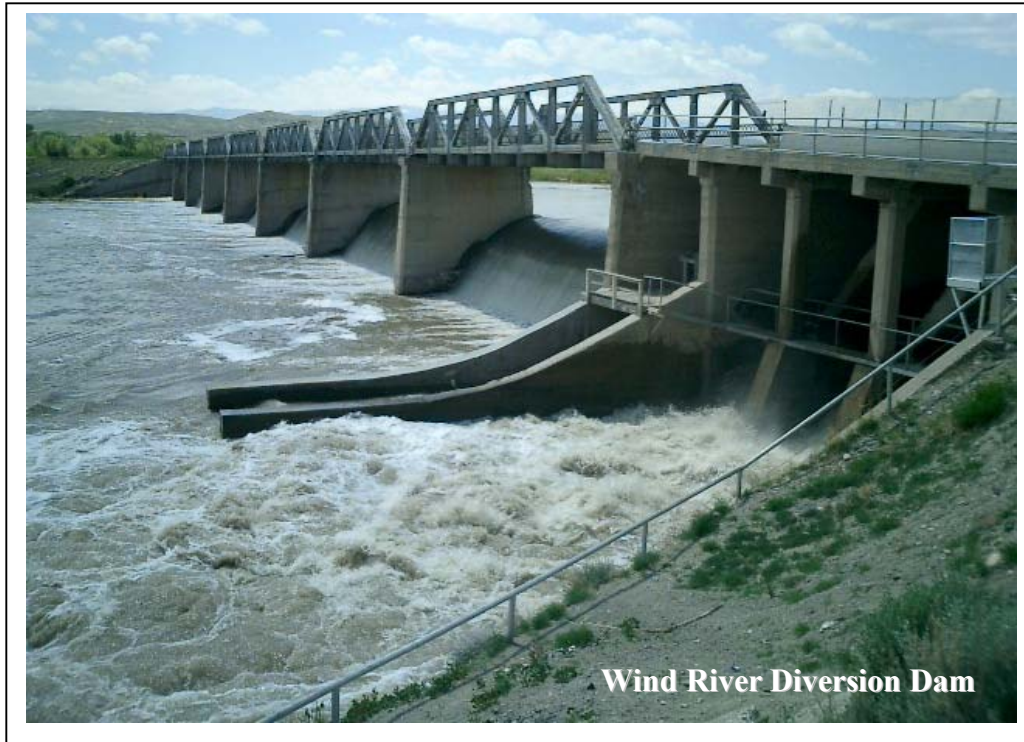


# Midvale Irrigation District



## Handbook of Water User Rules, Policies and Procedures and District By-Laws

### Effective Dates

Rules, Policies and Procedures: August 25, 2004

By-Laws: January 30, 2007

# **Midvale Irrigation District**

## **Handbook of Water User Rules, Policies and Procedures And District By-Laws**

### **Effective Dates**

Rules, Policies and Procedures: August 25, 2004

By-Laws: January 30, 2007

### **Published By:**

Midvale Irrigation District

P.O. Box 128

Pavillion, WY 82523

307-856-6359

[midvale@wyoming.com](mailto:midvale@wyoming.com)



## District Authority

Midvale Irrigation District was organized under Wyoming Statutes 41-7-101 et seq by the landowners within the District that own land susceptible to irrigation from a common source and who receive irrigation water through a common water delivery system. The powers and duties of the District are enumerated in State and Federal law and the “Amendatory Repayment Contract between the United States of America and the Midvale Irrigation District Covering All Lands of the Riverton Unit” executed in 1971 (contract No. 14-06-600-444A). **None of the policies in this handbook are intended to abrogate or alter a water user’s rights or duties under state or federal law but only to reiterate and extend those rights or duties.**

The Bureau of Reclamation, Department of the Interior, United States of America, pursuant to the 1971 repayment contract, retains title to all physical structures managed by the District. The District will retain control of the system as long as it conforms to the terms and conditions of the 1971 repayment contract. The United State’s title to all physical structures includes right-of-way easements retained along or adjacent to all United States owned facilities. The 1890 Canal Act, the law interpreting same, and State Law, dictates the scope and uses of said rights-of-ways. In accordance with the 1890 canal act, the easements are not for public access.

Wyoming Statutes dictate the organizational structure of the District and the election and duties of its Commissioners and Officers. Wyoming law further dictates the method and procedure for the levying of operation and maintenance (O&M) and construction assessments on land within the District and grants an automatic lien upon the land for enforcement of the same. It further provides for the appropriation of water by diversion for beneficial use by the District.

## Water Rights Held by the United States

The United States provides for the irrigable lands included in the Midvale Irrigation District, a water right for domestic and agricultural purposes from the waters of the Wind River and its tributaries under Wyoming Permit No. 7300 in accordance with the provisions of Reclamation Law, subject to the terms and conditions of the 1971 repayment contract and the provisions of the State and Federal laws applicable. In accordance with the terms of Wyoming Permit No. 7300, approximately 1,066.6 cubic feet per second can be diverted into the Wyoming Canal for irrigation of the lands within the District. In addition to Permit No. 7300, the United States holds the following storage rights for the benefit of the irrigable lands of the District:

<b>BULL LAKE</b>	151,951 Acre Feet, Completed July 1938, Permit No. 1408-R and 3912-RE, Priority Dates 12-26-06 and 1-20-1923.
<b>PILOT BUTTE</b>	34,600 Acre Feet – (with an active capacity of approximately 31,500 acre feet). Permit No. 878-R, Priority Date 8-7-1906.

## **Landowner Right to Use of the Delivery System and Proportionate Share of Available Irrigation Water**

In accordance with the 1971 repayment contract, “each acre of irrigable land which is now or hereafter included in the District, and which is not delinquent in the payment of any charge or charges contemplated by this contract, shall have a perpetual right to a proportionate use of the irrigation works constructed for the sole benefit of the lands in the District and the irrigation works constructed for the joint benefit of the lands in said District, and the lands of the project as a whole, for the diversion, storage, conveyance, distribution and delivery of water” and, “the amount of water to be furnished shall be an equitable proportionate share of the water for irrigation actually available for all of the area being watered from the same source of supply.”

### **Extent of District’s Responsibility**

The District has the responsibility and authority to operate and maintain the water delivery system. The system includes but may not be limited to: canals, laterals, pipelines, and open drains. The District’s responsibility ends with the measuring device associated with a given water delivery turnout, and resumes with an associated waste water inlet pipe that discharges into an open or closed drain that resides on a District operated easement. The District does not have the responsibility to operate and maintain water delivery systems between the water measurement point and the point of discharge of waste water into an open or closed drain.

# Table of Contents

*Page*

<b><u>District Authority</u></b> .....	i
<b><u>Water Rights Held by the United States</u></b> .....	i
<b><u>Landowner Right to Use of the Delivery System And Proportionate Share of Available Irrigation Water</u></b> .....	ii
<b><u>Extent of District’s Responsibility</u></b> .....	ii
<b><u>Table of Contents</u></b> .....	iii
<b><u>Rule 1</u></b> Definitions Used in the Interpretation of these Rules.....	1
<b><u>Rule 2</u></b> Definitions: Purpose of Rules	
2.1 Generally .....	3
<b><u>Rule 3</u></b> Definitions: Use, Effect, and Enforcement of Rules	
3.1 Generally .....	3
3.2 Enforcement of Rules.....	4
<b><u>Rule 4</u></b> Definitions: Amending of Rules	
4.1 Generally .....	4
<b><u>Rule 5</u></b> Definitions: Headings and Captions	
5.1 Generally .....	4
<b><u>Rule 6</u></b> Definitions: Severability	
6.1 Generally .....	4
<b><u>Rule 7</u></b> <b><u>Water Delivery</u></b>	
7.1 Assessments and Excess Water Charges .....	4
7.2 Landowner Certification Forms.....	5
7.3 Water Allotment, Delivery Rate, Beginning and Ending Dates of Irrigation Season .....	5

7.4	Transfer of Water Allotments .....	5
7.5	Measurement of Water .....	6
7.6	Accounting of Water Use .....	6
7.7	Persons Authorized to Complete Water Order Requests.....	6
7.8	Ordering Water.....	6
7.9	Operation of Water Delivery Turnouts.....	7
7.10	Excess Water Charge.....	7
7.11	Sealing of Turnouts.....	7
7.12	Modification of Water Delivery Systems and Structures / Interference With Water Measurement .....	7
7.13	Release of Individual Water Use Records .....	7

**Rule 8**    **Use of Easements**

8.1	Generally .....	8
8.2	Building Upon, Constructing Upon, Controlling, Modifying or otherwise occupying Easements.....	8

**Rule 9**    **Minimum Requirements for Building Upon,  
Constructing Upon, or otherwise Modifying  
Easements**

9.1	Generally .....	8
9.2	Bridges Installed on Easements.....	8
9.3	Culvert Crossings Installed on Easements .....	9
9.4	Cattle guards and Gates Installed on Easements.....	9
9.5	Pump Installation on Easements .....	9
9.6	Water Gap Installation on Easements.....	10
9.7	Waste Water Inlet Pipe Installation on Easements.....	10

**Rule 10**    **General Water User Policies**

10.1	Installation of New Water Delivery Turnouts.....	10
10.2	Drains .....	10
10.3	Diversion of Water from Drains.....	11
10.4	Lowering of Underground Drain Manholes .....	11
10.5	Waste Water.....	12
10.6	Waste Water and Waste Water Inlet Pipes on Drains .....	12
10.7	Unauthorized and/or Unlawful Discharge into the System .....	12
10.8	Rental of District Owned Equipment.....	12
10.9	District Credit Policy .....	13

10.10 Material Purchases from the District ..... 13

**By-Laws of Midvale Irrigation District ..... 15**

**Article I      Name and Control**

    Sec. 1 Name ..... 16

    Sec. 2 Control..... 16

**Article II      Meeting of Landowners**

    Sec. 1 Annual Meeting ..... 16

    Sec. 2 Notice ..... 16

    Sec. 3 Special Meetings ..... 16

    Sec. 4 Notice of Special Meeting ..... 17

    Sec. 5 Order of Business ..... 17

    Sec. 6 Nomination of Candidates for Commissioner ..... 17

    Sec. 7 Election of Commissioners ..... 17

        A. Election and Qualification..... 17

        B. Methods for Voting..... 17

        C. Mail Ballots..... 18

        D. Appointment of Election Judges ..... 18

        E. Order of Voting on Election Day ..... 18

        F. Election by Majority..... 18

**Article III      Commissioners**

    Sec. 1 Election and Tenure ..... 19

    Sec. 2 Removal and Vacancies..... 19

    Sec. 3 Meetings..... 19

    Sec. 4 Special Meetings ..... 19

    Sec. 5 Quorum..... 19

    Sec. 6 Order of Business ..... 20

    Sec. 7 Manner of Voting ..... 20

    Sec. 8 Committees ..... 20

**Article IV      Officers**

    Sec. 1 Number ..... 20

    Sec. 2 Election and Tenure ..... 20

    Sec. 3 Removal ..... 20

    Sec. 4 Vacancy..... 21

    Sec. 5 Duties of President..... 21

    Sec. 6 Duties of Vice President ..... 21

    Sec. 7 Duties of Secretary-Treasurer ..... 21

**Article V      Corporate Seal**

    Sec. 1 Description of Corporate Seal..... 21

**Article VI      Amendments**

    Sec. 1 Procedure to Amend By-Laws ..... 21

**Article VII      Enacting Clause**

    Sec. 1 Effective Date..... 22



**Example of How Water Charges are Calculated ..... 23**

# **WATER USER** **RULES, POLICIES AND** **PROCEDURES**



**Adopted: August 25, 2004**

## **Rule 1 Definitions Used in the Interpretation of these Rules**

### **1.1 Allotment**

A quantity of water, measured in acre-feet, determined by the Commissioners to be the proportionate share of irrigation water available to each assessed irrigable classed acre within the District for a water year.

### **1.2 Bridge**

A structure installed over a watercourse that allows access, from one side to another of said watercourse.

### **1.3 Cattle Guard**

A device installed in a roadway in lieu of a gate, typically of metal construction, that impedes or prevents the movement of livestock.

### **1.4 Commissioners**

The duly elected officials of the District that comprise the Board of Commissioners who are charged with developing policies and rules under which the District operates.

### **1.5 Culvert**

A pipe, tube, or other device installed in a watercourse that allows access from one side to the other of said watercourse that is not a bridge.

### **1.6 District**

Midvale Irrigation District, an entity organized under and by virtue of the laws of the State of Wyoming, inclusive of its commissioners, officers, employees, agents, or other legal representatives.

### **1.7 Ditchrider**

A person employed by the District whose duties include, but may not be limited to, the operation and management of a portion or portions of the system operated and maintained by the District.

### **1.8 Diversion of Water**

The change in direction of flow of water, via a water delivery turnout, pump, siphon, etc., from one watercourse to another watercourse.

### **1.9 Easement**

The District's right of use of land on, in, around, under or adjacent to the system managed by the District.

### **1.10 Gate**

A device installed across a roadway that excludes vehicular, pedestrian, or livestock movement, typically constructed out of metal pipe, wood, wire, etc.

### **1.11 Irrigable Classed Acre**

An area of land consisting of 43,560 square feet, that has been determined by the Bureau of Reclamation, Department of Interior, United States, to be capable of supporting agricultural production in a sufficient quantity and with enough regularity to allow for the repayment of construction costs in accordance with the 1971 repayment contract.

### **1.12 Pump**

A device used to mechanically move water.

- 1.13 Seal**  
A device or combination of devices (padlock, chain, numbered metal band, etc.) that is installed by the District to prohibit operation or modification of adjustment of any water delivery turnout or entry to any or operation of any District operated facility.
- 1.14 System**  
The dams, canals, laterals, pipelines, open and closed drains, waste water inlet pipes, or other facilities, and associated easements, operated and maintained by the District in accordance with the 1971 repayment contract.
- 1.15 Watercourse**  
A natural or manmade canal, lateral, pipeline, ditch, drain, etc that confines the flow of water to a certain direction.
- 1.16 Water Delivery Turnout**  
A device through which the flow of irrigation water from the system is regulated, typically consisting of a metal slide gate installed on a concrete structure and/or a valve installed on a system pipeline, which may or may not include an associated water measurement device (weir, flume, flow meter, etc.).
- 1.17 Water Gap**  
A fenced structure that allows limited access to an open drain for livestock to water.
- 1.18 Water User**  
Any person, partnership, firm, corporation, municipal corporation, governmental or proprietary body, association of such persons or agent of such entity that has the right by virtue of ownership of irrigable classed acreage or temporary water service contract to receive irrigation water through the system operated and maintained by the District.
- 1.19 1971 Repayment Contract**  
The “Amendatory Repayment Contract Between the United States of America And The Midvale Irrigation District Covering All Lands Of The Riverton Unit” (Contract No. 14-06-600-444A).

## **Rule 2 Definitions: Purpose of Rules**

- 2.1 Generally**  
These rules are adopted to achieve the provisions and purposes of 41-7-101 et seq Wyoming Statutes, the 1971 Repayment Contract, and applicable Federal Law.

## **Rule 3 Definitions: Use, Effect, and Enforcement of Rules**

- 3.1 Generally**  
The District shall use these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District. They may not be construed as a limitation or restriction of the exercise of any discretion, nor be construed to deprive the District of the exercise of any powers, duties, or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District.

### **3.2 Enforcement of Rules**

The District will enforce these rules by use of authority granted by State and Federal law and these rules. Enforcement measures include but are not limited to the right to refuse delivery of water and assessment of damages arising from breach of these rules. In appropriate cases, the District will seek judicial enforcement of these rules including actions for recovery of damages suffered by the District and appropriate injunctive relief. The District shall be entitled to recover its costs of prosecution, including a reasonable sum for its attorney's fees and expert witness fees, in any action for enforcement of these rules, whether or not suit is commenced by the District.

## **Rule 4 Definitions: Amending of Rules**

### **4.1 Generally**

The Commissioners may amend these rules or adopt new rules from time to time.

## **Rule 5 Definitions: Headings and Captions**

### **5.1 Generally**

This section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

## **Rule 6 Definitions: Severability**

### **6.1 Generally**

If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability, may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

## **Rule 7 Water Delivery**

### **7.1 Assessments and Excess Water Charges**

Payment by water users for the charges assessed by the District for operation and maintenance and construction shall be made to the Fremont County Treasurer, Lander, Wyoming, or to the District office, 305 3<sup>rd</sup> Street, Pavillion, Wyoming. All assessments not paid-in-full by the 31<sup>st</sup> of December of the year preceding the current water year (if paying in one lump sum) or the 10<sup>th</sup> of May of the current water year (if paying in two equal payments, the first payment being due on the 10<sup>th</sup> of November of the year preceding the current water year) will be determined to be delinquent and will result in the prohibition of the delivery of water until paid. Additionally, any outstanding excess water charges shall be paid-in-full prior to the delivery of water.

## 7.2 **Landowner Certification Forms**

In accordance with the 1982 Reclamation Reform Act, any person and/or entity whom owns and/or leases 240 or more irrigable classed acres is/are required to complete a “Certification of Landholding” form each water year prior to being eligible to receive irrigation water through United States owned water delivery systems.

## 7.3 **Water Allotment, Delivery Rate, Beginning and Ending Dates of Irrigation Season**

The authority to set and change water allotments, delivery rates, and beginning and ending dates of each irrigation season rests solely with the Commissioners. The initial water allotment, delivery rate, and beginning date of the irrigation season will be set in April at a meeting of the Commissioners. The Commissioners may change the water allotment, delivery rate, and the beginning and ending date of the irrigation season as deemed necessary and as water supplies dictate, throughout the water year. The final water allotment for any water year shall not be more than 4.0 acre-feet.

## 7.4 **Transfer of Water Allotments**

Annual water allotments may be transferred between farms **only** within a single farming operation and **only** in accordance with the following guidelines:

- A. Water users wishing to transfer all or part of a water allotment between farms must complete and submit either a:
  - i. **“Certification Of Landholdings”** form (if farming a combined total of 240 or more irrigated acres), or
  - ii. **“Farming Operation Summary”** form (if farming a combined total of less than 240 irrigated acres).
- B. Water allotments may only be transferred between farms listed on the same **“Certification Of Landholdings”** or **“Farming Operation Summary”** forms.
- C. When a water user wishes to transfer all or a portion of a water allotment from land that the water user is leasing from another water user, an **“Acknowledgment, Release and Consent to Transfer of Water Allotment”** form must be submitted indicating that the lessor has full knowledge of and consents to the transfer. Additionally, the disclosure form shall indicate the quantity of allotment being transferred (percentage or amount in acre-feet) and must contain a clause acknowledging that all parties to the agreement hold the United States, Midvale Irrigation District, their officers, commissioners, employees, and agents harmless from any damages incurred as a result of the transfer of a water allotment.

- D. To be eligible to transfer water allotments between farms in a farming operation, all “**Certification Of Landholdings**” or “**Farming Operation Summary**” forms must be submitted to the District office by 5pm, May 1, of the current water year.
- E. Transfers of all of a farm’s allotment (either in acre-feet or percentage) may be made. However, a total transfer may not be made for more than 4 consecutive years from the same farm.
- F. No other types of water allotment transfer will be allowed.

**7.5 Measurement of Water**

Water delivered to a water user’s turnout shall be measured in cubic feet per second (cfs) and will be converted to acre-feet per day.

**7.6 Accounting of Water Use**

Water use will be accounted for in the following manner:

- A. On the day that a water user requests for water to be turned “on”, water used will be charged for a 12 hour time period.
- B. On the day that a water user requests for water to be turned “off”, water used will be charged for a 12 hour time period.
- C. On the whole day(s) that water is being used between the “on” and “off” days, water used will be charged in 24 hour time periods.
- D. The District will provide monthly water use reports to each water user by mail.

**7.7 Persons Authorized to Complete Water Order Requests**

- A. Water order requests must be submitted in writing and must be signed by the water user.
- B. A water user may authorize an agent to place water order requests by completing and signing the “Midvale Irrigation District Authorization and Agreement” form, and having said form on file in the District office prior to the representative submitting a water order request. If a water user desires to make changes relative to who may order water for a given landholding, a new “Authorization and Agreement” form shall be completed prior to the District’s acknowledgement of a water order by the representative. If an “Authorization and Agreement” form is on file at the District office, and there are no changes in persons authorized to order water for a given water year, it is not necessary to file a new form.

**7.8 Ordering Water**

- A. The District shall be notified in writing forty-eight (48) hours in advance of a water user’s desire to turn water “on.”
- B. The District shall be notified in writing twenty-four (24) hours in advance of a water user’s desire to turn water “off” or to change an active water order.

- C. Written water orders must be placed in the appropriate water order ticket boxes (placed strategically throughout the District) by 7:00 a.m. in order to count that day as a day of notice.
- D. Water orders may be delivered to the District office. However, such orders must be received in the District office by 9:00 a.m. in order to count that day as a day of notice.
- E. Water order requests may be submitted by electronic mail provided that such method of communication is available and agreed to by the water user and Midvale Irrigation District in writing. Water orders submitted by electronic mail must be received in the District office by 9:00 a.m. in order to count that day as a day of notification.

**7.9 Operation of Water Delivery Turnouts**

- A. The operation (opening, closing, and adjusting) of water delivery turnouts is the sole responsibility of the District's ditchriders.
- B. A water user may operate a water delivery turnout if so authorized by a ditchrider.

**7.10 Excess Water Charge**

In a water year when the District's Commissioners do not prohibit the delivery of water in excess of an allotment set under Rule 7.3, charges for water used in excess of said allotment for that water year shall be assessed on a basis proportionate to the final allotment of that year. For example, if a water user's assessment per irrigable acre equals \$15.00 and the final allotment equals 4.0 acre-feet, and a water user used 4.5 acre-feet of irrigation water, the water user would be assessed an additional \$1.875 per acre ( $\$15.00/4.0 \text{ acre-feet} = \$3.75 \text{ per acre-foot} \times 0.5 \text{ acre-feet used in excess} = \$1.875 \text{ excess charge per acre of assessed irrigable classed land}$ ).

**7.11 Sealing of Turnouts**

- A. A turnout shall be chained and sealed by the District when a water user has received 100% or more of his/her current water allotment in a water year when the Commissioners have determined to prohibit excess water deliveries.
- B. The District may chain and seal a turnout for other reasons deemed necessary and appropriate in order to insure the fair and equitable distribution and use of water.
- C. The chain and seal shall not be removed unless authorized by the District.

**7.12 Modification of Water Delivery Systems and Structures / Interference With Water Measurement**

No water user shall modify or cause to be modified any water delivery system or structure on or off his/her land that will interfere with a District operated water delivery turnout.

**7.13 Release of Individual Water Use Records**

Individual water use records shall not be released by District staff without the consent of the individual except in the case of a valid process of law.



## **Rule 8 Use of Easements**

### **8.1 Generally**

In accordance with State and Federal Laws, the District has access to system easements for the purpose of operation and maintenance of the system.

### **8.2 Building Upon, Constructing Upon, Controlling, Modifying or otherwise Using Easements**

- A. Any modification or use of an easement, with the exception of traveling upon by the person or persons, or their authorized representative, holding fee title to the land whereupon said easement resides, is prohibited without approval from the District in writing (typically in the form of a permit).
- B. A person shall not allow unreasonable third party use of easements that would, by nature of the use, cause increased maintenance of the system or said easement, without requiring the third party to seek approval of such use from the District in writing (typically in the form of a permit) prior to said use.
- C. Access to and along all easement roads shall be unimpeded by fences, gates, pipelines, or any other obstruction that would inhibit District personnel from accessing any or all of the system during the water delivery season (generally April 1 – October 15 each year).

## **Rule 9 Minimum Requirements for Building Upon, Constructing Upon, or otherwise Modifying Easements**

### **9.1 Generally**

- A. Construction activity of any kind that results in the direct or indirect use on, over through or around an easement must be approved by the District in writing (typically in the form of a permit) prior to the activity taking place.
- B. Any bridge, culvert, cattle guard, gate, pump installation, water gap, waste water inlet pipe, or any other such device or structure constructed or installed on or in an easement must be maintained so as not to interfere with the operation and maintenance of the system. Should any of the aforementioned devices or structures interfere with the operation and maintenance of the system for whatever reason, the device or structure may be removed by the District if deemed necessary, at the sole expense of the owner(s) of the device or structure, without notice.

### **9.2 Bridges Installed on Easements**

- A. The District must approve all plans and designs of proposed bridges installed on any easement. In some cases, the District may require that the proposed bridge owner(s) retain the services of a professional engineer to design and/or approve the design of the proposed bridge.

- B. All bridges are to be of clear span type. The abutments shall be set back a sufficient distance so that no obstruction to the free flow of water will occur. A minimum 2 feet clearance shall be maintained above the normal high water line. Footings for bridge abutments must be placed deep enough to reach a firm foundation.
- C. Private bridges (those not benefiting District operation and maintenance of the system) shall be constructed and maintained at the sole expense of the bridge owner(s).

### **9.3 Culvert Crossings Installed on Easements**

- A. The District must approve all plans and designs of proposed culvert crossings installed on any easement. In some cases, the District may require that the proposed culvert crossing owner(s) retain the services of a professional engineer to design and/or approve the design of the proposed culvert crossing.
- B. All culvert crossings are to be sized such that the normal operation of the canal, lateral, or open drain in which it is installed is not impeded. The bottom of the culvert shall be placed consistent with the bottom of the canal, lateral, or open drain in which it is being installed. The District may require the installation of a concrete headwall on the upstream end of the culvert due to water flows, poor soil type, etc.
- C. Private culvert crossings (those not benefiting District operation and maintenance of the system) shall be installed and maintained at the sole expense of the culvert crossing owner(s).

### **9.4 Cattle Guards and Gates Installed on Easements**

- A. The District must approve all plans and designs of proposed cattle guards and gates installed on any easement.
- B. Cattle guards and gates shall be installed and maintained at the sole expense of the cattle guard/gate owner(s), and shall not be removed without District approval.
- C. Cattle guards must be of such design to withstand 20 tons or more weight, be a minimum of 16 feet long, 7 ½ feet wide, and placed on a concrete footing and have an associated side gate to allow vehicle and equipment travel in lieu of crossing the cattle guard.
- D. Gates must be a minimum of 20 feet in width

### **9.5 Pump Installation on Easements**

- A. The District must approve all plans and designs of proposed installations of pumps that will be placed on any easement.
- B. Pumps shall be installed and maintained at the sole expense of the pump owner(s).
- C. The pump well, power pole, and any other associated fixtures shall be located off the canal, lateral, or open drain right-of-way.
- D. No pump installation will be allowed in a canal or lateral when water is in said canal or lateral.

## **9.6 Water Gap Installation on Easements**

- A. The District must approve all plans and designs of proposed installations of water gaps that will be placed on any easement.
- B. Water gaps shall be installed and maintained at the sole expense of the water gap owner(s).
- C. All water gaps must be fenced according to District specifications and shall not interfere with the natural operation of the open drain in which they are installed.
- D. Should the District be required to perform any maintenance activities on a open drain in which an authorized water gap is installed, the water gap owner(s) shall be responsible for insuring that the water gap does not interfere with said maintenance procedures. The District will make an effort to inform the water gap owner(s) of the necessity of removing the water gap prior to maintenance activities being performed. Should the District be unable to contact the water gap owner(s), the District will remove the water gap. Reinstallation of the water gap, and associated expense, will be the responsibility of the water gap owner(s).

## **9.7 Additional Waste Water Inlet Pipe Installation on Easements**

- A. The District must approve all plans and designs of proposed installations of additional waste water inlet pipes that will be placed on any easement.
- B. Additional waste water inlet pipes shall be installed and maintained at the sole expense of the waste water inlet pipe owner(s).
- C. Additional waste water inlet pipes are to be sized such that the flow of water from the waste water ditch to the open or closed drain is not impeded.

# **Rule 10 General Water User Policies**

## **10.1 Installation of New Water Delivery Turnouts**

- A. Written approval must be obtained from the District before installation of a new water delivery turnout.
- B. New water delivery turnouts may be installed, at the water user's expense, by the District or by a contractor approved by the District.
- C. All new water delivery turnouts shall be constructed to the District's specifications.
- D. Generally, the District will not approve a new water delivery turnout that will serve less than 40 irrigable classed acres.

## **10.2 Drains**

- A. Cleaning/Unplugging of Underground Drains
  - i. The District will clean/unplug an underground drain, at the District's expense, the first time the District is called to a specific drain location.
  - ii. The second time the District is called to the same location, and for the same cleaning/unplugging problem (root invasion, silt, etc.), the water user will be responsible for ½ of the cost to clean/unplug the drain.

- iii. The third time, and thereafter, the District is called to the same location, and for the same cleaning/unplugging problem, the water user shall bear the total cost for the cleaning/unplugging the drain.
    - iv. It shall be the water user's responsibility to correct the problem that causes the recurrence of the plugging problems.
  - B. Underground Drain Outlet Pipes
    - i. It is the responsibility of the water user to keep underground drain outlet pipes clear of debris, livestock damage, etc. The District, at water user's expense, shall repair damage caused by such negligence.
  - C. Abandonment of Underground Drains
    - i. If the District determines that an underground drain requires more than normal maintenance to keep it operational, at the discretion of the Commissioners, all or a portion of an underground may be abandoned if recommended by the Manager. If such is the case, the water user will be notified of the Commissioner's decision.
    - ii. The District shall not be responsible for the replacement of inoperable underground drains.

### **10.3 Diversion of Water from Drains**

- A. Approval to divert water from drains shall be obtained from the District in writing prior to any such diversion.
- B. Diversion equipment (pumps, pipelines, etc.) shall be installed in accordance with District specifications and shall be installed and maintained at water user's expense.
- C. Water diverted from a drain shall be controlled such that it does not interfere with the function of the drain.
- D. Manhole outlet pipes shall not be plugged so as to raise the water level in the manhole.
- E. Flow restrictions (dams) of any type will not be allowed to be placed in open drains in order to raise the level of the water in the drain without approval of the District in writing.

### **10.4 Lowering of Underground Drain Manholes**

- A. Underground drain manholes may be lowered below the ground surface only with written approval of the District.
- B. Manholes may be lowered under the following terms and conditions:
  - i. The manhole must have been in place for at least two years so that it can be determined that the drainage system that the manhole serves is functioning satisfactorily and that performance of the drain will not be impaired by the manhole lowering.
  - ii. The water user will execute a written agreement to assume the cost of the lowering of the manhole and all costs in providing access to said manhole, if access is required to maintain the drainage system. Said

written agreement shall be prepared and filed in the District office at the water user's expense.

- iii. The water user will cause to be placed at the lowered manhole location, at his/her expense, a detectable metal device designed and installed by the District.
- iv. Any and all sections of manhole pipe removed shall remain the property of the District.
- v. Specifications for lowering manholes may vary according to site-specific circumstances.

#### **10.5 Waste Water**

Nothing in this section is intended to abrogate or alter a water user's duty under state law to return waste water to a natural drain.

- A. It is the responsibility of the water user to properly convey waste irrigation water to the appropriate location in the System or the appropriate location on a natural drain, as dictated by the Board of Commissioners.
- B. It is the responsibility of the Water User to keep his/her/its waste water reasonably free of debris, silt, or other deleterious material that, by its presence in the waste water, would unreasonably interfere with another Water User's right to receive and beneficially use their proportionate share of the allotment.

#### **10.6 Waste Water Return Flow Ditches and Waste Water Inlet Pipes**

- A. It is the responsibility of the water user to insure that waste water return flow ditches are properly maintained and kept functional and free of debris, silt, or other obstructions that would in any way interfere with the normal function of the System or natural drain to which the waste irrigation water is being conveyed.
- C. Any damage to waste water inlet pipes or open or closed drains, caused by the Water User's failure to properly maintain ditches and convey the waste water, shall be repaired by the District at the expense of the water user responsible for said damage.

#### **10.7 Unauthorized and/or Unlawful Discharge into the System**

A perpetrator shall be liable to the District for any damage caused by any unauthorized and/or unlawful discharge of any substance into the System, including all costs of clean-up and/or remediation.

#### **10.8 Rental of District Owned Equipment**

- A. District water users may hire the District to perform machinery work on their property.
- B. Only District personnel shall operate District equipment.
- C. A District approved hourly rate for the equipment and equipment operator shall be charged.

**10.9 District Credit Policy**

- A. Charges for work performed by the District will be invoiced upon completion of the job.
- B. At the discretion of the manager, a written agreement may be required before work commences.
- C. Payments will be due within 30 days of the invoice date unless otherwise agreed to in writing by the District and the debtor.
- D. Discounts will be allowed for early payment and will be delineated on the invoice.
- E. Accounts that become overdue will be assessed a late fee of 1.5% per month, or a minimum of \$1.00 per billing cycle.
- F. Accounts that remain unpaid for 60 days will be deemed delinquent and the debtor will automatically lose credit privileges with the District.
- G. Accounts may be turned over to a collection agency and/or the District's attorney for collection. If such is the case, the debtor shall assume all costs associated with said collection including a reasonable sum for the District's attorney's fees and costs.
- H. No water will be delivered to any land(s) owned and/or controlled (leased to otherwise) by the debtor when payments are deemed delinquent.

**10.10 Material Purchases from the District**

- A. Depending on availability, the District inventories some materials that are available for purchase by water users in the District.
- B. Payment for materials must be made at time of purchase unless the materials will be used in conjunction with an approved written agreement

*This page intentionally left blank.*

**BY-LAWS**  
**of the**  
**MIDVALE IRRIGATION**  
**DISTRICT**



**Adopted: January 30, 2007**



**BY-LAWS OF**  
**MIDVALE IRRIGATION DISTRICT**

**Article I**  
**NAME AND CONTROL**

**Sec. 1. Name.**

The name of this corporation shall be Midvale Irrigation District (“Midvale” or the “District”).

**Sec. 2. Control.**

Midvale shall be managed and controlled by the Board of five (5) Commissioners elected by the land owners of the District at the annual election, which Board shall constitute the corporate authority of said irrigation district and shall exercise the functions conferred upon it by law.

**Article II**  
**MEETING OF LANDOWNERS**

**Sec. 1. Annual Meeting.**

The annual meeting of the landowners of Midvale Irrigation District for the purpose of electing Commissioners and for the transaction of such other business which may legally come before said meeting shall be held in the manner provided by the Statutes of the State of Wyoming on or after the first day of February and before the last day in March of each year at an hour and place within the boundary of the District fixed by the Commissioners. For purposes of timing of the notice of the annual meeting and nominations of candidates for Commissioner, the annual meeting of the landowners of Midvale Irrigation District shall be held on the second Thursday in February of each year, unless the Commissioners provide notice that the annual meeting will be moved to a different date.

**Sec. 2. Notice.**

Notice of said annual meeting shall be given at least twenty days prior to the annual meeting, or, as provided by the statutes of the State of Wyoming, as amended from time to time.

**Sec. 3. Special Meetings.**

Special meetings of the landowners may be called by the President or by the Board of Commissioners for the purposes and at the time and place as shall be specified in the notice thereof. Such meetings shall be conducted in the same manner provided for the annual meeting by the statutes of the State of Wyoming.

**Sec. 4. Notice of Special Meeting.**

Written notice stating the time, place, and purpose of a special meeting shall be given in the same manner as provided by statutes for the annual election. In supplying notice of such a special meeting, a proxy shall be provided by Midvale for use in voting on matters presented at the meeting, if necessary.

**Sec. 5. Order of Business.**

The order of business of the annual meeting shall include the following items and content as prescribed by the Board of Commissioners:

1. Meeting called to order by Chairman.
2. Reading of call by Secretary.
3. Reading, correcting, and approval of minutes of previous meeting.
4. Audit and financial report provided by auditor.
5. Report of the manager.
6. Unfinished business.
7. New business.
8. Roll call of those entitled to vote for election of commissioner(s) and the number of votes each is entitled to cast in the election.
9. Election of Commissioners.

**Sec. 6. Nomination of Candidates for Commissioner.**

Nominations of candidates for Commissioner shall be made by written petition signed by at least ten voters owning or entitled by virtue of public land filing to the possession of land within the Commissioner District from which the commissioner is to be elected. Written petitions for nominations for Commissioner shall be delivered to the Midvale office at least thirty days prior to the annual meeting of landowners of Midvale Irrigation District. Nominations for Commissioner or Commissioners shall not be allowed from the floor at the annual meetings of landowners of Midvale Irrigation District.

**Sec. 7. Election of Commissioners.**

**A. Election and Qualification:** Elections of Commissioners shall be conducted in the manner provided by the Wyoming Statutes concerning irrigation districts, as they may be amended from time to time. One Commissioner shall be elected from each Commissioner District of the District as shown on the map of the District approved by the court and on file in the Office of the Clerk of the District Court of Fremont County, Wyoming. No person shall be declared elected as a commissioner who shall not be a landowner in the commissioner district for which she/he is elected.

**B. Methods for Voting:** In addition to voting in person at the annual meeting of landowners, qualified electors may cast ballots by proxy and by mail ballot supplied by Midvale with the notice of the annual meeting of landowners.

Landowners qualified to vote for Commissioner shall use the form of proxy included with the notice of the annual meeting of landowners. Other forms of proxy shall not be recognized by the election judges appointed by the Commissioners. If electors choose to use the mail ballot supplied by Midvale, the elector must use the ballot supplied by Midvale and return the ballot in the special envelope provided by Midvale.

**C. Mail Ballots:** The Midvale office staff shall mail the ballots and special envelopes to all qualified electors no later than twenty days prior to the election. Upon completion of the ballot, the elector shall mark the ballot, sign and complete the return-verification envelope, and comply with the instructions provided with the ballot. Mail ballots must be received by the election judges no later than 3:00 p.m., on the day of the election. When the Midvale office receives the mail ballots, they shall be kept in the Midvale vault and remain sealed until opened by the election judges at the time of the election. Electors shall not be allowed to revoke or change their ballot after placing the same in the mail, or, after any other method of delivery of a mail ballot to the Midvale office. An elector may obtain a replacement ballot if the ballot was destroyed, spoiled, lost, or for some other reason not received by the elector. In order to obtain a replacement ballot, the elector must sign a sworn statement specifying the reason for requesting the replacement ballot.

**D. Appointment of Election Judges:** At the time of the election, the President of the Board of Commissioners shall appoint two election judges to canvass the voting and assist the Midvale Bookkeeper and staff in recording and counting the ballots. The President shall appoint two (2) landowners from a commissioner district which is not due for the election of a Commissioner. If the President of the Board of Commissioners is standing for election, then the appointment of the two election judges shall be made by next available Midvale officer who is not standing for election.

**E. Order of Voting on Election Day:** On the day of the election, the presiding officer shall first call for all persons desiring to vote in person followed by all votes being cast by proxy.

**F. Election by Majority:** Section 41-7-318 Wyo. Stat. (2005), provides that no person shall be declared elected as commissioner who shall not have received a majority of all votes cast by the qualified voters of the particular commissioner district. In the event none of the nominees receive a majority of all votes cast at an election, then none of the nominees shall be declared elected and the two commissioner nominees receiving the most votes shall qualify for a final election. The final election shall be conducted before March 31<sup>st</sup> on a date designated by the Board of Commissioners. The Midvale office staff shall give notice of the

final election at least twenty days prior to the final election and the election shall be conducted in the same manner as the first election.

### **Article III** **COMMISSIONERS**

#### **Sec. 1. Tenure.**

All commissioners shall be elected for a term of three years and until their successors are elected and qualified. The term of a Commissioner shall commence upon the date of the next regular meeting of the Commissioners held after his/her election.

#### **Sec. 2. Removal and Vacancies.**

If any Commissioner shall be absent from six consecutive meetings of the Board of commissioners of said District without being excused therefrom by a majority vote of the entire Board, his office shall be declared vacant. In the event of any vacancy in the office of Commissioner through death, resignation, removal or other cause, such vacancy shall be filled by appointment by the remaining members of said Board and such Commissioner shall hold office for the unexpired term of such vacancy.

#### **Sec. 3. Meetings.**

Regular monthly meetings of the Board of Commissioners shall be held at the office of Midvale in the Town of Pavillion, Wyoming, on the second Thursday of each and every month or at such times as may from time to time be designated by the Board.

#### **Sec. 4. Special Meetings.**

Special meetings may be called at any time by the President of the Board, by giving notice thereof to each member, either by mail, by phone, or in person. Such notice shall be given either by the President of the Board or by the Secretary-Treasurer. Any three members of the Board of Commissioners may call a special meeting by giving notice to the other members of the time and place thereof at least twenty-four hours in advance of the time of said meeting. The attendance of all Commissioners at a meeting, or the consent of all Commissioners, shall be taken as a waiver of any and all notice thereof.

#### **Sec. 5. Quorum.**

A quorum for the transaction of business shall consist of any three members of the Board of Commissioners. The vote of a majority of those present at a meeting at which a quorum is present shall be the act of the Board of Commissioners. A less number than a quorum may adjourn from time to time until a quorum is obtained.

**Sec. 6. Order of Business.**

The regular order of business at all meetings of the Board of Commissioners shall be as follows:

1. Roll Call.
2. Reading and approving of all minutes of meetings since and including the last regular meeting of the Board.
3. Report of officers and committees.
4. Auditing and payment of accounts and bills.
5. Unfinished business.
6. New business.

**Sec. 7. Manner of Voting.**

The manner of voting shall be decided by the President provided, however, that a roll call vote shall be taken and recorded in the minutes upon the request of any Commissioner.

**Sec. 8. Committees.**

The membership of all committees shall be approved by a majority of all members present.

**Article IV  
OFFICERS**

**Sec. 1. Number.**

The officers of the Board shall consist of a President, a Vice President, and a Secretary-Treasurer. The Secretary-Treasurer may or may not be a member of the Board.

**Sec. 2. Election and Tenure.**

The President, Vice President and Secretary-Treasurer shall be elected annually at the first or organization meeting held by the newly elected Board following the annual meeting. Each of said officers shall hold his office for a period of one year and until his successor is elected and qualified.

**Sec. 3. Removal.**

The President, Vice President or Secretary-Treasurer shall be subject to removal by a majority vote of the full membership of the Board of Commissioners for any misconduct or neglect of duty.

**Sec. 4. Vacancy.**

In the event of the removal, death, resignation, or other vacancy in any of the said officers, the vacancy shall be filled by the Board of Commissioners at its next regular or special meeting for the unexpired term.

**Sec. 5. Duties of President.**

The President shall preside at all meetings of the Board of Commissioners, shall sign all contracts authorized by the Board of Commissioners, and shall perform all other duties incident to the office of President.

**Sec. 6. Duties of Vice President.**

In the absence of the President, the Vice President shall perform the duties of the President.

**Sec. 7. Duties of Secretary-Treasurer.**

It shall be the duty of the Secretary-Treasurer to keep a record of all the minutes and proceedings of the Board of Commissioners, to carry on the correspondence of Midvale, to keep and preserve all records and correspondence of Midvale, and to do any and all things necessary and to receive all money belonging to Midvale and to disburse the same as authorized by the Board of Commissioners; to keep full and complete books and records of all receipts and disbursements and to give bond in such amount as shall be required by the Board of Commissioners. The books of the Secretary-Treasurer shall be open for inspection by the Board of Commissioners at any and all times and said books shall be kept in such form as may be from time to time prescribed by the Board of Commissioners.

**Article V**

**CORPORATE SEAL**

**Sec. 1. Description of Corporate Seal**

The corporate seal of the District shall be circular in form with the words "Midvale Irrigation District, Fremont County, Wyoming" surrounding the word "Seal".

**Article VI**

**AMENDMENTS**

**Sec. 1. Procedure to Amend By-Laws**

These by-laws may be altered or amended at any meeting of the Board of Commissioners by an affirmative vote of at least three members of the Board, provided that notice of the proposed amendment or amendments shall in all cases be given at a meeting of the Board of Commissioners at least ten days previous to

the time that final action is taken thereon. These by-laws may also be altered or amended at any time upon the unanimous vote of the entire Board of Commissioners.

**Article VII**  
**ENACTING CLAUSE**

**Sec. 1. Effective Date.**

These by-laws shall take effect and be in force immediately after their adoption by the Board of Commissioners.

PASSED AND ADOPTED this 30<sup>th</sup> day of January, 2007.

        /s/          
Jerry Weliever, President

ATTEST:

        /s/          
Dustin Taylor, Secretary-  
Treasurer

## Example of How Water Charges are Calculated

Date Water Is Ordered On: May 1<sup>st</sup>

Amount Of Water Ordered: 2/10ths over a 3 foot weir (0.9 cfs)

Date Water Is Ordered Off: May 10<sup>th</sup>

### Water Charges

<b>Date</b>	<b>Acre-Feet</b>
May 1 <sup>st</sup>	0.9
May 2 <sup>nd</sup>	1.8
May 3 <sup>rd</sup>	1.8
May 4 <sup>th</sup>	1.8
May 5 <sup>th</sup>	1.8
May 6 <sup>th</sup>	1.8
May 7 <sup>th</sup>	1.8
May 8 <sup>th</sup>	1.8
May 9 <sup>th</sup>	1.8
May 10 <sup>th</sup>	0.9
<b>Total Acre-Feet Water Used</b>	<b>16.2</b>