

Landowner's Guide to Incorporating



Irrigation Ditches and Laterals

February 2005

INFORMATION DIRECTORY

Irrigation Companies/Districts

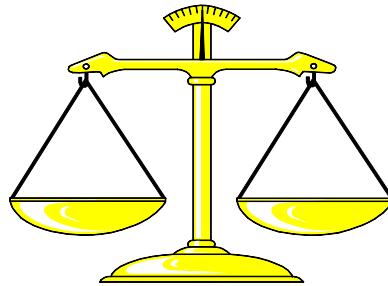
NOTE: Several irrigation companies/districts provide irrigation water to the Grand Valley. The center map/description sheet shows their service areas.

Grand Valley Irrigation Company	970-242-2762
Grand Valley Water Users Association	970-242-5065
Mesa County Irrigation District	970-464-5209, 970-464-5113
Orchard Mesa Irrigation District.....	970-464-7885
Palisade Irrigation District.....	970-250-2404
Redlands Water & Power Company.....	970-243-2173

Water and Land Resource Organizations

U.S. Department of Interior, Bureau of Reclamation,	970-248-0652
Water Conservation Coordinator, Grand Junction	
U.S. Department of Agriculture, Natural Resources	970-242-4511
Conservation Service, Grand Junction	
State of Colorado, Division of Water Resources	
State Water Engineer, Denver.....	303-866-3585
Division Five Office, Glenwood Springs.....	970-945-5665
Water Commissioner, Grand Junction.....	970-245-5884
Colorado Water Conservation Board, Grand Junction	970-248-7305
Mesa County Water Association	970-858-7363
Grand Junction Drainage District	970-242-4343
Colorado River Water Conservation District,.....	970-945-8522
Glenwood Springs	
Colorado State University, Cooperative Extension,	970-244-1834
Grand Junction	
Mesa County Assessor's Office, Grand Junction	970-244-1610
(Land ownership records)	

Landowner's Guide to Incorporating Irrigation Ditches and Laterals



February 2005

This booklet provides a general guide for organizing, managing, and incorporating your lateral ditch or pipeline delivery system. Because laws and rules are unique to different areas and may change periodically, information in this guide may become outdated. Nothing stated in this guide should be substituted for professional legal advice. Before taking any action regarding incorporation, consultation with an attorney is recommended. The authors and distributors of this booklet assume no liability for action taken based upon the information contained herein.

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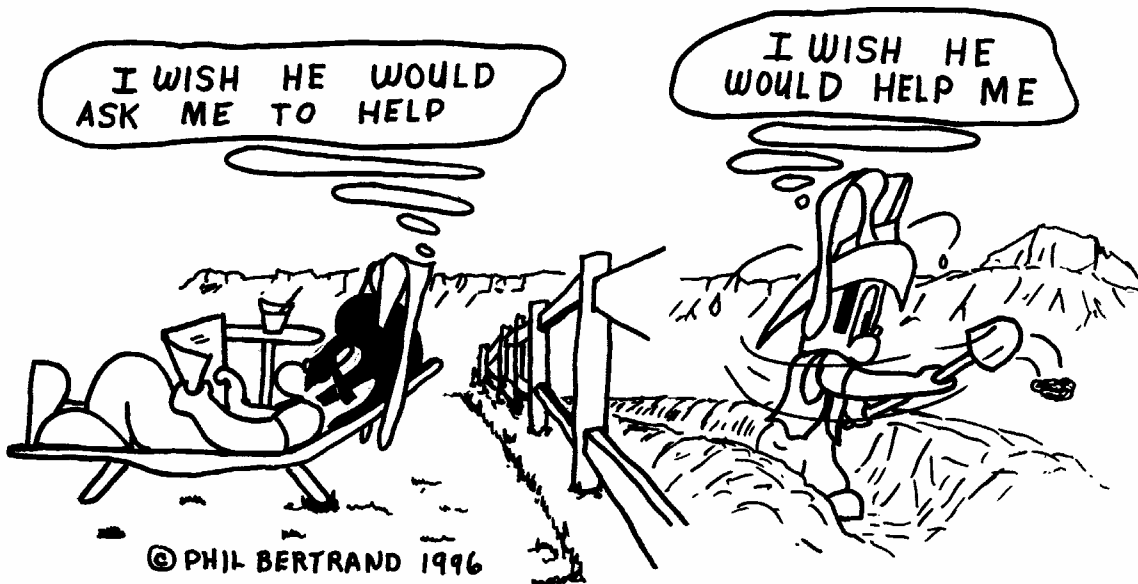
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Water



The universal solvent, a liquid, a natural resource, a resource that is unlimited in its power for growing, producing, stimulating, generating, refreshing and determining our way of life, but a resource that can equally be destructive if not wisely used.



INTRODUCTION

This booklet was written to help you, the landowner, become more informed about irrigation water. It also provides a step-by-step process to help you manage your lateral.



What is a **LATERAL**? A ditch or pipeline that delivers irrigation water from a canal to one or more water users.

Many of Colorado's irrigation systems were built in the early 1900's to provide water for farms and ranches. As our population increases, many of these farms and ranches are being subdivided into smaller parcels. Today, an irrigation headgate that originally delivered water to a single 40-acre farm might be serving more than 40 separate landowners in a subdivision on the same 40 acres. This in itself is not a problem--the same amount of irrigation water is needed for the land. However, the water must now be delivered to accommodate the needs of 40 different people instead of just one farmer.

When the farmer irrigated the 40 acres, there was only enough water to irrigate a few acres at a time. After irrigating the first few acres, the farmer would "change the set" (move the water to a different part of the field). It took the farmer a week or so to irrigate all 40 acres. In today's 40-acre subdivision, we have about the same amount of water as the farmer did. If we all try to irrigate on the same day, there probably won't be enough water for everybody. It may be necessary for us to take steps to **manage** our water to ensure that everyone gets their fair share when they need it. We may also need to **organize** as a group in order to equitably share the responsibilities and costs for lateral maintenance and repairs.

Following the step-by-step process in this guide will help you organize, manage, and at the same time learn about your lateral. Although the booklet describes how to incorporate your lateral, much of the information also applies if you are forming a Homeowner's Association to manage your lateral, or you just want to learn more about your delivery system. The two basic parts of incorporating are: 1) gathering information and organizing the lateral with the other landowners, and 2) managing the lateral for the future benefit of the landowners.

If you decide to incorporate your lateral, we recommend that you organize as a nonprofit mutual ditch company (corporation). You will need to choose a method for establishing ownership in the corporation. This can be done either by membership or by shares (stock certificates). Issuing shares or stock ownership certificates involves some extra paperwork and expense, but has some advantages. For example, stock certificates provide each landowner with a legal document certifying their ownership in the corporation.

Whether or not you choose to incorporate your lateral delivery system, there are three important keys to success:

- 1) communication,
- 2) cooperation, and
- 3) a working knowledge of your lateral delivery system.

Learning all you can about your delivery system is the **first** step toward solving problems on your lateral.

If you complete Step 1 of the process outlined in this booklet, you will gain a good working knowledge of your system. The remaining steps involve communication and cooperation with the other landowners on your lateral.

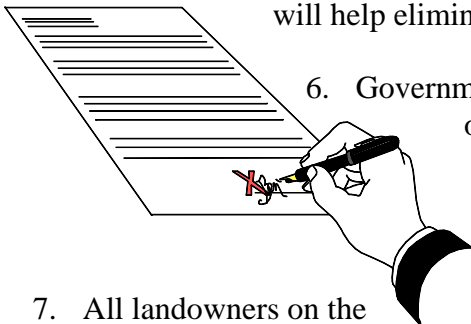
This booklet will help you start organizing your lateral. Please read the information provided (refer to the Glossary of Terms on page 19 for definitions of any unfamiliar terms), talk to your irrigation company or district, and consult the references and information sources listed for additional help.

Good luck and happy irrigating!

ADVANTAGES OF INCORPORATION

By forming a corporation, you gain these benefits:

1. Your lateral becomes a legal entity with a clearly stated purpose and rules governing what members can and cannot do.
2. You have a businesslike process for making group decisions about the lateral.
3. The corporation has contracting ability, and individuals may no longer be personally liable on such contracts.
4. You have an established process for collecting fees (assessments) from water users and enforcing compliance with the lateral's rules.
5. Water deliveries can be regulated, scheduled, and enforced by the lateral corporation. This will help eliminate disputes among the water users.



6. Government agencies and private companies can work with one organized and managed legal entity regarding improvements on the lateral.
7. All landowners on the lateral can equitably share the responsibilities and costs for maintenance and administration.

- 8. You have a clearly defined process for adding new landowners to the lateral.
- 9. Property owners have an additional selling point when potential buyers know that the lateral is organized and works efficiently.

HOW TO INCORPORATE YOUR



LATERAL

Having trouble or communication problems regarding your irrigation water? Would you like to get these problems resolved?



1 GATHER AND ORGANIZE INFORMATION

Find out:

- Is your land classified as irrigable, and do you have water rights?
(your land may or may NOT have water rights)
- Are your water rights attached to your land?
- Which local irrigation company/district provides your water?

Talk to:

- Your local irrigation company or district
- Natural Resources Conservation Service (NRCS)
- Bureau of Reclamation (USBR)
- Other lateral or ditch groups that have incorporated
- Local, State, or Federal entities that deal with water

- Get information about your lateral's headgate (where the lateral starts at main irrigation canal)
 - Number
 - Size
 - Amount of water

List the name, address, phone number, and number of shares or water rights for each landowner on your lateral (add up these water rights to get the total amount of water at the lateral's headgate).....

- Get legal descriptions of the properties served by your lateral.....
- Obtain maps or aerial photos of the area served by your lateral.....
- Sketch your system on a map or photo

- What kind of delivery system does the lateral have?
 - Pipe
 - Concrete ditch
 - Dirt ditch

- How does the delivery system work?
 - On demand
 - Rotation/schedule.....

2 SHARE INFORMATION

Send out an informational letter to all the water users on your delivery system. Be upbeat, encourage a **fresh** start.

Include a sketch or map of the system (see samples on pages 17-18).....

3 HOLD A MEETING

Send a notice to the landowners to invite them to the meeting

See sample meeting notice on pages 8-9

Invite a water engineer or technical expert (many government agencies such as NRCS or USBR will attend for free).....

Have a sign-in sheet for attendees names and addresses

Tap the talents of the landowners

Elect or appoint a **lead** person

Establish a bylaws committee.....

Pass the hat to recover costs for postage, paper, etc.



At the beginning of the meeting, agree on how the meeting will be run. Elect or appoint someone to take notes or meeting minutes.

4 DEVELOP ARTICLES OF INCORPORATION AND BYLAWS

Decide on a name for the corporation (can use Inc., Corp., or Co.).....

Write the Articles of Incorporation and Bylaws (see pages 10-16).....

- Decide if ownership will be through membership or through shares (stock certificates).....

- Develop an operation and maintenance plan and a budget.....

- Decide how assessments (fees or dues) will be charged.....

- Set schedule for annual meetings and Board meetings.....

- Develop a system for resolving disputes (arbitration)

- Include provisions for future water users/subdivisions



See the sample bylaws (page 11) for help. Refer to books on incorporating; make sure your bylaws will meet your needs. Don't just copy the sample!

Send draft bylaws to the landowners for comments and suggestions.....

Schedule a meeting to ratify bylaws and elect officers
(make an agenda and send it out to the landowners)

5 LEGAL COUNSEL REVIEW

There is no legal requirement to obtain assistance from a lawyer to form a corporation. However, you might avoid making costly mistakes by seeking professional legal advice.

6 MEETING TO INCORPORATE



Did you send the draft bylaws to landowners for comments and suggestions?

- Elect officers (Board of Directors)
- Ratify assessments
- Ratify Articles of Incorporation and Bylaws
- Elect or appoint the Registered Agent (see Glossary of Terms).....

7 COMPLETE YOUR PAPERWORK

Submit Articles of Incorporation and filing fees to the State

- (see page 25 for address and phone).....
- Submit forms for nonprofit status to the Internal Revenue Service.....
- Issue stock certificates if you organized the corporation by shares.....

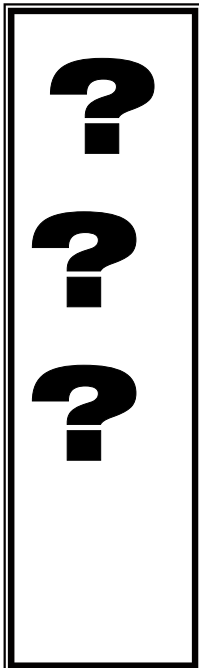
8 PLAN FOR THE FUTURE

- Notify the City and/or County Planning Departments of your incorporation and service area. Request they notify you of any planned subdivisions in your service area, etc.
- Notify your irrigation company/district of your incorporation and the names of your Board members. Also, keep them informed of any future changes in your Board of Directors..
- Hold annual water users' meetings (required by law). You can allow water users to vote by proxy; see sample on page 19.....
- Hold periodic Board of Directors meetings.....
- Keep minutes of all meetings
- Amend bylaws as needed
- Set up a corporate record book (for minutes, bylaws, paperwork).....
- Submit paperwork to the State and the IRS as required.....
- Inventory the lateral delivery system for future improvement and expansion.....
- Draw the lateral on a County Assessor's map, obtain easements for the lateral's right-of-way, and record them at the Courthouse

RESOURCES:

NRCS and USBR	Maps, aerial photos, ortho photos, technical assistance.
Irrigation Companies and Districts	Shares/water rights and their value, names of water users, headgate information, number of shares, areas of jurisdiction.
County Extension Service	Technical assistance and information.
County Assessor's Office	Property legal descriptions, ownership records, parcel maps, plat maps.

How much water is in...



one **Acre-Foot** equals...

- ≡ 1 acre of land covered with water 1 foot deep
- ≡ about 326,000 gallons of water
- ≡ enough water to supply a family of four for one year

one **cubic foot per second** equals...

- ≡ about 450 gallons of water per minute
- ≡ about 2 acre feet of water in 24 hours of flow
- ≡ equivalent to 38.4 Colorado miner's inches

one **Colorado miner's inch** of water equals...

- ≡ 11.69 gallons of water per minute
- ≡ 0.026 cubic feet per second
- ≡ the flow of water through a 1 inch square hole with about 5 inches of head pressure behind it

one **lawn sprinkler** uses...

- ≡ about 4 gallons of water per minute

one "**share**" equals.... about 4 to 8 gallons of water per minute, depending upon which irrigation company/district provides your water. See the center map/description sheet for more information.



Find out which irrigation company/district serves your lateral, how your irrigation water is measured, and whether or not your water rights are attached to your land.

SAMPLE MEETING NOTICE

-This sample intended for reference use only-

DATE: (date the notice is sent out)

MEETING NOTICE TO THE LANDOWNERS WHO USE IRRIGATION WATER FROM LATERAL DITCH (Name or # of your ditch)

Dear Landowner:

If your property borders or is intersected by the above lateral ditch running from (describe where the lateral starts and ends, use road names, etc. Example: from 28 1/2 Road to just West of 28 Road South to the Colorado River and North to the railroad tracks), THIS MEETING IS VERY IMPORTANT FOR YOU TO ATTEND.

The meeting will be held on (Date) at (Time) at (Location) to discuss the following matters:

- 1) Organizing and incorporating the lateral as a legal entity.
- 2) Establishing reasonable and equitable fees to properly maintain, protect, administer and handle the affairs of the lateral.
- 3) The approximate costs to incorporate.

Being organized and incorporated can provide many benefits to us as landowners. Proper maintenance and operation of the ditch means getting our fair share of irrigation water we've paid for. If we need to work with government agencies or private contractors in the future, being a legal corporation can simplify the process and can protect individual landowners from liability issues.

As an organized lateral, we can equitably share the cost of maintenance, establish our own bylaws for administration, and have a more direct say as to what happens on our lateral system.

The affairs, problems, maintenance, administration and proper use of our lateral are very real. They won't magically take care of themselves and should not be the responsibility of a handful of concerned landowners.

**SAMPLE ARTICLES OF INCORPORATION
OF A COLORADO NONPROFIT CORPORATION**

Sample intended for reference use only. Please refer to the references or obtain legal counsel to adapt this sample to your particular situation.

The undersigned persons acting as incorporators of a nonprofit mutual ditch corporation under the Colorado Nonprofit Corporation Act execute the following Articles of Incorporation for such corporation:

FIRST: The name of the nonprofit mutual ditch corporation is:
(Name of Your Lateral Company)

SECOND: The source of the water is the (name of the irrigation canal and irrigation company/district that provides your water). The water is taken from (exact location and name or number of the lateral's headgate). The route of the lateral ditch is (describe exactly where the lateral goes, from its beginning at the canal headgate to its end). The water in the lateral ditch is intended to be used for the purpose of (describe, e.g. "irrigating lands owned by the members of this corporation").

Information
required by
Section
7-42-101
C.R.S.

THIRD: The name and address of the initial registered agent of the nonprofit corporation are:
(Person on your lateral who will receive legal paperwork from the State. Include street address; cannot be a P.O. Box)

FOURTH: The nonprofit corporation (will/will not) (circle one) have members. *(Your lateral company WILL have members)*

FIFTH: Provisions regarding the distribution of assets on dissolution are: (legal and/or financial advice may be needed)

SIXTH: The nonprofit corporation shall have _____ directors who shall serve as the initial board of directors. The names and addresses of the directors are:

SEVENTH: The name and address of each Incorporator is:
Can list the board directors above;
don't list all members of the lateral)

Signature of each incorporator:

SAMPLE BYLAWS

Sample intended for reference use only. Please refer to the references or obtain legal counsel to adapt this sample to your particular situation.

BYLAWS OF (Name of Your Lateral)

ARTICLE I - NAME OF THE ORGANIZATION

SECTION 1 - The name of the organization shall be (Name of Your Lateral).

SECTION 2 - Location and service area is (describe the boundaries of the area served by the lateral; list road names, and city, county, and state).

ARTICLE II - PURPOSE

SECTION 1 - The purpose of this company shall be for the management of the lateral for the landowners whose properties are irrigated with water from this lateral.

SECTION 2 - To manage, upgrade, maintain, repair, clean, and when necessary reconstruct the lateral in the best interests of all members.

ARTICLE III - MEMBERS

SECTION 1 - Members will be property owners, in good standing, who own or lease water shares or own water rights in the (Name of your irrigation district/company) and whose properties are located within the lateral service area described in Article I.

SECTION 2 - Share certificates (“will” or “will not”) be issued to members.

SECTION 3 - Membership in the organization will be retracted upon the sale of the property affected and membership can be transferred to the new owner(s).

SECTION 4 - No new members (other than transfers as described in Section 3 above) will be accepted unless first approved by the Board of Directors. Decisions for new members will be based on the cost factors of maintenance, repairs, construction, space available, and physical limitations of the lateral system.

ARTICLE IV - BOARD OF DIRECTORS

SECTION 1 - The affairs of this organization shall be managed by a Board of Directors consisting of elected officers including the President, Vice President, Secretary, Treasurer, and (other Board member(s) if desired).

SECTION 2 - The Board shall govern the operation, maintenance and repair of the lateral and will arbitrate any dispute that may arise concerning the lateral. The Board will determine the amount of assessments due each year, and such amount will be put to a vote of the membership at the Annual Meeting.

Sample intended for reference use only. Please refer to the references or obtain legal counsel to adapt this sample to your particular situation.

SECTION 3 - A majority of the Board of Directors shall constitute a quorum for the transaction of business. Each Board member shall have one (1) vote on matters decided by the Board.

SECTION 4 - Any vacancy during the term of a Board member will be filled by the Board of Directors appointing a replacement to serve until the next Annual Meeting.

SECTION 5 - The Board members shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

ARTICLE V - DUTIES OF OFFICERS

SECTION 1 - PRESIDENT: Shall preside at all meetings, appoint committees and their members, and make reasonable decisions and expenditures in an emergency situation (not to exceed \$_____). Shall manage the Company in accordance with the best interests of the majority of the members, with the help of the Board. Shall co-sign all Company checks along with the ("Treasurer." You decide which officers must sign the checks.).

SECTION 2 - VICE PRESIDENT: Shall assist the President as a member of the Board. Assumes the duties of the President in his/her absence.

SECTION 3 - SECRETARY: Shall assist the President as a member of the Board, keep the records of all proceedings of regular and board meetings, and take care of all Company correspondence under the direction of the President.

SECTION 4 - TREASURER: Shall assist the President as a member of the Board, take care of all Company funds, be prepared to give a financial statement when asked, and sign all Company checks along with the ("President." You decide which officers must sign the checks.). Shall deposit all monies at such depository as shall be designated by the Board.

SECTION 5 - (Describe any additional Board members here.)

ARTICLE VI - FINANCES

SECTION 1 - All funds of the Corporation shall be deposited to draw a favorable rate of interest in a bank or other such depository as authorized by the Board.

SECTION 2 - Annual dues will be collected for the purpose of funding maintenance, emergency repairs, and administrative expenses. Dues shall be \$_____, due in (Month), and delinquent after (Month) of each year. (You decide the dollar amount, and whether dues will be based on number of water shares, acreage, by delivery turnout, or a combination thereof). Delinquent dues will be charged interest at the rate of _____% per month until paid. At the recommendation of the Board, a lien may be filed against the property of delinquent water users.

Sample intended for reference use only. Please refer to the references or obtain legal to adapt this sample to your particular situation.

SECTION 3 - Special assessments to fund construction or other major expenses may be determined necessary by the Board of Directors. Any such assessments shall be approved by a majority vote of the membership at the Annual Meeting or at a special meeting. If the membership fails to approve the recommended assessments, the Board of Directors shall have the power to set special assessments as required for the continued operation of the lateral.

SECTION 4 - The Board may authorize any officer or agent to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

SECTION 5 - No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by the Board of Directors. The purpose of said loan must have been approved by a vote of the membership. Such authority may be general or confined to specific instances.

ARTICLE VII - NOMINATIONS AND ELECTIONS

SECTION 1 - The membership will elect the Board of Directors at the Annual Meeting. Nominees may be made by a nominating committee or may be made from the floor.

SECTION 2 - Each member in good standing is entitled to ___ vote(s) _____. *(You decide how voting will be done. Votes could be one per member, one per water share, one per irrigated acre, etc.).*

SECTION 3 - A majority of the voting membership, represented in person or by proxy, including the Board members, will constitute a quorum for conducting business.

SECTION 4 - All members must be notified in writing of the Annual Meeting and the tentative agenda of the meeting. Any member who wishes to vote by proxy must fill out a proxy form prior to the meeting. The proxy form must be signed and dated by the member.

ARTICLE VIII - MEETINGS AND BYLAWS AMENDMENTS

SECTION 1 - The Annual Meeting will be held (“on the first Saturday in February.” You decide if you want to have a certain day specified or not.) for the purpose of electing officers, approving projects and necessary assessments, and setting procedures for the coming year.

SECTION 2 - Special meetings of the membership shall be called by the Board of Directors or at the discretion of the President.

Sample intended for reference use only. Please refer to the references or obtain legal to adapt this sample to your particular situation.

SECTION 3 - Any alterations or amendments to the bylaws will require the approval of _____ (you decide the percentage required to approve a change; for example, "2/3" or "a majority") of the voting membership. Notices of special meetings to approve such proposed changes shall be delivered (you decide; "no less than 1 week" for example) preceding the meeting.

SECTION 4 - All amendments and additions shall be typewritten by the Secretary, signed by the Board, and attached to the original copy of the bylaws.

ARTICLE IX - GENERAL AUTHORIZATIONS



Use this section to include any special rules or provisions that apply to your particular situation.

SECTION 1 - All members are responsible for participating in the spring ditch cleaning, and for keeping the lateral maintained from its beginning at the headgate on the canal to the end of the lateral. The annual spring ditch cleaning will be held ("on the second Saturday in March"). You decide if you want to specify this in the bylaws; you could also specify that a notice will be sent to the membership in advance. Any member not present (or not represented) at the annual spring ditch cleaning shall be assessed a \$ _____ fee.

NOTE:

All irrigation ditches must be ready to receive water by April 1 of each year.

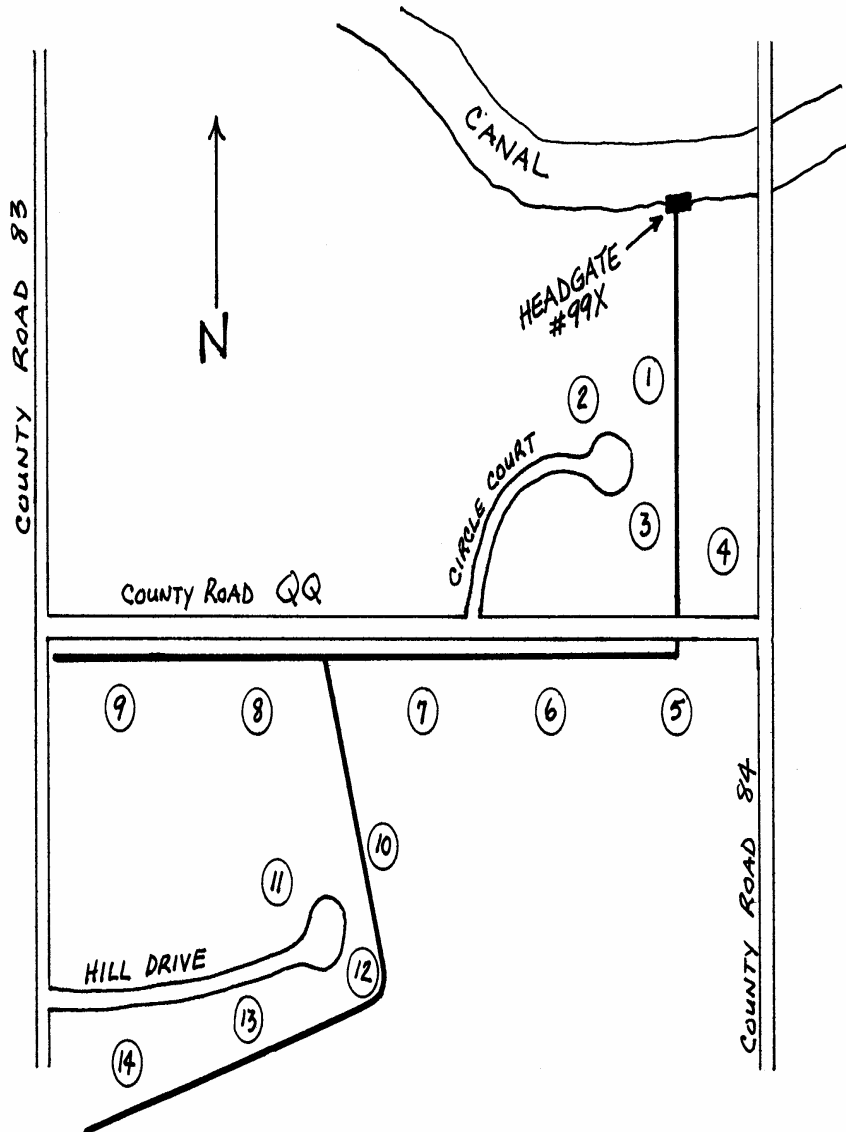
SECTION 2 - In the case of a member's land sold for subdivision, the Board shall require an acceptable plan showing how the entire acreage will be irrigated from the existing lateral to said land.

SECTION 3 - If the ditch is fenced into private property, the property owner will be held financially responsible for any damage caused by the property owner's activities (e.g., breakage or damage caused by livestock in or around the ditch).

SECTION 4 - Any proposed repairs or alterations to the lateral must first be approved by the Board. The Board may authorize funding to complete said repairs.

NOTE: Owners of irrigation ditches must keep the ditch in good repair throughout the irrigation season, prevent water from being wasted, and prevent flooding and/or damage to the premises of others.

SAMPLE SKETCH #2 OF A LATERAL



For this sketch, the roads, main canal, and lateral were all drawn by hand. The lateral was drawn as a line that begins at the headgate on the canal. The line “disappears” where the lateral goes under roads.

Since land parcel boundaries aren’t shown, the numbered circles show the approximate location of each parcel that receives water from the lateral. For each parcel, list the owner’s name, address, and the amount of water the parcel is entitled to receive.

SAMPLE PROXY

- This sample intended for reference use only -

I/We, the undersigned, being the owner(s) of _____ shares of stock or members in the (name of your lateral company), hereby appoint a simple majority of the Board of Directors of the (name of your lateral company), or _____ my true and lawful attorney with power of substitution to represent me (us) and vote my (our) stock or membership in the (name of your lateral company), with full power and authority as I/we would have if personally present, **for this meeting only** on (month, day, year), for the business put before the shareholders or membership at such meeting.

Date: _____

Name (Please print) _____

Name (Please print) _____

(Signature)

(Signature)

(Note: joint ownership/membership requires both signatures.)

GLOSSARY OF TERMS

Including water-related terms and definitions of terms used in this booklet.

Abandonment of Water Right - The abandonment of a water right results from an intent to abandon, coupled with an act evidencing that intent. A conditional water right may be terminated by the water court for failure to pursue a completed appropriation with diligence. The non-use of a perfected water right for an extended period may itself be evidence of an intent to abandon.

Adjudication - The judicial process through which the existence of a water right is confirmed by court decree.

Adverse Use - Using decreed water that is owned by another appropriator. Adverse use for a continuous period of 18 years may result in loss of ownership by the decreed owner and allow subsequent usage by the adverse user.

Appropriation - Application of a portion of the waters of the state to a beneficial use. Often used interchangeably with the term water right.

Appropriator - A person who diverts water and applies it to a beneficial use.

Aquifer - A saturated water-bearing formation, or group of formations, which yield water in sufficient quantity to be of consequence as a source of supply.

Assessment - To charge a person or property with a tax or other special payment (as in annual fees for irrigation water and its delivery).

Beneficial Use - Applying water to a useful purpose in an efficient and responsible manner without being wasteful. Beneficial uses include domestic, agricultural, industrial, municipal, recreational, and mini- mum stream flows filed by the state.

Bylaws - The laws or rules governing the internal affairs of an organization (from the Middle English *bylawe* or “village law”).

Call - The request by an appropriator for water which the person is entitled to under his/her decree. Such a call will force those users with junior decrees to cease or diminish their diversions and pass the requested amount of water to the downstream senior making the call.

Compact - An agreement between states apportioning the water of a river basin to each of the signatory states (as approved by Congress).

Conditional Water Right - An appropriation that has been started but not completed (see Diligence).

Consumptive Use - The amount of water that is consumed and lost to the stream system while applying water to a beneficial use.

Corporation - A legal entity that enables a group of people to pool energy, time and money for profit or nonprofit activities.

Creek - A natural stream of water, normally smaller than, and often tributary to a river.

Decree - An official document issued by the court defining the priority, amount, use, and location of a water right.

Diligence - The efforts associated with developing a conditional water right in order to perfect it as an absolute water right. In Colorado, the owner of a conditional water right must file an application in the Water Court every six years and prove that he or she has been diligently pursuing completion of the work necessary to apply the water to a beneficial use. If diligence is not demonstrated, the water right is lost.

Discharge - The volume of water passing a particular point in a unit of time. Units of discharge commonly used include cubic feet per second (cfs) or gallons per minute (gpm).

Ditch Rider - A person responsible for opening, closing, and adjusting the headgates on an irrigation canal or lateral.

Diversion - Removing water from its natural course or location, or controlling water in its natural course or location, by means of a ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or other structure or device.

Division Engineer - The person charged by delegation from the State Engineer, Division of Water Resources, Colorado Department of Natural Resources, with the duty of administering water flows and diversions within a specific water basin. Their offices are located in the cities where the water courts are located.

Drain - A man-made drainage structure that carries irrigation seepage and tailwater to the river or a natural wash. Usually a V-shaped ditch (open drain) or an unsealed pipeline (tiled drain) that is from 6 to 15 feet deep.

Easement - A right acquired by a person to use the land or property of another person for a specific purpose (for example, allowing a corporation to operate and maintain a lateral that crosses the person's property).

Effluent Discharge - Disposal of water previously used for municipal and household purposes, as in sewage discharge.

Evaporation - The physical process by which a liquid is transformed to the gaseous state; the loss of water to the atmosphere as a result of this process.

Floodplain - An area adjacent to a stream or other water course which is subject to flooding.

Futile Call - Arises when the cessation of diversions by a junior appropriator would not result in a significant increase in water available to a downstream senior appropriator. In such cases the division engineer will determine if the call needs to be honored.

Gage - (also spelled "gauge").

1) An instrument used to measure magnitude or position; gages are used to measure the elevation of a water surface, the velocity of flowing water, the pressure of water, the amount of intensity of precipitation, the depth of snowfall, and so on. 2) The act or operation of registering or measuring magnitude or position. 3) The operation, including both field and office work, of measuring the discharge of a stream of water in a waterway.

Gage Height - The height of the water surface on the gage. Gage height is often used interchangeably with the more general term, stage, although gage height is more appropriate when used with a gage reading.

Gaging Station - A particular site on a stream, canal, lake, or reservoir where systematic observations of gage height or discharge are made.

Headgate - A device that is used to control the diversion of water from a stream, canal, or reservoir.

Headwater - Water that is turned onto the head (upper end) of a field for irrigation purposes.

Incorporator - A person who files the Articles of Incorporation when a new corporation is being formed.

Irrigation - The application of water to crops, lawns, and gardens by artificial means to supplement natural precipitation. Water can be applied by spreading, sprinkling, or dripping.

Lateral - A ditch or pipeline that delivers irrigation water from a canal to one or more water users.

Law of the River - The name applied to the legal framework comprised of interstate and inter-regional compacts, state and federal laws, Supreme Court decisions, and international treaties which govern the distribution of water from the Colorado River system.

Parshall Flume - A device used to measure the flow of water in an open channel (canal or ditch). Named for its developer, the late Mr. Ralph L. Parshall, it consists of three main components: a converging inlet section, a straight throat section, and a diverging outlet section.

Point Source - Pollution from a specific location. **Non-point source** is from a general area.

Priority - The relative seniority of a water right as determined by its appropriation date and the relevant adjudication date of the right. Relative to other water rights, the priority may make a water right “senior” to (pre-dating) other rights or “junior” to (subordinate to) other rights.

Proxy - The written authorization for a person to act for another (for example, submitting a vote).

Quorum - The minimum number of members of an organization who must be present to conduct business.

Ratify - To give formal sanction to, or approve and so make valid.

Registered Agent - The person who is assigned to receive legal documents on behalf of a corporation.

Reservoir - A pond, lake, or basin, either natural or artificial, in which water is stored or controlled.

Riparian Doctrine - The system of water law based on English common law allowing landowners adjoining lakes and rivers to withdraw “reasonable amounts” of water so long as downstream landowners are not unreasonably damaged. Riparian rights are not recognized in Colorado.

River Basin - The area drained by a river and its tributaries.

Runoff - Precipitation that flows to and in surface streams; renewable water.

State Engineer - The person charged by state law with the supervision and administration of water and the enforcement of decreed priority and legislative enactments. The State Engineer discharges the obligations of the State of Colorado imposed by compact or judicial orders and coordinates the work of the Division of Water Resources with other government departments. The State Engineer has rule-making obligations and supervisory control over measurements, record keeping, and distribution of the public waters of the State and all employees under his/her direction and any other such acts as may be reasonably necessary to enable the performance of his/her duties.

Tailwater - Irrigation water that runs off the end of a field. The water user is responsible for the tailwater until it reaches a natural or man-made drainage (e.g., wash, creek, river, drain, etc.), including preventing flooding and/or damage to the property of others.

Tributary - Water that is interconnected with a stream system either by surface or underground flows. Under Colorado law, all surface and groundwater, the withdrawal of which would affect the rate or direction of flow of a surface stream within 100 years, is considered to be tributary to a natural stream.

Wash - A natural watercourse or the dry bed of an intermittent stream. In many areas of the western United States, washes carry irrigation tailwater to the rivers.

Water Court - A specific district court that has exclusive jurisdiction to hear and adjudicate water matters. There are seven water courts in Colorado, each presided by a water judge who is also a district court judge. The seven Colorado water courts are located as follows:

Division 1 - Greeley
Division 2 - Pueblo
Division 3 - Alamosa
Division 4 - Montrose

Division 5 - Glenwood Springs
Division 6 - Steamboat Springs
Division 7 - Durango

Water Development - The process of building diversion, storage, pumping, and/or conveyance facilities to apply water to beneficial use.

Water Right - The right to use water for a given beneficial purpose with a specific priority.

Watershed - The area from which water drains to a single point.

Weir - An overflow structure built across an open channel, usually to measure the rate of flow of water.

Well Permit - The granting of permission by the State Engineer to allow the digging of a hole in search of groundwater to apply to a beneficial use.

REFERENCES AND INFORMATION SOURCES

Publications about Water:

Colorado Water Laws: A Compilation of Statutes, Regulations, Compacts and Selected Cases.

Colorado State University
Fort Collins, CO 80523

Synopsis of Colorado Water Law
State of Colorado, Div of Water
Resources, Records Section
1313 Sherman Street, Rm 818
Denver, CO 80203
303-866-3447

YColorado Citizens' Water Law Handbook
Colorado Endowment for the
Humanities Project
(out of print; available at Mesa County
Public Library)

YA Landowner's Guide to Western Water
Rights
The Watercourse
201 Culbertson Hall
Montana State University
Bozeman, MT 59717
406-994-5392

YColorado Water
Colo. League of Women Voters
1410 Grant Street, B-204
Denver, CO 80203
303-863-0437

*YThese publications are available at
Mesa County Public Library.*

Non-Profit

Ditch & Reservoir Company Alliance
950 South Cherry Street, Suite 508
Denver, CO 80246-2664
303.758.3513 x12
email: info@darca.org
website: www.darca.org

Irrigation Providers of the Grand Valley
website: <http://www.irrigationprovidersgv.org/index.html>

Incorporating in Colorado:

Colorado Secretary of State
Corporations Section
1560 Broadway, Suite 200
Denver, CO 80202
303-894-2251

Publications about Incorporating:

How to Form a Nonprofit Corporation
Nolo Press
950 Parker Street
Berkeley, CA 94710-9867
1-800-992-6656

Incorporating in Colorado Without a
Lawyer
Consumer Publishing Corp.
11409 Municipal Center Drive
Concord, TN 37933-1830
1-800-677-2462



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U.S. Natural Resources Conservation Service, 970-242-4511
or your local irrigation company/district

