

**Resolution No. 2013-04-01**

RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
BACA GRANDE WATER AND SANITATION DISTRICT

Regarding Modifications to the District's Public Records Policy

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WHEREAS, the Baca Grande Water and Sanitation District (the "District") maintains certain records that are available for inspection by the public under and in accordance with the laws of the State of Colorado; and

WHEREAS, records of the District available for inspection by the public are defined as "public records" under applicable Colorado law; and

WHEREAS, the District anticipates that from time to time members of the public may request the right to inspect and/or copy public records of the District; and

WHEREAS, pursuant to § 24-72-203(1)(a), C.R.S., the District is authorized to adopt certain rules with regard to the inspection and copying of public records of the District; and

WHEREAS, the District previously adopted a Resolution Regarding Colorado Open Record Act Requests on December 14, 2012 by Resolution No. 2012-12-03; and

WHEREAS, the General Assembly of the State of Colorado approved, and on March 8, 2013, the Governor signed into law, House Bill 13-1041 amending § 24-72-205, C.R.S., which legislation modifies the procedures and permissible fees associated with public requests for copies, printouts, or photographs of public records; and

WHEREAS, the District desires to modify the District Public Records Policy (the "Public Records Policy") to conform to the changes in the law governing public records requests.

NOW, THEREFORE, it is hereby resolved by the Board of Directors of the District as follows:

1. In accordance with the Colorado Open Records Act, §§ 24-72-201 to 24-72-309, C.R.S. ("CORA"), the District hereby adopts the modified Public Records Policy, attached hereto as **Exhibit A** and incorporated herein. The Public Records Policy and this Resolution shall supersede and replace all previous resolutions and policies of the District concerning CORA requests.

2. The Custodian, as such is defined in the Public Records Policy, shall make a copy of the Public Records policy available to members of the public upon request.

3. Requests for inspection of District public records shall utilize the Public Records Request Form, attached hereto as **Exhibit B** and incorporated herein.

*[Signatures on Following Page]*

RESOLVED AND ADOPTED this 19<sup>th</sup> day of April 2013.

BACA GRANDE WATER AND SANITATION  
DISTRICT, a quasi municipal corporation and  
political subdivision of the State of Colorado

By: Vicki Matthews  
Vicki Matthews, President

ATTEST:

Kyle Grote ☺  
Kyle Grote, Secretary

APPROVED AS TO FORM:  
WHITE, BEAR & ANKELE,  
Professional Corporation

James G. Anale  
General Counsel to the District

*[Signature Page to Public Records Policy]*

**EXHIBIT A**  
District Public Records Policy



**BACA GRANDE WATER AND SANITATION DISTRICT**  
**57 Baca Grant Way South Crestone, Colorado 81131**  
**(719) 256-4310, FAX (719) 256-4309**

**District Public Records Policy**  
**Adopted April 19, 2013**  
**By Resolution No. 2013-04-01**

**I. Purposes of the District's Public Records Policy**

This Public Records Policy of the Baca Grande Water and Sanitation District (the "District") shall be applied and interpreted with the following purposes in mind:

- a. To adopt a Public Records request policy pursuant to Section 24-72-203(1), C.R.S.;
- b. To provide access to and the protection and integrity of Public Records in the custody of the District;
- c. To prevent unnecessary interference with the regular discharge of the duties of the District and its manager in compliance with the Colorado Open Records Act, Section 24-72-201 to 24-72-309, C.R.S. ("CORA");
- d. To establish reasonable and standardized fees for producing copies of and information from records maintained by the District as authorized by CORA; and
- e. To set forth a general procedure for providing consistent, prompt and equitable service to those requesting access to Public Records.

**II. Public Records Requests**

**A. Applicability**

This Public Records Policy applies to requests submitted to the District for the inspection of Public Records pursuant to CORA, and shall supersede any previously adopted CORA policies of the District.

**B. Definitions**

1. **"Custodian"**: Except as otherwise provided in this policy, the term "Custodian" shall mean the District Manager, or any successor that has been designated by the Board of the District to oversee the collection, retention, and retrieval of Public Records of the District.

2. **"Public Records"**: As defined in Section 24-72-202, C.R.S.

**C. Submission of Requests**

1. Requests for inspection of Public Records are to be submitted in writing on an official request form to the Custodian and must be sufficiently specific as to enable the Custodian to locate the information requested with reasonable effort. The District has

determined that the use of an official request form is necessary for the efficient handling of Public Records requests.

2. Requests may be submitted by mail, fax, e-mail, or hand-delivery.

3. A request shall be considered made when the request is actually received by the Custodian:

a. A letter is received when it is opened in the usual course of business by the recipient or a person authorized to open the recipient's mail;

b. A fax is received when it is printed during regular business hours, or if received after hours, at 8:30 a.m. on the following business day; and

c. An e-mail is received when it is received and opened during regular business hours, or, if received after hours, at 8:30 a.m. on the following business day.

4. If a deposit is required, the request is not considered received until the deposit is paid.

D. Inspection

1. The Custodian or the Custodian's designee shall make the requested Public Records available for inspection during regular business hours, deemed to be from 8:30 a.m. to 4:30 p.m., Monday through Friday, except for times the Custodian's office is closed. During the inspection of Public Records, the Custodian may request the requestor follow certain procedures to protect the integrity of the Public Records.

2. If a Public Record is not immediately or readily available for inspection, the Custodian or the Custodian's designee shall make an appointment or other arrangements with the applicant concerning the time at which the requested record will be available. The Public Records shall be made available for inspection within a reasonable time, which is presumed to be three (3) working days or less from the date of receipt of the request. Such three (3) day period may be extended by an additional seven (7) working days if extenuating circumstances, as described in Section 24-72-203(3)(b), C.R.S., exist. Responding to applications for inspection of Public Records need not take priority over the previously scheduled work activities of the Custodian or the Custodian's designee.

3. All Public Records to which the request applies shall be preserved from the date of the request until such time as set forth in the District's records maintenance, retention, or deletion policy or practices utilized by the Custodian.

4. No one shall remove a Public Record from the Custodian's offices without the permission of the Custodian. Public Records may be removed from file folders or places of storage for photocopying by the Custodian or the Custodian's designee. The Custodian may allow a person to use his or her own portable electronic equipment to make copies of Public Records.

5. As a general practice, in response to a Public Records request:
  - a. Public Records in hard copy, paper, published, or documentary form shall be made available for inspection;
  - b. A document will not ordinarily be created in order to respond to such a request;
  - c. In the case of e-mail that is a Public Record, paper copies of such e-mail that is a Public Record will be made available by the Custodian in response to such a request;
  - d. The person making the request shall not be allowed to access the Custodian's computer or any other computer for purposes of inspecting any Public Records;
  - e. Any portion of a Public Record containing non-public information that is not subject to inspection may be redacted by the Custodian prior to making the record available for inspection. The Custodian is not required to redact information from a writing that is not a Public Record in order to make the writing available for inspection. *Denver Publishing Co. v. Bd. of County Comm'rs of the County of Arapahoe*, 121 P.3d 190 (Colo. 2005); *Colorado Republican Party v. Benefield, et al.*, Court of Appeals No. 07CA1216, Oct. 23, 2008 (Unpublished).
  - f. The Custodian, in consultation with the District's general counsel, will determine which information is no longer considered "work-in-progress" subject to the deliberative process or work product privilege and therefore eligible for release.
6. Where a request seeks in excess of 25 e-mails or other electronically-stored Public Records, the Custodian may elect to produce Public Records in electronic form on a disk or comparable media. The following procedure shall apply in responding to such a request:
  - a. The Custodian shall solicit the comments of the requestor regarding any search terms to be used to locate and extract such records, and, in doing so, will seek to have the request refined so that it does not result in an inordinate number of irrelevant or duplicating documents, it being understood that the Custodian will make the final determination regarding search terms;
  - b. The Custodian shall designate an employee or another person with experience in performing electronic searches to locate and extract responsive records;
  - c. The person who is designated to perform the searches shall consult, as appropriate, with legal counsel to identify privileged records that should not be produced; and
  - d. Where appropriate, legal counsel shall conduct a final review to identify and withhold privileged records.
7. The Custodian or the Custodian's designee shall deny the inspection of the records if such inspection would be contrary to federal or state law or regulation or would violate a court order. In special circumstances, a Custodian shall deny inspection of the Public Records if such

inspection would cause substantial injury to the public interest. Such a denial shall be made in writing by the Custodian to the person making the request and shall set forth with specificity the grounds of the denial. It is not necessary to state a ground for denial of access for each document if a specific ground is applicable to a group of documents.

8. If the Public Records requested are not in the custody or control of the Custodian, the Custodian shall notify the requestor of this fact in writing. In such notification, the Custodian shall state in detail to the best of his/her knowledge and belief the reason for the absence of the Public Records, the location of the Public Records, and what person then has custody or control of the Public Records.

9. All Public Records, regardless of storage format, will be administered in accordance with approved retention schedules. The District reserves the right to adopt the records retention policy that has been promulgated by the Custodian.

E. Fees for All Record Requests

1. **Fees for standard reproductions.** The Custodian or the Custodian's designee shall charge a fee not to exceed twenty-five cents per page for any photocopies or printed copies of electronic records that are required to make a Public Record available. Other reproductions of Public Records shall be provided at a cost not to exceed the actual cost of the reproduction. Such fees shall be paid by the applicant prior to the receipt of copies of any Public Records. Requests expected to exceed a total charge of \$10.00 or more must be accompanied by a deposit equal to the reasonably-estimated reproduction costs. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. In the event the deposit amount exceeds the actual costs, the balance will be refunded.

2. **Transmission fees.** No fees related to transmission shall be charged for transmitting public records via electronic mail. Within the period specified in Section 24-72-203(3), C.R.S., the Custodian shall notify the record requester that a copy of the record is available but will only be sent to the requester once the Custodian receives payment for postage if the copy is transmitted by United States mail, or payment for the cost of delivery if the copy is transmitted other than by United States mail, and payment for any other supplies used in the mailing, delivery, or transmission of the record and for all other costs associated with producing the record. Upon receiving such payment, the Custodian shall send the record to the requester as soon as practicable but no more than three business days after receipt of such payment.

3. **Fees for search and retrieval:**

a. In the case of any request requiring more than one-half hour of staff time for search and retrieval or for supervision of inspection or copying, the Custodian or the Custodian's designee may charge a nominal hourly fee for such staff time. The Custodian may base this hourly fee upon the estimated average salary and benefits paid by the Custodian for the staff involved. *See Black v. S.W. Water Conserv. Dist.*, 74 P.3d 462 (Colo. App. 2003). This nominal fee shall not exceed \$30.00 per hour. Prior to performing any services necessary to respond to a request, the Custodian or the Custodian's designee shall require the applicant to pay a deposit equal to the reasonably-estimated fees that will be charged by the Custodian for



such staff time. Before receiving any records, the applicant shall also pay the amount by which the cost of any open records services exceeds the deposit. The District shall promptly refund the amount by which the deposit exceeds the cost of any open records services.

b. To the extent possible, the Custodian shall utilize administrative or clerical staff for search and retrieval of Public Records who are ordinarily responsible for such duties to ensure that the fees charged for staff time in connection with the request represent costs incurred in the ordinary course of business and not extraordinary charges.

**EXHIBIT B**  
Public Records Request Form



**BACA GRANDE WATER AND SANITATION DISTRICT**  
**57 Baca Grant Way South Crestone, Colorado 81131**  
**(719) 256-4310, FAX (719) 256-4309**

**Public Records Request Form**

**Request for Inspection/Copy of Public Records**

<b>For Internal Use Only</b> Date of Request: _____ Time of Request: _____ AM/PM
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**Applicant Name:** \_\_\_\_\_

**Applicant Address:** \_\_\_\_\_ **City/State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Daytime Phone #:** ( ) \_\_\_\_\_ **Alt./Cell:** ( ) \_\_\_\_\_

**Email:** \_\_\_\_\_

**Detailed description of the records requested: (Please use additional sheets if necessary)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please select a preferred format for the materials: Hard Copies  Electronic (PDF)  View Hard Copy Only

**Estimated Charges:**

Number of pages \_\_\_\_\_ @ \$0.25/page \$ \_\_\_\_\_ Research & Retrieval \_\_\_\_\_ hours @ \$30.00/hr \$ \_\_\_\_\_

Total estimated cost: \$ \_\_\_\_\_ Deposit required: \$ \_\_\_\_\_

Note: Non-standard and special requests will be billed at cost and charged in addition to any other fees.

**I request the records described and agree to pay all charges incurred in processing this request at or before the time the records are made available. If over \$10, I understand I must provide a deposit to pay for the cost incurred to obtain the records. I understand that the Estimated Charges are estimates only, and that the actual cost may vary. This request will be considered received when this form is complete and received by the Custodian, and any required deposit is paid.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

If the records are available pursuant to Section 24-72-201 et seq. C.R.S., the records shall be made available for viewing within three working days. The date of receipt is not included in calculating the response date. If extenuating circumstances exist so that the Custodian cannot reasonably gather the records within the three-day period, the Custodian may extend the period by up to seven working days. The requestor shall be notified of the extension within the three-day period. Public records shall be viewed at the District's offices during regular business days at prearranged times.

For Internal Use Only	
Date request completed:	Amount prepaid: \$ _____
Approved: _____ Denied: _____	Balance due before release: \$ _____
If denied, provide reason(s):	Total Amount paid: \$ _____