

**ST. CHARLES MESA WATER DISTRICT
RESOLUTION 2014-10**

WHEREAS, on November 7, 2000, the voters of the State of Colorado (State) added provisions to Article XVIII of the State Constitution providing for medical use of marijuana for persons suffering from debilitating medical conditions; and,

WHEREAS, on November 6, 2012, the voters of the State added provisions to Article XVIII of the State Constitution authorizing, among other things, a system of state and local licensing of business engaged in the cultivating, testing, manufacturing and selling of marijuana; and,

WHEREAS, the State Legislature enacted the Colorado Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; and,

WHEREAS, the County of Pueblo, Colorado (County) has established regulations regarding marijuana licensing, the scope of which governs for all of unincorporated Pueblo County, the cultivation, manufacture, distribution, testing and sale of medical marijuana, retail marijuana, medical marijuana-infused products, and/or retail marijuana-infused products as well as all persons who attempt to establish and/or who, in fact establish a business or operation engaged in the cultivation, manufacture, sale, testing or distribution of medical or retail marijuana or medical or retail marijuana-infused products in unincorporated Pueblo County, Colorado (Pueblo County Code, Title 5, Chapter 5.12); and,

WHEREAS, the St. Charles Mesa Water District (the District) is a political subdivision of the State of Colorado organized and existing for the primary purpose of providing a domestic water distribution system to the people of the District (Service Plan, 1988); and,

WHEREAS, the Bureau of Reclamation of the United States Department of the Interior (Reclamation) has issued a Temporary Policy dated May 16, 2014, indicating that Reclamation will not approve use of Reclamation facilities or Reclamation water in the cultivation of marijuana; and,

WHEREAS, the District owns certain water rights pursuant to Colorado State law that are not subject to Reclamation's Temporary Policy and the Board has been requested by patrons to provide this water to marijuana businesses located within the boundaries of the District; and,

WHEREAS, to protect the water supplies of the District, District did adopt Resolution 2014-07 on March 12, 2014, prohibiting use of any District water in Zone 1 for the commercial cultivation or growing of marihuana or marijuana plants so long as the marihuana is classified as a controlled substance under Title 21, Section 813 of the United States Code, and also prohibiting the connection to the District's water distribution system within Zone 1 of any service connection when it was known to the District that the water service was being requested for the commercial cultivation of marijuana, again so long as the marihuana is classified as a controlled substance under Title 21, Section 813 of the United States Code; and,

WHEREAS, based on Reclamation's Temporary Policy, District believes that it can provide a portion of the water represented by water rights not subject to Reclamation control to patrons of the District for their use in properly Colorado and Pueblo County licensed and permitted marijuana businesses; and,

WHEREAS, the water which District believes it can provide to properly licensed and permitted marijuana businesses must be water obtained via the District's decreed diversion's; and,

WHEREAS, the water which District believes it can provide to properly licensed and permitted marijuana businesses is of a limited quantity; and,

WHEREAS, District desires to revise its Rules and Regulations to indicate that the permitted uses of District water may change based on federal policy regarding use of federal water facilities or federal water, the terms of federal contracts, licenses or permits, or applicable law or the governmental policies respecting the enforcement of applicable law.

NOW, THEREFORE, BE IT RESOLVED that:

- 1) Section 5.08 (Prohibited Uses) of the Regulations of the District is hereby deleted and replaced with a new 5.08 which reads as follows:

"5.08 Use of Water in Conjunction with cultivation, manufacture, distribution, testing and sale of medical marijuana, retail marijuana, medical marijuana-infused products and/or retail marijuana-infused products.

A. In addition to all other District policies, Rules and Regulations, the following shall apply to all patrons who desire to utilize District supplied water for the cultivation, manufacture, distribution, testing or sale of medical marijuana, retail marijuana, medical marijuana-infused products, and /or retail marijuana-infused products (hereafter collectively referred to as Marijuana Operation):

- (1) District water shall only be supplied upon receipt by District of documentation and permits from applicable governmental agencies reflecting the patron's permitted or authorized use or uses, and establishing that the patron's Marijuana Operation has been approved by and is in accord with Colorado law and Chapter 5.12, Marijuana Licensing, of Pueblo County, Colorado Regulations.
- (2) All such accounts are declared to be Commercial Accounts.
- (3) Each water service connection supplying water for Marijuana Operations must purchase from the District a water meter capable of being read electronically and profiled to report daily water use.

- (4) Each patron requesting water service or continued water service for Marijuana Operations, shall provide the District with patron's application for service and with patron's best estimate of the daily and monthly quantity of water patron will require in conjunction with patron's Marijuana Operations.
- (5) For so long as only a portion of the District's water supply appears available for delivery to patrons involved in any Marijuana Operations, District reserves the right:
 - a. To limit the number of patrons whom to whom it may provide water for Marijuana Operations; and,
 - b. To reduce the quantity of water being provided to patrons of existing Marijuana Operations, on a pro-rata basis."

2) There is hereby added a new Section 5.09, which reads in its entirety as follows:

"5.09 Use of Water: The use of District water by a patron may be modified or terminated by the District in order for District to comply with (1) policy directives or guidelines respecting the use of federal water facilities issued by the Bureau of Reclamation of the United States Department of the Interior or any other federal agency, or (2) the terms of a federal contract, license or permit; or (3) applicable law."

Adopted July 9, 2014