88 West, Pitkin and Garfield Counties, Colorado, and Sections 2, 11, 14, 22, 23, 27, 34, Township 8 South, Range 88 West, Pitkin and Garfield Counties, Colorado (the "Land") comprising the East Mesa Ditch (the "Ditch"), which shall include but not be limited to

easement for headgates, ditch structure, embankment, access easements, measuring devices and all of such structures actually used or reasonably necessary to be used in conjunction with operation of the Ditch;

b. 31.8 c.f.s. direct flow irrigation water right in the East Mesa Ditch on the Crystal River, decreed in Civil Action No. 990, District Court, Garfield County, with an adjudication date of December 12, 1902, and an appropriation date of August 10, 1894.

c. 10.0 c.f.s. direct flow irrigation, domestic and other beneficial use water right in the East Mesa Ditch on the Crystal River, decreed in Civil Action No. 4033, District Court, Garfield County, with an adjudication date of October 24, 1952, and an appropriation date of May 1, 1942.

d. All other water and water rights associated with, appurtenant to or historically used in connection with the Ditch;

e. All easements (whether arising by statute, express grant, implication or prescription) related to the Water System, including, but without limitation, all easements for the diversion, storage, carriage and delivery of water to the Corporation's shareholders.

f. The personalty, which includes the headgate works, gate shaft, valve chamber, bypass spillway, service outlet piping and all other personal property appurtenant to the Ditch; and

g. Such other property, including ditches, reservoirs and water rights, together with any rights-of-way, easements and personalty acquired therewith or appurtenant thereto, as may be appropriated or otherwise acquired by the Corporation.

2. To take all steps necessary to legalize, adjudicate and/or protect a water supply for the Corporation's shareholders in accordance with the decrees for the Water System and the Articles and Bylaws of the Corporation.

3. To operate, maintain, repair, improve, extend, replace and enlarge the Ditch and all other property acquired by the Corporation.

4. To use its best efforts to operate the Water System and to adopt such rules and regulations as may be helpful or necessary to provide for the administration of the Water System and distribution of water to the shareholders.

5. To appropriate and adjudicate such additional water rights as may be required to fully utilize the Ditch.

6. To take all action necessary to defend the Corporation's property, including without limitation, the Land, Ditch and water, water rights and contract rights of the Corporation.

7. Pursuant to the terms hereof, or any other terms or conditions imposed by the Corporation on the use of water from the Ditch, to deliver to or for the benefit of its shareholders water from the Ditch, in amounts proportionate to the amount of stock held by such shareholders, for irrigation, domestic and other beneficial uses required by the shareholders.

8. To contract with and borrow money from the United States of America; any federal agency, entity or corporation; any public or private corporation; the State of Colorado, or any agency of the State of Colorado, any individual; or, without limitation, from any other source; and, without limitation, to execute bonds, notes and other evidences of indebtedness and secure the same by mortgages, deeds of trust or instruments constituting a lien upon all or any part of the Corporation's real or personal property.

9. To acquire by purchase, lease, contract, assignment, exchange, appropriation or otherwise water and water rights, rights-of-way, easements, use permits, franchises, privileges, priorities, irrigation works, appliances, equipment and machinery, and other real property and personal property and interests therein; and to sell, lease, mortgage, encumber, assign, pledge or otherwise convey or dispose of any part or all of such property.

10. To do or perform any act or thing permitted or authorized by the provisions of the Colorado Nonprofit Corporation Act, Articles 121 to 137 of Title 7 (Colorado Revised Statutes), as the same may be amended, and the provisions of Article 42 of Title 7 (Colorado Revised Statutes), as the same may be amended, and not prohibited by these Articles of Incorporation.

B. Powers. In furtherance of the foregoing purposes and objectives, the Corporation shall have and may exercise all of the rights, powers and privileges now or hereafter conferred upon nonprofit corporations organized under the laws of the state of Colorado, and may do everything necessary or convenient for the accomplishment of any of the corporate purposes, subject to the limitations as may be prescribed by law.

C. User Fee. The Corporation is organized exclusively for the purposes above set forth, whereby at least 85% of its income shall be derived from user fees assessed to the shareholders for the sole purpose of meeting the expenses and losses of the Corporation in full compliance with the applicable requirements of Section 501 of the Internal Revenue code, as amended.

ARTICLE IV
Initial Registered Office and Agent

The address of the initial registered office of the Corporation and the name of the initial registered agent at that address is:

Robert Nieslanik
0828 County Road 165
Carbondale, CO 81623

ARTICLE V
Initial Principal Office

The address of the initial principal office of the Corporation is:

c/o Robert Nieslanik
0828 County Road 165
Carbondale, CO 81623

ARTICLE VI
Period of Duration

The Corporation shall have perpetual existence.

ARTICLE VII
Nonprofit Status

A. **Net Earnings.** No part of the income or net earnings of the Corporation shall inure to the benefit or be distributable to any shareholder, director or officer of the Corporation or any other corporation or private individual; however, reasonable compensation may be paid for services actually rendered to or for the Corporation and any officer, director, agent or employee or any other person or corporation may be reimbursed for expenses advanced or incurred for the Corporation's benefit upon authorization of the board of Directors. No shareholder, director or officer of the Corporation, nor any other corporation or private individual, shall be entitled to share in any distribution of any of the corporate assets upon dissolution of the corporation or otherwise except as hereinafter expressly set forth.

B. **Prohibited Activities.** No substantial part of the activities of the Corporation shall consist of carrying on lobbying activities, propaganda campaigns or other activities designed to influence legislation. The Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office.

ARTICLE X
Initial Directors

A. **Number of Directors.** The number of directors of the Corporation shall be determined by the Bylaws. The initial Board of Directors of the Corporation shall consist of three (3) directors.

B. **Initial Directors.** The names and addresses of the persons who are to serve as the initial directors and until their successor or successors are elected and qualified are:

John Nieslanik	0979 County Road 101 Carbondale, CO 81623
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Robert Nieslanik	0828 County Road 165 Carbondale, CO 81623
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Thomas Turnbull	1634 Prince Creek Road Carbondale, CO 81623
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C. **Increase or Decrease of Directors.** Commencing with the election of the Board of Directors by the shareholders of the Corporation, the number of directors may be increased or decreased by the adoption of an amendment to the Bylaws, but no decrease shall have the effect of shortening the term of any incumbent director.

ARTICLE XI
Indemnification of Officers and Directors

The Corporation shall indemnify its officers and directors to the full extent permitted by Colorado law.

ARTICLE XII
Limitation of Liability

A. **Breach of Fiduciary Duty.** The personal liability of a director to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director is limited to the full extent provided by Colorado law.

B. **Obligations of Corporation.** The directors, officers, employees and shareholders of the Corporation shall not, as such, be liable on its obligations.

C. **Wanton and Willful Acts.** Directors shall not be liable for actions taken or omissions made in the performance of corporate duties except for wanton and willful acts or omissions.

ARTICLE XIII

Bylaws

The initial Bylaws of the Corporation shall be adopted by the unanimous vote of the shareholders. The Bylaws may thereafter be altered, amended or repealed, and additional bylaws may be adopted, only by a vote of the shareholders representing two thirds (2/3) of all the shares issued and outstanding. Such vote may be taken at any annual shareholders' meeting or at any special shareholders' meeting when the proposed alteration, change, amendment, repeal and/or addition has been set out in the notice of such meeting. Notwithstanding anything herein to the contrary, no alteration, change, amendment, repeal and/or addition to the Bylaws respecting restrictions on transfers of stock, including (without limitation) transfers or changes of water rights associated with such stock, or restrictions on ditch modifications, shall be binding upon a shareholder unless specifically approved in writing by such affected shareholder. The last two sentences in this Article XIII shall not be repealed or amended without the unanimous written consent and approval of all the shareholders.

ARTICLE XIV

Amendment of Articles

Except for any amendments requiring unanimous consent of the shareholders, as provided in Article XIII, amendments to these Articles of Incorporation shall only be by the affirmative vote of the shareholders representing seventy-five percent (75%) of all the shares issued and outstanding, by shareholders present or represented by proxy, at any meeting called for the purpose of amending these Articles.

ARTICLE XV

Dissolution

In the event of the dissolution of the Corporation, the assets of the Corporation shall be distributed to all shareholders and all lienholders as their interest may appear as provided by section 501(c)(12) of the Internal Revenue Code of 1986 and Colorado law then in effect. The proceedings for dissolution shall be conducted in accordance with Article 134, Title 7 of the Colorado Revised Statutes, as the same may be amended.

ARTICLE XVI

Incorporators

The names and addresses of the incorporators are:

John Nieslanik	0979 County Road 101 Carbondale, CO 81623
----------------	--

Robert Nieslanik	0828 County Road 165 Carbondale, CO 81623
------------------	--

Thomas Turnbull

1634 Prince Creek Road
Carbondale, CO 81623

IN WITNESS WHEREOF, the undersigned have executed these Articles of Incorporation and acknowledged them to be their act this 7th day of April, 2006.

Robert Nieslanik
Robert Nieslanik

John Nieslanik
John Nieslanik

Thomas R. Turnbull
Thomas Turnbull

WRITTEN CONSENT TO ACT AS REGISTERED AGENT OF THE CORPORATION:

I hereby consent to act as registered agent of the Corporation.

Dated the 7th day of April, 2006.

Robert Nieslanik
Robert Nieslanik

Filed for record at 1:41 P.M. March 6, 1964

Reception No. 117245

EASEMENT Peggy E. Coble, Recorder

BOOK 206 PAGE 165

This instrument, made this 3rd day of July in the year of our Lord one thousand nine hundred and sixty-three, between Angelina Mautz, wife of the County of Pitkin, and State of Colorado, of the first part; and the TOWN OF CARBONDALE, a municipal corporation organized and existing under and by virtue of the laws of the State of Colorado, party of the second part;

WITNESSETH, that the said part 1st of the first part, for and in consideration of the sum of 100 and no/100 Dollars to the said Parties of the first part, in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, its successors and assigns forever, an easement for the construction, reconstruction, operation, and maintenance of an underground water transmission pipeline for transmission of water, together with the necessary fixtures and devices, used or useful in the operation of said transmission pipeline, through, on, under and across the following described lands, situate in Pitkin County, State of Colorado, to-wit:

An Easement Twenty (20) feet in width being situate in Pitkin County, Colorado, to-wit:

Twp. 9 S., R. 8 W., S. 10 N.
Sec 27: Lots 7, 8

said easement lying Ten (10) feet on each side of the following described centerline as the same extends across said lands:

Beginning at a point whence the Northwest corner of Section 10, Township 9 South, Range 88 West of the 6th Principal Meridian bears North 14°42' East 359.82 feet; and thence North 13°30' West, 593 feet and thence bears North 36°50' West 830 feet;

Thence from said point of beginning North 14°42' East 359.82 feet;
Thence North 12°24' East 515 feet;
Thence North 11°24' East 641.80 feet;
Thence North 04°16' East 319.77 feet;
Thence North 04°36' East 834.80 feet;
Thence North 29°36' West 353.82 feet;
Thence North 07°17' West 141.52 feet;
Thence North 12°9' East 222 feet;
Thence North 00°40' West 218 feet;
Thence North 04°15' West 600 feet;
Thence North 9°27' East 285 feet;
Thence North 23°5' East 1156 feet;
Thence North 01°34' East 461.51 feet;
Thence North 26°17' East 244.82 feet;
Thence North 31°59' East 598.86 feet;
Thence North 17°02' East 180 feet;
Thence North 12°23' East 599.92 feet;
Thence North 12°53' East 514.78 feet;
Thence North 12°42' East 637.87 feet;

Thence North 13°05' East 828.31 feet;

Thence North 04°38' West 1628.81 feet;

Thence North 04°00' East 2670.74 feet;

Thence North 20°54' West 2980 feet;

Thence North 4°44' East 1700 feet;

Thence North 17°36' East 1990 feet; to the North Quarter corner Section 22, Township 8, South, Range 88 West of the 6th Principal Meridian.

Said above described centerline being situated in Section 3 and Section 10, Township 9, South, Range 88 West of the 6th Principal Meridian and in Section 22, 27, and 34, Township 8 South, Range 88 West of the 6th Principal Meridian.

Together with the right of ingress and egress over said premises to survey, construct, reconstruct, maintain, operate, control and use said lines and to remove objects or structures therefrom.

The grantor reserve the right to cultivate and use said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger the grantee's facilities thereon, the use or any of the rights herein granted. Such reservation by the grantor shall not include the right to erect or place any structures or objects upon the easement herein granted. In case the permanent abandonment of said easement shall occur, all right, privilege and interest herein granted shall end, cease and terminate.

The work of installing, maintaining and reconstructing its facilities shall be done with care, and all damage to the premises caused thereby shall be paid for or repaired at the expense of the grantee.

It is understood and agreed that the Grantor herein is to be furnished with a 3/4-inch tap to the water transmission main and to be furnished with domestic water without expense to Grantor for one dwelling now on the premises. Any service line shall be maintained by Grantor and water shall not be wasted.

The provisions of this easement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

Signed and delivered this 3rd day of July, A. D., 1963.

Joe Mautz (Seal)
Angeline Mautz (Seal)
Angeline Mautz (Seal)
Angeline Mautz (Seal)

STATE OF COLORADO)
COUNTY OF PIKIN) ss.

The foregoing instrument was acknowledged before me this 3rd day of July, 1963, by Joe Mautz and Angeline Mautz, his wife.

My commission expires July 12, 1964.

Notary Public

Filed for record at 1:30 P.M. March 1, 1964
Reception No. 117244

PERCY E. COBLE, Recorder
EASEMENT

This instrument, made this 1st day of July in the year of our Lord one thousand nine hundred and sixty-three, between ROBERT O. SEWELL, also known as R. O. SEWELL, and NELLIE SEWELL, of the County of Garfield, and State of Colorado, of the first part; and the TOWN OF CARBONDALE, a municipal corporation organized and existing under and by virtue of the laws of the State of Colorado, party of the second part;

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of Ten Dollars and other Valuable Consideration to the said parties of the first part, in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, its successors and assigns forever, an easement for the construction, reconstruction, operation, and maintenance of an underground water transmission pipeline for transmission of water, together with the necessary fixtures and devices, used or useful in the operation of said transmission pipeline, through, on, under and across the following described lands, situate in Pitkin County, State of Colorado, to-wit:

An Easement twenty (20) feet in width, said easement lying Ten (10) feet on each side of the following described centerline as the same extends across Lot 4, Section 3, Township 9 S., R. 88 W. of the 6th P. M., and NE 1/4 SW 1/4, SE 1/4 NW 1/4, and the W 1/2 NE 1/4 Section 34, Township 8 S., R. 88 W. of the 6th P. M., described as follows:

Beginning at a point whence the Northwest corner of Section 10, Township 9 South, Range 88 West of the 6th Principal Meridian bears North 14°42' East 359.82 feet; and thence North 13°30' West, 593 feet and thence bears North 36°50' West 830 feet; thence from said point of beginning North 14°42' East 359.82 feet; thence North 12°24' East 515 feet; thence North 11°24' East 641.80 feet; thence North 04°16' East 319.77 feet; thence North 04°36' East 834.80 feet; thence North 29°36' West 353.82 feet; thence North 07°17' West 141.52 feet; thence North 12°09' East 222 feet; thence North 00°40' West 218 feet; thence North 04°15' West 600 feet; thence North 9°27' East 285 feet; thence North 23°05' East 1156 feet; thence North 01°34' East 461.51 feet; thence North 26°17' East 244.82 feet; thence North 31°59' East 598.86 feet; thence North 17°02' East 180 feet; thence North 12°23' East 599.92 feet; thence North 12°53' East 514.78 feet; thence North 12°42' East 637.87 feet; thence North 13°05' East 828.31 feet; thence North 04°38' West 1628.81 feet; thence North 04°00' East 2670.74 feet; thence North 20°54' West 2980 feet; thence North 4°44' East 1700 feet; thence North 17°36' East 1990 feet; to the North Quarter Corner Section 22, Township 8 South, Range 88 West of the 6th Principal Meridian.

Said above described centerline being situated in Section 3 and Section 10, Township 9, South, Range 88 West of the 6th Principal Meridian and in Section 22, 27, and 34, Township 8 South, Range 88 West of the 6th Principal Meridian.

200-183

Together with the right of ingress and egress over said premises to survey, construct, reconstruct, maintain, operate, control and use said lines and to remove objects or structures therefrom.

The grantors reserve the right to cultivate and use said premises for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger the grantee's facilities thereon, the use or any of the rights herein granted. Such reservation by the grantors shall not include the right to erect or place any structures upon the easement herein granted. In case of the abandonment of said easement all right, privilege and interest herein granted shall end, cease and terminate.

The work of installing, maintaining and reconstructing its facilities shall be done with care, and all damage to the premises caused thereby shall be paid for or repaired at the expense of the grantee.

It is understood and agreed that the grantors herein are to be furnished with a 3/4-inch tap to the water transmission main and to be furnished with domestic water without expense to grantors, for one dwelling. Any service line shall be maintained by grantors and water shall not be wasted.

That in further consideration of the easement herein granted, the said party of the second part further gives and grants to the parties of the first part, their heirs and assigns, the right and privilege of making additional three-quarter-inch taps on said water transmission line as requested, subject to the tap charges and water charges appropriate for water users outside the Town of Carbondale and subject to the rules and regulations of said Town for outside users; that the right hereby granted shall not include the right to distributional taps larger than three-quarter inches, provided that the parties of the first part shall have the right to make such distributional taps as may be needed if in the opinion of the Town Board of the Town of Carbondale, such distributional taps would not endanger the right to water of existing users or the paramount right to water of the Town of Carbondale for its inhabitants.

The provisions of this easement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the Town of Carbondale has caused this Easement to be executed in its name by its Mayor and the seal of the Town to be hereunto affixed under the authority of the Town Clerk this 1st day of July, A. D. 1953.

Robert O. Sewell
ROBERT O. SEWELL

Nellie Sewell
NELLIE SEWELL

TOWN OF CARBONDALE

ATTEST:

By Clara Sawyer
Mayor

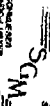
Jean Holgate
Town Clerk

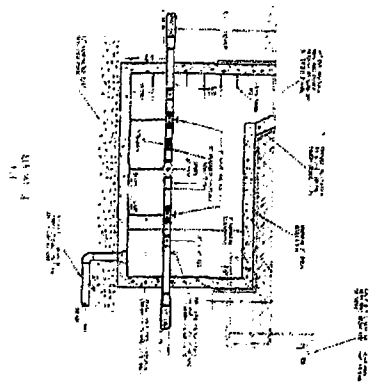
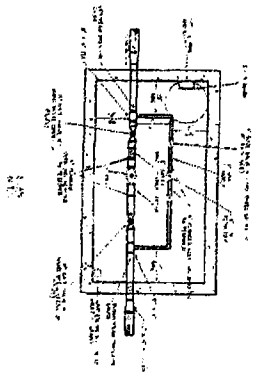
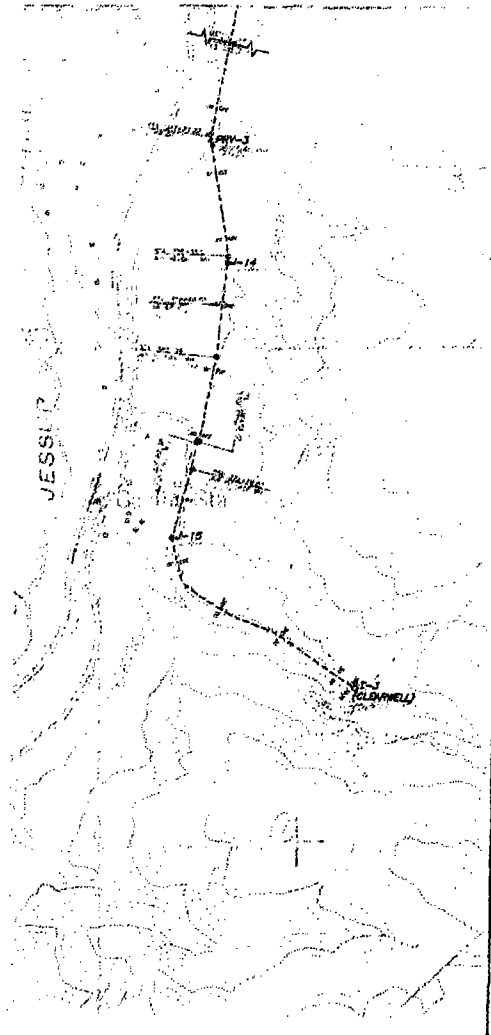
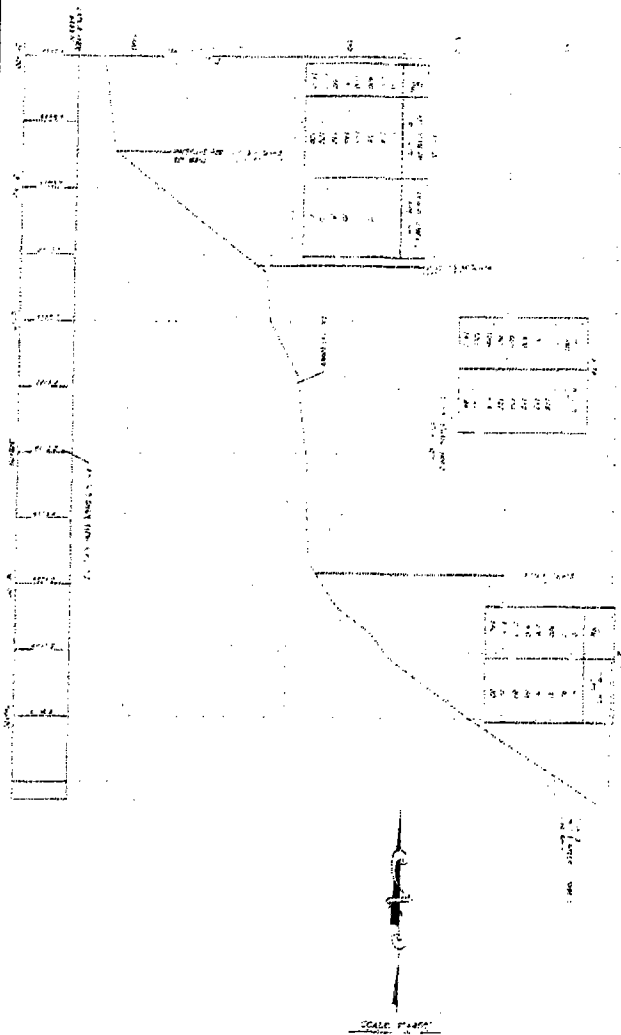
Water Pipeline Easement Agreement
Town of Carbondale
Page 6

EXHIBIT A

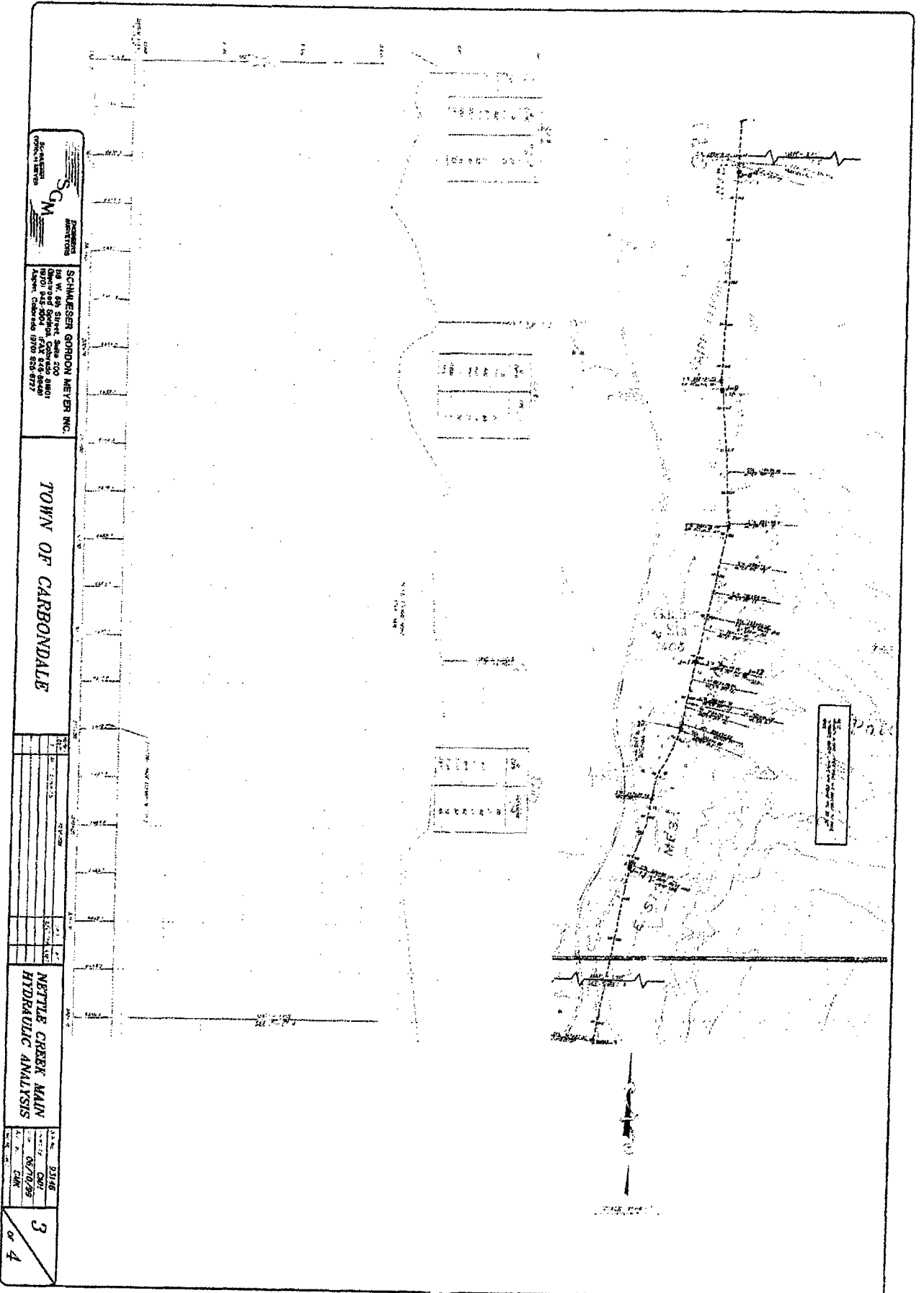
(surveyed legal description of centerline of existing
main water pipeline to be prepared
at the expense of the Town of Carbondale)

2011-01-01 10:00:00 AM

 SCHLESSEN GORDON MEYER INC. 100 W. 6th Street, Suite 200, Reno, NV 89501 (775) 784-0004 FAX (775) 784-8888 MOBILE (775) 784-8888		TOWN OF CARBONDALE		SHEET NO. 4 OF 4	
NETTIE CREEK MAIN HYDRAULIC ANALYSIS		DATE: 05/10/99 BY: DMK		4 OF 4	



DESIGNED BY: [Signature]
 CHECKED BY: [Signature]
 DATE: 05/10/99



10 June 2013 12:45:03 em: 2013.jul.032.65