

**AMENDED AND RESTATED BY-LAWS AND OPERATING PROCEDURES
OF THE
KANE COUNTY WATER CONSERVANCY DISTRICT**

**ARTICLE I.
GENERAL ORGANIZATION**

1. The Kane County Water Conservancy District is organized as a political subdivision of the State of Utah and a body corporate with all of the powers of a public or municipal corporation as set out in the Water Conservancy Act and the laws of the State of Utah as now existing or as hereafter enacted, pursuant to Decree Establishing the Kane County Water Conservancy District, dated October 15, 1992, as amended on November 20, 1992.

2. The Kane County Water Conservancy District shall include all of Kane County, and the territory and boundaries of the District shall be the same as those of Kane County as presently constituted.

3. The business and affairs of the district shall be governed, managed and directed by a Board of Directors. The governing board shall consist of seven (7) members. The board shall at all times include at least one (1) person who owns irrigation rights and uses those rights as part of his/her livelihood.

3.1. The Kane County Water Conservancy District is organized with four (4) divisions designated as follows:

<u>Name</u>	<u>General Designation</u>	<u>Number of Directors</u>
Division 1:		
Virgin River Drainage	Long Valley and Cedar Mountain Area	2
Division 2:		
Kanab Creek Drainage	Kanab Creek Drainage, including Kanab City and Alton	3 With at least 1 from Alton
Division 3:		
Johnson Wash Drainage	Johnson Canyon-Johnson Creek Drainage Area	1
Division 4:		
Paria River Drainage, East	Paria River Drainage all areas eastward within Kane County	1

3.2. The Board of Directors shall be appointed by the Board of Commissioners of Kane County, Utah as provided in Utah Code Ann. §17A-2-1409.

3.3. Following the initial term(s) of each of the directors on the initial board, which shall be staggered in 1-4 year terms, all appointments shall be for a term of four (4) years.

3.4. Any Director may be requested to resign from office for good cause, upon request from the board of directors, following a majority vote of the remaining members of the board, at any general board meeting, or special meeting called for that purpose, following proper notice. Good cause shall include, but not be limited to, four (4) unexcused absences from board meetings during any one year, or unexcused or unexplained absences from any three (3) consecutive board meetings,

general disinterest, unwillingness and/or inability to work with other members of the board, District staff and/or personnel. Prior to voting to request a Director's resignation, written notice of such proposed request must be given to the Board member at least ten (10) days prior to the date of the meeting at which such request shall be voted upon. Such notice must state the reason(s) for the proposed request for resignation.

3.5. Any vacancy occurring in the Board of Directors shall be filled through appointment by the Kane County Commissioners, in the manner prescribed above, for the remaining term of the vacated seat.

ARTICLE II. **PRINCIPAL OFFICE**

The principal office or principal place of the Kane County Water Conservancy District, until otherwise designated, shall be the Kane County Courthouse located at 76 North Main Street in Kanab, Utah.

ARTICLE III. **MEETINGS**

1. **Annual Meeting.** The annual meeting of the Board of Directors shall be held during the month of January each year, at a time and place acceptable to the board and designated pursuant to notice given in accordance with applicable law.

2. **Special Meetings.** Special meetings of the Board of Directors, shall be held on a monthly or other regular basis as determined by a majority vote of the Board of Directors at the annual meeting. Additional special meetings for any purpose, unless otherwise prescribed by statute, may be called by the chairman of the board at his/her own initiative or at the request of not less than 3 directors.

3. **Place of Meeting.** The Board of Directors may designate any place, either within or without the State of Utah, as the place of meeting for any annual meeting or any special meeting called by the Board of Directors. If no designation is made, the place of meeting shall be the registered office of the corporation in the State of Utah.

4. **Notice of Meetings.** Written notice stating the place, day and hour of each Annual and other special meeting shall be mailed to each Director and shall be posted in a public place at the registered office of the district at least 24 hours in advance of any such meeting, and otherwise in accordance with applicable law. If and when the annual revenues of the District exceed \$1,000,000.00, the District shall also cause notice of each annual meeting, together with the names of the directors, to be published in a newspaper of general circulation within the District, at least one time, not more than 14 days, nor less than five (5) days prior to the annual meeting, pursuant to Utah Code Ann. §17A-2-1409(4)(c).

ARTICLE IV. **RULES OF ORDER AND PROCEDURE**

Unless otherwise specified by law or in these by-laws, all meetings and business presented and conducted at such meetings shall be conducted in accordance with the rules and guidelines contained in the current edition of Robert's Rules of Order Newly Revised.

ARTICLE V. **QUORUM**

A majority of the directors shall constitute a quorum and a concurrence of a majority of those in attendance, in any matter within their duties, shall be sufficient for determination or decision, except as otherwise provided by law. Not more than two directors may attend and be considered present at meetings via telephone, for the purpose of constituting a quorum.

ARTICLE VI.
OATH OF OFFICE

1. Each appointed director, upon entering upon his/her official duties, shall take a subscribe to an oath, before an officer authorized to administer oath, that he/she will support the Constitution of the United States and the State of Utah, and will honestly, faithfully and impartially perform the duties of his/her office, and will not be interested directly or indirectly in any contract or undertaking entered into by the district.

2. Upon execution and acknowledgement, the oath of each director shall be filed in the office of the Sixth Judicial District Court in and for Kane County.

ARTICLE VII.
DIRECTORS' BOND

Pursuant to Utah Code Ann. §17A-2-1409(3), each director shall furnish a corporate surety bond at the expense of the district in a form and amount fixed and approved by the court, conditioned for the faithful performance of his/her duties as director.

ARTICLE VIII.
POWERS AND DUTIES OF BOARD

The Board of Directors shall, on behalf of the district, have all powers authorized by law, including the power to govern, manage and direct the business and affairs of the district; make rules, regulations and guidelines not inconsistent with the laws of the State of Utah, or these bylaws, to assist in managing the business and affairs of the district. Moreover, pursuant to Utah Code Ann. §17A-2-1413, the board is expressly vested with the following powers:

1. To have perpetual succession;
2. To take by appropriation, grant, purchase, bequest, devise, or lease, and to hold and enjoy water, waterworks, water rights, sources of water supply, and any real and personal property within or without the district necessary or convenient to fully exercise its powers;
3. To sell, lease, encumber, alienate, or otherwise dispose of water, waterworks, water rights, and sources of water supply for any beneficial use within or without the district, and to fix rates and terms for the sale, lease, or other disposal of water;
4. To acquire, construct, operate, control, and use any works or facilities within or without the district necessary or convenient to exercise its powers;
5. To have and to exercise the power of eminent domain, as provided by law, to take any property necessary to exercise powers granted; however, the district shall not exercise the power of eminent domain to acquire title to or beneficial use of vested water rights for transmountain diversion, and the district shall not have the power to carry or transport water in transmountain diversion, the title to which has been acquired by any municipality by virtue of eminent domain proceedings;
6. To construct, establish, or maintain works or facilities:
 - (a) across or along any public street or highway;

(b) in, upon, or over any vacant public lands which are now, or may become, the property of this state in accordance with Title 65A; or

(c) across any streams of water or watercourses;

7. To contract with any agency of the United States, person, or corporation, public or private, for the construction, preservation, operation, or maintenance of tunnels, drains, pipelines, reservoirs, regulating basins, diversion canals and works, dams, power plants, and any necessary incidental works;

8. To acquire perpetual rights to the use of water from the works referred to in Subsection (7) and to sell perpetual rights to the use of water from those works to persons and corporations, public and private;

9. To list in separate ownership the lands within the district which are susceptible of irrigation from district sources and to make an allotment of water to all those lands, which allotment of water shall not exceed the maximum amount that the board determines could be beneficially used on the lands;

10. To levy assessments, as provided for by this part, against lands within the district to which water is allotted on the basis of:

(a) a uniform district-wide value per acre-foot of irrigation water; or

(b) a uniform unit-wide value per acre-foot of irrigation water provided that the board divides the district into units and fixes a different value per acre-foot of water in the respective units;

11. To fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, although not necessarily equal or uniform, for like classes of service;

12. To contract for services, employ persons, and elect or appoint officers as shall be necessary and convenient to transact the district's business;

13. To adopt and modify plans and specifications for the works for which the district was organized;

14. To investigate and promote water development;

15. To appropriate and otherwise acquire water and water rights within or without the state;

16. To develop, store, and transport water;

17. To acquire stock in canal companies, water companies, and water users' associations;

18. To make and adopt plans for and to acquire, construct, operate, and maintain dams, reservoirs, canals, conduits, pipelines, tunnels, power plants, and any works, facilities, improvements, and property necessary or convenient for those purposes;

19. To generate, distribute, or sell electric power from hydroelectric power plants, owned, operated, licensed, or leased by the district if, as determined by the board, the electric power plant was acquired or constructed as an incident and not the primary purpose of a project for the conservation, development, storage, transportation, or distribution of water;

20. To invest any surplus money in the district treasury pursuant to the State Money Management Act of 1974.

21. To refund bonded indebtedness incurred by the district pursuant to rules prescribed by the board;

22. To borrow money and to issue bonds or other evidence of indebtedness;

23. To adopt bylaws not in conflict with the Utah Constitution and laws of the state for carrying on the business of the board and district;

24. To construct works and improvements on land not subject to acquisition by condemnation held by the district for a term of not less than 50 years under lease, easement, or otherwise and to issue bonds to pay the costs for which bonds may be issued as in this part;

25. To acquire, construct, operate, or maintain works for the irrigation of land;
26. To sell water and water services to individual customers and to charge sufficient rates for the water and services supplied; however, no sale of water for domestic or culinary use shall be made to a customer located within the limits of any incorporated municipality without consent of the municipality, except as provided in Utah Code Ann. §17A-2-1439(7);
27. To make and collect fees for customer connections to the works of the district and for permitting and supervising the making of the connections;
28. To use the proceeds of connection charges for any lawful corporate purpose including the construction or acquisition of facilities, payment of principal of and interest on bonds, and the creation of a reserve for such purposes; and
29. To own property for its corporate purposes within the boundaries of incorporated municipalities.

ARTICLE IX.
ORGANIZATION OF BOARD AND SELECTION OF OFFICERS

1. At each annual meeting, the Board of Directors shall choose one of their number to serve as Chairman of the Board and President of the district, as well as Vice-Chairman.
2. At the annual meeting, the board may also ratify and/or reorganize the assignments of individual directors, make additional assignments, and restructure the internal organization and assignments of individual directors, agents, and/or employees.
3. The Board of Directors shall also choose some suitable person, who may or may not be a member of the board, to serve as Secretary and/or Treasurer of the board and the district.

ARTICLE X.
POWERS AND DUTIES OF OFFICERS

1. **President and Chairman of the Board.** The President/Chairman shall preside at all board or meetings. He/she shall approve and sign, as president, all minutes and other records of the district, all contracts, and other instruments in writing which have been first approved by the Board of Directors. He/she shall countersign all checks and warrants upon the treasury. He/she shall call the directors together whenever he/she deems it necessary; and he/she shall have, subject to the advice and control of the directors, the general superintendence of the affairs of the district. In the absence of the president, or his/her disability to act, the directors shall elect a president pro-tem during such absence or disability.
2. **Vice Chairman.** The Vice Chairman shall fill in for the Chairman/President in his/her absence, and act in his/her stead whenever the Chairman is absent or unavailable, and otherwise perform the duties and exercise the powers of the President as the President may delegate, or the Board of Directors may prescribe.
3. **Secretary/Treasurer.** The secretary shall be custodian of the records of the district and of its corporate seal, and shall assist the board in such particulars as it may direct in the performance of its duties. The secretary shall attest, under the corporate seal of the district, all certified copies of the official records and files of the district that may be required of him/her by this part or by any person ordering the same and paying the reasonable cost of transcription, and any portion of the record so certified and attested shall prima facie import verity. The secretary shall serve also as treasurer of the district, unless another treasurer is otherwise provided for by the board.

It shall be the duty of the person serving as the treasurer to keep safely all monies belonging to the district, and disburse the same under the direction of the Board of Directors, on warrants

signed by the president and the secretary. At each annual meeting of the stockholders, he/she shall submit a complete statement of his/her accounts for the past year, with the proper vouchers, for their information. He/she shall sign all checks, keep proper account books, and discharge such other duties pertaining to the office as shall be prescribed by the Board of Directors.

4. **Assistant Secretaries and Assistant Treasurers.** Assistant secretaries and Assistant Treasurers may be appointed by the President or the Board of Directors and if authorized by the President or the board, do any act and perform any function assigned and/or delegated to the Secretary and/or Treasurer.

ARTICLE XI. **OTHER AGENTS AND/OR EMPLOYEES**

The Board of Directors shall also appoint and/or employ additional agents and employees to the district, as the need arises. Such agents and/or employees may include, but not be limited to engineers, including a chief engineer or superintendent, attorneys, accountants, managers and consultants, and such other agents and assistants as may be needful.

ARTICLE XII. **COMPENSATION**

The Board of Directors, at its discretion, may compensate all district employees and/or agents on terms approved by the board and acceptable to said employees/agents. The Board of Directors, at its discretion, may also approve compensation to directors for their service to the district. Pursuant to Utah Code Ann. §17A-2-1410(3), directors may receive as compensation for attending the regular meetings of the board a sum, not to exceed \$1,000 per annum, payable monthly, and necessary travel expenses actually expended while engaged in the performance of district business and duties. The board may also provide for additional compensation to directors on a per diem basis, not to exceed \$50 per day, for the performance of other duties assigned to such directors by the board.

ARTICLE XIII. **MINUTES AND RECORDS**

1. The secretary or assistant secretary shall keep minutes of all board meetings and proceedings. The minutes should include a notation or entry for each item of business on the agenda, and the final meeting agenda should be attached to the minutes of the meeting for which the agenda was prepared. The minutes should also reflect all resolutions passed by the board. On any item for which a vote is taken, and each director's vote shall be recorded in the minutes. All abstentions and disclosures of real or potential conflicts of interest should likewise be recorded. The minutes should also include a role of all members of the public and guests present at the meeting.

2. Minutes from the preceding meeting, along with an agenda for the next regularly scheduled meeting, and any other relevant information should be sent to directors prior to the next regularly scheduled meeting. Directors should review the minutes and note any corrections or follow-ups that need to be made at the meeting.

3. If minutes are sent to directors in advance as set forth above, they may be approved without reading at a subsequent meeting, unless one of the directors specifically requests that the minutes or a portion thereof be read.

4. All records and minutes of Board meetings and all District business, affairs and proceedings shall keep in a well-bound book, including all certificates, contracts, bonds given by directors, officers and employees, and all corporate acts.

5. This book shall be open to inspection of all owners of property in the district, as well as to all other interested parties.

ARTICLE XIV.
CORPORATE SEAL

1. The Board of Directors shall adopt and provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Kane County Water Conservancy District, State of Utah, and the words, "Corporate Seal".

2. Said seal shall be imposed on all minutes and official documents of the district which have been signed by the President/Chairman and attested by the Secretary.

3. Said seal shall be maintained and kept by the Secretary with district records.

ARTICLE XV.
BUDGET

1. The Board of Directors shall adopt a budget, pursuant to law, by the end of each fiscal year of the following year.

2. If and when the annual budget of the District exceeds \$50,000, a report of the business transacted during the preceding year by the district, including a financial report certified by a certified public accountant, shall be presented to the board and filed with the clerk of the district court and the Kane County Commission, by the 15th day of March, each year, pursuant to Utah Code Ann. §17A-2-1409(4)(b), and other applicable law.

3. Pursuant to Utah Code Ann. §17A-2-1409(4)(d), if and when the annual revenues of the District exceed \$1,000,000.00, the District shall cause a summary of its financial report to be published in a newspaper of general circulation within the District. The summary shall be published not later than 30 days following the date of the audit report required to be filed with the state auditor, under Utah Code Ann. §51-2-1, et. seq.

ARTICLE XVII.
CONFLICTS OF INTEREST

No contract or transaction between the District and one or more of its Directors or officers, or between the District and any other corporation, partnership, association or other organization in which one or more of its Directors or officers are directors or officers, or has a direct or indirect financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board or committee thereof which authorizes the contract or transaction, if:

A. The material facts as to his/her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the Committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested members. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of

Directors of a committee which authorizes such a contract or transaction, but may not be counted in the vote or resolution to approve such actions(s), and;

- B. The contract or transaction must be objectively fair to the District as of the time it is authorized, approved or ratified by the Board of Directors or a committee thereof duly authorized.

ARTICLE XVIII.
AMENDMENT

Unless prohibited by applicable law, provisions of these by-laws may be amended by a majority vote of at least five (5) members of the Board of Directors at any regular meeting or special meeting called for that purpose.