

**ARTICLES OF INCORPORATION  
OF  
Chatfield Reservoir Mitigation Company, Inc.  
A Colorado Non-Profit Corporation**

**I. Name and Address.** The name of the Corporation is Chatfield Reservoir Mitigation Company, Inc. (sometimes hereinafter "the Corporation"). The Corporation's initial principal office address is c/o Centennial Water and Sanitation District, 62 W. Plaza Drive, Highlands Ranch, CO 80129-2304.

**II. Registered Agent Name and Address.** The name of the initial registered agent is: William R. McLoud. The address of the initial registered agent is c/o Centennial Water and Sanitation District, 62 W. Plaza Drive, Highlands Ranch, CO 80129-2304. The person appointed as registered agent has consented to being so appointed.

**III. Incorporators.** The name and mailing address of each incorporator is as follows:

A. William R. McLoud  
c/o Centennial Water and Sanitation District  
62 W. Plaza Dr.  
Highlands Ranch, CO 80129-2304

B. Randy W. Ray  
c/o Central Colorado Water Conservancy District  
3209 West 28<sup>th</sup> Street  
Greeley, CO 80634

**IV. Purpose.** The sole purpose of the Corporation is to conduct such business as may be necessary to satisfy the mitigation obligations of the "Members" (as hereinafter defined) as required for the implementation of the Chatfield Storage Reallocation Project (the "Project"). The Project consists of a reallocation of storage space in Chatfield Reservoir by the Department of the Army ("Government") to authorize the use of 20,600 acre feet of storage space by the Colorado Department of Natural Resources ("CDNR") and its designees for municipal and other purposes. The mitigation obligations include but are not limited to those established in the following three documents: 1) the Record of Decision (the "ROD") issued by the Department of the Army dated May 29, 2014 which establishes the Federal Mitigation Requirements; 2) the Water Storage Agreement entered into between the Government and CDNR on October 9, 2014 governing the reallocation of storage space for the Chatfield Storage

Reallocation Project and authorizing storage space to be granted by the CDNR to the Members ("WSA"); and 3) the State Fish, Wildlife, and Recreation Mitigation Plan for the Chatfield Reallocation Project" approved by the Colorado Parks and Wildlife Commission on January 9, 2014, pursuant to Section 37-60-122.2, C. R. S., and subsequently approved by the Colorado Water Conservation Board on January 28, 2014, defining the mitigation actions required by the State of Colorado in connection with the Project ("122.2 Plan"). The Corporation shall use funds provided by the Members of the Corporation to satisfy the mitigation obligations pursuant to a Water Provider Agreement ("WPA") between CDNR and each of the Members of the Corporation by which each Member will be granted its pro rata share of the storage space in the Project.

**V. Powers.** In furtherance of the foregoing purpose (but not otherwise) and subject to the restrictions set forth below, the Corporation shall have and may exercise all of the powers now or hereafter conferred upon nonprofit corporations organized under the laws of Colorado and may do everything necessary or convenient for the accomplishment of the corporate purpose, either alone or in connection with other organizations, entities or individuals, and either as principal or agent, subject to such limitations as are or may be prescribed by law. Specifically, but not by way of limitation, the Corporation shall have the power to contract with the Federal government, the State of Colorado, any agencies or subdivisions thereof, and private sector contractors, to buy and sell real property within the State of Colorado, and to use the funds provided by the Members to satisfy the mitigation obligations related to the Project, using such accounting controls and measures for oversight of subcontractors as are appropriate to ensure that such mitigation obligations are completed at the lowest cost practical.

- A. The Corporation shall not have the power to borrow money, to issue notes or bonds, or to secure any of its obligations by mortgage or pledge of any of the Corporation's property, franchises, or income, or any Members' property, franchises or income.
- B. The Corporation shall not have the power to pledge the credit of any of its Members, nor to create any financial obligation between any creditor of the Corporation and any Member.
- C. No part of the income or net earnings of the Corporation shall inure to the benefit of, or be distributable to, any Member, director or officer of the Corporation or any other private individual except: (1) that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its authorized purposes; (2) that reimbursement may be made for any expenses incurred for the Corporation by any officer, director, Member, agent or employee, or any other person or Corporation pursuant to and upon authorization of the board of directors; and (3)

pursuant to Article X below.

**VI. Membership.** The Corporation shall have voting Members and not shareholders. The initial Members of the Corporation are those entities listed in Table 1 attached hereto and incorporated by this reference. The Corporation shall issue to every Member of the Corporation a certificate of membership evidencing that Member's Units (as defined in Section VII.A below) in the Corporation. Such certificates of membership shall represent the Member's pro rata interest in the assets of the Corporation.

**VII. Structure of Corporation.**

- A. **Unit.** The "Unit" is the mechanism for defining the amount of a Member's assessments and the number of votes a Member is entitled to cast based upon the volume in acre feet of a Member's storage space in Chatfield Reservoir. Each member will have one Unit for each acre foot of storage space in Chatfield Reservoir as set forth in Table 1, as such may be revised from time to time.
- B. **Voting by Members.** Except as provided in Section X of these Articles, in all voting, each Member shall be entitled to cast one vote for each Unit held by that Member. Cumulative voting shall not be permitted in the election of directors or for any other purpose.
- C. **Assessments.** Members will be assessed periodically based on the number of Units owned. Assessments will be levied in amounts sufficient in total to meet the operating costs and other obligations of the Corporation. The assessment rate will be expressed in dollars per Unit and will be the same for all Units:
  - 1. **Regular Assessments:** The Members shall, at their annual meeting or adjourned annual meeting, determine the assessment for the ensuing year. Regular assessments will include expenses for operation of the Corporation and may include the Member's share of the annual operation and maintenance expenses (both "special" and "joint-use" as defined in the WSA) of the Chatfield Project pursuant to Article I.C and Article II.F.3 of the WSA.
  - 2. **Special Assessments:** If necessary to meet obligations of the Corporation, the Members have the authority, at a special meeting called for that purpose, to levy special assessments, provided the amount levied is the same for all Units. Special assessments may include but are not limited to "repair, rehabilitation, reconstruction

and replacement costs” allocated to the Chatfield Project pursuant to Article I.B and Article II.F.2 of the WSA.

3. **Non-Payment:** Assessments shall be deemed delinquent if not paid within sixty (60) days of the date such assessment is due. The directors of the Corporation shall have the authority to terminate the membership of any Member that fails to pay an assessment within sixty (60) days of the due date, using procedures specified in the bylaws. A Member whose assessments are delinquent shall not be allowed to store additional water in or have water released from Chatfield Reservoir until such delinquent assessment is paid in full. A Member whose assessments are delinquent shall not be allowed to vote on any Corporation matter submitted to the Members so long as such assessments are delinquent in whole or in part.

D. **Liability for Assessments.** A Member shall remain liable for payment of its assessments until its membership in the Corporation is transferred on the books of the Corporation using procedures specified in the bylaws, which shall include, but not be limited to, surrender to the Corporation of the member's certificate or certificates of membership representing the total number of Units owned by the member, duly endorsed in blank, or accompanied by proper evidence of succession, assignment, or authority to transfer and by such other documents as the board of directors may reasonably require.

E. **Transfer or Termination of Membership.** A Member may transfer all or part of its membership or may terminate its membership in the Corporation as provided in the Member's WPA.

**VIII. Board of Directors.** Except as otherwise provided in Title 7, Articles 121 through 137, C.R.S., or successor statutes (“Colorado Revised Nonprofit Corporation Act”), the management of the affairs of the Corporation shall be vested in a board of directors, which shall consist of five voting directors. The CDNR may appoint an *ex officio* non-voting member of the board of directors as provided in Section VIII.A of these Articles.

A. **State of Colorado Director.** The Colorado Water Conservation Board (“CWCB”) and Colorado Parks and Wildlife (“CPW”) may vote their Units for a Director position in the same manner and subject to the same limitations as any other Member. If at any time, no employee of the CWCB or CPW is elected to the board of directors due to an insufficient number of votes being cast for their candidate, then the Director of the Colorado Department of Natural Resources may appoint a State employee to serve as an *ex officio* Director. Said *ex officio*

Director will be a member of the board of directors in all respects but shall have no right to vote on any Corporation business.

**B. Qualifications of Directors.** A director must be a Member of the Corporation, except that in the case of a governmental entity or a corporation, partnership, limited liability company, or other business entity which is a Member of the corporation, an individual officer, agent or employee of the Member entity may be a director. Only one officer, agent or employee of a Member entity may serve as a director at any given time.

**C. Term.** The term for all directors will be one year.

**D. Initial Directors.** The names and addresses of the initial directors of the Corporation, who shall serve until an election to be held at a meeting of the members not later than 30 days from the date of incorporation are as follows:

- 1 John Kilrow  
Centennial Water and Sanitation District  
62 W. Plaza Dr.  
Highlands Ranch, CO 80129-2304
- 2 Thomas W. Browning  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, CO 80203
- 3 Randy W. Ray  
Central Colorado Water Conservancy District  
3209 West 28<sup>th</sup> Street  
Greeley, CO 80634
- 4 Jim Nikkel  
Castle Pines North Metropolitan District  
7404 Yorkshire Drive  
Castle Pines, CO 80108
- 5 Scott Roush  
Colorado Parks and Wildlife  
Chatfield State Park  
11500 N. Roxborough Park Road  
Littleton, CO 80125

**IX. No Personal Liability.** A director or officer shall have no personal liability to the

Corporation for monetary damages for any breach of fiduciary duty occurring after the effective date of these articles of incorporation, except as otherwise required by the Colorado Revised Nonprofit Corporation Act. The Corporation's bylaws may provide for the indemnification of the directors and officers to the fullest extent permitted under the Colorado Revised Nonprofit Corporation Act.

**X. Distribution of Assets Upon Dissolution.** In the event of dissolution of the Corporation, the assets of the Corporation, if any, remaining after payment of all of the Corporation's debts shall be distributed in accordance with applicable law.

**XI. Amendments.** An affirmative vote of at least sixty percent (60.0%) of all Units shall be required to amend any provisions of these articles of incorporation; provided, however, that an affirmative vote of at least eighty (80.0%) of all Units shall be required to amend the provisions of these articles of incorporation pertaining to the number and qualifications of directors or the prohibition against cumulative voting; and an affirmative vote of one hundred (100%) of all Units shall be required (1) to amend the provisions of these articles of incorporation pertaining to termination of membership and to assessment of Members, or (2) to create classes of membership or to amend this Article XI. No vote on any amendment to these articles of incorporation shall be taken unless notice is given to all Members in accordance with the Corporation's bylaws.

**XII. Term of Existence.** Unless dissolved as provided by law, the existence of the Corporation shall be perpetual.

**XIII. Return of Form.** The Secretary of State may send a copy of these articles of incorporation once completed for filing to the address of the Registered Agent, stated in Article II above.

Dated: Oct. 8, 2015.

Signatures of Incorporators:



  
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Table 1 – Initial Membership List for the Corporation

		Storage	
		Amount (AF)	% of Total
1	Centennial Water & Sanitation District	6,922	33.60194
2	Colorado Water Conservation Board	7,057	37.383493
3	Central Colorado Water Conservancy	4,274	20.74757
4	Castle Pines North Metro District	1,006	4.883495
5	Colorado Parks and Wildlife	1,000	4.854369
6	Town of Castle Rock	200	0.970874
7	Center of Colorado Water Cons District	131	0.635922
8	Castle Pines Metro District	10	0.048544
Total		20,600	100