

**TUMALO IRRIGATION DISTRICT
RULES AND REGULATIONS**

Adopted November 10, 1914

Amended 1922

Amended October 13, 1975

Amended October 12, 1976

Amended January 4, 1977

Amended August 8, 1978

Amended September 12, 1978

Amended March 13, 1979

Amended April 13, 1982

Amended December 13, 1983

Amended March 6, 1984

Amended March 10, 1987

Amended July 11, 1989

Amended May 14, 1992

Amended November 8, 1996

Amended September 9, 1997

Amended November 13, 2001

Amended March 13, 2007

A. DELIVERY OF WATER

1. Apportionment: The District administers and delivers each water right in compliance with the state statutes governing the terms of the decree, permit or certificate which documents that right. Oregon law requires that the water be delivered according to the priority date of each water right.

2. Season: The irrigation season extends from April 15 through October 14. The non-irrigation season begins October 15 and ends April 14. During the non-irrigation season, the District delivers water for stock purposes for approximately five days at close six-week intervals, depending upon weather conditions and the maintenance program.

3. Use: The District delivers water for irrigation, stock, and industrial purposes only.

The District recognizes that, historically, water was delivered through its system of canals, laterals, and ditches, not only for irrigation and livestock use, but also for domestic use. Throughout recent history, the District has become much more populated, increasing the density of livestock, in addition to increasing the density of people. Because of health concerns as expressed by the Department of Human Services, Health Division, for the State of Oregon, the U.S. Environmental Protection Agency and the Safe Drinking Water Act, the District does not deliver potable water and, therefore, water users who use District irrigation water for domestic purposes shall provide a treatment method acceptable to the Department of Human Services, Health Division. Those not complying shall be subject to having their water cut off until compliance is obtained.

4. Point of Delivery:

a) The Board, in its sole discretion and giving primary consideration to the delivery system as a whole, determines the number and designates the location of points of delivery.

b) The District delivers water from its waterways only at designated points of delivery. A point of delivery should include a weir and headgate, or a pump located on a waterway and equipped with measuring and flow control device.

c) Where a divider box is placed close below the weir, each calibrated opening in the box is a separate point of delivery. In other cases, a designated weir is the point of delivery.

d) The District constructs points of delivery, except in special cases approved by the manager. The benefiting land or ownership should pay the costs of construction of changed, new, or additional points of delivery.

e) Each point of delivery should be able to be measured and

shut off.

f) As a general rule, the District maintains the waterway up through the point of delivery, and the water user is responsible below that point.

g) No land with a water right should be without a point of delivery, but that point may be in common with other ownerships.

h) The District's goal, particularly as to new points of delivery and new ownerships of record, and where physical circumstances permit, is to designate one point of delivery for each contiguous ownership of record.

i) The Board and staff will consider the following criteria in deciding whether or not to change the location of an existing point of delivery or to allow a new or additional point of delivery.

1) The District system should not suffer a new water transmission loss;

2) The District will favor points of delivery which allow at the same location separate measurement and shut-off to multiple ownerships;

3) If a point of delivery is to be moved downstream, the waterway between the former and the new point of delivery will first be improved to the District specifications at the expense of the benefiting lands;

4) In the case of lands subdivided or partitioned after September 12, 1978, provisions of (A)(9) should be applied whether or not the subdivision or partition was originally made in compliance with (A)(9);

5) In the case of lands subdivided or partitioned before September 12, 1978, the District should design a delivery system which shall follow (A)(9) as closely as is feasible at the location.

5. Delivery Systems: The waterways and the structures related to the delivery of water are under the sole control of management and staff. Only District employees are allowed to open, close, change, or adjust checks, headgates, weirs, flow control devices, or any other District approved measuring device. Any alteration in a waterway or in the flow of water in any waterway or across any structure is to be regulated by the District personnel only.

6. Appeal: A water user may appeal the water delivery decision of a District staff member to management, and the decision of management may be appealed to the Board of Directors. Each decision stands unless and until overruled.

7. Delivery Changes: To get a planned temporary change in the amount or location of water delivery (stopping, starting, increasing or decreasing a delivery) a water user must notify the ditch rider or the District office, on a week day, at least 24 hours in advance. Otherwise, delivery must be taken around the clock. This policy does not apply to emergency adjustments necessary for protection of property and facilities.

8. Pump Deliveries: The District may allow a water user to pump the user's irrigation and stock water directly from a District waterway only as follows:

a) No water user may pump any part of the user's water right from a District waterway without the prior written approval of management;

b) To be approved, all pump deliveries must be:

1) Equipped at the user's expense with a locking, adjustable flow control device approved by management for the particular application;

2) Located so as to be easily removable for waterways maintenance and, where feasible, in a sump on the uphill side of the waterway;

3) Requested where a gravity delivery is not feasible.

c) The District shall maintain a current record of all approved pump deliveries;

d) District employees shall check each pump delivery regularly;

e) Only District employees may unlock and adjust the flow control device;

f) A water user with an approved pump delivery may begin or cease to draw irrigation water only after notifying the ditch rider at least 24 hours in advance or advising the District office on a week day;

g) The flow control device shall be maintained by the water

user: for example, drained in the winter and screened to keep debris from collecting in the system during irrigation season;

h) The District shall give a water user five day's notice to correct or remove a pump delivery used in violation of these rules. If the delivery is not corrected or removed within that five-day period, the District may correct, cap, or remove the installation at the user's expense;

i) The District shall immediately remove any pump from alongside a waterway if not used exclusively for delivery of a District water right if it is not located on the land of a person with a water right.

9. Subdivision and Partitions: The District shall approve applications for subdivisions and for major and minor land partitions within District boundaries only upon the following terms relating to delivery, safety, systems maintenance, and water quality.

a) All water rights and rights-of-way for District waterways upon the applicant's property must be accurately drawn and labeled upon the partition map or subdivision plat;

b) An easement "for purposes of water transmission and maintenance" shall first be conveyed to Tumalo Irrigation District for all District main canals, secondary canals, and laterals, then located on the property. The easements for a main canal shall be 50 feet on both sides of the centerline of the canal, 25 feet on both sides of the centerline on secondary canals, and 15 feet on both sides of the centerline of all laterals and ditches;

c) When District water delivery is indicated to partitioned or platted parcels, and easement for water delivery and maintenance shall be provided and platted by the applicant for each parcel or lot which is to receive irrigation water and for any land outside of the partition or platted parcels for the continued delivery of water. Easement shall not be less than 15 feet in width on both sides of centerline;

d) The District shall require the applicant to place in pipe or concrete lining, at the applicant's cost and to the specification of the District management, sections of the District waterway where the water level is higher than the adjoining land. The District shall require the applicant to place in pipe, at the applicant's cost and to the specifications of the District management. sections of District waterway where

more than one bridge or culvert is proposed to cross the waterway within one-quarter mile. Exceptions to this policy may be granted by the Board in unusual cases of extreme hardship or clear lack to necessity;

e) Sections of District waterway in a partition or subdivision where the median lot size is less than five acres shall either be placed in pipe or the easement fenced, to District specifications, at the option of the District;

f) In reference to each application, the District shall specify on the County plat or partition map one point of delivery beyond which the District shall assume no responsibility to measure or deliver water;

g) All crossings of District easements or waterways shall be to District specifications. No bridge support shall be placed in the waterway. The District may require culvert for road and pipe crossings;

h) A plan, approved by District management, for delivery of irrigation water to all lands in the subdivision or partition which will have water rights appurtenant to them must be provided by the applicant and developed to District standards at the owner's expense prior to delivery into a subdivision;

i) The District may impose such other reasonable conditions as in the judgment of the Board be advisable for the benefit of the District and its water users, or may allow exceptions as may be prudent;

j) District management has authority to approve all applications for minor and major partitions in accordance with these rules and regulations. The Board shall ratify those approvals at a subsequent meeting. The Board of Directors, by majority vote, must approve all subdivision plats in accord with these rules and regulations.

10. Transfers: The change in place of use of a water right from the acreage where it is legally appurtenant to other acreage in the District requires approval by the Board and by the Oregon Water Resources Department before the water right will be delivered or assessed at the new location.

District staff prepares all applications for transfer, which require the following:

a) Evidence of legal ownership of the acreage to which the

water right is appurtenant prior to transfer;

b) Notarized signature on the application of all persons having an interest of record in the land;

c) A sworn, written statement that the water right has not been forfeited by five successive years of nonuse on the full acreage to which the water right is appurtenant;

d) Payment of a fee which covers District costs and the State filing fee, from current fee schedule approved regularly by the Board;

e) Mapping and field survey of affected lands;

f) Current assessments levied against the water user transferring rights are paid as well as those levied against the buyer;

g) Each water user's resultant water right following transfer is equal to one or more acres per point of delivery;

h) Required easements for water delivery have been obtained;

i) District staff has approved delivery to the new place of use;

j) Board approval based on ability to prove up the water right at the new location and all of the above conditions have been satisfied.

B. WATER USER RESPONSIBILITIES

1. Water Rights: Beneficial use is the basis, the measure and the limit of each water right. A water right must be applied to beneficial use upon the full acreage to which the water right is appurtenant, but may not be applied to acreage which does not have an appurtenant water right.

2. Obstruction: Absolutely no check, diversion, or other structure or any alteration of any waterway or the banks thereof involving placement or removal of dirt, rock, lumber, metal, or by any other means, is allowed except as the District may permit in writing or may itself install. Any such structure or alteration shall be immediately removed. The District may remove the same at the landowner's cost.

3. Interior Systems: A water user must provide and maintain

an interior delivery system below the point of delivery adequate to make beneficial use of the water. If the interior system is not adequate and results in a waste of water, management may refuse delivery until a change has been accomplished to correct the deficiency.

4. District Property: A water user must protect District property, including delivery structures located upon the water result from the landowner's carelessness or trespass against District property.

5. Other Property: A water user must exercise every precaution to avoid damaging the property of other persons by failure to control delivered water at and inside the point of delivery.

6. Storage: If a water user wishes to maintain an even daily supply of irrigation water of non-irrigation water, the water user must provide sufficient storage capacity.

7. Criminal Acts: The following acts are State criminal offenses:

a) To open, close, change or interfere with a District headgate or weir (ORS 540.710);

b) To pollute or impair the quality of water in a District waterway (ORS 164-785);

c) To permit water to discharge onto a country road or public highway (ORS 368.930).

C. DISTRICT RIGHTS

1. Right-of-Way: The District claims an easement for purposes of water transmission and maintenance in connection with all District waterways to include pipelines to the greatest extent provided by law. Identification of waterways, including piped section, shall be as represented by the map at the irrigation district office.

2. Access to Land: District employees shall have free access at all times to land irrigated from the delivery system for the purpose of examining the waterways, measurement and flow of water therein, and water use.

3. Maintenance: The District may remove all willows, brush and trees from the interior of all slopes of waterways without consultation with landowners. Debris may be left upon the

easement, but as reasonably possible. Unless the continued safe delivery of water in the system is threatened, it is the policy of the District to attempt to inform the landowner of major maintenance outside of the interior slopes of waterways.

4. Fences: An interior fence across a waterway must have an unlocked and easily wire or rigid gate, provided by the landowner, leaving an opening not less than 16 feet wide (for equipment access), centered on the waterway. A fence along or upon a District right-of-way must be located not less than 10 feet from the nearest wet edge or beyond any roadway along the waterway.

5. Bridges and Pipes: Bridges and pipes over or under water ways are allowed only under written permit on record with the District. Permits may be issued by management upon approval of appropriate location and construction to maintain flow, minimize hazard of washouts, and involve the minimum burden to the District operation and maintenance of the waterway. It is the responsibility of the water user to systematically remove debris obstructed by addition of pipe or bridge.

6. Roads: Roads along District rights-of-way and roads used regular by the District in connection with operation and maintenance shall be maintained by the District and by the landowner in proportion to estimated frequency of use. They may not be obstructed by a locked gate except upon District approval.

At fenced property boundaries, road crossings shall, at the District's option, have a cattle guard installed and maintained by the District and the landowner in proportion to estimated frequency of use. They may not be obstructed by a locked gate except upon District approval.

7. Infraction: Except in the event of an emergency, or as provided in (3) above, the District shall give the landowner written notice of infractions of these rules and regulations and a reasonable time, not exceeding 30 days, within which to correct the infractions.

The landowner may make written request to the Board for an extension or for a variance, to be decided at the Board's next regular meeting.

If the infraction is not corrected within 30 days, the District may cease delivery of water to the property until the condition is corrected, may remove the condition at the expense of the user, and may take appropriate legal action.

8. Vegetation Management: The District may use approved chemicals along its waterways. Application shall be conducted according to applicable laws, rules, regulations, and instructions.

9. No Delivery: The District may refuse to deliver water to a user who refuses to comply with these rules and regulations.

D. BONDED INDEBTEDNESS AND FEES

1. B.O.R. Loan Re-Payment: The total annual revenue from the user charges and fees pays a major portion of the year's loan repayment obligation under the District's contracts with the Bureau of Reclamation. The District's contract with the B.O.R. recognizes that the per-acre value and benefit realized from the rehabilitation and betterment of the irrigation systems is greater for smaller sized ownerships and consequently the relative per-acre payment ability thereof is greater.

Taking into account the difference in the relative per-acre payment ability and in order to equitably apportion the benefits derived under the B.O.R. contract in accordance with the provisions of law relating thereto, the District shall make annual charges on the following basis.

a) There shall be established for each year a uniform account charge for each ownership of record, the amount of this charge is to be sufficient to meet a major portion of the amounts due under the B.O.R. contract;

b) There shall be established for each year a uniform charge for land for which water is available, which charge shall be expressed as a rate per acre of water right and shall be included in the operation and maintenance fee provided for hereunder.

2. Operation and Maintenance Fees: The O & M fee shall be billed per acre of water right on a uniform basis. Each fractional acre is billed as one acre. The O & M fee is statutory, and apportions O & M costs among all irrigated acres regardless of the number of points of delivery and regardless of the number of acres of water right per land ownership. This fee includes a portion of the B.O.R. loan repayment as set forth above and a portion of the Exclusive Reconstruction Fee set forth hereafter.

3. Delivery Fees: One delivery fee shall be charged for each

point of delivery of water (See A-4), not fewer than one per ownership of record (See D-1). If prior to January 1, 1984, a user had more than one point of delivery into a single ownership of record, the user shall not be required to pay more than one delivery fee for that single ownership of record unless additional delivery points have since been added or until the parcel is divided into separate ownerships of record.

4. Exclusive Reconstruction Fee: The District may charge a fee known as the Exclusive Reconstruction Fee, the purpose of this fee being to provide for repair of the system in the event of significant emergency repairs. This fee shall be allocated on the same basis as charges for repayment of the B.O.R. obligations.

5. Basis of Charges and Fees: All charges and fees are charged against the land to which the water right is appurtenant. All charges and fees are billed on the basis of ownership, and are prorated accordingly. Bills are due and payable whether or not the water is actually delivered or used. Such billings continue unless a specific request is made by the land owner and, in the case of two acres of water or less, the request if approved by resolution; and, in the case of more than two acres of water, the request is approved after petition, notice, hearing, and order by the Board. However, the user shall remain obligated on the bonded indebtedness owing under the B.O.R. contract.

6. Payment: Bills are due and payable as follows: First half due March 1, second half due July 1. Interest at the maximum allowed by law per month on the unpaid balance is assessed as of the due date if payment is not received within 30 days of the due dates herein.

7. No Delivery: Delivery of water may be withheld from lands when bonded indebtedness, fees and/or other charges become delinquent for those lands with appurtenant water rights.

8. Adjustments: If the water user identifies any adjustment necessary to correct any bill or charge, it should be immediately brought to the attention of management so that delivery will not be withheld resulting from non-payment due to an error or a question of policy. The user may seek adjustment of billing through management or the Board of Directors.

9. Delinquency and Foreclosure: Unless otherwise specified by the Board, the date after which all charges for the first half are delinquent is April 1st, and the date after which all charges

for the second half are delinquent is August 1st of the calendar year. Immediately after the delinquency date, August 1st, the Secretary shall file a notice a claim of lien under ORS 545.494. The Board at the November Regular Board Meeting shall review all claim of liens filed as set forth above and then by resolution, may direct that delinquent charges remaining unpaid, whether for operation or maintenance, construction, B.O.R. contract repayment, interest, or other purposes, shall be foreclosed by the District.

E. AMENDMENT

These Rules and Regulations may be amended only upon written motion of a Director. A majority of the Board must vote in favor of the written motion to amend at two successive regular meetings, whereupon the amendment becomes immediately effective.