

SMITHFIELD IRRIGATION COMPANY
BOARD RESOLUTION 2013-___

RESOLUTION ADOPTING SHARE BANKING PROGRAM

WHEREAS the Boards of Trustees (“Board”) of Smithfield Irrigation Company (“Company”) believes it to be in the best interest of the Company to encourage full beneficial use of the Company’s water rights to protect against claims of nonuse, abandonment, or forfeiture; and

WHEREAS Company shareholders who are currently not using some or all of their shares have expressed a desire to have their shares utilized; and

WHEREAS Company shareholders and outside entities have expressed a desire to use water represented by Company shares; and

WHEREAS the Board deems it to be in the best interest of the Company to establish a share banking program administered by the Company that will allow Company shareholders to bank their unused shares so that other Company shareholders and/or outside entities can use the water represented by the shares.

NOW THEREFORE, BE IT HEREBY RESOLVED as follows:

1. There is established a share banking program, pursuant to the terms and conditions of this Resolution.

2. The Company Board, officers, and employees will administer the banking program on behalf of the Company.

3. A Company shareholder who does not intend to take delivery of water under their shares for some period of time (“Shareholder”) may place some or all of their shares into the share banking program by completing and filing with the Company Secretary a Water Share Banking Request (“Banking Request”), the form of which is attached hereto as Exhibit A.

a. To facilitate compliance with Article IV, paragraph 3 of the Company’s Articles of Incorporation, all Banking Requests must include both Class A shares and associated Class B, C, D, E, or F shares. A shareholder having more Class A shares than B, C, D, E, or F shares, may make a Banking Request for only Class A shares so long as the request excludes A shares in an amount equal to the number of B, C, D, E, or F shares not subject to the Banking Request.

- b. The Banking Request shall indicate how many years the Shareholder desires to bank the shares, which must include at least one full irrigation season. Once shares have been placed into the bank by a Shareholder, the Shareholder may not divert or use water under the shares or withdraw the shares from the bank until the banking period has ended.

4. Any person, including Company shareholders or nonshareholder third parties, that desires to use water shares banked with the Company under paragraph 3 above (“Users”) may apply to the Board to use the banked shares by completing and filing with the Board a Water Share Use Request (“Use Request”), the form of which is attached hereto as Exhibit B.

- a. The quantity of water requested and number of shares required to meet that request shall be based on the following factors:
 - i. An irrigation use requires a water quantity of four acre-feet per acre of irrigation (4 AF/acre). Water amounts required for other uses depend on duty values set by the State Engineer for those uses.
 - ii. Under Article IV, paragraph 2.a.(2), “[o]ne share of Class A common stock shall entitle the holder thereof to three (3.0) acre-feet of water in an average year.”
- b. If a temporary change application, permanent change application, or other administrative action with the Utah Division of Water Rights is necessary to allow a User to use the shares, any approval of a Use Request by the Company is subject to approval of said administrative action or application. Users shall be responsible for costs under paragraph 9 below regardless of the decision by the Utah Division of Water Rights.

5. Subject to the Board’s discretion under paragraphs 6 and 7 below, banked shares shall be applied to Users on a “first in, first out” basis (i.e., the first shares banked will be the first shares used), and Use Requests will be approved on a “first come, first served” basis (i.e., the first User to file a request with the Board will be the first User entitled to use shares in the bank).

6. The Board may deny any Use Request that the Board determines is not in the best interest of the Company.

7. The Board may limit the total number of banked shares used in order to comply with the legal limitations of the Company's water rights.

8. For purposes of the banking program established by this Resolution, the "authorized limits of the Corporation" within which water use can occur under Article IV, paragraph 3 of the Company's Articles of Incorporation includes any land where water use under Company's water rights is approved by the Utah Division of Water Rights. The Company may file a temporary or permanent change application to expand that authorized place of use for use of banked water if, in the sole discretion of the Board, such an application is sufficiently beneficial to the Company.

9. Concurrent with filing a Use Request, Users shall pay the Company a nonrefundable fee equal to the number of Class A shares to be used multiplied by three times the most recent per share assessment on Class A shares. A User shall pay all costs associated with installation of any new infrastructure required to deliver water under the Use Request. New infrastructure connecting to the Company's water system is subject to all rules and regulations of the Company. If a temporary change application, permanent change application, or other administrative action with the Utah Division of Water Rights is necessary to allow a User to use the shares, the User shall also pay all of the costs of the application or action, including but not limited to filing fees and attorney fees.

10. An approved Use Request expires one year after the date of approval by the Company. A User must file a new Use Request for each year in which it desires to use banked water.

11. Shareholders who place shares into the bank shall be responsible to pay all assessments on banked shares and may only bank their shares if they are current on all assessments. For any banked shares selected for use by a User, the Company will reimburse the Shareholder for the amount of the assessment, for both Class A shares and any associated B-F shares, during any year where a User uses such banked shares.

12. The placement of shares in the water banking program does not preclude the Company from allocating under Utah Code section 73-1-4.5 forfeiture attributable to the Shareholder's nonuse. Use of the banked water would likely, however, preclude a claim of forfeiture based on the seven-year period in which the banked water is used.

13. Shareholders retain the right to vote the banked shares in Company elections, and Users have no voting rights by virtue of their use of banked water.

14. All rules, regulations, and resolutions of the Company or parts thereof inconsistent with this Resolution are hereby repealed to the extent only of such inconsistency.

15. This Resolution shall become effective immediately upon adoption.

DATED this _____ day of _____, 2013.

SMITHFIELD IRRIGATION COMPANY

By: _____
President

ATTEST:

Secretary

SMITHFIELD IRRIGATION COMPANY

Water Share Banking Request

Shareholder name(s): _____

Shareholder mailing address: _____

Shareholder phone number: _____

Shareholder email address: _____

Number and class(es) of shares to be banked: _____

Stock certificate number(s): _____

Number of years you desire to bank the shares (must be at least 1 year): _____

I understand that by signing this Water Share Banking Request, I am making the Smithfield Irrigation Company shares listed above available for use by others, and that I will not be permitted to divert or use water under the shares during the time that the shares are banked. I also understand that I am responsible for paying all assessments on the shares, but I will be reimbursed that cost if the banked shares are used by another user.

Shareholder

Date

Shareholder

Date

Acceptance by Smithfield Irrigation Company:

President

Date

Secretary

Date

SMITHFIELD IRRIGATION COMPANY

Water Share Use Request

Name: _____

Mailing address: _____

Phone number: _____

Email address: _____

Number of A shares / amount of water to be used: _____

Location where water will be used: _____

Type(s) of use:

- Irrigation of _____ acres
- Stockwatering of _____ cows / horses / sheep / other _____
- Municipal
- Other _____

By submitting this signed Water Share Use Request, I am requesting to use water based on Smithfield Irrigation Company shares that have been banked by Company shareholders. I understand that I will not be issued Company shares and will not have any voting rights based on this Use Request. I have included with this request payment of the nonrefundable initial fee as required under the Company's Water Banking Resolution. I understand that I am responsible for the cost of any physical water infrastructure necessary to deliver water to me under this Use Request, and I agree to comply with Company rules and regulations for any infrastructure added to the Company's water system. If a temporary change application, permanent change application, or other administrative action with the Utah Division of Water Rights is necessary to allow me to use the shares, I agree to pay all costs associated with the application or action, including but not limited to filing fees and attorney fees, within thirty (30) days of receiving an invoice for such costs.

Signature

Date

Acceptance by Smithfield Irrigation Company:

President

Date

Secretary

Date