

Vista Vu Water Users Association

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A Bylaw Amendment to Protect the Vista Vu Water Users Association's Surface Water Right

March 3rd, 2016

The problem:

As owners you have the right to do what you choose with your property. Contrary to what some may have assumed though, you do not have individual water rights; your Membership Agreement spells this out clearly. The Association holds the Surface Water Withdrawal Certificate that permits us to use water from the Okanogan River for irrigation purposes. Each owner is allocated a fixed quantity of water that is controlled by an orifice plate in the irrigation service line going to your property.

How you use your irrigation water however can affect everyone else in the Association in adverse ways. If you don't use your full allocation of water for five years in a row, the Association could lose that water through a process called "relinquishment." Throughout the West this principle of "use it or lose it" applies to most water rights. A partial loss of our water right could result in lost revenue to the Association and a permanent loss of green space in our community that would affect everyone's pocketbook, property values and quality of life.

As a last resort, owners who do not use all their water may permit the Association to lease the unused portion to Aston Estates; this is considered a "beneficial use" of our water and therefore protects our water right. But, the Association needs the owner's permission to do this each year it is leased. If an owner refuses to give their permission to lease, the risk of relinquishment cannot be avoided.

Your Board recognized that we do not presently have any provision in our bylaws to address this risk and sought legal advice on the best way to protect our surface water right. The proposed amendment to our Bylaws, to be voted on at our Annual Membership Meeting on Mar. 3rd, is the result.

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The Remedy:

New Sections are added to Article XI:

Section 15. Irrigation water non-use: To preserve the Association's water rights, a member intending to not irrigate part of their land may grant the Association permission to lease the unused portion of their allocation of irrigation water. Notice of the member's intent to not irrigate part of their land shall be made in writing to the Secretary/Treasurer on or before January 1st.

If the Board of Trustees determines, by a sixty percent (60%) affirmative vote of the quorum present, any member has not irrigated all or part of their land for one year and has not permitted their unused water to be leased by the Association, such member may have their membership in the Association suspended on January 1st of the succeeding year, to be reinstated upon:

- a. committing, in writing, to use their full allocation of water in the current year and demonstrating, to the satisfaction of the Board of Trustees, by a sixty percent (60%) affirmative vote of the quorum present, their capacity to do so, or:
- b. granting the Association permission to lease that portion of their water allocation not used in the preceding year.

Any revenues from the leasing of members' unused water allocation shall be retained by the Association and deposited in its irrigation account. The Association leasing all or a portion of the member's irrigation water shall not relieve the member of paying for their full allocation of water.

Section 16. If membership in the Association is suspended for any reason, irrigation water service may be terminated immediately. Domestic water service may be terminated only after thirty (30) days written notice.