

**AMENDED AND RESTATED BYLAWS
OF
REDLANDS WATER and POWER
COMPANY**

a Colorado Nonprofit Mutual Irrigation Company

Adopted by the Board of Directors the 12th day of September 2018.

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REDLANDS WATER AND POWER COMPANY**

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**AMENDED AND RESTATED BYLAWS
OF
REDLANDS WATER and POWER COMPANY
a Colorado Nonprofit Mutual Irrigation Company**

PREAMBLE

Formed in 1905 as a special purpose nonprofit mutual irrigation company, the Redlands Water and Power Company diverts water from the Gunnison River through a system of canals and power generation facilities to generate electrical power and deliver irrigation water to its shareholders in the “Redlands” area of Mesa County. The Company operates, maintains, repairs, protects and preserves its system of canals, power generation facilities and real and personal property for all purposes authorized by the Articles of Corporation, Bylaws, rules and regulations promulgated by the Board of Directors, applicable statutory law and all other reasonable and necessary activities related to the same. Pursuant to the powers vested in the Board of Directors, the Board of Directors adopts the following Amended and Restated Bylaws of Redlands Water and Power Company effective the 12th day of September 2018.

**ARTICLE I
Definitions**

These Bylaws shall be interpreted according to general principles for interpreting writings including using the commonly accepted definitions of the words and terms used herein except as defined below or unless the context requires otherwise.

The following words shall have the following meanings:

1. “Articles” or “Articles of Incorporation” shall mean the Articles of Incorporation as amended on file at the Corporate offices.
2. “Bylaws” shall mean these Amended and Restated Bylaws of the Corporation as amended from time to time.
3. “Board” or “Board of Directors” or “Director” shall mean the Board of the Directors of the Corporation, individually or collectively as the context requires.

4. "Canal easement" means any easement, right of way or other right of use or access established by express grant, by implied grant or by the operation of law for the operation, maintenance and repair of the Canal system.
5. "Canal system" shall mean and include all features and components of the water delivery system owned, operated, maintained and controlled by the Corporation from the Gunnison River Dam until the final point of discharge of the Corporation's water and shall include all canals, delivery points and headgates; all real and personal property interests including easements, fee title ownership, licenses, leases, furniture, fixtures and equipment; all structures, buildings, flumes, bridges, access roads, embankments and every other facility, structure or device appurtenant thereto or used in connection with the Canal facilities.
6. "Corporation" or "Company" shall mean the Redlands Water and Power Company.
7. "Days" shall mean calendar days.
8. "Delivery point" shall mean any place or point on the Canal system where the Corporation's duty to deliver water to its shareholders ceases at the Delivery structure. Nothing in this definition shall affect or limit the Corporation's right to the ownership, operation, maintenance or repair of the Canal easements, Easement areas or the Canal system or any other provision of these Bylaws.
9. "Delivery structure" means any device, thing or facility used as an outlet for the delivery of water from any of the canals to the point where the Corporation relinquishes control of the water flowing in the Canal system including headgates, tap boxes, sumps, pipelines, headwalls, divider boxes, trash control devices, measuring and metering devices and all facilities related thereto or used in connection therewith.
10. "Easement area" means the width of any Canal easement or right-of-way including that width which is reasonable or necessary (including widths required by exigent circumstances) to the operation, maintenance or repair of the Canal system regardless of whether such width has been historically used and shall further include the beds, banks, embankments, access and maintenance roads and all structures of every kind or type in, under, or on the Canal easement.
11. "Person" or "entity" shall mean and include a natural person and legal entities of every type that are recognized, organized or existing under any federal, state or local law including, but not limited to, corporations, partnerships, associations, limited liability

companies, trusts, estates and public and quasi-public entities and their agencies, divisions and departments.

12. "Rule" shall mean any rule, policy or regulation promulgated by the Board not contained in these Bylaws.
13. "Shares" or "stock" shall mean the shares of stock evidenced by the certificates of stock issued to any shareholder entitling the owner to receive water from the Corporation.
14. "Shareholder" or "stockholder" shall mean any person or entity owning shares in the Corporation.

ARTICLE II Organization and Office

1. *Organization.* The Corporation is organized to be and constitute a special purpose non-profit mutual irrigation Corporation pursuant to §7-42-101 et seq, C.R.S. and §7-121-101 et seq, C.R.S., as amended.
2. *Principal Office.* The principal office of the Corporation shall be in Mesa County, Colorado, at 2216 South Broadway, Grand Junction, Colorado 81507. The Corporation may have such other offices as the Board of Directors may designate or as the business of the Corporation may require from time to time.

ARTICLE III Shareholders

1. *Annual Meetings.* The annual meeting of the shareholders shall be held at 7:00 p.m. on the second Tuesday in the month of February of each year, or on such other day as may be designated by the Board of Directors, to elect directors, determine the annual water assessment and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Colorado, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the shareholders, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as conveniently may be scheduled. In the event the election of directors is not held at the regularly scheduled annual meeting for a failure to have a quorum of shareholders present, then the board of directors may provide for an adjourned meeting for such

election or may direct that such directors who would otherwise come up for election at such regular meeting shall continue in office for an additional regular term.

2. *Special Meetings.* Special meetings of the shareholders may be called by the president of the Corporation or by the Board of Directors. The president shall call a special meeting at the request of the holders of not less than one-tenth of the votes entitled to be cast at such meeting.
3. *Place of Meetings.* The annual meeting or special meeting of the shareholders shall be held at the Redlands Community Center, 2463 Broadway, Grand Junction, Colorado, or such other place in Mesa County as the Board of Directors shall direct.
4. *Notice of Meeting.*
 - a. Written notice stating the place, day, and hour of the meeting shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by first class United States Postal Service, postage prepaid, by or at the direction of the president, the secretary, or the officers or persons calling the meeting, to each shareholder of record entitled to vote at that meeting. If mailed, such notice shall be deemed delivered five (5) calendar days following its deposit with the United States Postal Service addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid. It shall be the shareholders' responsibility to furnish the secretary with his correct post office address. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the corporate expense.
 - b. The written notice of an annual shareholders meeting shall contain a description of any matter or matters that must be approved by the shareholders or for which the shareholders' approval is sought. In addition, the written notice of any special meeting of shareholders shall state the purpose or purposes for which the meeting is called. No business shall be transacted at any special meeting except as shall be mentioned in said publication and written notice.
5. *Closing of Transfer Books or Fixing Record Date.* For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment of thereof, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors may fix in advance, a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty (50) days and, in case of a meeting of shareholders, not less than ten (10) days prior to the

date on which the particular action requiring such determination of the shareholders is to be taken. If no record date is fixed for the determination of shareholders entitled to notice of or to vote at any meeting of shareholders, the first date on which such notice of a meeting is mailed shall be the record date for such determination. When the determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to adjournment thereof.

6. *Voting Lists.* The office or agent having charge of the stock transfer books for shares of the Corporation shall make, at least ten (10) days before each meeting of shareholders, a complete list of shareholders entitled to vote at such meeting or any adjournment thereof, arranged in an alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Corporation, and shall be subject to inspection by any shareholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection of any shareholder during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or transfer books or to vote at any meeting of shareholders.

7. *Quorum.*

a. Shareholders holding one-fourth ($\frac{1}{4}$) of the outstanding shares shall constitute a quorum. If a quorum is present, the affirmative vote of a majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders. Shareholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

b. If less than one-fourth ($\frac{1}{4}$) of the outstanding shares are represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

8. *Proxies.* At all meetings of shareholders, a shareholder may vote by proxy executed in writing by the shareholder or his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the Corporation before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. In the event shares are held jointly, one joint owner may sign such proxies for the other joint owners.

9. *Voting of Shares.* Each outstanding share, regardless of class, shall be entitled to one (1) vote on each matter submitted to vote at a meeting of shareholders. In the election of directors, each record holder of stock entitled to vote at such election shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, and for whose election he has the right to vote. A voter may cumulate his votes by giving one candidate as many votes as the number of Directors to be elected, multiplied by the number of votes which he has the right to cast equals, or by distributing those votes on the same principal among any number of candidates. Only full shares may vote.

10. *Voting of Shares by Certain Shareholders.*

- a. The following shares may not vote at any meeting or counted in determining the total number of outstanding shares at any given time: Treasury shares, shares of the Corporation's stock held by the Corporation in a fiduciary capacity and shares held by another corporation if the majority of the shares entitled to vote for the election of directors of such other corporation is held by this Corporation.
- b. Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe or, in the absence of such provision, as the board of directors of such corporation may determine. The Corporation may require satisfactory evidence of the person voting such shares as to their authority to do so.
- c. Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a conservator and be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.
- d. Shares standing in the name of the receiver may be voted by such receiver and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.
- e. A shareholder whose shares are pledged for the security of a debt or other obligation shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

- f. Shares held as cotenants shall be voted by only one individual as determined by the cotenants; and the Corporation may rely on the vote of any one of the cotenants whose name appears to correspond to the name of one of the cotenants on the records of the Corporation.

11. *Retention of Ballots and Election Challenges.*

- a. For each shareholder meeting at which there is a vote of shareholders, the Board of Directors shall appoint election judges who shall tabulate all votes cast by ballot and proxy at the shareholder Meeting.
- b. After tabulating the votes at each shareholder meeting, the election judges shall certify that the vote tabulation is true and correct to the best of their knowledge and shall additionally disclose any interest that the election judges may have with respect to the vote held at the shareholder meeting.
- c. Any request for a recount of the ballots and proxies voted at a shareholder meeting, and any challenges to the validity of votes cast at the election, including, but not limited to, any challenges related to the identity or capacity of Shareholders, the authenticity of signatures or the validity of proxies, shall be made in writing to the Board of Directors and must be received at the office of the Corporation not later than thirty (30) days after the date of the shareholder meeting.
- d. In the absence of a request for a recount or challenge, all ballots and proxies submitted at a shareholder meeting shall be held for thirty-one (31) days after the date of the shareholder meeting and then destroyed. In the event of a request for a recount or challenge, all ballots and proxies submitted at a shareholder meeting shall be retained until the recount is made or the challenge is finally resolved.

12. *Annual Assessments.*

- a. At an annual meeting or special meeting called for this purpose, the Board of Directors shall present to the shareholders a proposed assessment against every issued and outstanding share for the coming irrigation season to defray the costs and expenses of the Corporation. Assessment shall not be levied against shares held as treasury shares by the Corporation. The shareholders, in person or by proxy, shall approve such proposed assessment by an affirmative vote of a majority of the quorum as required by the Bylaws. Such quorum, for the sole

purpose of voting on the proposed water assessment, shall be not less than one-fourth (1/4) of the issued and outstanding capital stock of the Corporation.

- b. In the event the stockholders fail to hold any such meeting or fail to make or authorize any such assessment within ninety (90) days of the close of the Corporation's fiscal year, then the Directors of the Corporation shall make such assessment at any regular or special meeting of Directors called therefore for such year.
- c. Assessments authorized by the shareholders at the annual meeting shall be due and payable in full on or before April 30 of the year for which such assessment shall be made. Assessments authorized by the Board shall be due and payable as determined by the Board. No interest will be charged on assessments paid in full on or before the due date. If the assessment is not paid in full by the due date, then interest will accrue at the rate of 1½% per month, interest compounded monthly, or such other rate as is determined by the Board not to exceed 1½% per month on any unpaid balance from the due date until such assessment shall be paid in full, interest compounded monthly.

13. *Records Inspections.*

- a. Shareholders may inspect the Corporation records upon submission of a written request to the Corporation which identifies the records sought to be inspected. The written request shall state a date and time for the inspection which is not less than five (5) business days after the Company receives the written request. For certain records described below, the written request must state a proper purpose for review of the records.
- b. The following records are subject to inspection by the Corporation shareholders without the need for stating a proper purpose;
 - i. The Corporation's Articles of Incorporation;
 - ii. The Corporation's Bylaws;
 - iii. Resolutions adopted by the Corporation's Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of the Corporation's shareholders, or any class or category of shareholders;
 - iv. The minutes of all shareholders' meetings for the past three (3) years;
 - v. All written communications within the past three (3) years from the Corporation to shareholders generally as shareholders;

- vi. A list of the names and business or home addresses of the Corporation's current directors and officers;
 - vii. A copy of the Corporation's most recent periodic report delivered to the Secretary of State;
 - viii. Annual and monthly financial statements for periods ending during the last three (3) years; and.
 - ix. A current list of Corporation shareholders with the name and address of the shareholders in alphabetical order, showing the number of share each shareholder is entitled to vote.
- c. A shareholder may inspect the minutes of the Board of Directors, records of all actions taken by the Board of Directors in place of the Board of Directors on behalf of the Corporation, records of all waivers of notices of meetings of shareholders and of the Board of Directors or any committee of the Board of Directors and other records of the Corporation as defined by the Colorado Revised Nonprofit Corporation Code, if:
- i. The shareholder has been a shareholder for at least three (3) months immediately preceding the written request, or the shareholder is the record owner of at least five percent (5%) of the issued and outstanding shares of the Corporation as of the date the demand is made;
 - ii. The request is made in good faith and for a proper purpose;
 - iii. The shareholder describes with reasonable particularity the purpose and the records the shareholder desires to inspect; and,
 - iv. The records are directly connected with the described purpose.
- d. The Board of Directors may review and make the final determination as to whether a shareholder satisfies the requirements of this paragraph. For the purposes of this policy, "proper purpose" means a purpose reasonably related to the shareholder's interest as a shareholder.
- e. Confidential, privileged and otherwise sensitive documents or information shall not be subject to inspection by the Corporation's shareholders. Such documents and information shall include, but not be limited to, payroll and other employment records, personnel files, documents subject to the attorney-client privilege, work product doctrine or other applicable privilege, documents related to contract negotiations, and any other documents or information the dissemination of which might adversely affect the Corporation's interests.

- f. The Corporation's records shall not be removed from the Corporation's office and may only be inspected in the Corporation's office during regular business hours.
 - g. A shareholder is entitled to copy the records subject to inspection, which copying shall be done in the Corporation's office or under other arrangements made by the Corporation at the cost established by the Board of Directors or Superintendent from time to time.
 - h. A shareholder's agent or attorney has the same inspection and copying rights as the shareholder, provided that the shareholder's agent or attorney's status as such is evidenced by a writing acceptable to the Corporation.
 - i. Records may be produced in the manner as kept by the Corporation. Nothing contained herein shall obligate the Corporation to assemble, organize or present its records in any particular manner or form as requested by the inspecting shareholder or to compile reports or abstracts of the records.
14. *Liability.* Shareholders shall enjoy the same measure of immunity from liability for corporate acts or omissions as shareholders of corporations formed under the Colorado Revised Nonprofit Corporation Act.
15. *Implied Easement.* In the event a shareholder constructs, installs or erects any building, structure, roadway, driveway or device in, under or upon the Canal system, or plants any shrub, tree or other planting upon the Canal system or covers any portion of the Canal system that hinders or interferes with the Corporation's access to the Canal system, then such shareholder is deemed to grant an easement to the Corporation over and across the shareholder's property interests, including easements, licenses or other property rights held by the shareholder, for reasonable and necessary access to and from the Canal system to operate, maintain and repair the Canal system.
16. *Shareholder Duty of Compliance.* Each shareholder, by receiving and accepting water delivered by the Corporation to such shareholder, agrees to the terms and provisions of these Bylaws and to be bound by and to comply with the provisions hereof.

ARTICLE IV

Board of Directors

- 1. *Powers.* The business and affairs of the Corporation shall be managed by its Board of Directors, except as otherwise provided in the Colorado Nonprofit Corporation Act or the Articles of Incorporation.
- 2. *Number, Tenure and Qualifications.*

- a. The number of directors of the Corporation shall be seven. Directors shall serve three-year terms and shall be elected in a staggered pattern so that no more than three (3) directors shall be up for election in any given year.
- b. The directors, to be eligible to serve and to continue serving once elected, must own land, which is irrigated from the Corporation's irrigation water delivery system. In addition, the directors who represent the area served by the respective Lifts or the Power Canal as described in paragraph (e) below, must own and irrigate such land served by such Lifts or the Power Canal. A person shall qualify to serve as the director if he is (1) married to a person who owns land served by the Corporation and either he or his spouse owns stock in the Corporation; or if he is (2) the designated representative of the owner of the land served by the Corporation where the owner is a legal entity other than an individual or where the owner consists of two or more individual owners of such land and such entity or individuals own stock in the Corporation.
- c. Persons nominated for a position on the Board of Directors who represent an entity, corporation, homeowners group, ditch company, etc. must have a written resolution duly approved by the entity's governing body naming the nominee to represent them. Persons nominated either from the floor or by write-in on the proxy, for vacant board positions at the annual meeting of the shareholders must attend the meeting to personally accept the nomination.
- d. Each Director shall hold office until he comes before the shareholders for election at the annual meeting of the shareholders, and he shall hold his office thereafter until his successor shall have been elected and qualify. Directors shall be removable in the manner provided by applicable Colorado law.
- e. The schedule of election of directors following adoption of these Bylaws shall be as follows:
 - i. One Director from the First Lift, next election year 2007 and every third year thereafter;
 - ii. One Director from the Third Lift or Goat Lift, next election year 2007 and every third year thereafter;
 - iii. One Director from the Power Canal, next election year 2007 and every third year thereafter;
 - iv. One Director from the Second Lift, next election year 2008 and every third year thereafter;

- v. One Director from At-Large, next election year 2008 and every third year thereafter;
 - vi. One Director from the First Lift or Stub Ditch, next election year 2009 and every third year thereafter; and,
 - vii. One Director from At-Large, next election year 2009 and every third year thereafter.
3. *Vacancies.* Any Director may resign at any time by giving written notice to the president or to the secretary of the Corporation. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring on the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors through less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled because of increase in the number of Directors shall be filled by the affirmative vote of a majority of Directors then in office or by election at an annual meeting or at a special meeting of shareholders called for that purpose.
4. *Regular Meetings.* A regular meeting of the Board of Directors shall be held without other notice than this Bylaw at the office of the Corporation on the second Wednesday of each month unless said day falls upon a legal holiday, in which case the meeting shall be held upon the following day.
5. *Special Meetings.* Special meetings of the Board of Directors may be called by the president or any three (3) Directors by giving one (1) days' notice of the proposed meeting to each Director. Notice in such case shall be personal, telephonic, or written notice given to each Director at his or her home or place of business.
6. *Quorum.* A majority of the Board of Directors shall constitute a quorum for the transaction of business, but a less number may adjourn to a day upon giving notice to absent members of such board of such adjournment. In event of a lack of quorum, any three (3) Directors have authority to approve the payment of the Corporation's bills.
7. *Manner of Acting.* The act of the majority of the Directors present at a meeting, which a quorum is present, shall be the action of the Board of Directors.
8. *Compensation.* By resolution of the Board of Directors, any Director may be paid any one or more of the following: his or her expense, if any, of attendance at meetings; a fixed sum for attendance at each meeting; or a stated salary as Director. No such

payment shall preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

9. *Presumption of Assent.* A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken, shall be presumed to have assented to the action taken unless dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail to the secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

10. *Executive Committee.* The Board of Directors, by resolution adopted by a majority of the directors fixed by Section 2 hereof, may appoint from their number an executive committee of three (3) members, such committee to include the president or vice-president plus any two Board members present. Said committee shall be vested with the powers of the Board when the same is not in session, provided, however, that said executive committee shall keep minutes of all actions approved and taken, which action shall be specifically ratified at the next regular meeting of the Board of Directors.

11. *Informal Action.* Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent, in writing, setting forth the action so taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Directors, and may be stated as such in any articles or documents filed with the Secretary of State of Colorado under the Colorado Nonprofit Corporation Act

12. *Duties and Powers.*
 - a. Without limiting the power of the Board of Directors under the statutory and common law of the State of Colorado, Directors shall have the power:
 - i. To do those things authorized by the laws of the State of Colorado;
 - ii. To forfeit and sell the stock of any delinquent stockholder, or so much thereof as may be necessary to satisfy the unpaid assessments in the manner and form hereinafter provided; and,
 - iii. To incur such indebtedness as may be deemed necessary for carrying out the objects and purposes of the Corporation and to authorize the president

and secretary to make the note of the Corporation with which to raise money to pay such indebtedness.

- iv. To adopt, amend and withdraw such rules, policies and procedures not in conflict with the Articles of Incorporation or these Bylaws that the Board determines are reasonable, necessary or desirable for the operation and management of the Corporation.

b. It shall be the duty of the Board of Directors:

- i. To cause to make public a complete record of all their meetings and acts, and the proceedings of the stockholders, present full statements at the regular annual meeting of the stockholders showing in detail the assets and liabilities of the Corporation and the condition of its affairs in general. A similar statement shall be presented at any other meeting of the stockholders when thereto previously requested by persons representing at least one-tenth (1/10) of the capital stock of the Corporation.
- ii. To oversee the officers and employees and to require the secretary and treasurer to keep full and accurate books of accounts and prescribe the form and mode of keeping such books.
- iii. To cause to be issued to the persons entitled thereto certificates of stock according to the several interests not exceeding in the aggregate the capital stock of the Corporation as to such class thereof.

c. No contract by any officer of the Corporation shall be valid without the previous authorization or the subsequent ratification of the Board of Directors.

13. *Construction Committee.* The Board of Directors may, at their first regular meeting after the annual shareholders meeting, elect three (3) or more of their members, one of whom shall be the president, to act with the superintendent as a construction committee, which shall have full charge of all construction and repair work on the irrigation system.

14. *Investment Committee.* The Board of Directors may appoint an investment committee of three (3) Board members to formulate for Board approval policies for the investment of the Corporation's funds, to appoint one or more investment managers and to oversee and direct the investment managers according to the investment policy.

15. *Removal.* Any Board member missing three (3) or more consecutive regular meetings without just cause may be removed from the Board by a majority vote of the remaining Directors present at a regular meeting or special meeting called for such purpose where a quorum is present.
16. *Liability.* Directors shall enjoy the same measure of immunity from liability for corporate acts or omissions as directors of corporations formed under the Colorado Revised Nonprofit Corporation Act.

ARTICLE V Officers and Agents

1. *General.* The officers of the Corporation shall be a president, one or more vice-presidents, a secretary and a treasurer. The Board of Directors may appoint such other officers, committees and agents, including a superintendent, a chairman of the board, comptroller, assistant secretaries and assistant treasurers as they may consider necessary, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors. The salaries of all the officers of the Corporation shall be fixed by the Board of Directors. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such officer, agent or employee shall follow the orders and instructions of the president.
2. *Election and Term of Office.* The officers of the Corporation shall be elected by the Board of Directors annually at the first meeting of the board held after each annual meeting of the shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Except as hereinafter provided, all officers shall hold office for one year. Each officer shall hold office until the first of the following to occur; until his successor shall have been duly elected and shall have qualified; or until his death or until he shall resign; or until he shall have been removed in the manner hereinafter provided.
3. *Removal.* Unless otherwise stated in writing, all officers, agents and employees of the Corporation shall serve the Board “at will” and may be removed or discharged with or without cause at any time. Removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer, agent or employee shall not in itself create contract rights.
4. *Vacancies.* A vacancy in any office, however occurring, may be filled by the Board of Directors for the unexpired portion term.

5. *Bond.* The secretary and treasurer shall, if required at the discretion of the Board of Directors, give bond in such sum and with such security as the directors may require, conditioned on the faithful performance of the duties and to turn over to their successors in office, all papers, vouchers, money, funds and property of whatever kind or nature belonging to the Corporation, upon the expiration of their respective terms of office or upon being removed therefrom, or with such other conditions as may be proper.
6. *Corporate Representations and Unauthorized Statements by Officers and Agents.*
 - a. Only persons or entities specifically authorized to speak on behalf of the Corporation may make binding statements, promises or commitments for the Corporation. Unless given actual authority to do so, statements, representations, promises and commitments by the Corporation's employees, contractors, consultants or individual Board members are not binding on the Corporation unless approved or ratified by the Board of Directors or the Superintendent.
 - b. The Superintendent is designated by the Corporation to represent its interests and speak on its behalf as to all day to day operations and the conduct of the activities of the Corporation. In addition, from time to time, the Board of Directors and/or the Superintendent may appoint such other persons to represent the Corporation's interest and speak on its behalf. Except for authorized representation and speaking authority as provided herein, the Corporation shall not be liable or legally bound to any unauthorized representations or statements purportedly on its behalf
 - c. All telephone calls, facsimiles and correspondence whether in hard copy or electronically shall be addressed to the Superintendent.
7. *President.* The president shall preside at all meetings of the directors or stockholders. He shall sign as president all certificates of stock and all contracts and other instruments in writing, which may have been ordered by the Board of Directors. In the absence or disability of the president, the vice-president shall perform his duties.
8. *Vice President.* The Corporation may appoint one or more vice presidents. The vice president shall perform the duties of the president when the president is absent or unavailable to perform his duties. The vice president shall perform such other duties as are assigned to him by the Board from time to time.

9. *Secretary.* The secretary shall keep a record of the proceedings had by the Board of Directors, and the meetings of the stockholders. The secretary shall keep a book of blank certificates of the stock, complete and countersign all certificates issued and make corresponding entries upon the marginal stub of each such certificate issued. The secretary shall keep a stock ledger in due form, showing the number and class of shares issued to and transferred by any stockholder, and the date of issuance and transfer. The secretary shall have charge of the corporate seal and affix the same to all instruments requiring a seal. The secretary shall keep in the manner prescribed by the Board of Directors, all the accounts of the Corporation books provided for such purpose. The secretary shall collect all money due the Corporation and pay the same over to the treasurer taking receipt therefor. The secretary shall sign all checks for the payment of money. The secretary shall discharge such other duties as pertain to the secretary's office as may be prescribed by the Board of Directors. The office of secretary and treasurer may be held by the same person. The Board of Directors have the power to appoint an assistant secretary if they find it necessary.

10. *Treasurer.* The treasurer shall keep safely all monies belonging to the Corporation and disperse the same under the direction of the Board of Directors. At each annual meeting of the Shareholders he shall provide a report of the Corporation's financial condition. The treasurer shall perform such other duties pertaining to his office as shall be prescribed by the Board of Directors. The treasurer is authorized to deposit or invest the funds of the Corporation in any of the local banks and in such other financial institutions with offices, branches or agents located in Mesa County as the Board of Directors may from time to time designate. The Board of Directors have the power to appoint an assistant treasurer if they find it necessary.

11. *Superintendent.*
 - a. A Superintendent shall be appointed by the Board of Directors. It shall be the duty of the superintendent to hire and direct all labor and to superintend the operations and business of the Corporation as they pertain to the system of ditches and canals of the Corporation, subject to the direction and control of the Board of Directors. The Superintendent shall have the direct management of the irrigation systems. The Superintendent shall divide the water from the canals to all persons entitled to receive the same according to their respective stock as certified to the Superintendent him from time to time by the secretary of the Corporation, and to discharge all the Superintendent's other duties pertaining to said office as may be prescribed by the Board of Directors, and to make correct returns to the Board of all persons hired and employed on the canals or elsewhere in the interest and on

the behalf of the Corporation, a statement of the wages, at such stated periods as may be prescribed by the rules of the Corporation.

- b. The Superintendent may, in the exercise of the Superintendent's discretion, close any headgate where the lateral or ditch served by the headgate may cause flooding or other damage to property or may be a threat to safety of adjoining property through breakage, failure to maintain the ditch or lateral or for any other reason. The headgate shall remain closed until the ditch is repaired or remediated to the satisfaction of the Superintendent.
 - c. All shareholders have a right to appeal decisions made by the Superintendent. Shareholders may appeal the decision of the Superintendent in writing to the Board of Directors no less than 20 days prior to the regular monthly Board Meeting to be placed on the agenda for consideration by the Board, stating the reasons and all relevant facts for the appeal. Letters of appeal shall include the shareholder's name, address and headgate number. Requests for appeal received by the Corporation less than 20 days prior to the Regular Monthly Board Meeting will be placed on the Agenda for the next Regular Monthly Board Meeting. The decision of the Board of Directors will be final.
12. *Expense Approval.* The bills, payrolls, vouchers and items of expense against the Corporation shall be submitted for the allowance and approval to the Board of Directors. Any three directors shall have authority to approve the payment of the Corporation's bills pursuant to Article IV, Section 6, hereof.
13. *Signature Requirements.* The officers of the Corporation shall sign all checks written on accounts of the Corporation. All transfers of funds of the Corporation between banks or other financial institutions and any purchase of, establishment of or deposit in any investment account, fund or other service or type of investment shall require the signature of both the secretary and the president. For the purposes of this section, officer shall mean the president, vice president, secretary/treasurer, assistant secretary and such other officers as the Board of Directors may designate.
14. *Financial Audit.* The Board of Directors may arrange for an independent audit of the Corporation's books and accounts. The result and recommendations from such audit shall be provided to the Board of Directors.
15. *Liability.* Officers shall enjoy the same measure of immunity from liability for corporate acts or omissions as officers of corporations formed under the Colorado Revised Nonprofit Corporation Act.

ARTICLE VI
Stock

1. *Certificates.*

- a. The shares of stock shall be represented by consecutively numbered certificates signed in the name of the Corporation by the president or vice-president and the secretary or an assistant secretary and shall be sealed with the seal of the Corporation or with a facsimile thereof. In case any officer who has signed a certificate shall have caused to be such officer before such certificate is issued; it may be issued by the Corporation with the same effect as if he were such officer at the date of its issue. No certificate shall be issued until the shares represented thereby are fully paid.
- b. Each certificate shall express on its face its number, the date of issuance, the number and class of shares issued and the person or person to whom it was issued. Several certificates may be issued to the same person or persons, provided that in the aggregate they do not exceed the shares belonging to such person or persons. The certificate books shall contain a marginal stub upon which shall be entered the number, date and class of shares and the names of the person or persons expressed in the corresponding certificate.
- c. No certificate of stock shall be issued for less than (1) share and no fractional shares shall be issued.
- d. Each share of stock represents a shareholder's right to use the water represented by the stock.

2. *Transfer of Shares.*

- a. Certificates of stock, when issued, shall be issued as fully paid stock, no par value. Such shares of stock may be transferred at any time by the person or person named thereon. Upon surrender to the Corporation or to a designated officer of the Corporation a certificate of stock duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, and to cancel the old certificate. Every such transfer of stock shall be entered on the stock books of the Corporation, which shall be kept at its principal office or by its registrar duly appointed. Such transfer shall not be valid or binding upon the Corporation until the same shall have been noted in its proper form on the books of the Corporation.

- b. The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notices thereof, except as may be allowed by the laws of the State of Colorado.
 - c. No transfer of any share of stock shall be valid or allowed upon the books of the Corporation on which any assessments are due and unpaid until the Corporation receives full payment thereof.
 - d. A transfer fee of an amount determined by the Board from time to time shall be charged for each single transfer of any shares of the Corporation and the same shall be collected by the Secretary at the time of such transfer. The transfer fee may be increased or decreased from time to time by resolution of the Board.
3. *Lost Certificates.* In case of the alleged loss, destruction or mutilation of a certificate of stock, the Board of Directors may direct the issuance of a new certificate in lieu thereof upon such terms and conditions and in conformity with law as it may prescribe. The Board of Directors may, in its discretion, require bond in such form and amount and with such surety as it may determine before issuing a new certificate. A shareholder claiming a lost certificate may also have a duplicate certificate issued upon compliance with §7-42-114 through 117, C.R.S.
4. *Entitlement to Water.* Each share of stock shall be entitled to the distribution of water from the Canal System in the following portions: Lift Canal stock, one-third (1/3) of a miner's inch or a statute inch of water, or a prorata share of the water in the Lift Canal System; Power Canal stock, one-half (1/2) of a miner's inch or a statute inch of water, or a prorata share of the water in the Power Canal System. Each share shall be subject to assessment as provided in the Articles of Incorporation and these Bylaws. The outstanding shares of stock shall be entitled to the distribution of all the water from time to time available from the Corporation's system in the proportions previously mentioned, but each share shall share in such distribution only in proportion as to each share of the other classes stated in said Articles and Bylaws. Such water shall be delivered under such rules and regulations as the Board of Directors may prescribe. Water may be delivered to third persons on the written order rules and regulations as may be by said Board.
5. *Assessments.* Assessments against the issued and outstanding share of the Corporation shall be made pursuant to the Articles of Incorporation and these Bylaws. The

assessment shall be to defray the costs of operation and the maintenance of the Corporation's Canal System and its related facilities and equipment, and to raise funds and to pay any indebtedness and the interest thereon. Shareholders may have their shares assessed for such expenses at the annual meeting or a special meeting called for that purpose.

6. *Notice of Assessment and Remedies for Nonpayment.* Notice of such assessment and of the time and manner in which the same is ordered to be paid shall be given by depositing with the United States Postal Service, first class mail, postage prepaid, a notice to that effect, directed to the last known post office address of the stockholders of record as shown on the corporate books. In case any of the stockholders shall fail to pay any such assessment so made at the time and in the manner ordered by the Board of Directors, the collection of such assessments may be enforced by any one or all of the following remedies:
 - a. By the refusal on the part of the Corporation to deliver any water to such stockholder until such assessment has been paid, and if, at any time, the water being used by such stockholder on his stock, water may be shut off and kept off until such assessment is paid.
 - b. The stock of the shareholder so in default, may be sold at public auction to the highest and best bidder for cash by the secretary of the Corporation on the order of the Board of Directors in the manner as follows, to-wit: The assessment shall not have been paid at the time secretary, either in person or by written or printed notice, mailed to the last known address of the delinquent shareholder, demand payment of the amount of the assessment and shall also, at such time, notify the shareholder that unless such payment is made within thirty (30) days from the date of such demand, then at the end of such time the shares owned by such delinquent shareholder will be subject to forfeiture and sale as by law provided. No greater number of shares of said stock shall be sold than an amount necessary to bring the amount of the assessment and costs of sale, and the proceeds derived from such sale over and above the amount due on such shares and the expense incident to and occasioned by the sale thereof shall be paid over to the delinquent stockholder. The shareholders of this Corporation, by taking stock, therein, shall be deemed to assent and agree to the above methods of making and enforcing the collection of assessments on capital stock of the Corporation.
 - c. The proceeds derived from such sale over and above the unpaid assessments are to be paid over to the delinquent shareholder in such manner as provided by law. A written notice of proceeds due shall be made by placing such notice in the

United States Mail to the last known address of the delinquent shareholder. If the delinquent shareholder has not claimed the proceeds, a second written notice shall be sent approximately one year following the first written notice by placing such notice in the United States Mail to the last known address of the delinquent shareholder. If the delinquent shareholder has not claimed the proceeds within 30 days after the mailing of the second written notice, such proceeds shall be handled and disposed of in accordance with the Colorado Unclaimed Property Act, §38-13-101, et seq., or any amendments or reenactments thereof. The Corporation shall charge and deduct from such proceeds an administration fee of \$25.00 for each year that the proceeds remain unclaimed by the delinquent shareholder.

- d. The Board may commence suit in a court of competent jurisdiction to collect unpaid assessments. The Corporation shall be entitled to an award of its court costs and reasonable attorney's fees in the event the Corporation commences legal action to collect an unpaid assessment.

7. Restrictions on Moving Shares Within the Canal System.

- a. Given the limited capacity of certain elements of the Corporation's water delivery system, the following restrictions on transfers of shares are imposed to provide for efficient delivery of water to the Corporation's shareholders. No shares may be moved to the Third Lift or the Stub Ditch Lift if those lifts are operating at their reasonable capacity. If capacity becomes available in the Third Lift or the Stub Ditch Lift as determined by the Superintendent, shares may be moved to those lifts if authorized by the Superintendent. Shares may be moved from the Third Lift or the Stub Ditch Lift to the First Lift, Second Lift or Goat Lift if authorized by the Superintendent. Power Canal shares may not be transferred to any other lift, ditch or canal.
- b. Except as specifically authorized in these Bylaws, the moving of any shares or water associated with shares requires the approval of the Superintendent. The moving of shares may be approved only upon such terms and conditions as would, in the opinion of the Superintendent, prevent injury to the Corporation, its shareholders, or the Corporation's water delivery system. The Superintendent may deny the moving of shares if, in the opinion of the Superintendent, injury to the Corporation, its shareholders, or the Corporation's water delivery system cannot be prevented.

- c. Shares that are moved from their original assigned Lift, Canal or Ditch must have the Certificate transferred to reflect the Lift, Canal or Ditch of new assignment and will then become permanently assigned to that Lift, Canal or Ditch.
- d. Any person requesting the moving of shares, or the water represented by such shares, shall cooperate with the Board of Directors and shall provide such information, reports and/or studies as may be requested by the Board of Directors.

ARTICLE VII
Delivery of Water

1. *Delivery by the Corporation.* The Corporation shall deliver water to each shareholder in the Power Canal, Lift Canals and Subsidiary Canals of the Corporation to the Delivery structures of such shareholder subject to the limitations stated herein. It is the shareholder's responsibility to provide such ditches or laterals necessary to ultimately deliver the water to the shareholder's property. The manner of delivery, measuring and regulating the supply of water to the Shareholder's Delivery structure shall be prescribed by the Corporation and shall be at all times under its control. All shareholders shall be required to cooperate with the Corporation to establish and locate such Delivery structures and measuring devices for the shareholder to receive his water. It is the shareholder's responsibility to provide such any ditches or laterals necessary to ultimately deliver the water to his property.
2. *No Direct Pumping.* No person shall pump or siphon directly from any of the canals of the Corporation without its express written consent. The Corporation may permit a shareholder to pump from such canal on a short-term basis until such headgates and laterals are in place. In the event any shareholder or other person continues to pump directly from the canal after notice to discontinue such pumping has been mailed to him, the Corporation shall exercise such rights and remedies as may be available to it, including confiscation of such pump or siphon and retaining same for damages incurred thereby. Any shareholder, by accepting stock in the Corporation, is deemed to have consented to such shareholder responsibilities and these procedures of the Corporation.
3. *Closing Headgates.* The Superintendent, in the exercise of his discretion, may close any headgate where the lateral or ditch served by the headgate may cause flooding or other damage to property or may be a threat to safety through breakage, failure to maintain the ditch or lateral or for any other reason. The headgate shall remain closed until the ditch is repaired or remediated to the satisfaction of the Superintendent.

ARTICLE VIII
Change of Water Rights

1. *Statement of Intent.* This Article is intended to apply to any change in the point of diversion of the water rights decreed to the Corporation other than at the Corporation's headgate on the Gunnison River or any change in the type of use of water decreed to the Corporation inconsistent with the water decrees in the name of the Corporation. Excepted from this Article are turn-out orders by shareholders changing the Delivery point within the Canal system. It is the intent and policy of the Corporation that no change in the point of diversion, method of delivery and/or type of use of water decreed to the Corporation shall be permitted that will or is reasonably likely to injure any shareholder or the Corporation as determined by the Board. Injury includes, but is not limited to, any decrease in the amount of diversions at the Corporation's main headgate on the Gunnison River, any decrease or loss of water levels in the Corporation's Canal system, any interference or decrease in the Corporation's ability to generate power from its power generation facilities or operate its system of pumps and other devices to generate power, any decrease or loss in the quantity or quality of water delivered or deliverable to its shareholders, any decrease in the Corporation's ability or capacity to deliver water to its shareholders and any increase or additional burden to the Corporation or its shareholders in operating, maintaining or repairing the Canal system.
2. *No Injury to Shareholders or Corporation.* No shareholder shall, with respect to water represented by such shareholder's shares of stock in the Corporation or decreed to the Corporation, change or attempt to change the decreed point of diversion, method of delivery and/or type of use of such water, including, but not limited to, any substitute water supply plan, exchange, loan or plan of augmentation if such change will or is reasonably likely to cause injury to any shareholder or Corporation as determined by the Board.
3. *Corporation's Consent Required.* No shareholder shall, with respect to water represented by such shareholder's shares of stock in the Corporation or decreed to the Corporation, change or attempt to change the decreed point of diversion, method of delivery and/or type of use of such water, including, but not limited to, any substitute water supply plan, exchange or plan of augmentation using shares of stock in the Corporation, unless and until such shareholder shall obtain authorization to do so from the Board in accordance with the procedures set forth in this Article.
4. *Procedure.* Any request subject to this Article shall be in writing and shall be delivered to the Board at the principal office of the Corporation specifying in reasonable and

sufficient detail the nature, extent and effect of the request so as to fully advise the Board. The request shall include, but not be limited, to the following:

- a. A complete and reasonably detailed description of the action, activity or project the shareholder proposes to undertake, including a description of the change sought;
 - b. The identity of all water rights directly or indirectly related to such proposed undertaking, including the identification of the shareholder's rights in the Corporation;
 - c. An explanation setting forth facts with supporting data as to how such proposed undertaking will affect the operation, maintenance and repair of the Canal system and the rights of other shareholders in the Corporation; and,
 - d. An explanation, narrative or description of all measures the shareholder proposes to implement to prevent, mitigate or eliminate any injury to the Corporation and other shareholders in the Corporation.
5. *Board Consideration.* A written request shall be considered by the Board at its regularly scheduled meeting as soon as is reasonably practical considering the regular business of the Board at the time of submission of the request, the complexity of the request and any continuances sought by the requesting shareholder. Notwithstanding the foregoing, no request will be considered unless the request is received not less than twenty (20) days in advance of a Board meeting. At the meeting of the Board wherein the shareholder's request is considered, the shareholder shall present the request to the Board and may present such other pertinent information as such shareholder desires. The Board may defer to future meetings the consideration of any information presented at the meeting outside the scope of the initial submittal. The Board may question or seek additional information from the shareholder or any person participating in the presentation. The Board may seek and obtain independent evaluation of the proposal and/or additional information by such consultants and from such sources as the Board determines appropriate.
6. *Board Determination; Continuances.* After its deliberations, the Board may approve, deny or approve with qualification the shareholder's request. The Board may, in addition, continue its consideration and discussion of the written request for as long as the Board determines to be reasonable to allow the Board to discuss and fairly consider and understand the merits of the request, to obtain such additional consultation or information as the Board may deem appropriate, or to obtain from the requesting

shareholder supplemental data or information to that submitted to the Board. The decision of the Board shall be reflected in the regularly kept minutes of the Board. The Board's determination shall in no event relieve the shareholder from continuing to pay all assessments of the Corporation levied against the shareholder's shares in the Corporation and otherwise comply with the Bylaws, rules and policies adopted by the Board of Directors.

7. *Limitations on Legal Action.*

- a. No shareholder may commence or maintain any legal or administrative proceeding in Colorado water court or other forum for any purpose which is within the scope of this Article without first complying with the procedures set forth herein. Failure to comply with this Article shall constitute an absolute bar to the commencement of any legal or administrative action within the scope of this Article and entitle the Corporation to enter an appearance and dismiss the same by motion or other action and to exercise any other the remedies in this Article or the Bylaws.
- b. In the event an application for change of water right subject to this Article is approved by the Board and submitted to the applicable water court or administrative agency, such application and any resulting decree or determination by an administrative agency shall contain terms and conditions not less restrictive than the approval of the request by the Board or such decree or agency approval shall be deemed void to the extent of any inconsistency.

8. *Reimbursement of Expenses.* The requesting shareholder shall pay to or reimburse the Corporation for all costs and expenses paid or incurred by the Corporation to consider any request within the scope of this Article including, but not limited to, consulting fees paid to engineers, hydrologists, construction contractors, attorneys, accountants, financial consultants, surveyors or other consultants in reviewing, evaluating and considering the request and the internal administrative wages and salaries of the Corporation's officers and employees charged at the then prevailing rate the Corporation charges for their time.

9. *Violations and Remedies.* A violation of this Article shall be deemed to have occurred if a shareholder undertakes or attempts to undertake or commence any legal or administrative action, or any other activity or project subject to the provisions of this Article, without first complying with the procedures set forth herein. In the event any shareholder shall violate this Article, and without limitation on any other remedy available to the Corporation as provided elsewhere herein or at law or in equity, such shareholder shall be liable to the Corporation and its officers, agents, employees and shareholders for any and all loss, liability, injury, damage, cost or expense arising from,

caused by or resulting from such violation including, but not limited to, all costs, expenses, reasonable attorneys' fees, expert witness fees and consulting fees incurred for the purpose of investigating, negotiating, settling or litigating any such violation.

ARTICLE IX

Drainage and Discharge of Foreign and Hazardous Substances

1. *No Discharge of Foreign and Hazardous Substances.* No person, entity or shareholder shall drain, discharge, dump, spill or otherwise introduce into the Canal system, including the waters flowing therein, any foreign or hazardous substance or material of any type, including, but not limited to, surface water runoff from any source including, without limitation, subdivisions, commercial and industrial property, trash, refuse, garbage, petroleum products, chemicals, any hazardous substance or material defined by state, federal or local law or ordinance and any other material, substance or waste of any type except as specifically authorized by these Bylaws.

2. *No Alteration of Natural Drainage.* No person, entity or shareholder shall drain naturally occurring surface water into the Canal system in a quantity, quality, location or rate of flow in a manner that is different from naturally occurring precipitation or different from historic surface water drainage conditions as determined by the Superintendent or in any manner that may cause injury or harm to the Canal system or to adjacent landowners or shareholders. Excepted from this Article are tail water from agricultural operations as determined by the Superintendent and water drainage from naturally occurring precipitation flowing in the natural watercourse, provided:
 - a. That, unless there is a written agreement to the contrary with the Corporation, the drainage of natural precipitation of water shall not be in a quantity, quality, rate of flow, at points of discharge, or in any other manner different from that which is naturally occurring or established by historical drainage conditions and patterns as determined by the Superintendent; and

 - b. That, in any event, no water shall be discharged into the Canal system that contains any foreign material or any substance deemed a hazardous substance or material, or otherwise subject to regulation or permitting requirements, under the laws, regulations or ordinances of the United States, State of Colorado, or local governmental authority.

3. *Discharge Agreements.* The Corporation may, in its sole and absolute discretion, condition the discharge or drainage of any water into the Canal system upon (a) the execution of an agreement in a form and in substance acceptable to the Corporation

providing for the terms and conditions of the drainage of any water into the Canal system, and/or (b) the obtaining of a permit from any applicable governmental authority which regulates, oversees or pertains to or has jurisdiction over water discharge, water quality, storm water or drainage water, and/or (c) require treatment of any water to be drained or discharged into the Canal system and related facilities to a water quality standard acceptable to the Corporation, as determined by the Corporation in its sole and absolute discretion.

4. *Shareholder Drainage Devices and Structures.* Subject to the terms of this Article and these Bylaws, each shareholder shall be solely responsible to maintain and repair any pipeline, drainage structure, flume, sump, pump, syphon or other structure or device installed by a shareholder for the delivery of water to the shareholder's property or for the management or for the drainage of surface or irrigation waste water excepting structures and devices installed, operated, controlled, maintained and repaired by the Corporation; provided, however, the Corporation may undertake self-help or seek other remedies at the shareholder's expense to prevent any such devices from violating these Bylaws or posing or causing a hinderance or interference with the operation, maintenance and repair of the Canal system.
5. *Remedy.* Any person, entity or shareholder violating this bylaw shall be subject to remedies set forth in these Bylaws.

ARTICLE X

Control and Ownership of Canal System; Delivery Points

1. *Control and Ownership.* The Canal system shall be under the exclusive control of the Corporation acting by and through its Superintendent. The Superintendent shall have the sole authority to determine and approve the location and the installation, construction, reconstruction, restoration, alteration, operation, repair and maintenance of all structures, improvements and devices situated in, under or on the Canal system and to supervise the overall administration of the delivery of water to shareholders including the setting and adjustment of any Delivery point structures and measuring devices such as headgates, meters, flumes or other devices.
2. *Restrictions on Headgates.*
 - a. The Corporation approves of two types of headgates: A wheel gate and a slide gate. Each headgate shall have a weir or other type of measuring device acceptable to the Corporation.

- b. All headgates will be assigned a number. The headgate numbers and names and addresses of shareholders will be recorded in the Corporate office. All headgates shall be under the control of the Superintendent.
 - c. There will be no check, screens or other devices placed in the Canal system to increase the head pressure for any headgate. Headgates, whenever possible, will have to be shared with other users. Shareholders shall not alter or tamper with the settings of any headgate to increase such shareholder's delivery of water to exceed the amount of water represented by such shareholder's shares. The Superintendent may lock any shareholder's headgate and/or deny the delivery of water to any shareholder who violates this Article.
3. *Fences and Gates.*
- a. All fences, gates or other devices crossing the canals and ditches, canal access roads or which hinder or obstruct access to any portion of the Canal system must be approved as to location and type by the Superintendent. Any such fence, gate or other device that is not approved by the Superintendent may be removed by the Corporation at the expense of the shareholder who installed or refused to remove the fence, gate or other device after notice by the Superintendent to remove the same.
 - b. All fences, gates or other devices approved by the Superintendent shall remain unlocked (but may be closed) during the irrigation system from April 2nd through October 31st of each year to permit the unrestricted access of the Corporation's personnel and equipment over, under and across all aspects of the Canal system. All fences, gates or other devices approved by the Superintendent may be closed and locked during the non-irrigation season from November 1 through March 31 of each year; provided, however, the Corporation may require the unlocking of any such gate to allow for the maintenance and repair of the Canal facilities. If the fences, gates or other devices approved by the Superintendent are to be locked, then the Corporation shall provide the lock.
 - c. Landowners may install a cattle guard in place of a gate or fence at the landowner's expense provided the type of cattle guard, location and method of installation are first approved by the Superintendent.
4. *New Headgates.* Any person who desires to establish a new headgate or delivery point, or change the location of an existing headgate or delivery point or to install a new or modify any existing headgate or delivery structure shall:

- a. Submit a written request to the Board describing the nature of the request including supporting maps, diagrams and/or designs;
- b. Sign such agreements as the Board may require including headgate installation and maintenance agreements and/or agreements for the reimbursement of the Corporation's external and internal costs and expenses, including consulting fees, to review the request and any maps or designs submitted in support thereof;
- c. Sign an agreement to pay for or reimburse the Corporation for the costs of any material, supplies or labor contributed by the Corporation used in the construction, installation or modification of any delivery structure or headgate; and,
- d. Execute such easements or rights of access as the Board may reasonably require for the installation of or modifications to the delivery structure.

All requests shall be subject to approval of the Board of Directors or a committee of the Board in the event such request is delegated to a committee of the Board.

5. *Installation.* All new Delivery structures and any modification to any existing Delivery structure approved by the Board shall be constructed by the Corporation at such time and in such manner as the Corporation determines in its sole discretion. The requesting person shall be personally and solely responsible for the payment of any and all materials used in the installation, including preparatory materials and materials necessary to restore adjoining areas disturbed or damaged by the installation. The Corporation may condition its performance of the installation on the provision of adequate security for the cost of materials. No requesting person is authorized to oversee, supervise, perform or contract for the performance of construction
6. *Remedies.* Without limitation upon any other remedy available to the Corporation, in the event that any person installs any new or who modifies, tampers, damages or otherwise alters any new or existing Delivery structure, regardless of whether installed or modified at any new or existing delivery point in violation of this Article, such person shall be subject to the following remedies:
 - a. a special assessment against the violating persons shares in the Corporation in the amount of any unpaid materials for the work and/or for any damages to the Corporation including any removal, restoration or modification expense and any

expenses of litigation including court costs, reasonable attorney's fees and the fees of any consultant or expert witness;

- b. a suit for judgment in the amount of any unpaid materials used in or provided to the work and/or for any damages to the Corporation including any removal, restoration or modification expense and all expenses of litigation including court costs, reasonable attorney's fees and the fees of any consultant or expert witness; and/or
- c. a suit for equitable relief in the nature of injunction, specific performance or other equitable remedies including court costs, reasonable attorney's fees and the fees of any consultant or expert witness.

7. *Modification of Canals or the Canal System.*

- a. There shall be no modification, alteration or relocation of the Canal system without the express approval of the Board of Directors. Such approval may be granted or withheld in the sole and absolute discretion of the Board of Directors considering, but not limited to, the impact of any such proposed modification, alteration or relocation on the cost, expense and burden of operating, maintaining and repairing the Canal system, injury to any of the shareholders, benefit to the Corporation and any other fact or circumstance considered relevant by the Board.
- b. Any landowner proposing a modification, alteration or relocation of the Canal system shall provide engineering designs, plans, specifications and any other material or information at the landowner's expense sufficient for the Board of Directors to determine whether to consent to the proposed modification, alteration or relocation of the Canal system. In the event the Board of Directors decides to retain an engineering and/or other professional consultant for review of the landowner's request, the landowner shall pay the expenses for such review. The Board of Directors may require a deposit by the landowner to cover the costs of the review at its discretion, as a condition to further review of the landowners' request.
- c. In the event that the Board of Directors agrees to a modification, alteration or relocation of the Canal system, the Board of Directors may impose such conditions, terms and qualifications as it deems reasonable or necessary for the proposed modification, alteration or relocation, including, but not limited to, (i) requiring the landowner to provide a title policy; (ii) requiring the subordination of any liens, encumbrances and property rights to the Corporation's Canal system

or Canal easements, or other Redlands' property rights; (iii) providing engineered plans and specifications; (iv) execution of contracts or agreements between the Corporation and the landowner regarding the terms and conditions of the project as the Corporation may require; (v) providing comprehensive general liability insurance naming the Corporation as an additional insured in amounts acceptable to the Corporation; (vi) providing security to the Corporation in a form and in such amounts as the Board determines proper including, but not limited to, cash deposit, letter of credit or payment or performance bonds; (vii) paying, reimbursing or advancing to the Corporation its costs and expenses of its consultants and attorneys; and (viii) providing such indemnities as the Corporation may require in its discretion. In addition, the Board of Directors shall require as-built drawings and a continuing warranty on any work done by the landowner for such a time as it deems advisable considering the nature of the relocation or modification.

ARTICLE XI

Trespass and Use of the Canal System

1. *No Trespass.* No person or entity is permitted to enter or remain in, under, over or upon the Canal system and Canal easements for any purpose except officers and employees of the Corporation and consultants, agents and other persons specifically authorized to do so by the Superintendent or Board. Any person or entity that enters or remains in, under, over or upon the Canal system or Canal easements without authorization under this Article is deemed a trespasser against the Corporation's property rights.

2. *Prohibited Activities.* Prohibited activities include, but are not limited by enumeration to, the following activities and events occurring in, under, over or upon the Canal system and Canal easements:
 - a. dumping, depositing, discarding, abandoning or placing of any kind or type of personal property, trash, garbage, refuse, dead animals or any other item or thing;

 - b. placing, storing or maintaining any kind or type of personal property, item, device or thing;

 - c. installing, placing, constructing or maintaining any type of building, structure or improvement including, but not limited to, houses, trailers, mobile and modular homes and structures, garages, sheds, barns, outbuildings, fences, gates, utility cables, above ground or buried utilities and related facilities, bridges, sidewalks or walkways, asphalt or other type of surfacing material and trees, shrubbery and other plantings;

- d. obstructing, hindering or impeding the Corporation's operation, maintenance and repair of the Canal system or Canal easements;
 - e. damaging, vandalizing, altering, tampering or modifying the Canal system or Canal easements including any feature, device or appurtenance thereof;
 - f. use of the Canal system for any public purpose including recreation trails, public transportation and/or any other water activity in, under, over or upon the Canal system and the water flowing therein;
 - g. using the Canal system and Canal easements for driveways or other access to or from or for the benefit of any property by pedestrians, livestock or motorized or non-motorized vehicles, equipment or other types of devices except that: (i) a shareholder may temporarily use canal access roads to check, adjust and maintain delivery structures for irrigation purposes, (ii) a shareholder owning the land burdened by a Canal easement may temporarily use canal access roads on such shareholder's land for agricultural purposes conducted on such shareholder's land and/or for ingress and egress across such shareholder's land to and from such shareholder's private residence, and (iii) a shareholder owning the land underlying a Canal easement may temporarily use canal access roads on such shareholder's land for watering such shareholders livestock; provided, however, that any permitted use by a shareholder as described in this section shall be subject to the Corporation's Bylaws, rules and policies now existing or hereafter promulgated from time to time and such permitted uses shall not damage the Canal system or Canal easements or hinder, obstruct or otherwise impede the Corporation in the operation, maintenance and repair of the Canal system and Canal easements or cause injury to any other shareholder; and,
 - h. granting, conveying, transferring, delegating, assigning or dedicating any right, title, interest or use of the Canal system, Canal easements and land burdened by Canal easements for any purpose not authorized by the Board including, but not limited to, public recreational trails or systems, public transportation and any other category of public use; provided, however, this section shall not apply to a shareholder giving a deed of trust or mortgage to secure a debt on such shareholder's lands.
3. *Enforcement.* For any violation of the Bylaws, or in order to protect the Canal system or easements or any feature thereof, the Corporation may exercise self-help remedies to

remediate a violation where possible or exercise any other remedy provided in these Bylaws.

ARTICLE XII

Limitations on Liability, Actions and Indemnification

1. *Limitation on Liability.* Neither the Corporation, the members of the Board, the Superintendent or any officer, employee or agent of the Corporation shall have any liability to any shareholder for any loss, liability or damages for personal injury, property damage or death caused by or arising from or in connection with any acts or omissions taken by such Board member, Superintendent or any officer, agent or employee taken within the course and scope of their employment or duties with the sole exception of acts or omissions intentionally or recklessly taken; provided, however, as to intentional or reckless acts or omissions, the liability of the Corporation, Board member, Superintendent or any officer, employee or agent shall be limited to the most current assessment against the aggrieved shareholder's shares.
2. *Limitation of Actions.* Any action by any shareholder against the Corporation, members of the Board, the Superintendent or any officer, employee or agent of the Corporation shall be brought no later than one (1) year following the date when such action accrued, or the action be forever barred. A cause of action accrues when the aggrieved shareholder knew or should have known of such cause of action in the exercise of reasonable diligence.
3. *Alternative Dispute Resolution.* Any claim, complaint or cause of action by any shareholder against the Corporation, members of the Board, the Superintendent or any officer, employee or agent of the Corporation shall first be submitted to the Board for resolution. In the event a claim, complaint or cause of action is not resolved after submission to the Board, then, at the election of the Board, any claim, complaint or cause of action by any shareholder against the Corporation, members of the Board, the Superintendent or any officer, employee or agent of the Corporation shall be submitted to binding arbitration pursuant to the Colorado Uniform Arbitration Act, §13-21-201, et seq, C.R.S.
4. *Indemnity.* Each director and officer of this Corporation, and each person who shall serve at its request as a director or officer of another Corporation in which this Corporation owns shares of capital stock or of which it is a creditor, whether or not then in office, and his personal representatives, shall be indemnified by the Corporation against all costs and expenses actually and necessarily incurred by him or her in connection with the defense of any action, suit or proceeding in which he or she may be involved or to which he or

she may be made a party by reason of his or her being or having been such director or officer, except in relation to matters as to which he or she shall be finally adjudged in such action, suit or proceedings to be liable. Such costs and expenses shall include amounts reasonably paid in settlement, but only if the Corporation is advised in writing by its counsel that in counsel's opinion the person indemnified did not commit an act or omission for which liability may be imposed. The foregoing right to indemnification shall not be exclusive of other rights to which he or she may be entitled as a matter of law or by agreement.

ARTICLE XIII

Enforcement and Remedies

1. *Scope.* Notwithstanding anything in these Bylaws to the contrary, this Article XIII shall supplement and be cumulative of any other rights or remedies provided to the Corporation or the Board in these Bylaws; provided, however, in the event of a conflict between any provision in this Article XIII and any other provision of the Bylaws, then this Article XIII shall govern to the extent of such conflict.
2. *Violations.* A shareholder's failure to comply with or a shareholder's violation of any term or provision of these Bylaws or any rule or regulation promulgated by the Board shall entitle the Board to exercise the rights and remedies herein.
3. *Remedy for Non-Payment of Assessments.* Any shareholder who fails to pay such shareholder's assessment on his stock shall be subject to the remedies as set forth in Article VI. In addition, a shareholder who has failed to pay his assessment shall have his voting power suspended until the assessment is paid in full.
4. *Remedies at Law.* In the event a shareholder fails to comply or violates any term of provision of these Bylaws or any rule or regulation promulgated by the Board, then the Board may undertake such legal action against such shareholder as the Board deems reasonable or necessary to recover any damages or losses incurred or suffered by the Corporation. Damages may include the Corporation's internal costs for the use of its equipment and personnel for self-help remedies or for the repair, restoration or protection of the Canal system or removal of unauthorized items on or within the Canal system and Canal easements.
5. *Equitable Remedies.* In the event a shareholder fails to comply or violates any term of provision of these Bylaws or any rule or regulation promulgated by the Board, then the Board may undertake legal action asserting equitable remedies including, but not limited

to, injunction, specific performance or other equitable remedies as are appropriate in the circumstances.

6. *Self-Help.* The Corporation may, but shall not be obligated to, undertake self-help to repair, restore, construct, reconstruct, remedy or cure any shareholder's violation of the Bylaws if reasonably practical to do so in the sole and absolute discretion of the Board. Nothing contained herein is intended and shall not be construed to limit the Corporation's exercise of any other remedies at law, in equity or as provided elsewhere in these Bylaws.

7. *Legal and Other Expenses.* The Corporation may specially assess any shareholder failing to comply with or violating these Bylaws or the rules and regulations promulgated by the Board for the Corporation's reasonable attorney's fees, court costs and expert witness fees for consulting, investigating, negotiating, settling or litigating such shareholder's failure to comply with or violation of these Bylaws or the rules and regulation promulgated by the Board. The Board may also assess against such shareholder the internal costs of the Corporation for the costs of its employees and the reasonable value of the use of the Corporation's equipment in connection with such failure to comply or violation of these Bylaws or the rules and regulations promulgated by the Board. In any legal proceedings brought to enforce or defend any action involving a shareholder's failure to comply with or violation of these Bylaws or the rules and regulations promulgated by the Board, the Corporation shall be entitled to an award of its reasonable attorney's fees, court costs and expert witness fees and, additionally, the internal costs of the Corporation for the use of its employees and the reasonable value of the use of the Corporation's equipment.

ARTICLE XIV

Nonprofit Corporation

No dividend shall be declared or paid to any stockholder of this Corporation, nor shall any stockholder, upon the dissolution of the Corporation, be entitled, for any reason, to receive a distribution or other share of assets then owned by the Corporation, it being expressly understood that this Corporation is not formed for profit and is a Corporation which does not contemplate pecuniary gain, profit or dividends for the stockholders thereof, it being further understood that said Corporation is organized and incorporated exclusively for the purposes and objects set forth herein and in the Articles of Incorporation. Upon the dissolution of this Corporation, all of its business properties and assets shall go and be set over to and used for the objects and purposes set forth herein and in the Articles of Incorporation.

ARTICLE XV
Miscellaneous

1. *Waiver of Notice.* Whenever notice is required by law, by the Articles of Incorporation or by these Bylaws, a waiver thereof in writing signed by the Director, shareholder or other person entitled to said notice, whether before, at or after the time state herein, or his appearance at such meeting in person or (in the case of a shareholder's meeting) by proxy, shall be equivalent to such notice.
2. *Seal.* The corporate seal of the Corporation shall be circular in form and shall contain the name of the Corporation and the words "SEAL, COLORADO".
3. *Fiscal Year.* The fiscal year of the Corporation shall begin on the 1st day of January and end on the 31st day of December of each year.
4. *Amendments.* The Board of Directors shall have the power to make, amend and repeal the Bylaws of the Corporation at any regular meeting of the Board or at any special meeting called for that purpose, that provided such amendments do not conflict with the Articles of Incorporation or Colorado Statutes. Notice of such proposed amendments shall be given at the regular meeting preceding the meeting when the adoption of such amendments is to be considered.

BE IT RESOLVED, that these Amended and Restated Bylaws of Redlands Water and Power Company were adopted at a regular meeting of the Board of Directors and shall be effective the 12th day of September 2018.

Charles Mitisek, President

Pete Dickes, Secretary