

**MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE
MT. CRESTED BUTTE WATER AND SANITATION DISTRICT
July 16, 2018**

A Regular Meeting of the Mt. Crested Butte Water and Sanitation District Board of Directors was held at 4:00 p.m. on Monday, **JULY 16, 2018**, at the office of the District, 100 Gothic Road, Mt. Crested Butte, Gunnison County, Colorado. Members of the Board of Directors in attendance at the meeting were as follows:

Sara Morgan Brian Brown Carlos Velado Matthew Gutter Roger Cram

Also present were:

Mike Fabbre, District Manager

Jill Norris, District Attorney

Nettie Gruber, Finance/Admin Manager

Bryan Burks, Wastewater Plant Supervisor

Tim Seifert, Water Plant Supervisor

Kyle Koelliker, Water Operator

Jamie Watt

Kathy Hooge

Nancy Grindlay

REGULAR BOARD MEETING

1. Call to Order

The meeting was called to order by Chairperson Morgan at 4:05 pm.

2. Citizens Comment Period

Kathy Hooge spoke about water for the future and the Colorado River. She presented a handout with water information and questions for the District. (Attached) Some of the questions will require consultant and engineer information, therefore, a timeframe of 30 days to reply was offered and accepted.

3. 2017 Draft Audit Approval

- Drew Lehr, CPA from Holscher, Mayberry & Company, was on the conference call and he presented a detailed overview of the audit stating it was a clean audit without issues on internal controls.
- Overall the District is strong and assets to liability is very good.
- The Contributed Capital on Page M-2 is for tap fees.
- Questions were asked about Capital Fund Reserves split between water and wastewater, a better definition for capital projects and the Meridian Lake surcharge to repay their capital investment.

MOTION by Cram, seconded by Gutter to approve the 2017 Audit. Motion amended and seconded by same, to approve the 2017 Draft Audit. Motion voted in favor.

4. Tap Fee Credit Rules & Regs Revision Memo

- There was a suggested revision to the District Rules & Regs pertaining to 3.5.1 concerning a 10 year provision to retain the original tap fee for a demolished building.
- Discussion was held on the 10-year limit if the customer was still paying user fees with no water usage
- If the current customers in this situation should be grandfathered or if the revised regulation is effective immediately
- A list of these customers will be provided to the Board at the August meeting

MOTION by Velado and seconded by Cram to approve the Tap Fee Rules & Regs for 3.5.1 and 3.5.2 Revision as stated in the 7/12/18 memo. Motion voted in favor.

It was specified the current customers with tap fee credits will be grandfathered.

5. Irrigation Discussion

- The District is still in a drought stage.
- There will be a large water demand for the next 30 days
- The Emergency Regulations will stay in place

6. Rafetlis Rate Study Special Meeting Date

- Multiple dates were discussed, the week of August 27th would be preferable
- Fabbre will set up meeting date/time

7. Manager's Report

- The current projects were reviewed
- JVA is now the District engineer for the Adaptive Sports Center, part of the JVA costs will be paid by Adaptive Sports Center and part by the District
- The District Rules & Regulations are outdated and should be revised in 2019
- Velado was requested by Chris Hensley of Adaptive Sports Center and Bill Lacy to meet with them concerning the District and their project. Velado did attend the meeting as a board member.

8. June 2018 Financial Reports

- Velado gave the treasurer's report for revenues and major expenses
- 50% is the year-to-date amounts
- A comparison was included for expenses for 2016, 2017 and 2018

MOTION by Velado, seconded by Cram to approve the June 2018 financial operating reports.
Motion voted in favor.

9. Approve Meeting Minutes:
June 12, 2018

MOTION by Velado, seconded by Brown to approve the June 12, 2018 board meeting minutes as submitted.
Motion voted in favor.

10. Hunter Ridge Discussion

Not For Public Comment

- This discussion would contain no decisions or opinions from the Board, it was for next steps necessary
- Velado, as Community Development Director for the Town of Mt Crested Butte, recused himself and left the meeting
- Morgan, as a Planning Commission member, had listened to the Planning Commission public hearing recording, but was not in attendance for the meeting or the vote on this project
- Norris presented documents on the District Inclusion policy (attached)
- Inclusion properties must bring water rights or pay a cash-in-lieu fee
- The only item before the District is to provide water and wastewater services and to evaluate the application on the ability to provide those services
- There may be a change in density from the original application to the District from the seven (7) single family lots and may now include employee housing or a four-plex
- If a change is projected, an amended Inclusion Application would be necessary
- There will be a Public Hearing/Special Meeting at a later date to be determined

Velado returned to the board meeting.

11. Legal Matters

- No additional matters were presented

10. New/Old Business Before the Board

- The next monthly meeting is scheduled for August 14, 2018

11. Adjourn

MOTION by Velado, seconded by Gutter to adjourn the meeting at 5:45 p.m. Motion voted in favor.



Nettie Gruber, Secretary

(see two attachments)

BOARD MEETING
SIGN-IN SHEET
July 16, 2018

PRINTED NAME

SIGNATURE

Jamie Watt

Jamie Watt

Kathy Hodge

Kathy Hodge Castle

Nancy Grindlay

Nancy A. Grindlay

July 16, water and sanitation meeting- mt cb

The Colorado is the nation's seventh-longest river, The river has been running especially low for the past 2 decades, as drought has gripped the Southwest.; Smithsonian magazine

The Rio Grande River has also had problems with drought and the areas it is supposed to supply water to. Since 2014, there has been litigation in the US supreme court as to which states get "how much".

Officials from Colorado, Wyoming, Utah, and New Mexico recently sent a letter to counterparts in Arizona, hoping to avert a crisis. The problem, if unresolved, could affect people in seven western states. On April 13th, 2018 water managers from states in the north of the river system, called the Upper Basin, sent a letter to Arizona officials asking for their continued cooperation in managing the river for the benefit of everyone.

The Colorado River supplies **40 million people with water** under a complex set of rules, laws, and agreements among seven states. <https://www.coloradoindependent.com/169834/colorado-river-water-war>

This is only the beginning of greater conflicts for water as the climate change impact increases drought and water in the west becomes even more scarce. Population in the west has been increasing and that adds to the problem.

The state's (colorado) population is expected to grow from about 5.5 million in 2016 to as many as 10 million people by 2050.

The East River, from which Mt Crested Butte gets most of its water, empties into the Gunnison which empties into the Colorado.

Knowing that other people have more senior water rights to the Colorado R, then what does that mean in a drought situation to the East River

1. Can we have a call on our water source if it becomes severe?
2. How many acre feet of water does the East River yield in an average year
3. How much is allocated to Town of Mt CB and how much to CBMR
4. How many acre feet of water do the springs provide in an average year

There was a water supply master plan for Mt CB Water & San on line that I found that said that the East River supplies approx 1 million gallons per day of water. Is that accurate?

If the average person uses 120 gallons and 2 per household and approx 2195 lots have been built on in Mt CB; therefore if everyone here in the summer that would be 526,800 gallons and if we are only at 35% build out, then if we only doubled the number we would be over the 1 million gallons?

The report I was looking at only used the number of 800 residents which is our full time year round population (maybe). But today, more people are retiring here and more people are using airbnb if they are not here, which adds more laundry and use.

5. Is there a way to use the water meters that we all have and do a survey of 50% to see the average use and then figure out how much we used July of 2017 as we have a lot of tourists, and homeowners here in July so that would give us a good sense of water consumption

I was reading about Steamboat and Castle Rock and their use in summer is triple that of winter. What is our ratio since we do have a lot of tourists in the winter. Is it equal?

Colorado's looming water shortage is projected to be about one million acre-feet of water per year. 1 acre foot = approx 326,000 gallons. A family of four, on average, uses about a half-acre foot of water per year, or about 163,000 gallons of water per year. So a million acre-foot shortage would impact virtually every Coloradan and in every way of life

<https://www.coloradoindependent.com/165947/colorado-drought-water-conservation>

If we will be building the North Village and annexing properties and building some of the 65% not yet built on in Mt CB, how will that work? Who will pay for the added infrastructure and water rights possibly needed.

6. Since you have said there is enough water to satisfy future development, then can you provide us with the calculations that support this statement.

7. Is the conditional decree for water rights to build the reservoir in 1984 still valid.

8. The 72' high reservoir proposed by CBMR in 2008 would be expensive. How will the cost be paid? Shared by town and CBMR since a lot of the water is for snowmaking? or just the residents of Mt CB?

INCLUSION WITHIN SPECIAL DISTRICT**PROCEDURE:**

1. Petition by fee owner of 100% of any real property capable of being served by District.
 - a. File written Petition with Board requesting inclusion;
 - b. Petition must include the following:
 - i. Legal description of the property;
 - ii. Owner's assent to inclusion;
 - iii. Acknowledged by fee owner
 - c. Board shall hear the Petition at a public meeting after publication of notice of the petition. The notice must include:
 - i. Place/time/date of meeting;
 - ii. Names and addresses of the Petitioners;
 - iii. Notice that all interest persons shall appear at such time AND show cause IN WRITING why the petition should not be granted.
 - d. Board may continue the hearing to a subsequent meeting.
 - e. No Petition may be withdrawn after publication of the Notice without the consent of the Board.
 - f. Failure of any municipality or county *which may be able to provide service* OR of any person in the existing special district to file a WRITTEN objection shall be taken as an assent to the inclusion.
 - g. Board will GRANT OR DENY the petition – in whole or in part, with or without conditions and the actions of the Board shall be final and conclusive.
2. If the Board approves the petition, the Board shall make an order to that effect and file it with the Clerk of the Court and the Court shall Order the property to be included in the special District.
3. After inclusion, the property will be subject to all taxes and charges imposed by the special district and shall be liable for its proportionate share of existing bonded indebtedness of the special district. Property will also be liable for its proportionate share of annual operation and maintenance charges and the cost of facilities of the special district and taxes, rates, fees, tolls, or charges shall be certified and levied or assessed.

4. Nothing in 32-1-402 prevents an agreement between the board and the owners of the property sought to be included with respect to the fees, charges, terms and conditions on which such property may be included.
5. The Court Order of any inclusion of property must be:
 - a. Recorded with the County Clerk and Recorder;
 - b. The County Clerk shall notify the County Assessor;
 - c. A certified copy of such notice shall also be filed with the Division of Local Government by the County Clerk and Recorder.

C.R.S. 32-1-1001(1)(k) permits a Special District to furnish services and facilities outside the boundaries of the District and to establish fees, rates, tolls, penalties, or charges for such services and facilities.

C.R.S. 32-1-1001(2): The governing body of any special district furnishing domestic water and sewer services directly to residents and property owners inside and outside the boundaries of the district may fix or increase fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services only after consideration of the action at a public meeting held at least 30 days after providing notice stating that the action is being considered and stating the date, time, and place of the meeting at which the action is being considered. Notice must be provided to the customers receiving the domestic water or sewer services of the district in one or more of the following ways:

1. Mailing notice separately to each customer of the service on the billing rolls of the district;
2. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter or other notice of action, or other informational mailing set by the special district to the customers of the district;
3. Posting the information on the official website of the special district if there is a link to the district's website on the official website of the division; or
4. For any district that is a member of a statewide association of special districts formed pursuant to section 29-1-401 C.R.S. by mailing or electronically transmitting the notice to the statewide association of special districts, which association shall post the notice on a publicly accessible section of the association's website.

AGREEMENT REGARDING INCLUSION OF TERRITORY

(_____)

THIS Agreement Regarding Inclusion of Territory (the "Agreement") is executed this ____ day of _____, 201____, as follows:

1. PARTIES.

The parties to this Agreement are:

MT. CRESTED BUTTE WATER AND SANITATION DISTRICT, a Colorado special district (the "District"),

and

_____ ("Owner").

2. RECITALS.

The following recitals apply to this Agreement:

2.1 District is a duly organized special district existing under and by virtue of the statutes of the State of Colorado.

2.2 District provides water and sanitation services and facilities and maintains and operates a water plant and sanitary sewer plant to provide such services.

2.3 District provides water and sanitation services to property located within its boundaries and provides water and sewer taps or connections to its water lines and sewer lines in accordance with the statutes of the State of Colorado and its policies, rules and regulations and is required by law to collect its scheduled tap or connection fee for any water and/or sewer tap or connection.

2.4 Owner owns approximately _____ acres of land known more particularly described on Exhibit A (the "Property"), which Owner intends to subdivide into no more than _____ (___) lots.

2.5 Owner has determined that it may be in the best interest of the Owner and the future owners of the Property to enter into this Agreement with the District to set forth the procedures to have the Property included within the boundaries of the District and to have the District provide water and sewer services to the Property.

2.6 Owner has submitted a petition in accordance with Section 32-1-401, et seq., Colorado Revised Statutes, for the inclusion of the entirety of the Property within the District.

2.7 Section 6 of District Policies also requires that the included lands be annexed to the Town of Mt Crested Butte. Owner has petitioned the Town of Mt. Crested Butte for inclusion within the Town.

2.8 District and the Owner have determined that it is in the best interest of both the District and the Owner to include the Property within the District.

2.9 District and Owner desire to enter into this Agreement to set forth the terms and conditions for the inclusion of the Property within the District.

3. AGREEMENT TO PROVIDE WATER AND SEWER SERVICES.

Subject to the terms and conditions of this Agreement, the District agrees to provide municipal water and sewer services for any development on the Property.

4. INCLUSION OF THE PROPERTY.

Upon execution of this Agreement, the District shall petition the District Court for Gunnison County, Colorado for the inclusion of the Property within the District. The Owner agrees to sign any and all documents and undertake any and all actions as may be reasonably necessary to prosecute the inclusion petition. The parties' further obligations under this Agreement are conditioned upon the Court's approval of the inclusion of the Property within the District within one year from date of this Agreement. If not so completed, either party may give written notice to the other party that this Agreement is terminated and upon receipt thereof, this Agreement shall terminate.

5. CASH IN LIEU OF WATER RIGHTS.

5.1 The Owner has petitioned for inclusion within the District upon the representation that the Property would be divided into no more than _____ lots, upon each of which there may be constructed a single family residence not to exceed 5000 square feet, garages not included .

5.2 Under the District's existing rules, this usage would equal a total of _____ SFE's per lot.

5.3 Section 6 of the District's Policies requires that any applicant for inclusion convey to the District adequate water rights to service the properties so annexed, unless the District, in its discretion, finds that, among other things, cash in lieu of water rights is acceptable to the District. The Owner proposes to convey no

water rights to the District, and the District hereby agrees to accept cash in lieu of water.

5.4 Based upon this calculation, the District agrees to accept \$_____ in cash to the District, representing _____ SFE per lot and \$4,400.00 per SFE. Subject to the provisions of paragraphs 5.5 and 5.6 below, the District finds that this payment is adequate to provide for the needs of the District to serve the Property.

5.5 If the Owner or any subsequent lot owner proposes any construction upon any lot on the Property which would exceed _____ SFE or receives approval for more than a _____ (____) lot single family subdivision, then that person may apply to the District for such increased services, which application may be accepted or rejected by the District pursuant to the applicable statutes, rules, regulations and policies in effect at the time of such request.

5.6 The Owner agrees that the Property shall not be subdivided into more than 4 lots without the prior written consent of the District, which consent, in order to be effective, must be recorded in the real property records of Gunnison County, Colorado.

5.7 The Owner acknowledges that inclusion of the Property within the District shall not obligate the District to provide municipal water and sewer services exceeding _____ SFE per lot for not to exceed _____ single family lots on the Property, and waives any right under statute or law to require the District to provide such excess services to the Property.

5.7.1 In the event Owner creates less than _____ (____) lots, there shall be no reduction in the amount of monies paid to the District as cash in lieu water rights.

5.8 The District agrees that no property included in the District after the date of this Agreement shall pay less than \$4,400.00 per SFE.

6. CONSTRUCTION OF WATER AND SEWER SYSTEMS.

6.1 The Owner shall perform or obtain all engineering studies, hydrology studies, designs and constructions drawings as may be required to construct, operate and maintain the water distribution and sewer collection systems for the Property, and connect them to the District's existing systems and submit the same to the District for the District's approval.

6.2 The Owner shall construct the water distribution and sewer collection systems for the Property in accordance with the designs and constructions drawings therefor approved by the District.

6.3 All costs, fees and expenses pertaining to the engineering, study, design and installation of the water distribution and sewer collection systems and easements therefor shall be paid by the Owner.

6.4 The Owner shall convey the systems to the District upon the completion and testing of the water distribution and sewer collection systems in accordance with the District's policies.

7. EASEMENTS.

7.1 Prior to construction of the water distribution and sewer collection systems for the Property, the Owner shall acquire and convey to the District any and all easements and rights of way necessary for (i) the construction, operation, maintenance and utilization of the water distribution and sewer collection systems for the Property, (ii) the connection of the water distribution and sewer collection systems for the Property to the existing systems for the District, and (iii) maintenance and utilization of the existing systems for the District.

7.2 Such easements shall be noted on the Plat subdividing the Property, which plat shall be submitted to the District for review and approval of the water distribution and sewer collection systems for the Property prior to the construction thereof.

8. MILL LEVY, RATES AND FEES.

8.1 The Owner acknowledges that from and after the date of inclusion of the Property within the District, the Property shall be liable for its proportionate share of the existing bonded indebtedness of the District but the Property shall not be liable for any taxes or charges levied or assessed prior to the inclusion of the same within the District nor is the inclusion of the Property contingent upon the assumption of any taxes, rates, fees, tolls or charges other than those which are uniformly made, assessed or levied for the entire District.

8.2 The District shall have the right to fix a different rate, fee or charge to the Property based upon the services and facilities furnished or to be furnished to the Property. The District shall meet with the Owner to discuss and determine the best and most feasible method of imposing any rates, fees or charges to the Property so that the same may be equitable and fair both to the property owners within the Property and all property owners within the District.

8.3 The District shall have the right to designate the Property as a separate tax area and fix the same or a different rates of levy for property tax purposes against the Property based upon the services and facilities furnished or to be furnished to the Property. The District shall meet with the Owner to discuss and determine the best and most feasible method of imposing rates of levy for property tax purposes for the Property so that the same may be equitable and fair both to the property owners

within the Property and all property owners within the District. Nothing in the foregoing shall obligate the District to designate the Property as a separate tax area, nor if so designated, rescind such designation in the future.

9. NOTICES.

All notices and other communications required or permitted under this Agreement shall be in writing and shall be, as determined by the person giving such notice, either hand delivered, mailed by registered or certified mail, return receipt requested, or by telecopier or telegraphic communication to the required party at the following addresses:

DISTRICT: Post Office Box 54705740
Mt. Crested Butte, Colorado 81225
Fax: (970) 349-0412

OWNER:

Notice shall be deemed delivered at the time of personal delivery, telecopier or telegraphic communication or when mailed to the required party. Any party may change its address by giving written notice of a change of address to the other party in the manner above provided.

10. ENTIRE AGREEMENT.

This Agreement constitutes the entire and only agreement between the parties. All prior negotiations, agreements, representations and understandings, whether written or oral, are merged into and superseded by this Agreement and shall be of no further force nor effect.

11. APPLICABLE LAW.

This Agreement is executed in Gunnison County, Colorado, and shall be interpreted, construed and governed by the laws of the State of Colorado.

12. JURISDICTION AND VENUE.

Jurisdiction and venue of any action as to this Agreement and the interpretation, enforcement or the determination of the rights and duties of the parties hereto shall be the District Court of Gunnison County, Colorado. Each party submits to the personal jurisdiction of the District Court of Gunnison County, Colorado and waives any and all rights under the laws of any other State or County to object to the jurisdiction of the District Court of Gunnison County, Colorado as to any action pertaining to this Agreement.

13. ATTORNEYS' FEES.

If any legal action is commenced or maintained in court, whether in law or in equity, by any party to this Agreement as to the interpretation, enforcement, construction or the determination of the rights and duties of the parties to this Agreement or any document provided herein, the prevailing party in any such action shall be awarded its reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.

14. RECORDATION.

Upon execution, the parties shall record this Agreement in the real property records of Gunnison County, Colorado to provide notice to any subsequent owners of the Property of the terms and conditions thereof.

15. AMENDMENT.

The parties recognize and agree that this Agreement may require future amendments, modifications or changes as the processes called for hereby are undertaken by the parties, and the parties agree to mutually negotiate in good faith any amendments, modifications or changes that might be required to give effect to the spirit and purpose of this Agreement.

16. BINDING AGREEMENT.

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

MT. CRESTED BUTTE WATER AND SANITATION DISTRICT, a Colorado special district

By:

_____, Chairman

By: _____

Name: _____

Title: _____

EXHIBIT A
Legal Description

SECTION 6. INCLUSION OF TERRITORY.

6.1 **Statutory Authority.** The procedure for the inclusion of property shall be governed by Section 32-1-401, et seq., Colorado Revised Statutes, as now adopted and as may be hereafter amended.

6.2 **Policy.** This policy is in addition to the statutory authority and sets forth the mandatory procedure for inclusion of any new property within the District.

6.3 **Position of District.** It is the position of the District to allow the inclusion of property into the District subject to the following requirements:

6.3.1 The District finds that it can adequately serve the property to be included.

6.3.2 The petitioner complies with this policy and the applicable policies, rules and regulations of the District.

6.3.3 The petitioner shall pay all costs, fees and expenses to extend and install water service and sewer service to and within the property to be included.

6.3.4 The Petitioner has complied with all requirements of the Town of Mt. Crested Butte, Colorado and has been or will be concurrently annexed to the Town of Mt. Crested Butte, Colorado. Provided, however, if the property is not contiguous to or is not capable of being annexed to the Town of Mt. Crested Butte, Colorado, the District may waive the requirements of this Section 6.3.4.

6.3.5 The Petitioner owns and can convey to the District water rights adequate to provide for all water demands of the property which the Petitioner proposes to include within the District, subject to the provisions of paragraphs 6.6 , 6.7, and 6.8 hereof.

6.3.6 The District has both the physical plant capacity and effluent discharge rights to serve the property proposed for inclusion, in accordance with the provisions of paragraphs 6.9 and 6.10 hereof.

6.4 **PETITION FOR INCLUSION.** The owners of property to be included within the boundaries of the District (the "Included Parcel") shall submit ten (10) copies of a Petition for Inclusion in writing requesting that such Included Parcel be included in the District. The Petition for Inclusion shall set forth the following information:

6.4.1 The full name, address and telephone number of the petitioner.

6.4.2 The full names, addresses and telephone numbers of the owners of 100% of the Included Parcel.

6.4.3 The written and acknowledged consent of the owners of 100% of the Included Parcel shall be attached to the Petition for Inclusion.

6.4.4 The full name, address and telephone number of the holder of any lien, mortgage, deed of trust or other encumbrance against the Included Parcel.

6.4.5 Legible copies of all documents or instruments verifying the current ownership of the Included Parcel.

6.4.6 A current Policy of Title Insurance, Commitment for Title Insurance or an opinion of an attorney at law licensed to practice in the State of Colorado confirming the ownership of the Included Parcel.

6.4.7 A full and complete list of all water and water rights, ditch and ditch rights, spring and spring rights, well and well rights and reservoir and reservoir rights appurtenant to the Included Parcel which shall include the name of the ditch or structure, the ditch or structure number, the amount of water adjudicated to the ditch or structure, including priority or court case number, the amount of water owned by the petitioner and the date or dates of adjudication of all water to the ditch or structure.

6.4.8 A current Policy of Title Insurance, Commitment for Title Insurance or an opinion of an attorney at law licensed to practice in the State of Colorado verifying and confirming the ownership of said water rights and that all of said water rights have been appurtenant to the Included Parcel for the last five years.

6.4.9 A comprehensive description of all water and sewer facilities of any type or description currently situate upon the Included Parcel or being used to provide domestic water service and/or sewer service to the Included Parcel.

6.4.10 A contour map of the Included Parcel with contour intervals of not less than 5 feet with a scale of not less than 1 inch equals 200 feet, or such other scale as may be approved for submittal by the Manager of the District, and drawn on 11 inch by 17 inch sheets.

6.4.11 A full and legible copy of any annexation, subdivision or zoning proposals submitted to the Town of Mt. Crested Butte, Colorado pertaining to the Included Parcel.

6.4.12 A sketch plan setting forth the proposed subdivision and/or uses of the Included Parcel, location of proposed water and sewer mains and including a listing of the number and type of projected water taps and sewer taps that will be required to serve the Included Parcel. One disk of spatial data in digital format as per District specifications will also be required.

6.4.13 Such additional information, documents and exhibits as may be reasonably required by the District.

6.4.14 A cashier's check or other good funds for payment of the application fee.

6.4.15 A statement that the owners of the Included Parcel shall, upon demand, convey to the District all water and sewer facilities constructed upon the Included Parcel and adequate and necessary easements and rights of way for the purpose of construction, maintenance and repair for the water facilities and sewer facilities.

6.4.16 A statement by the petitioners that they agree to pay all costs, fees and expenses incurred by the District in reviewing the Petition for Inclusion, the adequacy of the water rights, the ability of the District to adequately serve the Included Parcel and the District's legal and administrative costs pertaining to the inclusion proceedings.

6.5 **PRELIMINARY PETITION.** Subject to prior approval by the Board of Directors of the District, a petitioner may submit a Preliminary Petition for Inclusion containing less than all of the required information and documentation set forth in paragraph 6.4 above, but including the non-refundable application fee.

6.5.1 The District shall take no action on a Preliminary Petition for Inclusion unless or until all of the required information and documentation has been submitted by the petitioner to comply in full with the requirements of paragraph 6.4 above.

6.5.2 If all of such information and documentation has not been received by the District within 30 days of the date of submission of the Preliminary Petition for Inclusion, such Preliminary Petition for Inclusion shall become automatically null and void and of no further force and effect and the District shall retain the application fee paid by the petitioner.

6.5.3 Notwithstanding the above, the Board of Directors of the District, for good cause, may grant an extension of the 30 day period for submission of all such information and documentation, but in no event shall such extension exceed 90 days.

6.6 **ADEQUACY OF WATER RIGHTS.** Subject to the provisions of paragraphs 6.7 and 6.8, upon receipt of a complete Petition for Inclusion, the District shall determine if the water rights to be conveyed to the District as required under paragraph 6.3.5 hereof are adequate for the District's requirements, based upon the following considerations:

6.6.1 Title to such water rights shall be fully marketable in the petitioner, free and clear of all liens and encumbrances.

6.6.2 Such water rights shall have a proven yield sufficient to serve not less than 100% of projected water demand within the Included Parcel, including peak day demand, peak hourly demand, or other peak requirements on a year-round 100% occupancy basis.

6.6.3 Such water rights shall be sufficiently senior in priority as to be free from administrative curtailment in the event of strict administration by priority.

6.6.4 Such water rights shall be physically located such that they may be diverted from their existing decreed point of diversion, or changed to such other point of diversion as the District may require, without change in priority or yield, and without in any manner impairing any other water rights of the District or other vested water right owners.

6.6.5 Such water rights shall be decreed, located, historically used, and of such nature that the same can be incorporated into the over-all water rights portfolio of the District, including augmentation strategies, without impairing any of the other water rights of the District or other vested water right owners in any manner.

6.6.6 Such water rights, in order to be utilized by the District, would not require any enlargement, expansion, modification, or advance planning or engineering for enlargement, expansion or modification of the District's water diversion, pumping, collection, storage, treatment, distribution, measurement, augmentation release, or other water system components, nor of the District sewage collection, treatment, discharge, and other sewer system components, unless such enlargement, expansion, modification or

advance planning or engineering for enlargement, expansion or modification is fully paid for by the Petitioner.

6.6.7 Such water rights shall satisfy such other reasonable requirements as the District, its water engineers and attorneys deem appropriate in order to assure that by virtue of the inclusion of the Included Parcel and provision of water service thereto, the District will not in any manner impair its ability to fully serve the present and anticipated future water requirements of the existing District and the Included Parcel without additional expense to the District.

6.6.8 In order to make the foregoing determinations of adequacy, the District shall obtain the opinions of a qualified hydrologist, water engineer, environmental consultant, water attorney, or such other qualified experts as the District may deem necessary. All costs, fees, and expenses of the District to fully evaluate such water rights, including all experts retained by the District, shall be paid by the Petitioner.

6.6.9 A condition of final inclusion of the Included Parcel into the District shall be the conveyance of such water rights to the District by special warranty deed, and the agreement of the Petitioner to pay or advance payment of all additional costs, fees and expenses of the District to obtain a final adjudication and decree of the Water Court for Water Division 4, State of Colorado, and any other filings, permits, or other actions which may be taken by the District in its sole discretion with respect to such water rights.

6.7 **CREDIT FOR WATER SUPPLY LIMITATION**. The District may, in its discretion, allow a credit for a contractual limitation on the amount of water to be supplied to any Included Parcel and any other parcels of land owned by the petitioner then within the District. Such supply limitation credit may be permitted upon the following terms and conditions:

6.7.1 The petitioner shall demonstrate the following to the District's satisfaction:

6.7.1.1 After netting the reduced water demand for any supply limited parcel against the increased water demands of the Included Parcel as limited, the District's existing water rights will be adequate both in terms of physical availability for diversion and legal reliability to serve both its then-present area and the Included Parcel; and

6.7.1.2 Adequate contractual assurances that neither the supply limited parcel nor the Included Parcel will in the future be developed in a manner that will allow an increased demand for water from the District.

6.7.2 In determining whether, or to the extent, such credit should be allowed, the District may consider the following:

6.7.2.1 The potential for water users within the District other than petitioner to increase or decrease the ultimate demand for water by actions including, but not limited to, re-zoning;

6.7.2.2 Whether the District is better served if other sources of water for year-round municipal use or augmentation are developed;

6.7.2.3 Whether the District is better served by contributions of cash or other property in lieu of water rights or supply limitation credits; and

6.7.2.4 Such other matters as may be determined by the District.

6.7.3 In allowing such credits:

6.7.3.1 The District shall require that the petitioner encumber both the Included Parcel and the other lands within the District with covenants that limit the water to be supplied try the District to those parcels in a manner that is satisfactory to the District. The District shall be a party to such covenants, and they may be amended only with the express written consent of District. Such covenants may, in the District's discretion, provide for an amendment of the Supply limitation covenant upon the petitioner's provision of water rights, other supply limitation credits, cash or other contributions to satisfy any increased supply to such lands.

6.7.3.2 The District shall allow credits only for those parcels for which the covenants referenced in paragraph 6.7.3.1 above are entered into as part of or in contemplation of the inclusion of the Included Parcel by the Petitioner;

6.7.3.3 In order to make the foregoing determinations, the District shall retain such qualified hydrologists, water engineers, environmental consultants, water attorneys, or other qualified experts as the District may deem necessary, the costs, fees, and expenses of which shall be paid by the Petitioner.

6.8 **CASH OR OTHER CONTRIBUTIONS IN LIEU OF WATER.** Notwithstanding the foregoing, the District, in its discretion, may accept in lieu of or in addition to the water rights or supply limitation credits set forth in paragraphs 6.6 or 6.7 above, cash or other contributions provided that the petitioner can demonstrate to the District's satisfaction that such cash or other contributions are sufficient to allow the District to expand or improve then-existing physical and legal water supply, augmentation plan and treatment and delivery systems to meet the increased water demands of the Included Parcel. In order to make the foregoing determination, the District shall retain such qualified hydrologists, water engineers, environmental consultants, water attorneys, or other qualified experts as the District may deem necessary, the costs, fees, and expenses of which shall be paid by the Petitioner.

6.9 **ADEQUACY OF CAPACITY.** Upon receipt of a complete Petition for Inclusion, the District shall determine whether it has the hydraulic and organic plant capacity to serve 100% of the projected wastewater treatment demands of the Included Parcel, considering the wastewater treatment services then provided by the District and the projected wastewater treatment demands for all property then within the District at full build out. The information required by this paragraph is for Board information only, and is not a condition precedent to annexation.

6.10 **EFFLUENT LIMITATIONS.** Upon receipt of a complete Petition for Inclusion, the District shall determine whether the effluent discharge resulting from 100% of the projected wastewater treatment demand within the Included Parcel, in addition to the wastewater treatment services then provided by the District and the projected wastewater treatment demands for all property within the District at full build out, would exceed any State or Federal Standard applicable to the District. The information required by this paragraph is for Board information only, and is not a condition precedent to annexation.

6.11 **APPROVAL BY TOWN OF MT. CRESTED BUTTE COLORADO.** As a condition of final approval of the inclusion of the Included Parcel in the District, the petitioners shall provide to the

District proof of the final approval or concurrent approval by the Town of Mt. Crested Butte, Colorado for annexation of the Included Parcel by the Town of Mt. Crested Butte, Colorado, unless the same is waived by the District as provided in Section 6.3.4 above.

6.12 APPLICATION FEE AND PAYMENT OF EXPENSES.

6.12.1 A non-refundable application fee of \$2,500.00 shall be submitted with any Petition for Inclusion of Included Parcel in the District.

6.12.2 The petitioners shall further deposit with the District with the Petition for Inclusion a deposit for the payment of costs, fees and expenses of the District in such amount as the District Manager, subject to the ratification or change by the Board of Directors of the District, may determine. Such deposit shall be utilized by the District to pay its engineering, hydrology, legal and administrative expenses incurred in the inclusion proceedings. Any excess of the deposit over and above the amount actually expended for such costs, fees and expenses shall be returned to the petitioner at the conclusion of the proceedings.

6.12.3 In the event that the expense deposit is not sufficient for the payment of all such costs, fees and expenses as set forth in paragraph 6.12.2 above, the petitioners shall be billed for any additional costs, fees and expenses by the District as they are incurred and the petitioner shall pay such amounts within 10 days of the date of billing.

6.12.4 No final approval for the inclusion of the Included Parcel in the District shall be given until all fees, costs and expenses have been paid.

6.12.5 As a condition of submitting the Petition for Inclusion petitioners covenant and agree with the District that the District shall have an absolute right to place a lien upon the Included Parcel as to any fees, costs and expenses unpaid by the petitioners.

6.13 AVAILABILITY OF SERVICE. By acceptance of a Petition for Inclusion, the District does not guarantee that the current facilities of the District are adequate to provide water service and sewer service to the Included Parcel. The inclusion of the Included Parcel in the District may require an enlargement of the water facilities and/or sewer facilities. Further, although the District may be able to adequately serve the Included Parcel with water service and/or sewer service as of the date of the Petition for Inclusion, no guarantee may be made of such availability of those services at the time individual lots, tracts or parcels of land within the Included Parcel make actual requests for connection. Any inclusion of property within the District shall be subject to the policies, rules and regulations of the District concerning the availability of water and sewer service and any priority criteria for such availability.

6.14 PUBLIC MEETING ON PETITION. Upon the District receiving a full and complete Petition for Inclusion of territory, it shall schedule a public meeting and hearing in accordance with Colorado statutes. Following such public meeting and hearing, the Board of Directors shall, within a reasonable time, grant or deny the Petition for Inclusion, in whole or in part, with or without conditions and the action of the Board of Directors of the District shall be final subject only to a right of appeal as provided by statute.

7. **FEE SCHEDULE.**

The District has adopted the following fees, which are subject to change from time to time:

Lien Placement and Release:	\$ 100.00
Property Assessment/Research:	\$ 30.00
Return Check Fee:	\$ 35.00
Second Return Check Fee:	\$ 25.00
Tap Fee Calculation	\$100.00
Property Transfer or New Account Set-up	\$ 25.00
Disconnect Water Notice	\$200.00
Certify delinquent account to County	\$100.00
Service Calls*:	\$ 50.00
Water Turn Off Fee:	\$ 50.00
Water Turn On Fee:	One-half of the current tap fee rate for the service
Application Fee for Petition for Inclusion:	\$2,500.00

*Service calls include line inspections and leak analysis, but does NOT include meter battery maintenance.

PLEASE SEE THE DISTRICT WEB SITE FOR THE MOST CURRENT SCHEDULE OF RATES AND CHARGES

<http://mcbwsd.com/docs/rates.fees2012.pdf>