

RESOLUTION NO. 2018-7-1

**RESOLUTION OF THE BOARD OF DIRECTORS OF HUERFANO COUNTY
WATER CONSERVANCY DISTRICT ADOPTING RATES, FEES, AND CHARGES
FOR AUGMENTATION WATER**

WHEREAS, Huerfano County Water Conservancy District (“District”) has determined that it is appropriate to adopt rates, fees, and charges for the District’s lease, sale, and lease option of the contract provision of augmentation water (“Augmentation Certificates”) to District customers (“Plan Participants”) under the terms and provisions of the District’s Regional Plan for Augmentation as decreed by the District Court for Water Division 2, State of Colorado, in Case No. 13CW3062 (“Regional Augmentation Plan”).

WHEREAS, pursuant to C.R.S. §37-45-118(1)(b) and (g), and the previously adopted Rules and Regulations of the District recorded with the Huerfano County Clerk and Recorder at Reception No. 410680, this Board has the authority on behalf of the District to lease and sell water, water rights, and sources of water supply and fix the rates therefore.

WHEREAS, pursuant to C.R.S. §37-45-111(1)(O), this Board has the power to adopt, amend and enforce the rules and regulations of the District, that are not in conflict with the constitution and laws of the State of Colorado, for the carrying on of the business of the District and may exercise all rights and powers necessary or incident to or implied from its specific powers.

WHEREAS, the District has determined that it is appropriate at this time to set rates, fees, and charges for Augmentation Certificates and the provision of contract augmentation water related thereto, with said determination being based upon, without limitation, the record before the Board the set board set forth in the attached Exhibit A, and public comments received as well as discussion during a duly noticed public hearing on July 23, 2018, all of which has been fully considered by the Board.

NOW, THEREFORE, pursuant to the District’s power and authority, the following actions are taken.

1. Rates, Fees, and Charges. The following rates, fees, and charges for the contract provision of augmentation water under an Augmentation Certificates, and services and provision of augmentation water related thereto, are established and shall be in place until amended, repealed, or replaced by the Board.

A. Purchase Price for Augmentation Certificates.

i. Unsubsidized Costs. The charge for the purchase of the contract provision of augmentation water under an Augmentation Certificate, reflecting the cost recovery

for the District without subsidized costs, is \$79,500.00 per annual acre foot of contract augmentation water. This rate is adopted from Table 2 of the July 15, 2018 Memorandum of TZA Water Engineers titled Cost Recovery for Regional Augmentation Plan in Case No. 13CW3062. The general applicability of this rate is for a Plan Participant that does not meet the availability of any subsidized cost reductions from the full rate recovery of the HCWCD costs incurred in the Regional Augmentation Plan and associated activities.

ii. Costs Subsidized by CWCB Grant. The charge for the purchase of the contract provision of augmentation water under an Augmentation Certificate, reflecting the cost recovery for the District with subsidized costs of a Colorado Water Conservation Board grant, is \$74,575 per annual acre foot of contract augmentation water. This rate is adopted from Table 3 of the July 15, 2018 Memorandum of TZA Water Engineers titled Cost Recovery for Regional Augmentation Plan in Case No. 13CW3062. The general availability of this rate is for those Plan Participants who were the parties specifically identified in the 2015 CWCB grant application as an existing water user in need of augmentation and for whom the CWCB grant was intended to benefit. These original parties were identified as existing Participating Diversions in the Regional Augmentation Plan decree.

iii. Costs Subsidized by District Tax Revenues. The charge for the purchase of the contract provision of augmentation water under an Augmentation Certificate, reflecting the cost recovery for the District with subsidized costs for 70 percent of the District's ad valorem real property tax revenues for the period of 2013 through 2018, is \$56,100 per annual acre foot of contract augmentation water. This rate is adopted from Table 4 of the July 15, 2018 Memorandum of TZA Water Engineers titled Cost Recovery for Regional Augmentation Plan in Case No. 13CW3062. The general availability of this rate is for those Plan Participants (1) whose subject property to be benefitted by the Augmentation Certificate has been owned by the applicant, or the applicant's predecessor in title, since 2013 when the Regional Augmentation Plan was filed, (2) all ad valorem real property taxes upon the subject real property have been paid to Huerfano County from 2013 to date, and (3) the subject property has been and will at the time of the use of the Augmentation Certificate remain in the same tax classification by the Huerfano County Assessor as the subject property was in 2013.

iv. Costs Subsidized by District Tax Revenues and CWCB Grant. The charge for the purchase of the contract provision of augmentation water under an Augmentation Certificate, reflecting the cost recovery for the District with subsidized costs for 70 percent of the District's ad valorem real property tax revenues for the period of 2013 through 2018 and the Colorado Water Conservation Board grant, is \$51,100 per annual acre foot of contract augmentation water. This rate is adopted from Table 5 of the July 15, 2018 Memorandum of TZA Water Engineers titled Cost Recovery for Regional Augmentation Plan in Case No. 13CW3062. The general available of this rate is for those Plan Participants who qualify for both the CWCB grant subsidy of Section 1.A.ii. above and the ad valorem real property tax subsidy of Section 1.A.iii. above.

B. Lease Price for Augmentation Certificates. The price to lease the contract

provision of augmentation water under an Augmentation Certificate is based on the application of a currently applied discount factor of 7 percent applied to the purchase price of the Augmentation Certificate that would be available to the Plan Participant. This discount factor is applied to convert the purchase price of an Augmentation Certificate to a lease price for the Augmentation Certificate. For example, the annual lease of the contract provision of augmentation water is \$5,565.00 for Augmentation Certificate pricing available under Section 1.A.i. above. ($\$79,500 \times 7 \text{ percent}$ with rounding equals \$5,600). This discount factor of 7 percent can be changed by Board from time to time by resolution to meet changing economic conditions that would impact the discount factor.

C. Lease to Purchase Price for Augmentation Certificates. The price to lease to purchase the contract provision of augmentation water under an Augmentation Certificate, all in accordance with the District's rules and regulations, will use the same 7 percent discount rate to amortize the purchase price over a period of 5 annual payments. Five annual payments at a 7 percent discount rate results in making 5 equal annual payments with each payment being equal to 24.4 percent of the purchase price of an Augmentation Certificate available to the Plan Participant (a capital recovery factor of 0.244). The District's rules and regulations currently provide that 1.0 acre foot is the minimum amount of contract augmentation available for the lease purchase option.

D. Annual Administration Fees for Augmentation Certificates. The Board has determined that it is necessary to set an annual administration fee upon Augmentation Certificates, in addition to the purchase or lease price of the Augmentation Certificates, which will reflect the recovery of the District's costs and expenses in the administration of the Blanket Augmentation Plan and underlying water rights for the benefit of the Augmentation Certificate holders. The determination of these costs relies upon estimated and actual annual costs, and these costs will change from time to time depending upon the development and implementation of the Blanket Augmentation Plan and incidental storage and recharge rights. The total of the annual administration expenses of the District for the Regional Augmentation Plan at this time is estimated and determined to be \$25,000, which shall be divided and charged to Plan Participants based upon the acre feet of Augmentation Certificates contracted for and outstanding. The allocation may be adjusted by the Board from time to time by resolution based on the administration costs and expenses of the District and the amount of outstanding Augmentation Certificates. The timing of the billing and due date shall be in the Board's discretion.

E. Increments of Augmentation Certificates to Be Sold. The minimum amount of contract water available for purchase under an Augmentation Certificate is one-half of an annual acre foot. The next increment of purchase is another one-half of an acre foot, for a total of one annual acre foot. All amounts purchased above one annual acre foot have to be purchased in one annual acre foot increments.

F. Increments of Augmentation Certificates to Be Leased. The minimum amount of contract water available for lease under an Augmentation Certificate is one-half of an annual acre foot. The next increment of lease is another one-half of an acre foot, for a total of

one annual acre foot. All amounts leased above one annual acre foot have to be leased in one acre foot increments.

G. Increments of Augmentation Certificates for Lease Purchase. The minimum amount of contract water available for lease to purchase under an Augmentation Certificate is one annual acre foot. All amounts leased to purchase above one annual acre foot have to be in one acre foot increments.

H. Penalties for Overuse of Water Under Augmentation Certificate. The penalty for a Plan Participant using an amount of water that causes or will cause stream depletions that exceed the contracted for annual augmentation water under the Participant's Augmentation Certificate shall be the amount of the overage (based upon the next lease or purchase increment available to the participant) multiplied by twice the amount of the annual lease rate for new plan participants under Section 1.A.i. above.

2. Determination by the Board. It is the Board's determination that these fees, rates, and charges are reasonably related to the overall existing and future costs of operations and capital improvements for the augmentation water service provided, are necessary for the District to recover such costs, and are necessary for the District to implement and enforce its Rules and Regulations.

3. Discretion of Board. The Board may exercise its discretion in the administration and implementation of this resolution for the fees and charges for the contract provision of augmentation water under Augmentation Certificates, including, without limitation, the determination of the price category of Augmentation Certificate lease and/or purchase that is available to a Plan Participant.

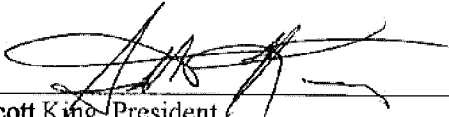
4. Enterprise. When the District's water activity enterprise is able to meet the requirements of Colorado law for the initiation and use of that enterprise, the charges and fees under this resolution and the administration thereof may in the discretion of the Board be assigned to the District enterprise.

5. Proper Action. This action is taken by the Board at its regular public meeting after all required public notices and postings of the meeting have been made, with a quorum of the Board in attendance and taking proper action thereon.


THEREFORE, the above rate structure was enacted by the Board of Directors of the District on this 23rd day of July 2018 to be effective immediately.

ATTEST:

(SEAL)



Scott King, President
Huerfano County Water Conservancy District



Carol Dunn, Secretary
Huerfano County Water Conservancy District

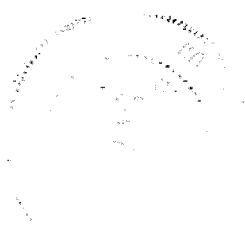


EXHIBIT A

Table 1
Huerfano Regional Augmentation Plan Expenses

Year	Expense	For	Augmentation Plan	
			%	Expense
2013	171,929.69	Legal	85%	146,140.24
2013	400.00	Pond lease		400.00
2013	99,998.72	Engineering	99%	98,998.73
2014	138,537.50	Legal	85%	117,756.88
2014	2,227.34	Garcia mileage		2,227.34
2014	400.00	Pond lease		400.00
2014	203,023.00	Engineering	99%	200,992.77
2014	1,808,616.54	Ranch + improvements		1,808,616.54
2014	9,112.50	Surveys, permits		9,112.50
2014	22,000.00	Loan origination fee		22,000.00
2015	93,839.00	Legal	85%	79,763.15
2015	713.00	Property insurance		713.00
2015	2,282.28	Garcia mileage		2,282.28
2015	48,670.00	Engineering	99%	48,183.30
2015	9,215.00	Eng on RWAF		9,215.00
2015	16,040.00	Ranch + improvements		16,040.00
2015	2,208.00	Surveys, permits		2,208.00
2015	6,815.00	Reservoir (grant)		6,815.00
2016	104,965.29	Legal	85%	89,220.50
2016	93,645.45	Engineering	99%	92,709.00
2016	4,070.92	Ranch + improvements		4,070.92
2016	9,761.34	Reservoir		9,761.34
2017	114,243.00	Legal	85%	97,106.55
2017	100.00	Property insurance		100.00
2017	108,876.00	Engineering	99%	107,787.24
2017	14,801.00	Ranch + improvements		14,801.00
2017	117,530.00	Reservoir (loan)		117,530.00
2017	261,083.00	Reservoir (grant)		261,083.00
2017	4,741.00	Reservoir		4,741.00
2018	9,882.00	Legal	85%	8,399.70
2018	2,784.00	Engineering	99%	2,756.16
2018	1,323.00	Reservoir		1,323.00
2018	14,490.00	Legal	85%	12,316.50
2018	4,578.00	Engineering	99%	4,532.22
2018	4,833.00	Reservoir		4,833.00
2018	22,650.00	Legal	85%	19,252.50
2018	6,670.00	Engineering	99%	6,603.30
2018	3,219.00	Ranch + improvements		3,219.00
2018	367.00	Reservoir		367.00
2018	10,441.00	Legal	85%	8,874.85
2018	3,168.00	Engineering	99%	3,136.32
2018	1,355.00	Reservoir		1,355.00
2018	170,276.99	Loan interest accrued		170,276.99
		Total		\$3,618,020.81