

**RESOLUTION BY THE BOARD OF TRUSTEE'S AT
THE TOWN OF BERTHOUD FOR THE
ACQUISITION OF WATER RIGHTS**

Resolution No. 14-99

WHEREAS, the Town of Berthoud requires either a raw water contribution fee or conveyance of water rights prior to issuance of a building permit; and

WHEREAS, Town Ordinance contemplates the dedication of stock in the Handy Ditch Co. to meet said requirements; and

WHEREAS, the Town of Berthoud requires the conveyance of water rights in the amount of one acre foot delivered to the Town's raw water reservoir per building permit; and

WHEREAS, Berthoud Partners, LLC ("Berthoud Partners") desires to dedicate Handy Ditch shares rather than paying a raw water contribution fee for building permits; and

WHEREAS, the Town of Berthoud has investigated said shares and is willing to accept the shares to meet Berthoud Partners' raw water requirements for building permits.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Berthoud, as follows:

1. The Town of Berthoud hereby agrees to accept 7 1/2 shares in the Handy Ditch Company from Berthoud Partners, LLC to satisfy raw water dedication requirements pursuant to Town Ordinance. Said shares have historically been used by Mr. Thomas Bein to irrigate a farm located in the NW 1/4, Section 23, Township 4 North, Range 69 West, 6th P.M.

2. The Town of Berthoud has conducted a preliminary analysis of the shares which indicate that the dry year yield of those shares is approximately 6.8 acre feet per share for a total of 51 acre feet from the referenced 7 1/2 shares in the Handy Ditch Company.

3. The 7 1/2 shares in the Handy Ditch Company shall be conveyed to the Town by transfer of the original Share Certificate and by Special Warranty Deed, free and clear of all encumbrances. Berthoud Partners shall also execute or cause to be executed, a Dry-Up Covenant or covenants acceptable to the Town.

4. Prior to acceptance of the 7 1/2 shares in the Handy Ditch Company, Berthoud Partners shall pay for all title work conducted by the Town related to the acquisition of the shares and for the engineering analyses of the historic use of the 7 1/2 shares.

5. The Town of Berthoud shall be solely responsible for changing the use of the water rights in Water Court. In exchange for the Town of Berthoud's expenditures and risks associated with pursuing the change of water rights, the Town of Berthoud hereby reduces the credits toward Berthoud Partners' water dedication requirements from 51 acre feet to 40 acre feet.

6. The credit for 40 acre feet toward water dedication requirements pursuant to Town Ordinance shall be an irrevocable right for Berthoud Partners and shall be fully transferable.

7. The Town of Berthoud hereby directs its staff and agents to prepare all necessary documentation and complete all necessary investigations regarding the conveyance of said 7 1/2 shares in Handy Ditch Company from Berthoud Partners to the Town of Berthoud and to prepare an agreement that recognizes that Berthoud Partners will have satisfied the water dedication requirements for 40 Single Family Equivalents (SFE's) upon conveyance of said 7 1/2 shares in the Handy Ditch Company to the Town of Berthoud.

RESOLVED AND PASSED this 18th day of May, 1999.

TOWN OF BERTHOUD

By Richard D. Strockos
Mayor

ATTEST:

Mary K. Cousin
City Clerk