



P.O. Box 100
 Providence
 Utah 84332

Cache Highline Water Association

Change of Use Outside of Water Right*

Applications must be received by March 1 of current water year.

Fee to be paid upon submittal of Application: a) Move 1-10 shares - \$1,000.00; b) Move 10.1 - 20 shares - \$2,000.00; c) Move 20.1- 30 shares - \$3,000.00. Then all costs associated with the change at final approval.

Applicant Contact Information
Name:
Address:
Telephone Number(s):
Email Address:

Change Information	
Certificate No.:	Number of Shares affected by change:
Quantity of water desired for the change:	
Location of current points of delivery	Headgate No. :
Location of proposed points of diversion Address and nature of use:	
Proposed use of the water:	
Period of use of the water:	
Explanation of the change including need and purpose for the change:	
Signature for responsibility of compensation for costs of change:	
_____ Signature	
Other information as required by Board:	

Required documentation materials:

- Map showing location of current place of use and legal description of land to be retired from irrigation.
- Map showing location of proposed place of use and legal description of land to be irrigated

(over)

*Cache Highline Water Association Bylaws, Article X, 2

Action Tracking	
Action	Date
Receipt of application	
Payment of fees (if applicable)	
Payment of additional costs (if any)	
Board approval or denial of application	

Applicable Bylaws References – Article X

2. Requested Changes Outside the Cache Highline Irrigation System or Otherwise Involving a Change in the Underlying Water Rights of the Association. No shareholder shall be permitted to file or cause to be filed with the Utah Division of Water Rights a permanent change application, temporary change application or exchange application involving a change to a point of diversion and place of use outside the Cache Highline Irrigation System and/or otherwise involving any element of the Association’s underlying water rights without the express written approval of the Board and full compliance with the requirements of Section 73-3-3.5 Utah Code Annotated, 1953, as amended (the “Change Statute”), and the following rules and regulations:

(a) Applicable Changes. Proposed changes which require approval of the Board under the provisions of this Subsection 2 include, but are not limited to, the following:

(1) A proposed change to a point or points of diversion different from the Association’s authorized point or points of diversion, including proposed changes to a source or sources of water supply different from the Association’s authorized source or sources of water supply;

(2) A proposed change to a place of use different from the Association’s authorized place of use of water, including proposed changes to a distribution system different from the Association’s existing Canal system;

(3) A proposed change to a nature of use of water which is different from the Association’s authorized nature of use of water, including, if applicable, a proposed change to a period of use different from the Association’s authorized period of use; and/or

(4) Any other proposed change which requires the filing of a permanent or temporary change application or exchange application with the Division of Water Rights on the underlying water rights of the Association.

(b) Evaluation Factors. In evaluating the request for a change under this Section 2, the Board shall evaluate all relevant factors pertaining to the change as requested including, but not limited to the following:

- (1) any increased cost to the Association or its shareholders;
- (2) interference with the Association’s ability to manage and distribute water for the benefit of all shareholders;

(3) whether the proposed change represents more water than the shareholder's pro rata share of the Association's water right;

(4) impairment of either the quantity or quality of water delivered to other shareholders under the existing water rights of the Association, including rights to carrier water;

(5) whether the proposed change would cause a violation of any statute, ordinance, regulation, or order of a court or governmental agency;

(6) whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the Association's service area under the proposed change; and/or

(7) the cumulative effects that the approval of the change application may have on other shareholders or Association operations.

(c) Change Procedure. The procedure to be followed by a shareholder requesting a change under this Section 2, and the procedure to be followed by the Board in reviewing and taking action on the request are as follows:

(1) Written Application. Any shareholder, as a condition to making any change referenced in subparagraph 2 (a) above shall first be required to submit a formal written application for such change with the Board prior to January 1 of the year in which the change is proposed to be made. The Board may provide a standard application form for such purpose.

(A) The application requesting the change shall contain the following minimum information:

(i) the name and address of the applicant;

(ii) the quantity of water sought to be changed;

(iii) the certificate number and number of shares affected by the change;

(iv) the current point or points of delivery for the Association's water under the shares prior to the change;

(v) the proposed point or points of diversion for the water under the change;

(vi) the current place of use of water under the applicant's stock;

(vii) the proposed place of use, including a legal description of the land upon which the water under the shares is proposed to be used after the change;

(viii) the proposed nature of use and period of use for the water under the shares after the change; and

(ix) an explanation of the proposed change, including the need and purpose for which the change is requested.

(2) Notice of Application.

(A) The Board, within thirty (30) days from the date of receipt of the

application, may, but need not, send notice of the request to any or all other shareholders who, in the opinion of the Board, may be affected by the requested change. Such notice shall include a copy of the change request and provide that any affected shareholder may file a written objection to the request within ten (10) days of mailing such notice.

(B) The applicant, and any other shareholder who has filed a written objection to the change proposed in the request, shall receive ten (10) days' written notice of the meeting at which the request is to be considered by the Board, and shall be allowed to attend.

(C) The cost of mailing all notices shall be an additional cost to the Association which shall be paid by the applicant pursuant to the provisions of Subsection (d) of this Section immediately below.

(d) Payment of All Costs and Expenses Associated with the Change. The applicant shall be required to pay all costs and expenses incurred by the Association in connection with the applicant's proposed change, as follows:

(1) The applicant shall pay, as billed by the Association, all costs and expenses relating to the Board's consideration and processing of the application, including, without limitation, all costs and expenses incurred by the Association which are associated with:

(A) all administrative costs and expenses as a result of the requested change, including, without limitation, all legal, engineering and other consultants' fees and costs;

(B) all costs and expenses incurred in connection with the preparation and filing with the State Engineer of any required change or exchange application to effectuate the applicant's requested change;

(C) all costs and expenses incurred in connection with any and all administrative and judicial proceedings in connection with any change or exchange application;

(D) all costs and expenses related in any way to the applicant's diversion of water at the new point of diversion, including, without limitation, the construction, installation, repair, maintenance, and replacement of all facilities, structures, equipment and appurtenances related thereto, and on-going inspection and monitoring by the Association as shall be required to assure the shareholder's beneficial use of the Association's water and compliance with all other terms and provisions of this Article and the Application Agreement to be executed as provided in Subsection (e) below;

(E) all costs and expenses associated with the re-construction, alteration, repair, maintenance and replacement of any existing or new Delivery Structure and related facilities of the Association and/or any other shareholder which shall be necessitated in order to avoid or remedy any adverse effect or interference resulting from the change requested by the applicant; and

(F) all costs and expenses incurred in connection with the submittal of proof of appropriation with respect to the change.

(2) All costs and expenses which are required to be paid by applicant in connection with the application for change, as provided in Subsection (1) above, shall be billed to said shareholder and be enforced and collected as special assessments against the shares of stock of the applicant, as defined in Article XII herein, with the next regular annual assessment levied on the shares of said shareholder. .

(3) Simultaneously with the filing of the application for change, the applicant shall surrender to the Board the applicant's share(s) of stock upon which the proposed change is based. The Association shall hold said certificates as security for the payment of all costs and fees for which applicant is responsible as provided in Subsection (d)(1) (A) through (F) above. The certificates shall be returned to the applicant upon payment in full of all such costs and fees.

(e) Application Agreement. As part of the application, the applicant shall be required to enter into an agreement with the Association wherein the applicant shall acknowledge and agree as follows:

(1) Notwithstanding the fact that the applicant may divert and utilize water from a point of diversion and/or at a place of use outside the Association distribution system and outside the authorized place of use of the Association's water supply, and for a purpose other than the purpose for which Association water has historically been used, the applicant, nevertheless, shall:

(A) be and remain a shareholder of the Association and be treated the same as and be subject to and shall agree to abide by the Association's Articles of Incorporation, these Bylaws, as well as any and all other reasonable rules and regulations which may be promulgated by the Board from time-to-time, as applicable, and

(B) continue to pay, and the Company shall have the right and obligation to enforce and collect, all regular and special stock assessments on applicant's share(s) of stock, including, without limitation, the costs set forth in Subsection 2(d) above, as and when the same become due;

(2) The applicant shall be subject to such conditions, and/or limitations that may be reasonably necessary to insure that the change requested by the applicant shall not adversely affect or otherwise interfere with any existing rights of the Association and/or any of its other shareholders.

(3) The applicant shall defend, indemnify and hold the Association, and its directors, officers, employees and consultants harmless from and against any claims, liability or damage to any property, real or personal, of the Association, its shareholders or any other person, and for injury to persons or animals, resulting from or arising out of the applicant's change.

(4) The applicant shall pay all costs and expenses which applicant is obligated to pay pursuant to the provisions of this Article, which shall be billed to said shareholder and be enforced and collected as special assessments against the shares of stock of the applicant, as defined in Article XII herein, with the next regular annual assessment levied on the shares of said shareholder.

(f) Action by the Board. No later than 120 days from the date of receipt of a properly submitted application requesting the change, the Board, at a duly-called meeting, shall take action on the application, subject to the following:

(1) The Board shall notify the applicant of its decision in writing which shall be sent to the applicant by regular mail. If the Association fails to respond to the change request within said time, the failure to respond shall be considered to be a denial of the request.

(2) Based on the facts and circumstances of each proposed change, the Association may, by resolution duly adopted by majority vote, approve the change request, approve the change request with conditions or deny the change request, subject to the following:

(A) If the requested change is approved, in connection with the change or exchange application to be filed with the Utah Division of Water Rights, the Board, in its sole discretion,

may either require that the Association be a co-applicant with the applicant on such application, or that the applicant may file such application in applicant's own name. With respect to either method, a letter assenting to the change or exchange application shall be signed by the president of the Association as follows:

(i) The letter of assent shall set forth all conditions imposed by the Board in conformance with these regulations and clearly state that the Association's assent to the filing of the change or exchange application is subject to the conditions imposed by the Board and that said conditions are to be included in the State Engineer's memorandum decision and certificate pertaining to the requested change.

(ii) Each condition shall be clearly set forth and include, but not be limited to, as applicable, any required limitations and adjustments that the applicant must make in the quantity of water which the shareholder shall be authorized to divert and use from the shareholder's source of supply outside the System; the bearing of all losses or reductions caused by the change through evaporation, seepage, and percolation; the structuring of proper credits and/or deductions for carrier water or return flow; the duty to take water in turn; the obligation to pay for reorganizing the water distribution program or schedule of the Association so as to adjust for differing flows in the canal and required adjustments to other Association facilities; the modification of Delivery Structures; and any and all other adjustments and modifications to the Cache Highline Irrigation System, and any Shareholder System, all as may be prescribed by the Board of the Association in its sole discretion.

(iii) The applicant shall attach the letter of assent to the change or exchange application filed with the Utah Division of Water Rights.

(iv) The applicant shall pay all costs, fees and expenses associated with the preparation, filing and prosecution of the change or exchange applications through all administrative and legal proceedings, including costs of appeal.

(B) If the requested change is denied, the written notice shall contain a brief explanation for the denial.

(3) A change request shall not be denied, absent other factors, if the change can be effectuated such that there is no cost incurred by the Association and neither the Association nor any other shareholder is damaged, adversely affected or impaired, in any way, as a result of the change.

(g) Accomplishing the Change/Exchange. Upon final approval by the State Engineer of the change or exchange application, the applicant, at applicant's sole expense, shall have the responsibility of accomplishing the change or exchange subject to any conditions imposed by the Association and/or the State Engineer.

(h) Extensions. If the Association is a co-applicant on the change or exchange application, all requests for extension of time in which to submit proof filed with the Utah Division of Water Rights shall be co-signed by the president of the Association, unless the Board directs otherwise, in which case the applicant alone may file such a request. If the applicant alone files the change or exchange application, the applicant may file requests for extension of time without further approval of the Association, so long as copies of such requests are sent to the Association.

(i) Notation on Stock Ledger Books. If the State Engineer approves the requested change or exchange, the Secretary shall make a notation thereof on the Association stock record reflecting the change and point of diversion, place or nature of use of the water represented by the shares which are the basis of the change or exchange.

(j) Continued Beneficial Use. Subject to the provisions of Article XI, while the change or exchange is being accomplished, the applicant shall be responsible for continued beneficial use of the water represented by the shareholder's stock at the existing point of diversion and place of use under the shares which are the basis of the change or exchange or by lease or otherwise as approved by the Board in conformance with these Bylaws.

(k) Compliance with Conditions. If the applicant fails to comply with any condition imposed by the Board in its approval of the requested change, either before or after a certificate of change is issued by the State Engineer, the Board may, after written notice to the applicant and after allowing reasonable time to remedy any failure, withdraw its approval of the application and petition the State Engineer for an order canceling the application or certificate, as the case may be; provided, however, the Association shall not withdraw its approval so long as all such conditions are being substantially complied with.

(l) Retirement of Acreage Upon Proof. Upon submittal of proof on any change with the Utah Division of Water Rights, the applicant shall arrange for the retirement from irrigation of the required amount of land within the Association's certificated or decreed service area, if applicable, and shall so notify the Association in writing; whereupon the Association shall inspect and verify the retirement of the land from irrigation.

for additional information, see complete company bylaws