

**TUMALO IRRIGATION DISTRICT
POLICIES & PROCEDURES**

Adopted May 14, 1992
Amended October 8, 1992
Amended December 9, 1993
Amended February 11, 1997
Amended September 12, 2000

A. RECORDS INSPECTION AND COPYING - PROCEDURES AND FEES

The public is allowed to inspect and copy the nonexempt public records of the District so long as the person making the request reimburses Tumalo Irrigation District for the actual cost in making such records available.

Included in this actual cost of making such records available is a charge for the time spent by staff in locating the requested records and in supervising a person's inspection of original documents in order to protect the records, or copying records.

The District has determined that requests for inspection and copying fall into two classes: routine and non-routine. Routine requests require minimal staff time to locate and copy the record (generally five minutes or less). All other requests are non-routine requests.

Fee Schedule - Routine Requests

Copies - \$0.15 per page

Rules and Fee Schedule - Non-routine Requests

1. All non-routine requests for inspection and/or copying of records shall be in writing and must specify the records(s) which the person wishes to inspect. If the person does not know the exact record or the form of the records, the person shall specify the information that person is attempting to locate.

2. On three business days' advance notice in writing by the requesting person, the District will provide space which will allow the person to inspect and make abstracts from the records. The District Manager can delay providing the space for a reasonable period of time so as not to interfere with other District business.

3. No person has the right to rummage through the District vault, file cabinets, or file folders.

4. The Manager shall take such steps to preserve the integrity of the District records and as necessary for the protection of the records, including, but not limited to, supervision by District staff of the examination of original documents.

5. The person making the non-routine request will pay the following fees:

(a) For time spent by District Staff locating the records, reviewing the records in order to delete any exempt material, supervising a person's inspection of original documents in order to protect the records, or copying records.

\$50.00 per hour

(b) Copying costs if the person is being charged a fee for the time in copying.

\$ 0.10 per page

6. In addition, the District Manager may preliminarily estimate charges for responding to a request, and requires prepayment of the estimated charges before acting on the request. If actual charges are less than the prepayment, any excess will be refunded promptly.

7. The District Manager may delay responding to a request in order to consult with legal counsel as the Manager believes necessary.

The above fees are effective May 15, 1992, and have been reasonably calculated to reimburse the District for its actual costs.

B. WATER THEFT

When Tumalo Irrigation District has reason to believe that there is a violation of ORS 540.710, ORS 540.720 and/or ORS 540.730, the District shall immediately attempt to document the violation.

Said documentation shall consist of:

(1) Photographing of the violation.

(2) Recording the ditch rider's observation of the violation.

(3) Sending a letter, certified mail/return receipt requested, or by personally delivering a letter to the party violating the above statutes, setting forth the nature of the violation and that if party does not immediately cease and desist from the violation that the District will initiate legal action for its remedies under ORS 30.180 and that the matter will be turned over to the Deschutes County District attorney's Office for prosecution.

On a party's second violation, the violation shall be documented as set forth above and upon documentation:

(1) The District shall initiate legal action under ORS 30.180-.186; and

(2) Copies of both the first and second violations documentations as well as the certified letter shall be forwarded to the District Attorney's Office for prosecution.

C. FOR WATER USERS FOR CONSECUTIVE YEARS OF NON-USE (TRANSFER OF IRRIGATION WATER FOR NON-USE)

ORS Chapter 540 provides that after five successive years of failure to beneficially apply and use water pursuant to water rights, said water rights are presumed forfeited. To avoid the loss of water rights to the District, the District is adopting a policy to comply with ORS 540 to allow the District to transfer the water to other irrigable land within District boundaries, and thus avoid loss of the water rights to the District.

After determining that for a period of four successive years there has been a failure to beneficially use the water appurtenant to the property, the Board of Directors of the District shall:

1. At the regular October board meeting, direct the Manager to send a written notice to the user and any security interest holder of record that:
 - A. The user may be able to file a request with the Water Resources Department for a transfer under OAR Chapter 690, Division 15; or
 - B. The user may be able to file a request with the Water Resources Department for a transfer to an instream water right under the provisions of OAR 690-77-070 and 690-77-075; or
 - C. If the user fails to complete a transfer under (a) or (b) of this section, and does not use the water for a fifth successive year, the District may petition the Director for approval of a change in the place of use of the water pursuant to ORS 540.572 to 540.578 and these rules.

2. The Manager shall provide a copy of each notice sent to a user to the Department within 30 days of the mailing date of the notice.
3. At the October board meeting the following year, the Board of Directors shall review and determine whether or not the water user has beneficially used the water appurtenant to the land so as to avoid forfeiture. Upon a determination that the water user has failed to beneficially use the water appurtenant to the land, the Board shall direct the Manager to send a notice to the water user and any security interest holder of record of the land whose right of record would be transferred, informing them that the District wishes to transfer the use of water to other irrigable land within the District. The notice shall be sent to the last known address of the water user with a return receipt requested. The notice shall include:

- A. A statement advising the user that the District has determined that the user's land is no longer irrigated or susceptible of irrigation and that the District intends to petition, under OAR 690-21-070.
- B. A statement advising the user that the user has 30 days from the mailing date of the notice to submit a written objection to the proposed petition to the District.
- C. A general description of the land upon which the water right is of record.
- D. The number of acres of water right for which the user is charged within each tax lot which the District intends to include in its petition under OAR 690-21-070.
- E. A description of the type of use described by the water right of record.
- F. A list with name and address of security interest holders of record.
- G. A request for confirmation that the information in the notice is correct.
- H. Advice to the user that the user shall advise the District within said 30-day period if the non-use would be rebuttable as provided under ORS 540.610.

4. If the District receives a written objection with 30 days after mailing of the notice, the District Manager shall attempt to resolve the matter with the user. If the user's objections cannot be resolved by the Manager, a hearing shall be held before the Board of Directors immediately following the regular December board meeting, or at such other time set by the Board of Directors, who shall make a determination whether to proceed with

the petition to the Water Resources Commission. If no written objections are received by the District within 30 days after mailing of the notice for following resolution or hearing, the District shall petition the Water Resources Commission for approval of the transfer under ORS 540.574 and pursuant to OAR 690-21-140 and OAR 690-21-160.

D. WATER TRANSFER POLICY

Upon request by a recipient/purchaser for the transfer of water from an existing property to recipient/purchaser's property, it has become a concern of the District that, after approval of the transfer by the Oregon Water Resources Department, the water right might not be proved up on the new property, resulting in a potential forfeiture. To ensure that the water is proved up on the property belonging to recipient/purchaser, prior to placement on the water transfer petition by the District, the recipient/purchaser must give notice of intent to transfer the water to the Water Master pursuant to ORS 540.580. Recipient/purchaser must also pay all fees and charges to the District associated with the transfer of water. Upon approval by the Water Master, the recipient/purchaser shall immediately apply the water to beneficial use and submit a map prepared by Tumalo Irrigation District, or a qualified surveyor, or a Certified Water Rights Examiner, no later than November 15 of that year to the District showing beneficial use. Upon the District's receipt of said map showing full application and use of the water, the District shall place the water transfer on its annual water transfer petition.