

APPROVED (Except for Yellow Highlights)

BYLAWS
OF
SQUAW CREEK DITCH COMPANY
Sweet, Idaho
An Idaho Nonprofit Corporation
Adopted as amended, February 5, 2018

SQUAW CREEK DITCH COMPANY

Sweet, Idaho

BY-LAWS

These Bylaws govern the conduct and affairs of the **Squaw Creek Ditch Company** (hereafter “the Company”). These Bylaws both incorporate and supersede all previous Bylaws and Amendments of the Company previously adopted.

ARTICLE 1

AUTHORITY AND PURPOSE¹

1. Authority. The Company, formed in 1896, is a privately-formed, Idaho nonprofit, fee collecting company that delivers water to its shareholders for irrigation purposes. The Company’s place of use is found at the Idaho Department of Water Resources and generally defined through Idaho Code and the Snake River Basin Adjudication.

2. Purpose. The Company’s primary purpose is to deliver irrigation water via the Squaw Creek Ditch (Ditch) to the headgates of its stockholders situated within the Company’s service area.

3. Website. The Company’s website shall be www.squawcreekditch.com. All notices and company documentation shall be archived at the website. The website shall serve as the official public repository for all Company notices and documentation, including previous bylaws previously adopted in 1976, 1995, and 2005.

ARTICLE 2

DITCH DESCRIPTION AND MAINTENANCE²

1. Ditch Description. The Ditch shall consist of all works, structures, in an around the Ditch, including any and all dams, overflows, checks, main ditch weir, flood gates, flumes, culverts, and measuring devices, as well as all real and personal property rights of every name, nature and description, including any easements owned or historically used by the Company, or which may be acquired or used hereafter by the Company for the purpose of diverting water under the water rights of the Company from the public, or any private, water supply.

2. Ditch Maintenance. The Company shall operate, maintain, protect, repair and replace the Ditch and all essential and proper parts thereof, at the Company’s expense, during the life of the Company.

3. Delivery of Ditch Water. The Company’s main responsibility shall be the delivery of irrigation water to the head gates currently located along the Ditch. Weather

¹ Amendment approved by shareholders at the February 2017 annual meeting.

² Amendment approved by shareholders at the February 2017 annual meeting.

permitting, delivery of said irrigation water shall commence on or about April 15th each year, and cease on or about October 15th. Delivery of water past the head gates to the laterals, including resolution of lateral disputes, shall be the sole responsibility of the stockholders (see Article 9). Weather permitting, delivery of stock water to stockholders shall be at the Company's convenience. The Company shall have no responsibility to manage or control drainage or seasonal runoff on or from a stockholder's property.

4. Ditch Right-of-Way. Except in cases where a right-of-way has been duly conveyed and/or recorded, the Company has an historical easement by prescription over all land on which the Ditch is located. The width of the Ditch right-of-way acquired by prescription is that width which historically has been used by the Company in its act of constructing, maintaining, managing, overseeing, cleaning, repairing, reconstructing and improving the Ditch. The width includes, but is not limited to:

- (a) the area between the two banks of the Ditch where the water shall naturally run,
- (b) the banks themselves,
- (c) the roadway or roadways on the banks of the Ditch which have been used to construct, maintain, repair, and oversee the distribution of water from the Ditch,
- (d) the cut bank or the area from which excavations have been necessarily made to construct or maintain the Ditch,
- (e) the area where fill has been added to construct or maintain the Ditch.

5. Ditch Obstructions and Trespassing. Except in the case of a public emergency no landowner or any other person or entity shall temporarily or permanently erect, place, suffer, or permit *anything* to be placed or located in, on, or under the Ditch or the Company's Ditch Right-of-Way without the prior express permission of the Company. These include without limitation: people, pipes, rocks, pumps, bridges, planks, walkways, cables, wires, structures, buildings, poles, ramps, corrals, loading chutes, sheds, improvements, equipment, obstructions, or anything which blocks the free and unobstructed use and passage over the entire width of the Ditch Right-of-Way. However, a landowner shall be permitted to erect on his property boundaries a fence up to the roadway used to construct and maintain the Ditch. In no case, shall a landowner construct a fence across the roadway, but a landowner may place a metal pipe panel sixteen feet (16 ') in width across the roadway. The panels and location of the fences must be approved in writing by the Company. Also, the panel may not be locked but may be latched by a method which permits it to be entirely removed and laid on the ground by the Company or its agent(s).

6. Head Gates. No new or existing head gate shall be installed, modified, or maintained in the Ditch without the prior written consent and supervision of the Company. All necessary and reasonable costs of construction, including Company supervision, engineering, and materials, shall be borne by the landowner. Notwithstanding, in no case shall any new or existing installation, modification, or maintenance occur once irrigation water is placed in the Ditch.

7. Flood Gates. The Company shall have the sole and exclusive control and maintenance over the Ditch Floodgates. Any unauthorized modification, or tampering with

said floodgates is strictly prohibited.

8. Improvements and Subdivisions. When any land that is being served by a head gate is partitioned, or divided into parcels and the parcels are owned by different persons, before water shall be delivered through the head gate, the owner(s) or subdivider(s) of the land shall be required at their own expense to pay for the engineering and installation of a measuring device capable of measuring the water flowing through the head gate. The construction and type of measuring device shall be subject to the prior approval of the shareholders at an Annual or Special Meeting. Also, the owner must demonstrate that the measuring device is capable of accurately measuring the flow of water by casual observation of Company's ditch rider.

9. Tiling Ditch. Subject to the provisions herein, no Landowner shall be permitted to cover, enclose, or tile any part of the Ditch without obtaining in advance the prior written approval of the Company.

10. Engineering.³ Any landowner or developer required to do engineering work under this Article shall:

- (a) Obtain plans from a registered professional engineer and submit them to the Company for its approval.
- (b) Tender to the Company a budget for the total estimated cost of retaining the services of a professional to review the plans, supervise the construction, and final inspection.
- (c) Enter into an agreement whereby the Landowner and his successors and assigns agree to maintain the works placed in the Ditch and be responsible for the effects of having placed the works in the Ditch, as well as bear the costs of preparing and recording the agreement at the County Clerk's office.

11. Scarcity of Water. If at any time, there is not sufficient water to supply all stockholders in the Company with the full amount that they are entitled to receive, all users of water shall be ratably reduced by the same percentage amount. Thereafter, all diversions from the Ditch to each stockholder shall be ratably reduced to comply with that lesser amount.

ARTICLE 3 RENTAL POOL⁴

1. Purpose. The Company shall establish a mechanism to create an annual "Rental Pool" for the seasonal rental of stock by and between Company shareholders only. The practical application of the rental pool is to temporarily adjust water within the Company's place of use to allow increased access to those who have a greater need for water. All rental of stock must be approved by the Board in its sole discretion, but in no case shall any such rental: (i) be construed as a transfer of water rights, (ii) cause any harm to other stockholders, (iii) conflict with applicable Idaho Code, or (iv) violate the Snake River

³ Tabled at the March 2017 until the next annual meeting.

⁴ New Article approved by shareholders at the February 2017 annual meeting.

Basin Adjudication decrees.

2. Rental Pool. The Rental Pool shall consist of Company shares both in good standing and those that are delinquent (see Article 8). Shareholders having shares to rent (Lessors) and those who wish to rent those shares (Lessees) shall promptly notify the Company of their intended status within a week after the annual meeting.

3. Rental Pool Fees. The Board shall set a Rental Pool Fee payable as follows: (a) *Shares in Good Standing.* The Lessee shall pay the Lessor's annual assessment plus a Administrative Fee of \$100 to aid with costs associated with management of the Rental Pool. Payment of the Rental Pool Fees must be made to the Company prior to delivery of water to the Lessee. (b) *Delinquent Shares.* The Lessee shall pay the Administrative Fee, plus the Lessor's current annual assessment, plus a negotiated delinquent assessment. Payment of the Rental Pool Fees must be made to the Company prior to delivery of water to the Lessee.

4. Rental Pool Meeting. The Board shall compile and publish a current list of potential Lessors and Lessees on the Company website, with the Board convening a special meeting on the 1st Monday of March to finalize these transactions.

ARTICLE 4

STOCKHOLDER RIGHTS AND STOCK CERTIFICATES

1. Power in Stockholders. Except as otherwise provided in the Company's Articles of Incorporation, these Bylaws, or the laws of the State of Idaho, all authority, rights, and power with respect to the Company shall be vested in the stockholders.

2. Good Standing. Except as otherwise provided in the Company's Articles of Incorporation, these Bylaws, or the laws of the State of Idaho, a stockholder in "good standing" shall mean a stockholder who is current in payment of his annual assessment fees (see Article 8).

3. Right to Vote Shares. Each stockholder in good standing shall have the right to vote, in person or by proxy, at stockholder meetings and shall be entitled to one vote for each share of stock (or acre of land) owned by that individual within the service area.

4. Right to Inspection. All books, papers and records of the Company in the hands of any officer of the Company shall be subject to inspection by any officer, director or stockholder in good standing, upon reasonable demand of place and time.

5. Right to Certificate of Stock. Current ownership and voting rights in the Company shall be evidenced by certificates of stock (paper or electronic) in a form adopted by the Board of Directors, to be signed by the President and the Secretary, and be attested by the corporate seal. All certificates shall be consecutively numbered. The name of the person owning the shares represented thereby, with the number of such shares and the date of issue, shall be entered on the Company books. All certificates of stock transferred by endorsement thereof shall be surrendered for cancellation and new certificates issued to the purchaser or assignee. Shares of stock shall be transferred only on the books of the Company by the holder or by his/her designee. Each share of company stock shall represent one inch

of water.

ARTICLE 5

STOCKHOLDER MEETINGS

1. Annual Meeting. The annual meeting of the stockholders of the Company shall be held at a designated place and time in Gem County, Idaho, on the 1st Monday of February of each year.

2. Notice of Annual Meeting. At least ten (10) days prior to said annual meeting, a notice setting out the time and place of such annual meeting shall be placed on the Company's website and delivered to each stockholder using USPS, or any appropriate electronic service, including robo-calls, social media, and/or emails. Any notice under this paragraph shall be sent to the stockholder at their physical or electronic address as it appears in the Company's database. The shareholder is responsible to ensure the Company has current contact information, including mailing address, main phone number, and email if available.

3. Quorum and Voting. For the purpose of electing directors or voting on any matter submitted to a vote at any annual meeting or special meeting, those stockholders in good standing who are present in person or represented by proxy shall constitute a quorum.

4. Special Meetings of the stockholders shall be held at a designated place and time as determined by the Directors. Such meetings may be called at any time by the President, any two Directors, or by fifty-one (51%) percent of stockholders in good standing. The Secretary shall send notice to all shareholders as indicated in Paragraph 2 at least ten (10) days before such meeting, and such notice shall state the time and place of such meeting and the object thereof. No business shall be transacted at a special meeting except as stated in the notice sent to the stockholders, unless by the unanimous consent of all stockholders, either in person or by proxy, all such stock being represented at the meeting.

5. Order of Business. The following order of business shall be observed at all annual and special meetings of the stockholders so far as is practicable, to-wit:

- (a) Calling the Roll
- (b) Reading, correction, and approval of minutes of previous meeting.
- (c) Reports of Officers and Chairman
- (d) Reports of Committees
- (e) Old or Unfinished Business
- (f) New Business (including Annual Budget and Assessment)
- (g) Nomination and Election of Directors

ARTICLE 6
DIRECTORS⁵

- 1. Number and Term.** The Company shall have a board of five (5) directors, chosen by the stockholders at their annual meeting to manage the affairs of the Company. Board members shall serve staggered two-year terms.
- 2. Eligibility.** To be eligible to serve on the Board of Directors, an individual must be a shareholder in good standing or hold shares, either by record or by written proxy.
- 3. Vacancies** on the Board of Directors by reason of death, resignation, or other causes, shall be filled by an appointment of the remaining Directors, and any appointee shall hold office for the unexpired term for which he is appointed and until his successor is elected and qualified.
- 4. Meetings and Quorum.** Meetings of the board of Directors shall be held at such times and places as the Board of Directors shall by resolution appoint. A majority of the Directors shall constitute a quorum. Unless requested by the Board, no minutes of meetings without stockholders present shall be required.
- 4. Powers.** The Directors shall have the general management and control of the business and affairs of the Company and shall exercise all the powers that may be exercised or performed by the corporation, under the statutes, the certificates of incorporation, and by-laws.
- 5. Compensation and Expenses.** The Directors shall receive no pay, salary or wages; however, any Director shall be entitled to reimbursement for any reasonable costs or expenses suffered or paid by the Director as a result of the Company's business. Any such claim for reimbursement shall be supported by proper evidence of payment.
- 6. Insurance and Indemnification.** The Company shall purchase and maintain adequate and acceptable insurance for the activities of its directors, officers, and any contractor. Each director and officer of the Company, now or hereafter serving as such, shall be indemnified and held harmless by the Company against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as a director or officer of the Company, except for claims and liabilities arising out of said director's purposeful misconduct or gross negligence. No director of the Company shall be personally liable to the Company or its stockholders for monetary damages, except for breach of a director's duty of loyalty to the Company or its stockholders, for acts or omissions not in good faith or which involve the intentional misconduct or a knowing violation of the law, for liability under § 30-1-833 of the Idaho Code, or for any transaction from which the director derived an improper personal benefit.

⁵ Amendment approved by shareholders at the March 2017 annual meeting.

ARTICLE 7

OFFICERS

1. **Introduction.** The officers of the Company shall be appointed by the Directors and serve at their pleasure. The officers shall consist of a President, a Vice-President, a Secretary, a Treasurer, a Ditch Rider, and such other officers as shall from time to time be chosen. The duties set forth below are only for illustrative purposes and may be changed from time to time by the Directors. Any of the officers below may be a Director.

2. The **President** shall preside at all meetings of the Directors and stockholders and shall have general charge of, and control over, the affairs of the corporation and be subject to control of the Board of Directors.

3. The **Vice-President** shall perform such duties as may be assigned by the Board of Directors. In the case of the death, disability or absence of the President, the Vice President shall perform and be vested with all of the duties and powers of the President.

4. The **Secretary** shall have the following duties: countersign all certificates of stock of the Company, keep a record of the minutes of the proceedings of meetings of stockholders and Directors, give notice as required in these by-laws of all public meetings, keep track of shareholders' payments and shareholders in good standing and those delinquent, have custody of all books, records, and papers of the company, except such as shall be the charge of some other duly appointed person, create reports as requested by the Directors, keep and reconcile accounts of all monies of the Company received or disbursed, and shall deposit all monies and valuables in the name of and to the credit of the Company in such banks and depositories as the Board of Directors shall designate, and other duties as may be assigned from time-to-time by the Directors.

5. The **Treasurer** shall keep the Company's main operating checkbook and debit cards, and make all payments on behalf of the Company, with checks over \$500 countersigned by two Directors, create a "Financial Report" for the Annual Meeting, and other duties as may be assigned from time-to-time by the Directors.

6. The **Ditch Rider** shall report directly to the Board and shall operate under its direction and supervision and shall be in charge of the seasonal maintenance of the Ditch and serve as the Company's investigator and enforcement officer. The Ditch Manager shall have general charge and control over all Ditch maintenance, operations, and functions except the duties designated by law to be performed by the secretary, treasurer, or other Company officers.

ARTICLE 8

ASSESSMENTS, DELINQUENCIES, AND REMEDIES

1. **Introduction.** Monies necessary for maintaining and operating the Company's irrigation system, payment of corporate indebtedness, or any other budgeted purpose the Board determines to be in the best interests of the Company, shall be raised by an annual assessment levied upon stock held by the Company's stockholders in the manner provided by these Bylaws. In addition to such assessments, the Company may make administrative

charges, as well as other reasonable charges to offset related expenses in connection with the diversion, conveyance, drainage or delivery of water to any stockholder or other person or entity with whom the Company may contract. Nothing herein shall be construed to prevent or limit the power of the Company to borrow or enter into appropriate financing agreements.

2. Annual Assessment. At the Company's annual meeting, the stockholders in good standing shall meet and determine the Annual Assessment which shall consist of two parts: a per-share assessment, and an "emergency maintenance fee" (EMF). The per-share assessment shall be determined by dividing Company's annual operating budget by the number of issued and outstanding shares of the Company. In determining the per-share assessment, the stockholders may take into account existing debt service, delinquent accounts, and other contingencies. In addition to this per-share assessment, each stockholder/landowner shall pay an EMF to be determined by the stockholders,⁶ for foreseeable or unforeseeable repairs and upkeep of the Ditch, fixtures, and irrigation system of the Company. Together, the per-share assessment and the EMF shall be referred to as the Annual Assessment.

3. Annual Assessment Notice and Payment Due Date. The Notice of Annual Assessment (annexed hereto) shall be delivered to each stockholder via email and/or USPS postage prepaid. The Annual Assessment shall be due and payable to the Treasurer of the Company as of the 15th day of March of the same year, either in full, or in regular installments.

4. Special Assessments. Monies necessary for non-budgeted matters shall be raised by a special assessment levied upon stock held by the Company's stockholders at a special meeting called for that purpose, as provided in Article 4 of these Bylaws.

5. Delinquencies and Remedies. (a) Deadline. Any stockholder who has not made any payment towards the annual assessment by April 15th of each year shall be considered delinquent. In that event, the Secretary shall cause a Notice of Delinquency to be sent to said delinquent stockholder via USPS certified mail, as well as posted at the Company's website, and if so requested by the Board, shall cause said notice to be published in a newspaper of general circulation. (b) Remedies. In the event the Annual Assessment becomes delinquent, the Company may refuse, without liability, to furnish water to said delinquent stockholder(s) until any delinquent assessment(s) are brought to a current paid status, and with consent, make those delinquent shares available for rent in the Article 3 Rental Pool. However, the Company can provide water for said delinquent user if the user gives reasonable security for the payment of such assessment against said delinquent landowner. In the event said action(s) shall infringe upon the rights of stockholders past the headgate, stockholders may exercise their rights under Idaho Code found in Article 8 "Lateral Associations." In addition, the Secretary shall, on or before the 1st day of September of each year, file for record with the county recorder of Gem County, a statement in writing in the form set forth by Gem County. In the event any amount of the annual assessment remains unpaid by the annual meeting of any year, the board may instruct the Secretary to file a

⁶ Amendment approved at the February 5 2018 annual meeting.

claim of lien against the lands of each individual stockholder whose stock is then delinquent.

ARTICLE 9
LATERAL ASSOCIATIONS

The Company's responsibility to deliver irrigation water ends at the head gates along the Ditch. In the event of disputes involving delivery of water past the head gate to a lateral, Idaho Code gives stockholders (lateral users) certain rights and remedies, including the right to form a Lateral Association. Stockholders may refer to the Company's website www.squawcreekditch.com for further information about lateral users' rights and responsibilities under Idaho Code.

ARTICLE 10
MISCELLANEOUS

1. Seal. The corporate seal of the Company shall be a circular seal in a form acceptable to the Board of Directors.
2. Any of these By-laws may be amended by a majority vote of the stockholders in good standing at any regular meeting or any special meeting called for that purpose.
3. Upon dissolution of the Company, the net assets shall be distributed to stockholders in proportion to each stockholder's equity interest therein.

ARTICLE 11
ATTESTATION

Each of the undersigned do hereby certify that the foregoing By-laws were duly presented to the stockholders of the Company at the annual meeting February 2017, and that said By-laws were adopted and approved by the stockholders pursuant to Idaho Code 30-13, and the Secretary of the Company was directed to record said By-laws as provided by Idaho law.

DATED and SIGNED the 5th day of February, 2018.

/s/Joseph Zavaletta
Chairman, President

/s/Roy Moses, Director
Vice President

/s/Creek Walker, Director
Ditch Rider

(Corporate Seal)

JaNae Neyman
Secretary, Treasurer