

Violations of GVVUA Water Rights

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The Grand Valley Board of Directors, management and legal counsel are illegally using the shareholders water rights. The following project, Water Banking/Conserved Consumptive Use Pilot Project (CCUPP) is illegal according to the Articles of Incorporation of the Grand Valley Water Users Association (GVVUA), Colorado Water Law and Colorado Non Profit Law.

Article used in this paper means: Article of Incorporation of the Grand Valley Water Users Association.

1. The Articles Of Incorporation define a specific area that irrigation water from the Highline Canal can be used on.

Article IV Section 5. The territory within which the lands to be irrigated as aforesaid are situated, to be known as the Grand Valley Irrigation District, includes all lands within the boundaries described as follows, to-wit:

That portion of Grand Valley lying between east boundry line of Range 98 west 6th Principle Meridian, and the west boundry line of Range 104 west 6th Principle Meridian irrigable by diversion of water from the Grand River in Colorado.

2. The shares are appurtant (tied to) the land.

Article IV section 6. The ownership of each share of stock of this Association shall carry, as incident hereto, a right to have water delivered to the owner thereof by the Association for the irrigation of the lands to which such share is appurtenant.

3. The shareholders right to water is for irrigation of the lands as described are perpetually and inseparably appurtenant to the land.

Article V Section 8. By subscribing to the shares of this Association each signer agrees that the right to any water theretofore appropriated by him, or by his predecessor in interest, for the irrigation of the lands described in said subscription, or customarily used thereon, shall become appurtenant to such lands. There shall be further incident to the ownership of such shares the right to have such water delivered to the owner thereof by the Association for the irrigation of said lands, as the Association shall from time to time acquire or control means for that purpose: Provided, that the whole amount of water actually delivered to such lands from all sources shall not exceed the amount necessary for the proper cultivation thereof.

Article V Section 9. The records of the Association and each and every certificate or other evidence of ownership of shares of stock In the Association, when issued, shall contain a description of the lands to be irrigated, and to which the aforesaid rights and shares shall be perpetually appurtenant; and, thereafter all rights what ever their source or what ever their

manner of acquisition to use of water for the irrigation of said lands shall forever be inseparably appurtenant thereto,.....

4. The water cannot be transferred without transferring the title to the land.

Article V Section 10. Every transfer of the title to any lands to which the said rights and shares are appurtenant, whether by grant or by operation of law (except for the land may be subjected by grant, or involuntary under any law, to an easement, the exercise of which does not interfere with the cultivation of the soil by the servient owner) shall operate, whether it be so expressed therein or not, as a transfer to the grantee or successor in title, of all rights to the use of water for the irrigation of said lands, also all rights arising from, or incident to, the ownership of such shares, as well as the shares themselves; and upon presentation to this Association of proof of any such transfer of land, the proper officer shall transfer such share of stock up on its books to the successor in title to said lands.

Article V Section 11. Any transfer or attempted transfer, of any of the shares of this Association, made up or suffered by the owner thereof, unless simultaneously a transfer of the land to which it is appurtenant is made up or suffered to or in favor of the same party, shall be of no force or effect for any purpose and shall confer no rights of any kind whatsoever on the person or persons to whom such transfer may have been attempted to be made.

5. The purpose of the Grand Valley Water Users Association is to maintain and operate irrigation works, the Highline Canal it's ditches and laterals. Following land, water banking and Conserved Consumptive Use Pilot Project are inconsistent with the Articles Of Incorporation.

Article VII Section 11. The distribution and application of water cannot be inconsistent with the Articles of Incorporation.

6. Participation in this project is intentional misconduct by the Board of Directors (BOD), management and legal counsel and a violation of Colorado nonprofit laws and the Articles of Incorporation. The Shareholders were not informed about the pilot project. Information found on the GVVUA web page shows the direct involvement and participation by current management, staff and members of the Board of Directors.

*Grand Valley Water Users Association Conserved Consumptive Use Pilot Project (CCUPP)
Development: Process, Procedure and Lessons Learned, Final Draft*

Water Banking- Next Steps Part II

March 2017, Prepared By: J-U-B Engineers, Inc and the Grand Valley Water Users Association

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3.1 Agricultural Water Users Interviews

At the beginning of this project, the GVVUA and management, with permission of the BOD, made the decision to move forward with investigating and potentially creating a pilot project.

However, individual board members remain skeptical and agricultural water users served by the GVWUA were either only peripherally aware or completely unaware of the idea.....

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The decision was made to take the message to a limited group of agricultural producers. Included in in the group were individuals who met one or more of the following criteria:

Current or past BOD (board of directors) membership or other Association or "water community" involvement

Eleven initial participants were chosen and contacted. The participants were hand selected by the contractor and GVWUA management for various reasons including those listed above.

Colorado Nonprofit Law

CRS 7-128-501 Conflicting interest transaction

(1) As used in this section, " conflicting interest transaction" means: A contract, transaction, or other financial relationship between a nonprofit corporation and a director of the nonprofit corporation, and or between the nonprofit corporation and a party an related to an a director, or between the nonprofit corporation and an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest.

VII Section 15. The directors shall have no personal liability to the corporation or to its members or stockholders for monetary damages for breach of fiduciary duty as a director; except that this provision does not eliminate or limit the liability of a director for any breach of the directors duty of loyalty to the association or its members or stockholders; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or in a transaction from which the director derives an improper personal benefit.

Mark Harris, Manager

Luke Gingerich, J-U-B Engineers, Inc

Kirsten Kurath, Legal Counsel

Board of Directors:

Kim Albertson

Andrew Arpke

Joseph Bernal

Melvin Crider

Marty Basinger

Troy Latham

John Potter

Troy Waters

Arthur Donoho

Victor Thompson

Carol Traynor

Office staff of Grand Valley Water Users Association

All have taken part in the illegal activities of Water Banking/Conserved Consumptive Use Pilot Project.

7. Water rights must be put to beneficial use according to Colorado water law. The Water Banking/Conserved Consumptive Use Pilot Project does not have a beneficial use for the fallowed lands water. 'The water is diverted into the Highline Canal to keep it full but not used to irrigate farmland. It is allowed to run through the canal and back to the Colorado River', my paraphrase. Mark Harris made this statement on August 1, 2017 at a meeting concerning the 2018 Water Banking/Conserved Consumptive Use Pilot Project informational meeting held at the GVVUA office at 6:30 pm.

TITLE 37. WATER AND IRRIGATION

C.R.S. 37-92-103 (2017)

37-92-103. Definitions(4) "Beneficial use" means the use of that amount of water that is reasonable and appropriate under reasonably efficient practices to accomplish without waste the purpose for which the appropriation is lawfully made.