SUMMARY: An ordinance providing for the proper management of certain County revenues from Lincoln County Water District/Vidler Water Company agreements disbursements, establishing, identifying restrictions on the use of those funds; and other matters properly related thereto.

BILL NO. 2005 – 01

LINCOLN COUNTY WATER DISTRICT ORDINANCE NO. 2005-01

TITLE: AN ORDINANCE PROVIDING FOR THE PROPER MANAGEMENT OF CERTAIN COUNTY REVENUES FROM LINCOLN COUNTY WATER DISTRICT'S AGREEMENTS WITH VIDLER WATER COMPANY PROVIDING APPLICABLE DEFINITIONS; RESTRICTING AND REGULATING THE USE OF THE FUNDS; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY, AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, THE Constitutions of the United States of America Guarantees to every State in the union a republican form of government and

WHEREAS, in a republican form of government the power of government comes from the people; and

WHEREAS, the Constitution of the State of Nevada states in part, "All political power inherent in the people. Government is instituted for the protection, security and benefit of the people; and

WHEREAS, within the Constitution of the State of Nevada legislative powers are restricted and "The legislature shall not pass local or special laws in any of the following enumerated cases – that is to say….Regulating county and township business; and

WHEREAS, The Board of Commissioners of the Lincoln County Water District considers the safety of our people and the county budget as the priority business within Lincoln County; and

WHEREAS, THE Board is aware of the needs of Lincoln County, both current and future for funding for other than general operations, including but not limited to the

acquisition and construction of infrastructure and other capital improvements, public education and services and provision of adequate public services in times of emergency and unforeseen events, and

WHEREAS, The Lincoln County Water District was created through legislation in 2003 (Chapter 474, Statutes of Nevada, page 2985).

WHEREAS, The Lincoln County Water District has the authority, through this legislation under Section 11, Subsection 8, to adopt ordinances, rules, regulations, and by-laws, necessary for the exercise of the powers and conduct of the affairs of the Board and District.

WHEREAS, Lincoln County Water District has entered in Agreements with Vidler Water Company for the development of water resources within Lincoln County for projects approved by the Lincoln County Board of County Commissioners, within Lincoln County and the Lincoln County Water District will be the recipient of revenue from such agreements; and

WHEREAS, the Board recognizes the non-recurring nature of the disbursements, and finds that it is in the best interest of Lincoln County and its people that such monies are not to be used in or depended upon to fund the recurring, general operations of Lincoln County, and

WHEREAS, the Board has carefully considered the issue, and has determined that action should be taken to assure that the water resource revenues other limited use or "one shot" disbursements are managed pursuant to a policy which provides for their long-term highest and best use on behalf of the people of Lincoln County; and

WHEREAS, pursuant to NRS 354.570 AND NRS 354.604, the Board has the authority to create and maintain special revenue funds, for the purpose of accounting for specific revenue sources which are restricted by law to expenditure for specified purposes; and

WHEREAS, the Board agrees that is in the best interests of the people of Lincoln County that all monies received from water resource disbursements be deposited in special revenue funds created specifically for the purpose of carrying out the Board's policy regarding the highest and best use of these moneys, and accounted for, managed and/or used pursuant to the restrictions and established for those funds; and

WHEREAS, to meet the essential purpose established herein, the Board intends the money in the fund at the end of the fiscal year may not revert to any other fund or be a surplus for any other purpose other than the purposes specified for the fund;

NOW, THEREFORE, the people of Lincoln County, State of Nevada, represented by their duly elected Lincoln County Water District Commissioners do ordain as follows:

THE LINCOLN COUNTY WATER DISTRICT COMMISSIONERS OF THE COUNTY OF LINCOLN DO ORDAIN

1. DEFINITIONS: AS USED IN THIS ORDINANCE;

1.1 "Capital Outlay" means an item having a purchase price of more than One Thousand Dollars ($1,000.00) and an estimated useful life or more than (2) years.

1.2. "Emergency" means an unforeseen circumstance that significantly endangers the health, safety or welfare of Lincoln County and/or its inhabitants. "Emergency" may include unforeseen requirements for repair or replacement of existing emergency response equipment which are related to water course restoration or rehabilitation or watershed protection or well head protection.

1.3 "Extraordinary maintenance, repair or improvement" means all expenses ordinarily incurred not more than once every five (5) years to maintain a governmental facility or capital project in a fit operating condition.

1.4 "Fund" means a fiscal year and accounting entity have a self-balancing set of accounts, recording cash and other financial resources together with all related liabilities and residual equities or balances, or charges therein, which are segregated for the purposes of carrying on specific activities or attaining certain objectives in accordance with specific regulations, restrictions or limitations.

1.5 "Natural disaster" means a fire, flood, earthquake, drought or any other occurrence that:

1.5.1 Results in widespread or sever damage to property or injury to or the death of persons within the jurisdiction of Lincoln County; and as determined by the Board, requires immediate action to protect the health, safety and welfare of persons residing within the jurisdiction of Lincoln County.

1.6 "Special Project" means a discrete activity or undertaking for which a comprehensive project plan has been submitted to and approved by the Board as an endeavor that will substantially benefit the inhabitants of Lincoln County.

1.7 "Special Revenue Fund" means a fund used to account for specific revenue sources, other than special assessments, expendable trusts, or sources for major Capital projects, which are restricted by State Law or this Ordinance (local law) to expenditure for specified purposes.

2. SPECIAL REVENUE FUND ESTABLISHED.

2.1 There hereby is established a special revenue fund, for the purpose of accounting for water resource disbursements and providing for restrictions by local law of the expenditure of said monies for specified purposes only. These funds are intended to be administered in accordance with the provisions of the Local Financial Administration provisions of the Nevada Revised Statutes, Chapter 354.

2.2 The fund is designated as the "Water Resource Special Revenue Fund" (WRFund).

2.3 There is hereby established the flowing accounts within the WRFund:

2.3.1 Water Resource General Account
2.3.2 Water Resource Capital Projects Account
2.3.3 Water Resource Planning and Development Account
2.3.4 Water Resource County Reimbursement Account
2.3.5 Water Resource Emergency/Disaster Account
2.3.6 Water Resource Special Projects Account

3. DEPOSIT OF MONIES TO ACCOUNTS.

3.1 The Lincoln County Treasurer shall allocate to the WR Special Revenue Fund all monies received from water resource disbursements in the following manner:

3.1.1 Thirty-five percent (35 %) of monies received shall be deposited in the Water Resource General Account

3.1.2 Ten Percent (10 %) of all monies received shall be deposited in the Water Resource Capital Projects Account

3.1.3 Five Percent (5 %) of all monies received shall be deposited in the Water Resource Special projects fund Account

3.1.4 Twelve percent (12 %) of all monies received shall be deposited in the Water Resource Planning and Development Account

3.1.5 Thirty-five percent (35%) of all monies received shall be deposited in the Water Resource County Reimbursement Account

3.1.6 Three percent (3%) of all monies received shall be deposited in the Water Resource Emergency/Disaster Account.

3.2 Nothing in this section shall prevent the Board from depositing monies from other sources into any of the Fund Accounts to the extent that the source of such monies places no additional restrictions on the use of Fund Money.

3.3 All interest earned on the money in account of the Fund must be credited to the funds General Account.

4. WATER RESOURCE GENERAL ACCOUNT

4.1 The principal amount of money deposited in the Water Resource General Account shall not be used. Only the interest collected on the principal within the Account will be available for expenditure.

4.2 The money deposited into the Water Resource General Account shall only be transferred to another Account for expenditure by a resolution duly adopted by the Lincoln County Water District Board. No expenditures shall be made directly from the General Account.

4.3 Interest earned on an annual basis may be used for operational and capital outlay needs as determined by the Water District during the annual budget preparation process.

4.4 Expenditures of money shall be part of an annual comprehensive plan for the use of the funds as adopted by the Water District for the benefit of the inhabitants of Lincoln County, Nevada.

5. WATER RESOURCE CAPITOL PROJECTS ACCOUNT.

5.1 Interest earned on the principal amount may be transferred by Resolution of the Lincoln County Water District Board from the Water Resource General Fund for constructing, performing extraordinary maintenance, repair or improvements of Lincoln County Water District facilities and for capital projects and for capital expenditures.

5.2 Any money remaining in the Capital Projects Account at the end of the fiscal year shall remain in the fund and carry over to the following year.

5.3 Lincoln County's annual budget and audit reports must:

5.3.1 Specifically identify the Water Resource Capital Project Fund and indicate in detail the facilities and/or capital projects that have been constructed, maintained, repaired, or improved with money from the Water Resource Capital Projects Account.

5.3.2 Specify any proposed facilities or capital projects that will be constructed, maintained, repaired or improved with money from the Water Resource Capital Projects Fund for the next fiscal year.

5.3.3 Identify any planned accumulation of the money in the Water Resource Capital Project account.

5.3.4 Include a statement by the auditor as to whether Lincoln County has complied with this section.

5.4 Expenditures from the Water Resource Capital Project Account shall be made pursuant to Lincoln County's established and auditor-approved disbursement procedures.

6. WATER RESOURCE SPECIAL PROJECTS ACCOUNT.

6.1. Interest earned on the principal amount may be transferred by Resolution of the Lincoln County Water District Board from Water Resource General Fund to the Water Resource Special Projects Account and only may be used for special projects selected within Lincoln County by the Lincoln County Water District Board.

6.2 The Board of Lincoln County Water District shall consider and approve for funding special projects as determined during the annual budget approval process each year.

6.3 Any interest remaining in the Water Resource Special Projects Account at year end will carry to the following fiscal year, unless directed otherwise by Resolution of the Board of the Water District.

6.4 Lincoln County's annual budget and audit report must:

6.4.1 Specifically identify the Water Resource Special Projects Account and indicate in detail the projects that have been funded by monies from the Water Resource Special Projects Account during the previous fiscal year.

6.4.2 Specify any proposed projects that will be funded with money from the Water Resource Special Projects Account during the next fiscal year.

6.4.3 Identify any planned accumulation of the money in the Water Resource Special Projects Account.

6.4.4 Include a statement by the auditor as to whether Lincoln County has complied with this Section.

6.5 Expenditures from the Water Resource Special Projects Account for special projects shall be made pursuant to Lincoln County's established and auditor-approved disbursement procedure.

7. WATER RESOURCE PLANNING AND PLANNING DEVELOPMENT ACCOUNT

7.1 Interest earned on the principal amount may be transferred by Resolution of the Lincoln County Water District Board to the Water Resource Planning and Development Account, and only may be used for planning and development projects selected by the Water District Board within Lincoln County.

7.2 The Board of Lincoln County Water District shall consider and approve for funding the special projects for planning and development during the annual budget approval process each year.

7.3 Any interest remaining in the Water Resource Planning and Development Account at year end will carry to the following fiscal year, unless directed otherwise by Resolution of the Board of the Water District.

7.4 Lincoln County's annual budget and audit reports must:

7.4.1 Specifically identify the Water Resource Planning and Development Account and indicate in detail the planning and development projects that have been started or completed with money from the Water Resource Planning and Development Account.

7.4.2 Specify any proposed projects that will be funded with money from the Water Resource Planning and Development Account during the next fiscal year.

7.4.3 Identify any planned accumulation of the money in the Water Resource Planning and Development Account.

7.4.4 Include a statement by the auditor as to whether Lincoln County has complied with this Section.

7.5 Expenditures from the Water Resource Planning and Development Account shall be made pursuant to Lincoln County's established and auditor-approved disbursement procedure for the Water Resource County Reimbursement Account.

8. WATER RESOURCE COUNTY REIMBURSEMENT A ACCOUNT

8.1 Thirty-five percent (35%) of the principal amount deposited into the Water Resource General Account shall be transferred to the Water Resource County Reimbursement Account. This percentage will apply to each new tranche of water which is sold by Lincoln County Water District/Vidler and/or Lincoln County Water District. These funds may be used for projects selected by the Board of Lincoln County Commissioners.

8.2 The Board of Lincoln County Commissioners shall consider and approve funding of these monies to be used for projects within Lincoln County as determined during the annual budged approval process each year.

8.3 Any interest remaining in the Water Resource County Reimbursement Account at year end will carry to the following fiscal year, unless directed otherwise by Resolution of the Board of the County Commission.

8.4 Lincoln County's annual budget and audit report must:

8.4.1 Specifically identify the Water Resource County Reimbursement Account and indicate in detail the projects that have been funded by monies from the Water Resource County Reimbursement Account during the previous fiscal year.

8.4.2 Specify any proposed projects that will be funded with money from the Water Resource County Reimbursement Account during the next fiscal year.

8.4.3 Identify any planned accumulation of the money in the Water Resource County Reimbursement Account.

8.4.4 Include a statement by the auditor as to whether Lincoln County has complied with this Section.

9. WATER RESOURCE EMERGENCY/DISASTER ACCOUNT

9.1 Interest earned on the principal amount may be deposited by Resolution of the Lincoln County Water District Board into the Water Resource Emergency/Disaster Account and may be expended for emergencies that may require unforeseen repairs to existing equipment related to water course restoration, rehabilitation, watershed protection or well head protection.

9.2 Any interest remaining in the Water Resource Special Projects Fund at year end Will carry to the following fiscal year, unless directed otherwise by Resolution Of the Board of the Water District.

9.3 Lincoln County's annual budget and audit report must:

9.3.1 Specifically identify the Water Resource Emergency/Disaster Account and Indicate in detail the projects that have been funded by monies from the Water Resource Emergency/Disaster Account during the previous fiscal year.

9.3.2 Specify any proposed projects that will be funded with money from the Water Resource Emergency/Disaster Account during the next fiscal year.

9.3.3 Identify any planned accumulation of the money in the Water Resource Emergency/Disaster Account.

9.3.4 Include a statement by the auditor as to whether Lincoln County has complied with this Section.

9.4 Expenditures from the Water Resource Emergency/Disaster Account shall be made pursuant to Lincoln County's established and auditor-approved disbursement procedure.

10. SEVERABILITY.

If any provision of this ordinance or amendments thereto, or the application thereof to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given without the invalid provisions or applications, and to this end, the provisions of this ordinance any amendments thereto are declared severable.

11. CONSTITUTIONALLY

If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect.

12. EFFECTIVE DATE.

9 JANUARY 2005

Proposed on the 3rd day of October, 2005.

Proposed by Commissioner Ronda Hornbeck

Passed on the 19th day of DECEMBER 2005

VOTE:

AYES:

Ted Keaton

Ronda Hornbeck

George T. Rowe

Wade C. Fordham

NAYES: Commissioner

_____
_____
_____
_____
_____

ASENT: Commissioners:

___Spencer Hafen_____
_____

ATTEST:

Corrine Hogan
County Clerk

Ronda Kornbrede
Chairman of the Board

LINCOLN COUNTY WATER DISTRICT

Phone 775-962-5165
P.O. Box 307
Pioche, NV 89043

20 December 2005

Connie Simkins
Lincoln County Record Via email.

Please publish this information in the next two available editions.

NOTICE OF ENACTMENT OF
LINCOLN COUNTY WATER DISTRICT ORDINANCE #2005-1

NOTICE IS HEREBY GIVEN that an ordinance entitled: "AN ORDINANCE PROVIDING FOR THE PROPER MANAGEMENT OF CERTAIN COUNTY REVENUES FROM LINCOLN COUNTY WATER DISTRICT'S AGREEMENTS WITH VIDLER WATER COMPANY PROVIDING APPLICABLE DEFINITIONS; RESTRICTING AND REGULATING THE USE OF THE FUNDS; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY, AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO." Was passed on December 19th, 2005, by the Lincoln County Water District Board, and has been signed by Commissioner Ronda Hornbeck as Chairperson. Commissioners voting for this ordinance, were Hal Keaton, Wade Poulsen, Tommy Rowe, and Ronda Hornbeck. Absent was Commissioner Spencer Hafen.
Copies of this ordinance are available at the Lincoln County Water District office, located in the County Courthouse, for inspection by interested by all persons.
This ordinance will become effective on or about _____ of January 2006.

Dated this 20th day of December 2005.

WADE POULSEN, LINCOLN COUNTY WATER DISTRICT SECRETARY

Connie, Ronda says to charge this to the LC Commissioners fund. **However please send it to me at PO Box 307, so it doesn't get mixed up again. This ordinance becomes effective after the 2nd publication,** if you could fill in the date of the 2nd publication as the effective date, I would appreciate it. Any questions, please call me.
Thanks, Ken