

**BYLAWS
OF
WALTON-SCHULER DITCH COMPANY**

**ARTICLE I.
OFFICE**

The principal office of WALTON-SCHULER DITCH COMPANY ("Corporation") in the State of South Dakota is at 282 Upper Valley Road, Spearfish, SD 57783.

**ARTICLE II.
MEMBERSHIP**

Voting members of the Corporation will be the owners of real property that have approved access to the Corporation's irrigation system within the following described real property:

T6N, R2E, Lawrence County, SD:

Section 4: SW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; W $\frac{1}{2}$ SE $\frac{1}{4}$.

Section 9: W $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$.

**ARTICLE III.
VOTING RIGHTS**

Each parcel of land located within the membership area described in Article II shall have one (1) vote per eighth (1/8) acre or fraction thereof (to be rounded up to nearest quarter) for all matters and elections before the Corporation. No member(s) shall be entitled to additional voting power by means of joint or common ownership. A member may vote in person, through a proxy appointed by a written instrument dated and signed by the member or their duly authorized attorney-in-fact and delivered to the secretary of the meeting, or by mail by a writing dated and signed by the member or by their duly authorized attorney-in-fact and received by the secretary of the meeting. No proxy or mail vote shall be valid after two (2) months from the date of its execution, unless a longer period is expressly provided therein. A member's voting rights may be suspended by the Board of Directors as provided in Article VIII.

ARTICLE IV.**VOTING AND QUORUM REQUIREMENTS**

Section 1. **Quorum.** Except as otherwise provided by law, a quorum at all meetings of members of the Corporation shall consist of one-third ($\frac{1}{3}$) of the authorized (not suspended) membership voting power, present in person, by proxy, or mail vote.

Section 2. **Voting.** A quorum being present, a majority vote shall be the act of the Corporation.

ARTICLE V.**MEMBERS****Section 1.** **Annual Meetings.**

a. The annual meeting of the voting members of the Corporation, commencing with the year 2013, shall be held at such place as may be determined by the Board of Directors and as may be designated in the notice of such meeting. The meeting shall be held during the second week of February or as soon thereafter as possible in each year. The business to be transacted at such meeting shall be the nominations for and the election of directors, the purposes set forth in the notice of the meeting, and such other business as shall be properly brought before the meeting.

b. If the election of directors shall not be held on the day designated for the annual meeting, or at the adjournment of such meeting, the Board of Directors shall call a special meeting of the members as soon as conveniently possible thereafter. At such meeting the election of directors shall take place, and such election and any other business transacted thereat shall have the same force and effect as at an annual meeting duly called and held.

c. In the event the annual meeting is not held at the time prescribed in Article V, Section 1(a) above, and if the Board of Directors shall not call a special meeting as prescribed in Article V, Section 1(b) above, within two (2) months after the date prescribed for the annual meeting, then any voting member may call such meeting, and at such meeting the voting members may elect the directors and transact other business with the same force and effect as at an annual meeting duly called and held.

Section 2. **Special Meetings.** Special meetings of the members may be called by the President, the Board of Directors, or the written request of one-fifth ($\frac{1}{5}$) of the members in good standing.

Section 3. Notice and Purpose of Meetings; Waiver. Each member entitled to vote shall be given notice by email and posting on the corporation's website, WSDitch.com, of the date and location of all meetings of the members. Each member shall be responsible for providing the secretary of the corporation a current mailing address, phone number and email address.

Section 4. Presiding Officer; Order of Business.

a. Meetings of the voting members shall be presided over by the President. The President shall also serve as Chairperson of the Board.

b. The Secretary of the Corporation shall act as secretary of every meeting, but if the Secretary is not present, the members entitled to vote at the meeting shall choose any person present to act as secretary of the meeting.

c. The order of business shall be, if applicable, as follows:

- (1) Call of meeting to order.
- (2) Proof of notice of meeting.
- (3) Reading of minutes of last previous meeting.
- (4) Reports of officers.
- (5) Reports of committees.
- (6) Election of directors.
- (7) Miscellaneous business.

Section 5. List of Members.

a. A complete list of the members entitled to vote at the ensuing meeting, arranged in alphabetical order, and showing the address, shall be prepared by the Secretary, or other officer of the Corporation having charge of the Corporate Books.

b. The original Corporate Books shall be prima facie evidence as to who are the voting members entitled to examine such list or to vote at any meeting of the members.

c. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting of the members.

ARTICLE VI.

DIRECTORS

Section 1. Number, Qualification, Term, Quorum, and Vacancies.

a. The property, affairs and business of the Corporation shall be managed by a Board of Directors of three (3) persons. Directors shall be elected at the annual meeting of the members and each director shall serve for three (3) years and until

their successor shall have been elected and qualified. Initially, the three (3) directors will draw lots to determine the length of their initial term with one member serving an initial term of one (1) year, one an initial term of two (2) years; and one an initial term of three (3) years.

b. Directors must be members of the Corporation.

c. A majority of the directors in office shall be necessary to constitute a quorum for the transaction of business by the directors. A majority vote of the quorum shall be the act of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, a majority of those present may adjourn the meeting, without further notice, from time to time until a quorum shall have been obtained. In case there are vacancies in the Board of Directors, other than vacancies created by the removal of a director or directors by the voting members, the remaining directors, although less than a quorum, may by a majority vote elect a successor or successors for the unexpired term or terms.

d. The Board of Directors shall elect the principal officers. The President shall also serve as Chairperson of the Board.

Section 2. Meetings.

Meetings of the Board of Directors shall be held at such place as may be determined by the Board of Directors and as may be designated in the notice of such meeting. Regular meetings of the Board of Directors shall be held immediately following the annual meeting of the members. Special meetings may be held at any time upon call of the Chairperson, or any director, upon notice. Notice of a special meeting shall be given in person, by mail, by facsimile transmission, or by electronic transmission. Notice need not be given of regular meetings of the Board of Directors held at times fixed by resolution of the Board of Directors. Meetings may be held at any time without notice if all the directors are present or if, before the meeting, those not present waive such notice in writing. Notice of a meeting of the Board of Directors need not state the purpose of, nor the business to be transacted at, such meeting.

Section 3. Removal.

a. At any meeting of the voting members, any director or directors may be removed from office, without assignment of any reason therefore, by a two-thirds (2/3) vote of the members entitled to vote at such meeting.

b. When any director or directors are removed, new directors may be elected at the same meeting of the members for the unexpired term of the director or directors removed. If the voting members fail to elect persons to fill the unexpired term or terms of the director or directors removed, such unexpired terms may be considered vacancies on the Board to be filled by the remaining directors.

Section 2. Compensation.

No director shall receive compensation for any services rendered to the Corporation. However, any director may be reimbursed for their actual expenses incurred in the performance of their duties if authorized by the other directors.

Section 3. Duties.

The duties of the directors shall include, but are not limited to, the following:

a. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth ($\frac{1}{4}$) of the authorized membership voting power;

b. Supervise all officers, agents and employees of this Corporation, and to see that their duties are properly performed;

c. Provide notice of charges to every member subject to at least thirty (30) days' advance notice of the effective date of such rates or charges;

d. Foreclose any lien against the property for which charges are not paid within thirty (30) days after the due date, or to bring an action at law against the owner personally obligated to pay the same;

e. To issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any charge has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If the certificate states that charges have been paid, such certificate shall be conclusive evidence of payment;

f. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

g. To terminate or suspend water service provided by, or the use of facilities of, the Corporation to any non-member or to any member for the period of time that the charges due the Corporation from said member are delinquent. When such

delinquent charges are paid by said member, the Board of Directors will promptly restore water service and use of the facilities to said member;

h. Exercise for the Corporation all powers, duties and authorities vested in or delegated to the Corporation and not reserved to the membership by other provisions of these Bylaws or the Articles of Incorporation;

i. Declare the office of a member of the Board of Directors to be vacant in the event that such member shall be absent from three (3) consecutive meetings of the Board of Directors; and

j. Do approve any contracts for employment of any manager, independent contractor, or any employee as it deems necessary, and to prescribe their duties, in the course of maintaining, improving, operating or administering the Corporation or any of the Corporation's property or rights.

k. To take any other act reasonably necessary for the protection of the Walton-Schuler Ditch and the Corporation's water rights.

ARTICLE VII.

OFFICERS

Section 1. **Number.** The officers of the Corporation shall be a President, Vice-President, Secretary, and Treasurer. The President shall also be Chairperson of the Board. In addition, there may be such subordinate officers as the Board of Directors may deem necessary. Any person may hold two offices, but no more than two, except no person shall simultaneously serve as the President and either the Secretary or Treasurer.

Section 2. **Term of Office.** The initial principal officers shall be chosen by the initial Board of Directors named in Article VIII of the Articles of Incorporation. Thereafter, the principal officers shall be chosen annually by the Board of Directors at the meeting of the Board following the members' annual meeting, or as soon thereafter as is conveniently possible. Subordinate officers may be chosen from time to time. Each officer shall serve until their successor has been chosen and qualified, or until their death, resignation or removal.

Section 3. **Removal.** Any officer may be removed from office, with or without cause, at any time by the affirmative vote of a majority of the Board of Directors.

Section 4. **Vacancies.** Any vacancy in an office may be filled for the unexpired portion of the term by the Board of Directors.

Section 5. **Duties.**

a. The President shall have general supervision of the affairs of the Corporation, shall sign or countersign all contracts or other instruments of the Corporation as authorized by the Board of Directors, shall make reports to the Board of Directors and members, and shall perform such other duties as are incident to the office or are properly required of the President by the Board of Directors. The President shall preside at all meetings of the members and the Board of Directors.

b. The Vice-President shall exercise the functions of the President during the absence or disability of the President. The Vice-President shall have such powers and discharge such duties as may be assigned from time to time by the Board of Directors.

c. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; keep the corporate seal of the Corporation and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the voting members; keep appropriate current records showing the members of the Corporation together with their addresses, complete and file the corporate report with the Secretary of State as required by SDCL chapter 47-24, and shall perform such other duties as required by the Board of Directors and incident to the office.

d. The Treasurer shall receive and deposit in an appropriate bank account all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Corporation; keep proper books of account; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and prepare, or cause to be prepared, upon the approval of the Board of Directors, the annual non-profit tax return for the Corporation; and shall perform such other duties as required by the Board of Directors and incident to the office.

e. Other subordinate officers appointed by the Board of Directors shall exercise such powers and perform such duties as may be delegated to them by the resolutions appointing them, or by subsequent resolutions adopted from time to time.

f. In case of absence or disability of any officer of the Corporation and of any person hereby authorized to act in their place during such period of absence or disability, the Board of Directors may from time to time delegate the

powers and duties of such officer to any other officer, or any director, or any other person whom it may select.

Section 6. Compensation. No officer shall receive compensation for any services rendered to the Corporation. However, any officer may be reimbursed for their actual expenses incurred in the performance of their duties if authorized by the Board of Directors.

ARTICLE VIII.

FEEES, ASSESSMENTS AND CHARGES

Section 1. Levy of Charges. In order to maintain, improve, operate and administer the Corporation and the Corporation's property, including the ditch and its water rights, each member is obligated to pay the fees, assessments and charges (hereinafter referred to as "charges"), as may be determined from time to time by the membership. Such charges are secured as a continuing lien upon the members' property located within the membership area described in Article II. Any charges which are not paid when due shall be delinquent. If a charge is not paid within thirty (30) days after the due date, the charge shall bear interest from the date of delinquency at the rate of fifteen percent (15%) per annum, and the delinquent member's voting rights in the Corporation shall be suspended and said delinquent member shall no longer have the right to receive water from the Walton Schuler Ditch or any laterals connected thereto. Furthermore, the Corporation may bring an action at law against the member personally obligated to pay the same or foreclose the lien against the member's property and interest, costs and reasonable attorney's fees for any such action shall be added to the amount of such charge. Upon payment of all delinquent charges, interest, costs and attorneys fees, if any, all suspended voting rights and receipt of water service shall be promptly restored to the member. No member may waive or otherwise escape liability for the charges provided for herein by non-use of water or abandonment of their property.

Section 2. Annual Membership Fee. During the annual meeting of members, the membership shall determine an annual membership fee required to carry out the affairs, duties and goals of the Corporation during the next twelve (12) months. Fees that remain unpaid and are therefore past due and delinquent shall bear interest and be treated as a delinquent charge as referenced in Section 1.

Section 3. Special Fees. In addition to the above-stated annual membership fees, the Corporation may fix and collect from time to time special fees for the entire membership for unexpected or unanticipated expenses, provided that said special fees shall first be approved by two-thirds (2/3) vote of the members in good standing. This provision is intended to cover, among other things, those instances when unanticipated maintenance or repair of the ditch or corporate property is required to preserve, protect and continue use of the Corporation' water rights by its members.

Section 4. Notice of Lien. A charge or fee that is past due more than thirty (30) days shall constitute a lien upon the delinquent member's property. A notice of lien may be recorded with the office of the register of deeds of Lawrence County, South Dakota, identifying the name and last known address of the member; the legal description of the property affected by the lien; the amount of the lien; and the name and address of the Corporation's agent authorized to release such lien.

ARTICLE IX.

CORPORATE SEAL

The corporate seal of the Corporation shall consist of two concentric circles, between which shall be the name of the Corporation, and in the center of which shall be inscribed the year of its incorporation and the words "Corporate Seal, State of South Dakota."

ARTICLE X.

BOOKS AND RECORDS

The Articles of Incorporation, Bylaws, books, records and papers of the Corporation shall be available for inspection by any voting member of the Corporation upon reasonable notice.

ARTICLE XI.

AMENDMENT OF BYLAWS

These Bylaws may be amended, at a regular or special meeting of the members, by a two-third (2/3) majority vote of the authorized membership voting power entitled to vote at such meeting. Proposed amendments must be submitted to the Board of Directors in advance of the meeting so that the members can be notified of the proposal when notice of the meeting is provided.

ARTICLE XII.**FISCAL YEAR**

The fiscal year of the Corporation shall begin on the 1st day of January and end on the 31st day of December of every year, except the first fiscal year shall begin on the date of incorporation.

ARTICLE XIII.**DISSOLUTION**

The Corporation may be dissolved with the consent given in writing and signed by two-thirds (2/3) of the authorized membership voting power.

ARTICLE XIV.**INDEMNIFICATION**

The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Corporation, by reason of the fact that that person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fee, judgments, fines and amounts paid in settlement actually and reasonably incurred by that person in connection with such action, suit or proceeding if that person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which that person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.


ARTICLE XV.
LIABILITY INSURANCE

The Corporation shall purchase and maintain insurance on behalf of any person who is a director, officer, employee or agent of the Corporation against any liability asserted against that person and incurred by that person in such capacity, or arising out of such status.

CERTIFICATION OF CODE OF BYLAWS

The undersigned, the Secretary and all Directors of **WALTON-SCHULER DITCH COMPANY**, hereby certify that the foregoing constitutes the true and correct "Code of Bylaws of **WALTON-SCHULER DITCH COMPANY**" and declare that such Bylaws become effective upon their insertion in the Corporation Record.


Witness this 22 day of MAY, 2012, the hands of the undersigned, the seal in attestation of such Certification.




Director



Director



Director



Secretary