



## Legislation Text

---

File #: 14-0685, Version: 1

---

### **A Resolution Authorizing the Purchase of Fountain Mutual Irrigation Company and Chilcott Ditch Company Stock and Associated Water Rights owned by Osage Trust; and Authorizing the Execution of Closing Documents**

**From:**

Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

**Summary:**

Colorado Springs Utilities has been offered the opportunity to purchase shares in the Fountain Mutual Irrigation Company and in the Chilcott Ditch Company that collectively have the potential to yield approximately 300 acre-feet of water each year.

**Previous Council Action:**

N/A

**Background:**

Executive Limitation 10 ("EL-10") provides that Colorado Springs Utilities' ("Utilities") CEO "may not fail to protect and optimize existing water resources and aggressively seek to develop new water resources." The need for Utilities to acquire additional water rights was made evident during the recent drought when Utilities' water service customers were subject to watering restrictions. Acquisition of new water rights will also be required to meet Utilities' water customers' long term water demands.

Utilities has a unique opportunity to purchase shares in the Fountain Mutual Irrigation Company (FMIC) and the Chilcott Ditch Company (Chilcott) for \$2.9 million. These shares represent an ownership interest in senior Fountain Creek water rights that are anticipated to yield approximately 300 acre-feet of renewable and reusable water per year. Acquisition of the shares would enhance and diversify Colorado Springs' water rights portfolio in accordance with EL-10's policy direction, Utilities' long term water supply plan, and Utilities' drought response plan.

The acquisition of the FMIC/Chilcott shares may be characterized as a "no regrets" action for several reasons. The shares will provide a source of local water supply to meet Utilities' existing and future water demands on Fountain Creek, including augmentation of well pumping for the Nixon and Front Range power plants and augmentation of depletions due to SDS mitigation projects on Fountain Creek. Utilities will also acquire a strategic ownership interest in the FMIC and Chilcott ditch companies, which may give it access to conveyance and storage facilities that will assist with management and staging of return flows as well as nonpotable water system development.

Utilities is completing a thorough review of the shares and associated water rights, otherwise known

as due diligence, and thus far is satisfied with all of the terms and conditions of the sale. Due diligence will be completed in prior to the November 25 City Council Meeting and City Council will be informed of any unresolved issues with the shares identified during the due diligence process. Utilities will ask City Council to approve the purchase of all or some of the shares, for a price not to exceed \$2.9 million, on November 25, 2014. If Utilities purchases the shares, it will also need to adjudicate a change of the water rights in water court and/or obtain approval of a substitute water supply plan before they can be used in Utilities' system.

**Financial Implications:**

The shares would be purchased using \$2.9 million of Utilities rate payer funds. The shares will then be transferred to the City of Colorado Springs. The City of Colorado Springs holds title to all water rights. Colorado Springs Utilities, an enterprise of the City, then administers the water rights for the benefit of all Utilities water services customers.

**Board/Commission Recommendation:**

Approve the Resolution authorizing the purchase of shares in both the FMIC and Chilcott ditch companies.

**Stakeholder Process:**

N/A

**Alternatives:**

N/A

**Proposed Motion:**

To approve the Resolution authorizing the purchase of shares in both the FMIC and Chilcott ditch companies.

N/A