



Utah Association of Irrigation & Canal Companies

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195 West 1800 North  
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February 9, 2016

Keith Meikle, President  
Utah Association of Irrigation and Canal Companies

Re: *HB 218 and SB 116*

Dear Member of the Utah Legislature:

In behalf of the Utah Association of Irrigation and Canal Companies (the “Association”), which specifically represents its member irrigation and canal companies throughout the State, I am writing to express our adamant opposition to HB 218 and its companion SB116, sponsored by Representative Mc Iff, and Senator Bramble, respectively, in their entirety. As stewards of over 80% of the State’s total water supply, I am writing to express our grave concerns.

As recently confirmed by the Utah Supreme Court, the relationship of a nonprofit corporation and its shareholders is one of contract, the corporation being one party to the contract and shareholders individually and collectively being the other. The corporation laws of the State of Utah provide the legal structure and the contractual authority to promulgate and enforce articles of incorporation and bylaws which set the rules by which the corporation owns, administers, operates, maintains, repairs and replaces its water rights and water systems in the best interest of all of the corporation’s shareholders. In some companies, in appropriate cases, legal restrictions have been placed on the right of shareholders to transfer their interests in the company, which restrictions have been contractually incorporated into the company’s articles and bylaws by procedures consistent with state corporate law. Under these bills, a shareholder in a water company would be legally empowered to break the contract and require the corporation to transfer the shareholder’s interest, to anyone, without any regard to, or interest in, the protection of the other parties to the contract, namely, the corporation and the remaining shareholders.

Moreover, irrigation companies, by law, own the water rights and the shareholders are entitled to use water under the company’s water rights, as administered and delivered by the company in proportion to the number of shares owned, based upon and in conformance with the contract represented by the articles of incorporation and bylaws of the company. In reliance upon this contractual arrangement, water rights have been appropriated by and decreed to the companies, reservoir and irrigation systems have been built, and obligations have been incurred in administering and protecting their water rights and financing and improving these systems, with financial obligations secured by the company’s title in its water rights and irrigation system. These bills, by legislative fiat, give the shareholders an undivided real property interest in the

February 9, 2016

Page 2

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water rights themselves, with, as stated above, the unfettered right to transfer that interest in the water right. Among other consequences, if these bills pass, with the ever-present possibility of shareholder transfers of interests in the actual water rights out of the system, the financing of future system improvements could become unattainable. These bills provide no protection to the corporation or the remaining shareholders in such cases. It “legislates” a transfer of title in the water right from the companies to the shareholders with total disregard for the legitimate property interest of the company.

The Association sees these bills as an attempt to re-write the nonprofit corporation laws of the State of Utah upon which irrigation and canal companies have relied, many beginning with the first edition of the Utah Code and principles of common law before that. It is an irrational and irresponsible manipulation of a system of corporate law that has protected the interest of irrigation and canal companies and their shareholders in most cases for well over a century. Please, vote NO on HB 218 and SB 116!

Very truly yours,

A handwritten signature in black ink, appearing to read 'Keith Meikle', with a long horizontal line extending to the right across the signature.

Keith Meikle, President