

# Attachment C

## SMITHFIELD IRRIGATION COMPANY CHANGE APPLICATION POLICY

1. The shareholder desiring to make a change application shall submit to the Company a change application in substantially the same form as that included with the bylaws of the company, containing all requested information and including the required fee.
  
2. Along with the shareholder's request for a change application, the shareholder shall agree to bear the cost of an engineering study, conducted by the company at the shareholder's sole cost and expense, which considers the effects of the proposed change application on the Company. This engineering study will specifically consider and address:
  - a. How the proposed change will affect the place of use of the water, and including the extent to which land will be retired from irrigation.
  - b. How the proposed change will affect the flow of water throughout the entire system, through each affected lateral branch of the system operated by the Company shareholders, and through the private laterals of the shareholders.
  - c. Whether or not the proposed change will create a need for check structures in order to maintain operational flow, and the proposed location and cost of those structures.
  - d. How the proposed change will affect the velocity of the water throughout the system.
  - e. How the proposed change will affect the amount of silt deposition and/or increase the need for weed control throughout the system.
  - f. How the proposed change will affect losses due to leakage, evaporation, transpiration, and other water losses throughout the system.
  - g. Whether the proposed change, if approved and effected, will allow sufficient carrier water to remain in the system to service other shareholders.
  - h. How the proposed change will affect return flows available to Shareholders, others, and the natural environment.
  - i. How the proposed change will affect the quality of water being delivered to the Company's other shareholders.

- j. How the proposed change will affect the ability of the company to manage, maintain, and oversee the system.
  - k. How the proposed change will affect the company's ability to distribute water to the individual shareholders.
  - l. How the proposed change will affect costs to the company and shareholders for ongoing maintenance, including increased costs for oversight.
  - m. Whether and to what extent the amount of water being changed is greater, less than, or equal to the *pro-rata* amount of water to which the shareholder is entitled, less losses and expenses caused by the change through evaporation, percolation, or other shrinkage, and such other anticipated losses.
  - n. Any other information that the company should consider when deciding whether to approve the change application.
3. The engineering study shall be conducted by an engineer selected by the Company.
  4. The engineering study may consider and discuss the cumulative effects of multiple change applications previously submitted by one or more owners or reasonably expected to be submitted in the future.
  5. Proposed change applications will not be approved that have not been included and analyzed in an engineering study submitted to the company.
  6. The proposed change application will not be approved if the quantity of water sought to be changed exceeds the amount of water to which the individual shareholder is entitled, less losses and expenses caused by the change through evaporation, percolation, or other shrinkage, and such other anticipated losses. The shareholder requesting the change must bear all of these losses.
  7. The proposed change application will not be approved if the flow of water throughout the entire system, through each lateral branch of the system, and through the private laterals of the shareholders, is affected in either volume, velocity, or quality that would, in the reasonable opinion of the board of directors, impair the company's ability to deliver to the company's shareholders the full *pro-rata* amount of water to which they are entitled.
  8. The proposed change application will not be approved if the proposed change will require extensive alteration of the company's water system.
  9. The proposed change application will not be approved if the proposed change will result in a significant increase in silt deposition and/or increase in the need for weed control throughout the system.
  10. The proposed change application will not be approved if the proposed change will result in a significant increase in losses to leakage, evaporation, transpiration, and other water losses throughout the system.
  11. The proposed change application will not be approved if the proposed change will

not allow sufficient carrier water to remain in the system to service other shareholders.

12. The proposed change application will not be approved if the Company will experience any increased cost to manage, maintain, and oversee the system that will not be borne by the shareholder requesting the change.

13. The proposed change application will not be approved if, in the opinion of the Company's attorney, the proposed change would cause a violation of any contract, statute, ordinance, regulation, or order of a court or governmental agency. The Shareholder requesting the change agrees to bear the cost for legal review of the proposed change.

14. The proposed change application will not be approved if the shareholder requesting the change is not current on all water company assessments.

15. The proposed change application will not be approved if the shareholder requesting the change does not agree in writing to continue to pay all applicable future assessments.

16. The shareholder requesting the change will pay all increases in costs directly caused by the change application for management, maintenance, and oversight of the system, and agree to bear all of those costs in the future.

17. The shareholder requesting the change will pay all costs associated with any necessary and approved alteration of the company's water system.

18. The shareholder requesting the change must pay an initial fee to the Company set by the Board by resolution (the "Initial Fee") and must pay, on an ongoing basis, all costs, including but not limited to legal and engineering costs, associated with prosecution of the change application and final proof, and provide all of the necessary information and evidence. The Initial Fee is not intended for payment of ongoing costs, but rather will be held by the Company throughout prosecution of the change application and will only be used for ongoing costs if the shareholder fails to timely pay for ongoing costs. If any costs are not timely paid at any time, the Company may use any part of the initial fee to pay any delinquent amounts due and may, after notice to the shareholder and a reasonable period to cure the deficiency in payment, withdraw the change application, and may seek other remedies available under the law. Immediately upon payment of the Initial Fee to the Company, a portion of the Initial Fee (the "Nonrefundable Portion") shall accrue to compensate the Company for clerical costs and officer, board, and employee time related to the proposed change application. At the conclusion of the change application process and after payment of all costs related to the proposed change application, the Company will return the balance of the Initial Fee less the Nonrefundable Portion to the shareholder.

19. If the proposed change will result in Class A stock being used not in conjunction with one of the identified classes of system stock listed in Article IV of the Bylaws, the shareholder requesting the change must install, at the shareholder's sole expense, a meter approved by the Company, and must provide a meter reading together with the shareholder's annual assessment. The shareholder also must allow and maintain access to the meter for inspection by the Company:

20. If a shareholder fails to comply with all of the conditions imposed by the water

company, the water company may, after written notice to the shareholder and after allowing reasonable time to remedy the failure, withdraw its approval of the application, and petition the state engineer to withdraw approval of the change application.

# Attachment D

**SMITHFIELD  
IRRIGATION  
COMPANY**

## Member Request for Change Application

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email: \_\_\_\_\_

OFFICE USE ONLY

Rec'd by

Date

Fee Paid

1) Please Attach a Photocopy of Each Certificate of the Shares Affected by the Proposed Change, and List the Certificate Numbers Here:

2) Quantity of Water Sought to be Changed: \_\_\_\_\_ cfs and/or \_\_\_\_\_ acre-feet

### 3) CURRENT USE

Describe the Current Use of the Shares, Including the Location of Current Use and Type of Use (e.g., irrigated acres and number and type of animals).

### 4) PROPOSED CHANGE

Describe in Detail the Planned Use, Including the Following: Point of Diversion, Source, Place of Use, Type of Use, and Period of Use.

*NOTE: All Costs Associated with a Change Application Filed Pursuant to Approval Hereof, Including Costs of Submitting Proof, Shall Be Paid by the Member.*

#### BY SIGNING BELOW, THE MEMBER

- a. Represents that he or she is the owner of the shares described in #1 above.
- b. Represents that he or she is current on all Irrigation Company assessments;
- c. Agrees to continue to pay all applicable future assessments (except that the member may choose to prepay any portion of the irrigation company assessments attributable to an existing debt of the irrigation company);
- d. Agrees to continue to pay all applicable assessments, including all corporate assessments on the share(s) affected by the proposed change; and

- e. Agrees to pay all costs associated with the preparation and review of this Request for Change Application and any Change Application filed on the member's behalf with the Utah Division of Water Rights, including review of this Request by the Company's attorney and engineer.

\_\_\_\_\_  
Member \_\_\_\_\_ Date

*The Irrigation Company shall make a decision and shall provide written notice of that decision within 120 days of its receipt of a properly completed Request for Change Application.*

**IRRIGATION COMPANY ACTION**

<input type="checkbox"/>	<b>APPROVED</b>	<i>As this Change Request requires the filing of a Change Application with the Utah Division of Water Rights (the State Engineer's Office), a Change Application shall be filed by and in the name of both the member and the Company, and shall be prosecuted by the Company, with member paying all associated costs and providing all of the necessary information and evidence.</i>
<input type="checkbox"/>	<b>Approved with the attached conditions</b>	
<input type="checkbox"/>	<b>DENIED</b>	<i>The member may, by written request to the Secretary, ask that the denial be reconsidered at another duly noticed and called meeting. The decision of the Company Board upon reconsideration shall be final.</i>

\_\_\_\_\_  
President, Smithfield Irrigation Company \_\_\_\_\_ Date \_\_\_\_\_ Secretary \_\_\_\_\_ Date

**NOTE:** *If the member fails to comply with all of the conditions imposed by the Company or by the Division of Water Rights, the Company may, after written notice to the member and after allowing reasonable time to remedy the failure, withdraw its approval of the application and petition the State Engineer for an order withdrawing the Change Application.*