

# **WHEATLAND IRRIGATION DISTRICT**

## **Handbook of Member Rules and Regulations and District Bylaws**

Effective Date:

May 11, 2018

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Wheatland Irrigation District  
P.O. Box 727  
Wheatland, WY 82201  
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**Certification**

We certify that the following is a true and correct copy of the Wheatland Irrigation District Handbook of Member Rules and Regulations and District Bylaws.

Prior to adoption, notice of this revised Handbook of Member Rules and Regulations and District Bylaws was given and they were made available for public inspection on January 31, 2018.

The following Handbook of Member Rules and Regulations and District Bylaws are effective immediately upon filing with the Clerk of Platte County, Wyoming.

ADOPTED AND APPROVED this 11th day of May, 2018.

*Daniel Melcher*

\_\_\_\_\_  
Daniel Melcher, President  
Board of Commissioners

ATTEST:

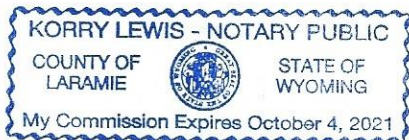
*Marty Shepard*

\_\_\_\_\_  
Marty Shepard, Secretary  
Board of Commissioners

STATE OF WYOMING     )  
  ) s.s.  
COUNTY OF PLATTE     )

The foregoing Certification was subscribed, sworn to, and acknowledged before me on the 11th day of May, 2018, by Daniel Melcher and Marty Shepard, as President and Secretary, respectively, and on behalf of the Wheatland Irrigation District Board of Commissioners, and acknowledged said Certification to be the free and voluntary act and deed of said irrigation district for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said Certification.

Witness my hand and official seal.



*Korry Lewis*

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## Table of Contents

### SECTION I: INTRODUCTION

- 1.1 District History
- 1.2 District Authority
- 1.3 Water Rights Held by the District
- 1.4 Extent of District's Responsibility
- 1.5 Purpose of Rules and Regulations
- 1.6 Enforcement of Rules and Regulations
- 1.7 Severability

### SECTION II: RULES AND REGULATIONS

#### Rule 1 – Definitions

- 1.01 Acre-foot
- 1.02 Allotment
- 1.03 Beneficial Use
- 1.04 Board
- 1.05 Bridge
- 1.06 Cattle Guard
- 1.07 Commissioners
- 1.08 Cubic-foot-per-second (c.f.s.)
- 1.09 Culvert
- 1.10 District
- 1.11 Ditchrider
- 1.12 Diversion of Water
- 1.13 Easement
- 1.14 Gate
- 1.15 Headgate
- 1.16 Member
- 1.17 Pump
- 1.18 System
- 1.19 Watercourse
- 1.20 Water Delivery Turnout

#### Rule 2 – General Water Use Policies

- 2.01 Installation of New Water Delivery Turnouts
- 2.02 Pumps
- 2.03 Purchases from the District
- 2.04 Reservoirs
- 2.05 Subdivisions
- 2.06 Unauthorized Discharge into the System
- 2.07 Wading, Swimming, or Bathing
- 2.08 Wastewater

### Rule 3 – Water Delivery

- 3.01 Access
- 3.02 Accounting of Water Use
- 3.03 Assessments
- 3.04 Control and Operation of the System
- 3.05 Handling of Disputes
- 3.06 Notification of Reservoir No. 2 Releases
- 3.07 Measurement of Water
- 3.08 Modification of the System
- 3.09 Ordering Water
- 3.10 Persons Authorized to Order Water
- 3.11 Transfer of Water Allotments
- 3.12 Water Allotments
- 3.13 Water Deliveries

### Rule 4 – Use of Easements

- 4.01 Generally
- 4.02 Construction Activity and Modifying Easements
- 4.03 Bridges Installed on Easements
- 4.04 Cattle Guards and Gates Installed on Easements
- 4.05 Culvert Crossings Installed on Easements
- 4.06 Utility Crossings of Easements

### Rule 5 – Miscellaneous

- 5.01 Variance Process
- 5.02 District Boundaries
- 5.03 Process to Change District Boundaries
- 5.04 Public Records Requests
- 5.05 Ringsby Ranch

### Rule 6 – Contested Cases

- 6.01 Applicability of Rules
- 6.02 Hearings Before the Board
- 6.03 Petitions
- 6.04 Board as Petitioner
- 6.05 Notice of Hearing
- 6.06 Service
- 6.07 Hearing Examiner
- 6.08 Findings of Fact and Conclusions of Law
- 6.09 Duties of Presiding Officer
- 6.10 Order of Procedure at Hearing
- 6.11 Witness at the Hearings to be Sworn
- 6.12 Disposition of Case by Stipulation

- 6.13 Applicable Rules of Civil Procedure to Apply
- 6.14 Attorneys
- 6.15 Board Attorney
- 6.16 Reporter
- 6.17 Appeals

SECTION III: BYLAWS OF WHEATLAND IRRIGATION DISTRICT

- Article I Introduction
- Article II Corporation and Corporate Office
- Article III District Powers
- Article IV District Commissioners
- Article V Officers
- Article VI Assessments
- Article VII Miscellaneous
- Article VIII Dissolution
- Article IX Amendments

## SECTION I: INTRODUCTION

### 1.1 District History

Preliminary surveys for the Wheatland Development Company commenced in 1881. The first water rights were obtained in 1883 from the Laramie River and Sybille Creek. The Blue Grass Tunnel began construction in 1883 with completion in 1886.

The Wyoming Development Company was incorporated on August 10, 1883 and became the first irrigation corporation within the Territory of Wyoming. The original members of the Wyoming Development Company were: John Hoyt (Territorial Governor, First President of the University of Wyoming), F.E. Warren (Territorial Governor, U.S. Senator), Joseph Carey (Wyoming Governor, U.S. Senator), Andrew Gilchrist (Wyoming Territorial representative), W.C. Irvine (Territorial Legislature member), M.E. Post (U.S. Territorial Representative), and Sir Horace Plunkett.

Construction on Wheatland Reservoir #1 started in 1894 with completion in 1896. In 1895, the Wyoming Development Company filed a permit for Reservoir #2, which was completed in 1901. The permit for Wheatland Reservoir #3 was received in 1929 and construction completed in 1934.

On December 31, 1947, the Wheatland Irrigation District ("District") was organized under the Wyoming State Statutes. The District purchased the Ringsby Ranch, a 23,000 acre ranch near Arlington, Wyoming, in the 1950s. A trans-basin diversion from Rock Creek to the Laramie River drainage was granted.

The District currently owns eleven lakes with a total of approximately 180,000 acre-feet of storage capacity and maintains approximately 120 miles of main canal.

### 1.2 District Authority

The powers and duties of the District are enumerated in Chapter 7 of Title 41 of the Wyoming Statutes. The following table summarizes the ten Articles contained in said chapter:

<b>Article</b>	<b>Topic</b>
Article 1	In General
Article 2	Organization Generally
Article 3	District Commissioners Generally
Article 4	Assessments
Article 5	Organization Expenses
Article 6	Construction Contracts with the U.S.
Article 7	Power Projects
Article 8	Public Irrigation and Power Districts
Article 9	Revenue Bonds
Article 10	Dissolution

All canals, laterals, pipelines, and works of the District, including structures in or over District canals or laterals, are under the general management of the Board of Commissioners, and under the exclusive control of the District. No person shall have any right to interfere with said canals, laterals, or works of the District without express permission from the District Manager.

### 1.3 Water Rights Held by the District

The following table summarizes the District's major water rights. This table is not meant to provide a complete list of all water rights that the District has an ownership interest in.

<b>MAJOR RESERVOIR PERMITS</b>						
<i>Source</i>	<i>Permit No.</i>	<i>Description</i>	<i>Priority</i>	<i>Permitted Uses</i>	<i>Amount (cfs/af)</i>	<i>Acres</i>
Sybille Creek	19 5387R 6470R	Wheatland Reservoir No. 1	03-00-1897 08-18-1938 07-10-1958	D, I, S	9,369.75 af	
Laramie River	1724	Wheatland Reservoir No. 2	01-29-1898	D, I	98,934 af	
Dutton Creek	528R 1215R 2375R	Dutton Creek Reservoir	07-01-1904 02-17-1908 08-02-1912	I	1,494.5 af	
Three Mile Creek	646R	McFadden No. 3 Reservoir	02-23-1905	F, S, Rec.	40 af	
Seepage Creek	2484R	Seepage Reservoir	06-03-1911	I	145 af	
Dutton Creek	3547R 15469	Rainey Reservoir	05-23-1919	I	1,113.9 af	
Seepage, One Mile & Rock Creeks	3617R 4090E 4091E	King Reservoir	02-07-1920	I	2,899.75 af	
Laramie River	4978R	Wheatland Reservoir No. 3	05-31-1929	I, S	71,318.8 af	
Canal No. 1	4451R	Rock Lake Res.	11-24-1930	I	249.5 af	
Deep Creek	6136R	Sand Lake	04-29-1954	D, I, S, Ind.	1,105.1 af	

**OTHER MAJOR WATER RIGHTS**

<i>Source</i>	<i>Permit No.</i>	<i>Description</i>	<i>Priority</i>	<i>Permitted Uses</i>	<i>Amount (cfs/af)</i>	<i>Acres</i>
Rock , One Mile, and Three Mile Creek	Terr.	Cañon Ditch	04-01-1882 01-07-1944	N/A	263.76 cfs	
Laramie River and Little Laramie River	17 5319E 5967E 6399E 6346E 5287E	Tunnel Ditch, Tunnel, Canal Nos. 1 & 2	05-23-1883 01-29-1898 07-10-1958 04-22-1968 11-22-1968 01-02-1941 04-16-1982	D, I, Mun.	624.45 cfs	57,671.28
Sybille Creek	Terr.	Canal No. 1	05-23-1883	D, I, Mun.	135 cfs	57,671.28
Laramie River	8531	Wheatland Industrial Co. Canal	01-29-1898	N/A	Secondary supply	N/A
Laramie River, Sybille Creek	5969E	Enl. Canal No. 3	07-10-1958	N/A	Reservoir Supply	N/A
Laramie River, Sybille Creek	6400E	Enl. Canal No. 1 and 2	04-22-1968	I	SS	3,442.18
One Mile Creek	Terr.	One Mile Creek into Cañon Ditch	06-01-1888 02-07-1970	N/A	68.08 cfs	
Three Mile Creek	Terr.	Three Mile Creek into Cañon Ditch	04-01-1884 12-30-1905	N/A	13.19 cfs	
Transbasin Water from Rock Creek Drainage	22840	Lower Dutton Creek – Laramie River Canal	04-25-1957	N/A		



#### 1.4 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: main canals, main laterals, and main pipelines. The District's responsibility extends to the measuring device associated with a given water delivery turnout of the District's main canal. The District does not have the responsibility to operate and maintain water delivery systems downstream of the District's delivery point. Since the development of the District, private lateral users have always operated and maintained their own laterals. The District expects them to continue to do so in the future. The District will offer assistance to members on private laterals when requested and the Board deems appropriate.

#### 1.5 Purpose of Rules and Regulations

These rules are adopted to achieve the provisions and purposes of Chapter 7 of Title 41 of the Wyoming Statutes. 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.

#### 1.6 Enforcement of Rules and Regulations

The District will enforce these rules by use of authority granted by State law and these rules. Enforcement measures may include, but are not limited to, the right to refuse delivery of water. Any violation of these rules may, in the discretion of the District, subject the violator to liability for any and all damages, injuries, losses, or expenses incurred by the District as a result of any such violation. The District shall be entitled to recover its costs of prosecution, including a reasonable sum for its attorneys' fees and expert witness fees, in any action for enforcement of these rules, whether or not suit is commenced by the District.

#### 1.7 Severability

If any rule or any part of any rule herein shall be declared invalid, unenforceable, or unconstitutional, such declaration shall not affect the validity, enforceability, or constitutionality of the remaining portions thereof.

## **SECTION II: RULES AND REGULATIONS**

### **Rule 1: Definitions**

#### 1.01 Acre-foot

The amount of water needed to cover one acre of land one foot deep (about 326,000 gallons). One c.f.s. of water running for twelve hours equals one acre-foot.

1.02 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 acre within the District for a water year.

1.03 Beneficial Use

The basis, measure, and limit of the right to use water at all times.

1.04 Board

The elected Board of Commissioners of the Wheatland Irrigation District.

1.05 Bridge

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

1.06 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.

1.07 Commissioners

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

1.08 Cubic-foot-per-second (c.f.s.)

The rate of discharge representing a volume of one cubic foot passing a given point during one second. This rate is equivalent to approximately 7.48 gallons per second or 1.98 acre-feet per day (twenty-four hour period).

1.09 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.

1.10 District

Wheatland 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.

1.11 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.

1.12 Diversion of Water

To remove water from a waterbody by changing the direction of the flow of the water, via a water delivery turnout, pump, siphon, etc.

1.13 Easement

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

1.14 Gate

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

1.15 Headgate

The gate that controls water flow into irrigation canals and ditches.

1.16 Member

Any person who, or partnership, firm, corporation, municipal corporation, governmental or proprietary body, or association of such persons that has the right by virtue of ownership or acreage to receive irrigation water through the System.

1.17 Pump

A device which mechanically moves water conveyed through a natural or artificial channel.

1.18 System

The reservoirs, dams, canals, laterals, pipelines, open and closed drains, waste water inlet pipes, water delivery turnouts, headgates, pumps, siphons, and other facilities operated and maintained by the District, and all associated easements.

1.19 Watercourse

A natural or manmade canal, lateral, pipeline, ditch, drain, etc. that confines the flow of water to a certain direction.

## 1.20 Water Delivery Turnout

A device through which the flow of irrigation water is regulated.

## **Rule 2: General Water Use Policies**

### 2.01 Installation of New Water Delivery Turnouts

Written approval must be obtained from the Board before installation of a new water delivery turnout from the District's main canals. New water delivery turnouts may be installed, at the member's expense, by the District or by a contractor approved by the District. All new water delivery turnouts shall be constructed to the District's specifications and will be owned and operated by the District.

### 2.02 Pumps

Written approval must be obtained from the District before installation of a permanent or portable pump. Any pump must have a measuring device and will be charged for water use as if the water were delivered through a canal or lateral. No pump installation will be allowed in a canal or lateral when water is in said canal or lateral.

The District must approve all plans and designs of proposed installations of pumps that will be permanently placed on any easement. Pumps shall be installed and maintained at the sole expense of the pump owner. The pump well, power pole, and any other associated fixtures shall be located off the easement.

The District does not allow the use of portable pumps on any easement if they block or otherwise obstruct the easement.

### 2.03 Purchases from the District

From time to time, the District may make certain items available for sale to members, including, but not limited to, gravel, rock, scrap iron, or vehicles. Any sale from the District to a member must be approved by the Board. Payment for such items must be made at the time of purchase via cashier's check.

### 2.04 Reservoirs

No private boat docks or boat ramps are allowed in any reservoir owned by the District.

Wading and swimming are allowed in Reservoir No. 1 and Reservoir No. 3 when recreational use of these reservoirs is managed by the Wyoming Game & Fish Department.

Use of the areas in and around Reservoir No. 1 shall be subject to the District's "Rules and Regulations for Wheatland Reservoir #1" adopted by the Board on June 12, 2014 (as may be amended by the Board from time to time).

2.05 Subdivisions

The District may refuse to deliver water beyond historic delivery points. Any proposed subdivision within the boundaries of the District shall comply with one of the three options provided on the District's "Water Plan Approval Form for Subdividers" adopted by the Board on August 7, 2009 (as may be amended by the Board from time to time).

2.06 Unauthorized Discharge into the System

No person shall pollute, contaminate, or discharge any runoff or flood water into the System. A perpetrator shall be liable to the District for any unauthorized and/or unlawful discharge (quantity or quality) into the System, including repair of any cuts in the bank caused by such unauthorized discharge.

2.07 Wading, Swimming, or Bathing

Except as provided in Rule 2.04, no wading, swimming, or bathing is allowed in any part of the System, at any time, under any circumstances. A portion of the System routinely carries water that is treated with chemicals.

2.08 Wastewater

The Board may refuse to deliver water to a member who wastes water by allowing water to escape on roads, vacant lands, or lands within the District's boundaries or adjacent property. The District Manager may instruct the ditchriders to turn off water whenever he/she determines such waste is occurring.

**Rule 3: Water Delivery**

3.01 Access

The District shall have the power and authority to freely enter upon any land and easements within its boundaries without notice to any member, whom shall allow the District, and any other authorized agent of the District, unrestricted access to the member's premises for any and all reasons relative to the System or the administration of water. Entry upon the land and easements by the District shall not be considered trespass.

3.02 Accounting of Water Use

Water use will be accounted for in twenty-four (24) hour increments, except in cases of emergency or at the discretion of the District Manager.

3.03 Assessments

Payment by members for the District's assessments shall be made to the Platte County Treasurer in Wheatland, 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) shall be considered delinquent.

The District may refuse to accept water orders and deliver water to any and all lands upon which assessments are due and unpaid, including orders after May 10<sup>th</sup> from members who timely paid the first installment on their tax bill but are past due on the second installment. *See* W.S. § 41-7-401. Delinquent assessments shall also preclude the member's eligibility to serve as a Commissioner and to vote in any District election or other District matter.

#### 3.04 Control and Operation of the System

The District maintains approximately 210 water delivery turnouts from its main delivery System. The operation (opening, closing, and adjusting) of water delivery turnouts, including headgates, valves, and other control devices, is the sole responsibility of the District.

The District employees, under the supervision of the District Manager, have the sole discretion to limit the delivery of water to any member, both as to quantity and time of use. Any headgate on any canal may be closed or locked at any time, at the discretion of the District Manager, without notice to any member and without incurring liability for any damage that might result therefrom.

#### 3.05 Handling of Disputes

When members cannot resolve differences or controversies with a ditchrider, they are expected to discuss the problem with the District Manager prior to asking the Board for final determination. The Board reserves the authority to act as the final level of appeal on differences and controversies between members and District employees.

#### 3.06 Notification of Reservoir No. 2 Releases

Pursuant to provisions of a Court Order, the District is required to notify certain landowners, who are not members, on Bluegrass Creek, Sybille Creek, and the Laramie River that water is coming on or being turned off for the season. The District may elect to notify others living along said streams, at the District Manager's sole discretion, as a matter of courtesy.

#### 3.07 Measurement of Water

Water delivered to a member's turnout shall be ordered and measured in cubic feet per second (c.f.s.) and will be converted to acre-feet per day for accounting purposes.

#### 3.08 Modification of the System

Members shall not modify, tamper or interfere with, make any connection to, or perform any work upon any of the System, in any manner, without the Board's prior written permission.

This Rule 3.08 shall include, but is not limited to, the setting or adjustment of headgates, turnouts, valves, or checks.

The District may charge a penalty fee of one hundred dollars (\$100.00) for each and every time such unlawful conduct occurs, which shall be promptly paid in full. Not excluding the District's rights outlined in Paragraph 1.6 above, the District may pursue legal action against any person who violates this Rule 3.08, and said person shall be held strictly liable for any damage resulting from their unlawful conduct. A member's unlawful conduct may also result in criminal charges in accordance with Wyoming Statutes (currently W.S. § 6-3-201).

### 3.09 Ordering Water

Members shall notify, either via telephone or in person, the District office by 4:00 p.m. on the day prior to the time water is requested and shall further notify, either via telephone or in person, the district office by 4:00 p.m. on the day prior to the time water is requested to be turned off. Water orders must be made by noon on Saturday for Monday deliveries on or off.

Special circumstances, such as start-up, shut-down, or drought conditions, may require forty-eight (48) hours notice to start or stop delivery of water. Such special circumstances shall be determined by the District Manager.

Water orders shall request a minimum of 0.5 c.f.s. Water orders are not accepted on Sundays. No operation of the System will occur on Sundays, except under special conditions, including emergencies or the shortage of an allotment, which determination is in the sole discretion of the District Manager.

If a holiday falls on Tuesday, Wednesday, Thursday, or Friday, the District office will be closed and no water orders will be accepted. If the holiday falls on a Saturday or Monday, the District office will be open for a half day and all water orders must be received by noon.

### 3.10 Persons Authorized to Order Water

The owner of record or an authorized agent is authorized to place water orders. In order to authorize an agent, a member must complete and sign the "Wheatland Irrigation District Authorization and Agreement" form prior to the authorized agent submitting a water order request. If a member desires to make changes relative to who may order water for a given holding, a new "Authorization and Agreement" form shall be completed prior to the District's acknowledgement of a water order by the authorized agent. 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. The District is not responsible for water delivery decisions made by an authorized agent.

### 3.11 Transfer of Water Allotments

Landowners may be permitted to transfer water from one parcel to another, provided both parcels are entitled to receive water pursuant to the District's permits and any such transfer will

not exceed the safe operating capacity of any canal or ditch as determined by the District Manager. The parties must complete a water transfer card prior to any transfer. The District will not become involved in the transaction between members regarding transfers.

Transfer of water entitlements under this rule may be granted for only one water season and must be reapproved for any subsequent water season. Permanent transfers will not be approved.

Water transfers cannot be completed upon lands that have delinquent assessments as defined in Rule 3.03. Because of administrative and accounting reasons, the District does not allow a "double" transfer of water.

Except as specified in this Rule 3.11, a member shall not transfer or convey water to any other person or onto any other property, within or outside the boundaries of the District.

### 3.12 Water Allotments

The authority to set and change water allotments rests solely with the Board. The initial water allotment will be set as soon as practicable before water deliveries begin, usually at the Board's monthly meeting in May and is based on usable water supply divided by the number of District acres. The Board may modify the water allotment as deemed necessary and as water supplies dictate, throughout the water year.

The authority to set beginning and ending dates of each irrigation season rests solely with the District Manager after consultation with the Board. The dates are based on water availability, the number of water orders, and the feasibility of making water deliveries.

### 3.13 Water Deliveries

The District makes every effort to maintain an adequate flow of water in each lateral system to meet anticipated demand. Changes in water use due to temperature variation, local runoff from precipitation, spill water from other lateral systems, canal breaks, and other emergencies may cause unavoidable fluctuations and interruptions in flow.

In order to maximize the efficient use of the water, the District Manager may choose to withhold delivering water down a lateral system until there is sufficient demand to utilize the minimum flow of water delivered through such lateral system.

## **Rule 4: Use of Easements**

### 4.01 Generally

The District has access easements for the purpose of operation and maintenance of the System. As specified by Wyoming Statutes (currently W.S. § 41-7-314(a)), the District has the right to go upon all lands along any District reservoirs, ditches, canals, or embankments to inspect, deepen, widen, or repair the same whenever necessary, doing no unnecessary damage.



In addition, as successor to the Wyoming Development Company, the District has authority to access lands within the District in accordance with deeds issued by the Wyoming Development Company, as follows:

- (1) The Wyoming Development Company reserves for all time, without compensation to the grantee, his heirs, administrators, executors or assigns, the right to lay out, construct, maintain, change and repair any and all enlargements or extensions of its main canals or ditches, and all laterals or subsidiary canals or ditches in connection with any of its main canals of the described premises and to use and have free access to the same.
- (2) On those lands which have not been deeded by the Wyoming Development Company and which are not subject to the provisions of the deeds above mentioned, the damages allowed to the owners of lands shall be paid or tendered before the Commissioners shall be authorized to enter upon the lands, for damage to which the award is made, for the construction of any reservoirs, canals, ditches, or other work proposed thereon. This section shall not, however, prevent said Commissioners, their agents, servants, and employees from going upon said lands to do any and all work found necessary prior to making their assessment of benefits and award of damages.

Access to and along all easement roads shall be unimpeded by fences, locked gates, pipelines, or any other obstructions that would inhibit District personnel from accessing any or all of the System during the water delivery season (generally May 1<sup>st</sup> through September 30<sup>th</sup> of each year).

#### 4.02 Construction Activity and Modifying Easements

There shall be no building upon or construction within any District easement. If any encroachment occurs, the Board may reestablish the easement, at any time thereafter, at the sole expense of the member responsible for such encroachment.

Any modification or use of an easement, with the exception of traveling upon by the person holding fee title, or their authorized agent, to the land whereupon said easement resides, is prohibited without written District approval.

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 prior to the activity taking place.

#### 4.03 Bridges Installed on Easements

The District must approve, in writing, all plans and designs of proposed bridges 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.

All bridges are to be of clear span type and constructed with non-burnable materials that allow for the transport of heavy equipment. The abutments shall be set back a sufficient distance so that no obstruction to the free flow of water will occur. A minimum two feet clearance shall be maintained above the normal highwater line. Footings for bridge abutments must be placed deep enough to reach a firm foundation. 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).

Any bridge installed on an easement must be maintained at the sole cost of the owner and in a manner so as to not interfere with the operation and maintenance of the System. Should such bridge interfere with the operation and maintenance of the System for whatever reason, the bridge may be removed by the District if deemed necessary, at the sole expense of the owner(s) of the bridge, without notice.

#### 4.04 Cattle Guards and Gates Installed on Easements

The District must approve, in writing, all plans and designs of proposed cattle guards and gates installed on any easement. Cattle guards must be of such design to withstand twenty (20) tons or more weight, be a minimum of ten (10) feet long, seven (7) 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. Gates must be a minimum of twenty (20) feet in width.

Any cattle guard installed on an easement must be maintained at the sole cost of the owner and in a manner so as to not interfere with the operation and maintenance of the System. Should a cattle guard interfere with the operation and maintenance of the System for whatever reason, the District will make all attempts to work with the landowner to remove the cattle guard, but the District may remove it if deemed necessary, at the sole expense of the owner(s) of the cattle guard, without notice.

#### 4.05 Culvert Crossings Installed on Easements

The District must approve, in writing, all plans and designs of proposed culvert crossings installed on any easement. Culvert crossings must be of such design to withstand twenty (20) tons or more weight.

Any culvert crossing installed on an easement must be maintained at the sole cost of the owner and in a manner so as to not interfere with the operation and maintenance of the System. Should a culvert crossing interfere with the operation and maintenance of the System for whatever reason, the culvert crossing may be removed by the District if deemed necessary, at the sole expense of the owner(s) of the culvert crossing, without notice.

#### 4.06 Utility Crossings of Easements

The District must approve all plans and designs of and compensation for proposed utility crossings of any easement. The Board shall assume no liability related to any utility crossing of an easement.

## **Rule 5: Miscellaneous**

### 5.01 Variance Process

The District provides for a “variance” process to allow any member to seek to undertake certain actions despite the fact that such actions may be contrary to these Rules and Regulations. The Board may issue a written variance if the Board finds the proposed use: (1) is consistent with sound principles of land use; (2) will not be injurious to the use of neighboring land, buildings, or structures; (3) will not create special hazards or problems for the area in which it is located; (4) is related to and harmonious with the general plan for the area in which it is located; and (5) is otherwise in accordance with the intent and purposes of the District.

The Board may condition the authorized use under the variance subject to reasonable conditions, which, in the discretion of the Board, are necessary to carry out the intent and purposes of the District.

A variance application shall be filed with the District, and shall contain the following: (1) a description of the land for which the variance is requested; (2) the name and signature of the member; (3) a description of the nature of the use for which the variance is requested; (4) a statement of the reason the variance should be issued; and (5) full payment of the filing fee of fifty dollars (\$50.00).

As part of the variance application, the member may request a hearing before the Board in accordance with the “contested case” procedures provided in Rule 6.

### 5.02 District Boundaries

The Board may enlarge or reduce the boundaries of the District by the addition or exclusion of real property in the manner provided by Wyoming Statutes (currently W.S. §§ 41-7-203 and 41-7-305 through 41-7-313).

### 5.03 Process to Change District Boundaries

Any person seeking to include additional real property within or exclude real property from the District is required to submit a written request to the Board. The request must contain a legal description of the property sought to be included or excluded, and must be submitted by the owner of such property.

If the Board approves the request, then the landowner shall deliver a cashier’s check to the District in the amount of one thousand dollars (\$1,000.00). If the District’s total legal fees, survey costs, and publication costs for its petition to and hearing before the Platte County District Court exceed one thousand dollars (\$1,000.00), the landowner shall reimburse the District for the total fees and costs that exceed said amount.

### 5.04 Public Records Requests

The procedure and requirements for public records requests are set forth in the Wyoming Statutes (currently W.S. §§ 16-4-201 *et seq.*). Whenever a person requests physical copies, printouts, or photographs of any public records, the District may require said person to pay reasonable duplication fees, as set by the Board from time to time, before furnishing the records (*see* Resolution No. 2010-07B dated July 9, 2010 for the current fee schedule).

#### 5.05 Ringsby Ranch

Anyone interested in leasing the Ringsby Ranch for grazing and/or hunting purposes shall submit a written statement of interest to the District on or before thirty (30) days prior to the expiration of the current lease. Upon receiving the statement of interest, the District may request the interested person to submit a formal lease proposal for the Board's consideration.

### **Rule 6: Contested Cases**

#### 6.01 Applicability of Rules

These rules shall apply to all hearings required by law to be held with respect to the legal rights, duties, or privileges of any party. The matter shall be conducted as a "contested case" pursuant to and as defined in the Wyoming Administrative Procedure Act (the "WAPA") (currently W.S. §§ 16-3-107 through 16-3-112). The Rules and Regulations are meant to supplement and not replace the WAPA. If any portion of these Rules and Regulations conflicts with a current provision of the WAPA, the WAPA shall control.

Informal or investigative hearings may be held by the Board without compliance with these Rules and Regulations. Hearings not in compliance with these Rules and Regulations may be held by the Board upon express agreement by all parties.

#### 6.02 Hearings Before the Board

Any person whose legal rights, duties, or privileges have been or will be affected by any decision, order, ruling, or other action taken or proposed to be taken by the Board, has a right to a hearing before the Board.

Whenever it shall appear, from statements of any party or other sources, that a dispute exists on any material fact, the Board, at its option, may delay further proceedings until all factual disputes are heard and recommendations are made by a hearing examiner.

#### 6.03 Petitions

Any person desiring to come before the Board for a hearing, other than for inclusion or exclusion of property in the District, must file a petition with the District, setting forth: (1) a concise statement of the facts on which a petitioner relies; (2) a statement in ordinary language, setting forth the action or decision desired by the petitioner; (3) the name, address, and telephone number of the petitioner or the attorney for the petitioner; (4) the signature of the petitioner or attorney for the petitioner; and (5) the legal authority, if any, or known at the time of the filing of the petition upon which the petitioner relies.

#### 6.04 Board as Petitioner

If any matter in which the Board is required to hold a hearing in which the District has the burden of proof, the District shall be deemed the petitioner for purposes of these rules. Any notices or writings required by law for said hearing shall be deemed to be the petition of the District. Any objection by the other party to the petition of the District shall be served in writing at least three (3) working days before any scheduled hearing.

#### 6.05 Notice of Hearing

The requirements for providing and serving notice of the opportunity for a hearing are set forth in the WAPA (currently W.S. § 16-3-107(a)). The Secretary of the Board shall cause written notice of any contested case hearing to be served upon each party at least ten (10) days in advance of the date set for hearing. Such notice shall include a statement of: (1) the time, place, and nature of the hearing; (2) the legal authority and jurisdiction under which a hearing is to be held; (3) the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. If the Secretary is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and thereafter upon application a more definite and detailed statement shall be furnished.

#### 6.06 Service

Service of the Notice of Hearing may be made in person, in accordance with the Wyoming Rules of Civil Procedure, or by certified mail, return receipt requested, addressed to any party according to the records of the District.

#### 6.07 Hearing Examiner

The Board may elect to hire a hearing examiner to preside at a contested case hearing. The hearing examiner shall conduct all proceedings in an impartial manner. The hearing examiner shall be a qualified member of the Wyoming Bar. The hearing examiner shall make recommended findings of fact and conclusions of law to the Board in writing. The hearing examiner shall be hired by the Board and shall be entitled to a reasonable fee for his services and reimbursement for reasonable expenses incurred in connection therewith.

#### 6.08 Findings of Fact and Conclusions of Law

The requirements for providing notice of the hearing examiner's recommended findings of fact and conclusions of law, and the parties' right to file objections thereto and be heard thereon, are set forth in the WAPA (currently W.S. § 16-3-109).

The hearing examiner's recommended findings of fact and conclusions of law shall be adopted by the Board unless a majority of the Commissioners object to the same. No Commissioner may object to the recommended findings of fact and conclusions of law unless he/she was present at the hearing or read the transcript of the proceedings and heard or examined the official record of the hearing. The decision of the Board on the recommended findings of

fact and conclusions of law will be announced no later than thirty (30) days from the date of notice to the Commissioners and parties that the transcript of the proceedings is complete.

The requirements for the content and service of the Board's final decision and order are set forth in the WAPA (currently W.S. § 16-3-110).

#### 6.09 Duties of Presiding Officer

The presiding officer at any hearing shall be the District President, any Commissioner authorized to act in the absence of the President, or the hearing examiner. In addition to the powers listed in the WAPA (currently W.S. § 16-3-112), the presiding officer shall have the authority and power to:

- (1) Cause the findings of fact and conclusions of law to be finalized and filed with the Secretary.
- (2) Cause a written decision and order to be made and filed with the Secretary based upon the Findings and Fact and Conclusions of Law.
- (3) Recess the hearing or grant continuances for good cause.
- (4) Require written briefs from any party clarifying its legal or factual position.
- (5) Declare that any matter is being taken under advisement and that a decision will be announced at a later time, not to exceed twenty (20) days.
- (6) Punish for contempt by permanent removal from the hearing location by any person so offending.
- (7) Take any other action authorized by law, consistent with these Rules and Regulations, or required to fulfill any of his duties.

#### 6.10 Order of Procedure at Hearing

As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

- (1) The petitioner may briefly state his case and the evidence by which he expects to sustain it.
- (2) The adverse party may then briefly state his defense and the evidence he expects to offer in support of it.
- (3) The petitioner shall first produce his evidence; the adverse party will then produce his evidence.
- (4) The parties will then be confined to rebutting evidence unless the presiding officer permits them to offer evidence in their original case.
- (5) The presiding officer may, in his discretion, allow evidence to be offered out of the order as herein prescribed.
- (6) Closing statements will be made in the following sequence: (a) Petitioner, (b) Adverse party, (c) Petitioner in rebuttal.

#### 6.11 Witness at the Hearings to be Sworn

All persons testifying at any hearing shall stand and be administered the following oath

by the presiding officer:

***“Do you swear (or affirm) to tell the truth, the whole truth and nothing but the truth in the matter now before the Board?”***

6.12 Disposition of Case by Stipulation

Any contested case may be finally disposed of by stipulation, agreed settlement, consent order, or default of the parties, upon approval by the Board. An appropriate order of dismissal shall be entered in the case record.

6.13 Applicable Rules of Civil Procedure to Apply

The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure, insofar as the same may be applicable and not inconsistent with these Rules and Regulations, the WAPA, or other laws of the State of Wyoming, shall apply in all contested cases.

6.14 Attorneys

The filing of a petition or other similar representation by an attorney constitutes his appearance for the party for whom the representation is made. The Board must be notified in writing of any withdrawal from the case. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney. This rule shall not be construed to prohibit any person from representing himself under these rules.

6.15 Board Attorney

In all matters before the Board, or under these Rules and Regulations, the President may request the Board attorney to be present, to assist and advise the Board and to represent the District.

6.16 Reporter

The requirements for reporting or transcribing contested case proceedings are set forth in the WAPA (currently W.S. § 16-3-107(p)). The compensation of any reporter taking such testimony shall be at the expense of the District. Any transcription of the proceedings or any part thereof shall be at the cost and expense of any party requesting the same, except as otherwise ordered by the Board.

6.17 Appeals

The requirements for seeking judicial review of the Board's final decision are set forth in the WAPA (currently W.S. §§ 16-3-114 and 16-3-115).

**BYLAWS**  
**OF THE**  
**WHEATLAND IRRIGATION DISTRICT**

**I. INTRODUCTION**

The definitions provided in Rule 1 of the foregoing Member Rules and Regulations shall also apply to those terms used in these Bylaws. All citations and references to the Wyoming Statutes are as of the effective date of these Bylaws. The Wyoming Statutes are available on the internet at the Wyoming Legislature's website: <http://legisweb.state.wy.us/>.

**II. CORPORATION AND CORPORATE OFFICE**

The name of the corporation is Wheatland Irrigation District (hereinafter referred to as the "District"). Its principal office is located at 30 West Frontage Road in the Town of Wheatland, County of Platte, State of Wyoming.

**III. DISTRICT POWERS**

The District is composed of five subdivisions, which are designated Commissioner Districts and are numbered consecutively one to five. The general powers of the District (and of the Commissioners) are set forth, in part, in the Wyoming Statutes (currently W.S. §§ 17-16-302, 41-7-210, 41-7-303, 41-7-306, 41-7-314, and 41-7-401).

The Commissioners constitute the corporate authority of the District and are organized as a Board. The Commissioners elect a President and Vice President from their number to the Board and either appoint or elect a Secretary-Treasurer, whom may or may not be a member of the Board. *See* W.S. § 41-7-303.

The Board may adopt resolutions (formal written instruments) dictating how the Board intends to act in the exercise of its legislative power or upon a permanent matter, or both.

**IV. DISTRICT COMMISSIONERS**

1. Presumption. The Commissioners are public officers and enjoy a presumption in favor of the regularity and validity of all their official acts.

2. Number. There is one (1) Commissioner for each of the five (5) Commissioner Districts.

3. Term. The term of an elected Commissioner commences upon the date of the next regular meeting of the Commissioners held after his/her election. *See* W.S. 41-7-316(d). Each Commissioner serves for a term of three (3) years and until his/her successor is elected and qualified. *See* W.S. 41-7-316(c).



4. Elections. The procedure and requirements for the election of Commissioners are set forth in the Wyoming Statutes (currently W.S. §§ 41-7-316 through 41-7-318).

5. Qualifications. The qualifications to serve in the office of a Commissioner are set forth in the Wyoming Statutes (currently W.S. §§ 41-7-302 and 41-7-318) and Rule 3.03 of the foregoing Member Rules and Regulations.

6. Vacancies. The procedure for filling a vacancy in the office of a Commissioner is set forth in the Wyoming Statutes (currently W.S. § 41-7-318).

7. Quorum. A majority of the Commissioners constitutes a quorum at any meeting of the Board, and a concurrence of a majority in any matter within their duties is sufficient to its determination. *See* W.S. § 41-7-302.

8. Meetings. The requirements for the regular and any special or emergency meetings of the Board, including notice thereof, are set forth in the Wyoming Statutes (currently W.S. §§ 16-4-401 *et seq.*). The Board provides information by resolution, from time to time, concerning the holding of regular meetings (*see* Resolution No. 2010-07A dated July 9, 2010).

9. Compensation. The Commissioners receive, as compensation for their service, a sum fixed by the Platte County District Court, and they are reimbursed for their actual reasonable expenses. *See* W.S. § 41-7-304.

## **V. OFFICERS**

1. Election of Officers. The officers of the Board are elected during the next regular meeting held after the annual election meeting with the members.

2. President. The President is the principal executive officer of the District and, subject to the control of the Board, shall, in general, supervise and control all of the business and affairs of the District. The President shall, when present, preside at all meetings of the Commissioners and of the general District meetings. The President may sign, with the Secretary-Treasurer or any other proper officers of the District thereunto authorized by the Board, any deed, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board to some other officer or agent of the District or is required by law to be otherwise signed or executed; and, in general, shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time.

3. Vice President. In the absence of the President or in the event of his/her death, inability, or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the power of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as, from time to time, may be assigned to him/her by the President or by the Board.

4. Secretary-Treasurer. The Secretary-Treasurer shall perform all the duties incident to the office of Secretary-Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board.

5. Assistant Secretary-Treasurer. The Board may, if it so elects, appoint an Assistant Secretary-Treasurer who may be an employee or agent of the District, who may generally perform the duties of the Secretary-Treasurer and, when so acting, shall have all of the powers and be subject to all of the restrictions upon the Secretary-Treasurer.

6. Delegation of Power. In the event of absence or inability of any officer to act, the Board may delegate the powers or duties of such officer to any other Commissioner(s).

## **VI. ASSESSMENTS**

The procedure and requirements for the District's assessments, and all related matters, are set forth in the Wyoming Statutes (currently W.S. §§ 41-7-401 through 41-7-415, excluding 41-7-413) and Rule 3.03 of the foregoing Member Rules and Regulations. Each fiscal year shall commence on July 1st and end on June 30th of the succeeding year.

## **VII. MISCELLANEOUS**

1. Waiver of Service. Any notice provided for in these Bylaws may be waived by the person or corporation entitled to such notice by signed, written consent.

2. Joint Operation and Cooperation with other Irrigation and Drainage Districts. If the District so desires, it may cooperate in the operation and maintenance of its system of irrigation with one or more other incorporated irrigation or drainage districts by availing itself of the provisions of Wyoming law provided for this purpose and following the procedure outlined therein.

3. Instruments. No instrument shall be deemed to have been duly executed on behalf of the District unless it shall have been signed by the President and, when a seal is required, sealed with the corporate seal and attested by the Secretary-Treasurer.

4. Recordkeeping. The recordkeeping requirements of the District and the public's right to inspect the District's records are set forth in the Wyoming Statutes (currently W.S. §§ 16-4-201 *et seq.*, 16-4-403(c), 16-4-405(b), and 41-7-304) and Rule 5.04 of the foregoing Member Rules and Regulations. The District's records may be accumulated and disposed of according to Wyoming Statutes (currently W.S. §§ 9-2-411 and 9-2-412).

5. Revenue Bonds. The District's power and authority to issue revenue bonds, and all related matters, are set forth in the Wyoming Statutes (currently W.S. §§ 41-7-901 through 41-7-935). If all of the District's outstanding bonds are held by the State of Wyoming, the District may, on any date when an installment of principal or interest matures, pay to the State Treasurer the whole of any indebtedness evidenced by any such bond or bonds.

## **VIII. DISSOLUTION**

The procedure and requirements for dissolution of the District, and all related matters, are set forth in the Wyoming Statutes (currently W.S. §§ 41-7-1001 through 41-7-1006).

## **IX. AMENDMENTS**

The requirements for adopting, amending, or repealing these District Bylaws and the foregoing Member Rules and Regulations are set forth in the Wyoming Statutes (currently W.S. §§ 16-3-101 *et seq.*). The requirements for filing the revised Handbook of Member Rules and Regulations and District Bylaws are specified by Wyoming Statutes (currently W.S. §§ 16-3-102(b) and 16-3-104). From and after the effective date of this Handbook of Member Rules and Regulations and District Bylaws, the previously filed Handbook of Member Rules and Regulations and District Bylaws shall be superseded and shall be of no further force or effect.