

EAST FORK IRRIGATION DISTRICT

RULES AND REGULATIONS

Governing the Distribution and Use of Water

AUTHORITY

The following Rules and Regulations were adopted during a regular meeting of the Board of Directors of the East Fork Irrigation District by resolution under the authority of the Irrigation District Laws of Oregon, ORS 545.211(1), which states:

“The Board shall manage and conduct the business and affairs of the District; make and execute all necessary contracts, employ and appoint such agents, officers, and employees as may be required, and to prescribe their duties; establish equitable bylaws, rules and regulations for the distribution and use of water among the landowners; and generally to perform all acts necessary to fully carry out the purposes of the Irrigation District Act.”

In any case, where these Rules and Regulations conflict with the Laws of the State of Oregon, the latter shall be the controlling authority.

INTENTION

It is the desire and intention of the Board of Directors to carry on the business of the District in a business-like, economical, and equitable manner. Because water requirements and facilities for handling water differ greatly with soil conditions and crops grown, there must be general rules to secure the best service to the water users. To this end, every person in the District should feel a personal responsibility in helping to carry out the rules so the water may be used in the most efficient manner.

The adoption of these Rules and Regulations will not essentially change the manner of water distribution from that in practice for several years, but it is hoped they will give every water user a clear understanding of the duties and intentions of the operating officials and bring to the attention of all water users the great need for conserving the District's water supply.

The District was organized for the purpose of supplying irrigation service for farm crops. Water quality and District facilities are not suitable for domestic use. Any source for purposes other than growing agricultural crops or otherwise beneficially using irrigation water will be provided only by special order of the Board of Directors as entered by resolution into its records.

OPERATIONS AND MAINTENANCE

Management

The maintenance and operations of all facilities of the District shall be under the exclusive management and control of the Manager, who is appointed by the Board of Directors. No other person, except his employees and assistants, shall have any right to interfere with said facilities in any manner, except with express permission of the Manager.

District Employees

The District Manager shall employ such ditch riders and other personnel as may be necessary for the proper operation and maintenance of the system and the distribution of water. Each ditch rider shall have charge of his respective area and shall be responsible to the Manager for carrying on the routine of water delivery and other work.

WATER

Water Distribution

Water will be apportioned to each area by the Manager and the ditch riders will be held responsible for the efficiency of water distribution, including diversion of water to canals and private pipelines, and for the operation of District canals, pipelines and structures in his respective area.

Water shall be distributed among the water users in the District according to pre-determined acres and quantities from April 15 to October 1. The District will make every reasonable effort, to the best of its ability, to have water available to all water users when their crops require irrigation.

Irrigation Season and Other Water Delivery Seasons

The normal irrigation season shall be from April 15 to October 1 each year. These dates are subject to change in relation to seasonal weather conditions and availability of water supply.

Water will not be taken and used outside the District boundaries.

Sprayhead, Fire Protection and Frost Control

By authority given to the District by the State of Oregon, the District is permitted to divert 37.1 cfs from the East Fork Hood River before April 15 and after October 1 for use as sprayhead, fire protection, and frost control. Based on the 37.1 cfs from the river, each water user will be allowed 1.73 gpm per acre. The District has no capacity to store water

for these purposes. This water will be provided continuously providing there is water in the system.

Weather permitting, stockwater and sprayhead shall be delivered from approximately March 15 to November 1.

Each frost control user will be required to sign a waiver absolving the District of any responsibility or liability regarding provision of water for frost control. Waivers and Frost Control Water Policy may be obtained at the District Office.

Water Quality

East Fork Hood River water quality varies from clear and cold most of the year to sometimes heavily laden glacial silt and sand laden water in July and August. This is a naturally-occurring process. Glacial silt and sand are highly abrasive to pumps and irrigation pipes and fittings. The District will continue to deliver water during the presence of high levels of silt, but assumes no responsibility for damage incurred through use of silt laden irrigation water. In the event of catastrophic glacial outbursts that add massive amounts of silt, the District reserves the right to completely shut down its irrigation system for as long as may be necessary.

Shortage of Water

In the case of water shortage from drought, water shall be distributed equitably. In case of drought and reduced East Fork Hood River stream flow, deliveries will be decreased by (1) users voluntarily reducing deliveries; (2) a fixed percentage cutback, i.e., 10% cutback; or (3) mandatory rotational schedules.

Wasting Water

Water must not be wasted. Careless, wanton and wasteful use of water will be sufficient grounds for the ditch rider or Manager to turn off water on private property and issue a warning to the negligent landowner. If the wasteful use continues, the District will have grounds to remove access to water.

Persons wasting water on roads or vacant land either willfully, carelessly, or because of defective private lines or poorly prepared land, or who use water on land not authorized for irrigation by the Board of Directors, may be refused the use of water until such conditions are remedied.

Water Use Requests

Water users should notify the District office at least twenty-four (24) hours before the time the water is desired and shall notify the office at least twenty-four (24) hours before finishing with the water. The District will make every effort to deliver water within twenty-four (24) hours of the time requested, but some delays may occur.

Water requests shall be called to the District Office Monday through Friday between the hours of 8 a.m. and 4:00 p.m. If District personnel are not in the office, a message should be left on the answering machine indicating the date irrigation is to begin and the estimated number of gallons per minute that will be necessary.

Non-liability of District

The District will not be liable for any damages resulting directly or indirectly from any unauthorized uses or trespassing on District property or facilities or from any private pipeline or the water flowing therein according to these Rules and Regulations.

Most of the water furnished by the District flows through many miles of open ditches and is subject to pollution, shortages, fluctuation in flow, and interruption in service. The District will not make any agreement that binds the District to serve an uninterrupted constant supply of water.

All water furnished by the District will be for irrigation purposes and any water user putting the water to other uses does so at his own risk and by doing so assumes all liability therefore and agrees to hold the District, its officers and employees free and harmless from any liability and damage that may occur.

Pumping by water users is done at users' risk and the District assumes no liability for damages as a result of turbulent water, shortage or excess of water, or other causes. Any person who sells, contracts to sell, leases, purchases, or contracts to purchase any part of an existing tract shall not look to the District to provide right-of-way, water transmission facilities or maintenance of District facilities. See Pumping, below.

Damage to District Facilities

It shall be the duty of every landowner to use due care to avoid damage to District canals or other facilities.

Point of Delivery

The land use and area ownership situation is greatly diverse within the District. Therefore, the points of delivery are established as conveniently to all users as possible. Each tract

within the District has at least one original point of delivery, at which point water is turned onto the land by the District and at which point the water user accepts the responsibility for the efficient use of the water. This original point of delivery is maintained for each tract even though many subdivisions of the original tract may have been made. The District refers to this as the high point of delivery.

Subdivisions

The owner/developer/applicant shall provide water service to all created parcels within a fully enclosed system, from a single point of delivery as determined by the District. The owner/applicant shall also provide the District with a copy of the survey, which includes the designated point of delivery, the irrigated portion of the land and where the proposed irrigation lines and valves will be located.

Flow regulation consistent with State law and District policy is also required and an on-site inspection, by District staff, of the installation of the flow valve or orifice must be made prior to water delivery. A flow regulation device will be installed at the point of delivery and is purchased and installed by the developer.

The subdivider shall show on the subdivision plat all existing easements, rights-of-way, and facilities and shall further show any roads or crossings, new or existing, which cross any of the District's ditches, laterals, canals, or existing easements. In every case, prior to the construction or reconstruction of a road or crossing of any ditch, lateral, canal or easement owned or controlled by the District, the subdivider must secure the District's approval for the construction or reconstruction of any such road or crossing. The subdivider shall further develop his property in such a manner as not to adversely affect any of the District's facilities or subsequent user's rights.

Any person who sells contracts to sell, leases, purchases or contracts to purchase any part of an existing tract shall not look to the District to provide right-of-way, water transmission facilities or maintenance of said facilities from the original high point of delivery of the original tract. All private delivery systems from the original high point of delivery are to be the sole responsibility of either the subdivider or the individual tract owners.

An irrigation user group will be formed by the subdivision's homeowners association and enter into a Memorandum of Understanding with the Board of Directors. The District's obligation to deliver water shall cease at the designated point of delivery. The District is not responsible for installation, maintenance and repair of service lines and parcel valves after the designated point of delivery. The subdivision's homeowners association will be billed as a group and at a special rate.

Water rights will be adjusted to reflect removal of water from under roads, driveways, sidewalks, structures, etc. All subdivision applications are subject to district review and requirements at which, the District works closely with Hood River County Planning on these applications. Additional requirements are available upon request from the District.

Apportionment Of Water To Partitioned Land

The owner/developer/applicant shall provide water service to all created parcels within a fully enclosed system, from a single point of delivery as determined by the District. The owner/applicant shall also provide the District with a copy of the survey, which includes the irrigated portion of the land and where the proposed irrigation line(s) and valve(s) will be located.

Flow regulation consistent with State law and District policy is also required and an on-site inspection, by District staff, of the installation of the dole valve or orifice must be made prior to water delivery. If necessary, flow regulation device(s) at the point of delivery or at each parcel, or both, are to be purchased, installed and maintained by the property owners at the owner's expense.

Water rights will be adjusted to reflect removal of water from under roads, driveways, structures, etc. All minor or major partition applications are subject to district review and requirements, at which the District works closely with Hood River County Planning on these applications. Additional requirements are available upon request from the District.

Pumping

All landowners using pumps to lift water from the District's canals will be subject to these Rules and Regulations in the same manner as if they were gravity or pressurized deliveries. All such installations must be approved by the Manager and there must be a valve control in the delivery line on the outside of the pump house. This requirement will apply to old as well as new installations. All such installations shall be placed in such a manner that no checking of the canal or lateral will be required to deliver water to them.

Pumping of the District water is done at the water user's risk and the District assumes no liability for damages to pumping equipment or other damages as a result of turbulent or turbid water, fluctuation in flow, or other causes.

ACCESS AND CONTROL

Control of Facilities

Only District employees will be allowed to operate headgates, valves, or other control devices or to adjust water levels in canals and ditches. The District, at its option, may lock any or all headgates or other control devices. Any person who, in any way, interferes with the setting or adjustment of such headgates or control devices shall be held strictly liable for any damage resulting therefrom.

Right to Enter Upon Lands

Any officer, employee, ditch rider, or other authorized personnel of the District may enter upon the land of a water user of the District or upon lands over which the District holds a right-of-way, for inspection, maintenance, and regulation of ditches, pipelines, gates, pumps or other water works. In the absence of an emergency, the District shall provide adequate and appropriate notice prior to entering upon the land of the water user.

Access to Lands and Ditches

Any officer, employee, ditch rider, or other authorized personnel of the District shall have free access at all times to the private pipelines and lands being irrigated for the purpose of determining whether they are in satisfactory condition to handle water and whether the water is being used economically and efficiently.

No fences, ditches, or other obstructions shall be placed across or upon any District canal bank without special permission of the Manager and then only with the understanding that suitable openings, gates and keys to locks will be provided to enable District employees to travel said canal banks without hindrance. The Manager shall have the right to remove all fences or obstructions constructed contrary to these provisions.

Licenses/Easements

No new bridges, fences, fence-crossings, or stock gates, unless the same shall have been provided for in rights-of-way or easement agreements, shall be built across the rights-of-way of the District without the express permission of the Manager. All plans to construct a new structure must be submitted to the District for approval and be built under the specifications of the District under the direction of the Manager. Such structures must be maintained by the property owner to the satisfaction of the District.

The District cannot give the permission of other property owners to allow use of a District-specific easement. As lands are subdivided or partitioned, all easements regarding placement of the irrigation system are the sole responsibility of the property owner(s). A written easement is required if private pipelines and/or access to the point of delivery is on or through private property. The easement should be recorded at Hood River County Records and Assessments with a copy provided to the District.

Wading Or Swimming In Canals

No person shall wade, swim, or bathe in the canals, laterals, pipelines, or works of the District and all members of the District are asked to notify the District's office if they observe any person wading, swimming, or bathing in the District facilities.

FACILITIES

Private Laterals

All private valves and water boxes shall be under the control of the District when used by more than one water user, but the District will not construct or maintain private delivery systems. Privately maintained facilities served by the District must be in good condition so as to prevent loss of water and permit regular flow. The Manager shall not permit delivery of water into facilities which are not adequately prepared and maintained. The District will not be responsible for defects in privately maintained facilities.

Failure To Maintain Private Facilities

It shall be the responsibility of the land owner to maintain private water boxes and pipelines in good working condition so that water may be delivered without hindrance. However, when privately maintained facilities are not maintained in good condition so as to prevent loss of water and permit regular flow, the Board of Directors may authorize District personnel to construct, repair or maintain such private facilities. The Board of Directors is additionally authorized pursuant to ORS 545 .408 (2) to levy and collect assessments upon all tracts of land benefited by the improvements in order to defray the whole or any portion of the cost and expense incurred in maintaining private facilities.

Replacement of Pipelines and Other Facilities

If a private transite or other antiquated pipe on private property must be replaced by a new pipeline, it is the responsibility of the individual property owner to contract and pay for the installation.

The District will not replace existing concrete or other non-pressurized lines in good condition in order to provide pressurized water, unless the water user agrees to pay the cost of such replacement.

No water user may tie onto an existing concrete or non-pressurized line unless prior approval is obtained from the District Manager. If such tie line is installed, the maintenance of said line will be the sole responsibility of property owner.

New Hookups

The District will charge each landowner for personnel time expended and materials purchased and used for a new hookup.

WATER RIGHTS INFORMATION

District Permanent Transfers

A District Permanent Transfer is used to manage water rights within the district boundaries. The transfer is used for change in place of use; however, also can be used for change in character of use (irrigation to industrial). Water rights to be transferred cannot be subject to forfeiture under ORS 540.610 (5 years nonuse). Water rights which are subject to forfeiture can be transferred under ORS 540.472, Notice of Intent to Transfer, prior to 5 years nonuse. (ORS 540.580)

Voluntary Removal of Water Rights

A landowner may request the removal of water rights from their property. The request can be for all or a portion of the assessed water rights on the property. Approval of the request is subject to approval by the District Board of Directors. After such approval, the landowner will execute an affidavit to relinquish the water rights to the District for permanent transfer. If there is a mortgage/lien holder of the property, the landowner must obtain a waiver from the mortgage/lien holder and provide such waiver to the District before the water rights may be transferred.

Water Rights Wait List

The District maintains a water rights wait list. Application to the wait list is available to landowners who are requesting new or additional water rights. Each application is subject to approval by the Board of Directors and based on whether the current pipeline/canal is able to supply the amount of water requested. Water rights become available for the District to allocate by removal from areas where water is no longer beneficially used or water rights have been voluntarily relinquished by landowners. Owners of properties that are within the boundaries of the District may apply for water rights. Owners of properties that are not within the boundaries of the District, but are contiguous to a property with District water rights, may apply to the water rights wait list, but application must also be made for inclusion into the District. The applicant may apply for any amount of water, but may only be granted a maximum of five acres (based on availability) in any single year, after which the balance of the water rights request is placed at the bottom of the wait list.

Land must be made ready for use of the water rights within one year from the date of notification to the landowner of the availability of the water rights. If, after a site visit by the District Manager at the end of that one-year period, it is concluded the land has not been sufficiently prepared, the landowner's request for water rights will revert to the bottom (most recent addition) of the wait list.

If a property on the wait list is sold, AmeriTitle or other title company, during the title search, will be informed that the property is on the District's wait list to receive water

rights and the new owner must contact EFID within 30 days of closing to ask to remain on the wait list. Otherwise, the property will be removed from the wait list.

District Temporary Water Rights Transfers

Temporary transfers of water rights are used to transfer available water rights for one irrigation season only. A landowner may offer water rights to the District for temporary use on other lands within the District boundaries. This process must be requested prior to April 15. A temporary transfer must be filed prior to the use of irrigation water on other lands during the irrigation season. The District does not maintain a list of landowners who have a temporary need of water. It is the responsibility of the landowner who wishes to temporarily transfer the water to find a landowner who would be willing to accept the transfer. (ORS 540.570)

Inclusion/Exclusion of Lands from the District Boundaries

Inclusion

Landowners with land adjacent to the boundaries of the irrigation district can submit a written petition to the Board of Directors asking to be included in the district. Inclusion, generally, applies to landowners who have made application to the Wait List requesting new irrigation water rights. (ORS 545.057 to 545.091)

Exclusion

Landowners within the boundaries of the irrigation district can submit a written petition to the Board of Directors asking to be excluded from the district. Land which is unable to receive irrigation water or lands on which the irrigation water rights have been transferred by the district to other district land and no longer subject to the assessments of the district are legible for exclusion. (ORS 545.097 to 545.126)

CONSERVED WATER POLICY

As the district continues to improve its main delivery system by converting open, unlined canals and ditch systems to buried pipelines; water is being saved. These water conservation projects will reduce water loss (seepage) from piping these open systems. As the amount of "saved water" is determined, the District can file an application for conserved water with Oregon Water Resources Department. From the conserved water, a portion will go back in stream to East Fork of the Hood River and a portion will be allocated to the District. The allocation of conserved water percentages are described under ORS 537.470, depending on funds used to finance the conservation project and is not subject to repayment. The District's portion of the allocated conserved water would be used for establishing new or additional irrigated lands within the district boundaries. (ORS 537.455 to 537.500)

RESOLUTION PROCEDURE FOR WATER DISTRIBUTION WORKS

Whenever the District shall deem it expedient or necessary to construct, repair, or maintain pipelines and other improvements or to employ the services of some competent person to distribute and apportion water for any subdivision, the District shall declare such necessity by resolution.

The resolution shall be posted in three public places for five days. Within 10 days from the date when the resolution is posted the owner of the property within the tract may file a written remonstrance against the proposed improvement or employment. After a hearing on the remonstrance, the District in its discretion, may overrule any remonstrance and by a resolution order construction, repair or maintenance of the improvements and apportion costs and assessments upon each tract benefited. The assessments shall be final and inclusive.

ADMINISTRATION

Assessment Due Date

The due date for all assessments is April 1st of each year. Assessments are due prior to the upcoming irrigation season. Assessments are billed in October of the prior year and again in February prior to the due date.

Delinquencies In Payments

The District may withhold delivery of water from any tract of land until the charges and assessments are paid, whether such charges and assessments are for operation and maintenance, delinquent payment, repairs, construction, or other purposes. Interest shall be charged and collected on the assessment or unpaid charges at the rate of one and one-third percent per month until paid. In addition, a late payment fee of \$70 will be assessed on all assessments not paid by the April 1 due date. In case of inability to meet this requirement, landowners shall present their case to the Board of Directors.

Notice of Lien

A Notice of Claim of Lien will be filed against any property upon which the irrigation assessment has been delinquent for six months. If the property owner does not pay within 30 days of filing the lien, the District will pursue its foreclosure remedies. ORS 545.494.

Administrative Fees

The District assesses administrative fees for work associated with all land use actions, minor and major partitions, subdivisions, irrigation user groups, temporary and permanent

water right transfers, inclusion/exclusion from District, voluntary removal of water rights, debt collection, filing of liens, foreclosures or any other fees as the District's Board of Directors may deem appropriate. These fees are subject to revision at the sole discretion of the Board of Directors. Copies of the District's current administrative fee schedule are available upon request.

Annual Audit and Fiscal Year

The District's fiscal year is from July 1 – June 30, after which the District Office Manager prepares annual reconciliations and delivers District records to its auditor, Friend & Reagan.

Unlawful Acts

The District may bring a civil action for damages against any person who knowingly and willfully commits the unauthorized use of water. Pursuant to ORS 30.184, the District shall recover from the defendant the amount of actual damages incurred plus punitive damages. The District shall also recover the cost of the suit, reasonable attorney fees and expert witness fees.

The remedies provided for in ORS 30.180 to 30.186 are in addition to, and not in lieu of, any and all other remedies, civil and criminal, provided by law.

No tree or vine prunings, brush, weeds, grass, manure, rubbish, garbage, swill, refuse, dead animal or other material or substance that will be or become offensive to the senses or injurious to health or injuriously affect the quality of water, obstruct the flow of water or result in the scattering of seeds or noxious weeds, plants or grasses, shall be placed or dumped in any District canal, ditch, pipeline or other conduit or be placed or left so as to roll, slide, flow or be washed or blown into any such canal, ditch, or other conduit. All employees of the District shall promptly report any violation of this rule, and the people of the District are especially urged to cooperate in its enforcement.

GENERAL

Office

The office of the East Fork Irrigation District is open between the hours of 8 a.m. and 4:00 p.m. Monday through Wednesday. The District Manager is periodically in the office on Thursday and Friday. The District ditch riders and Manager frequently check for telephone messages Thursday through Sunday.

Ditch riders may be contacted through the District's office at telephone number (541) 354-1185 during the hours listed above or leave a messages on the answering machine.

Board Meetings

The Board of Directors of East Fork Irrigation District meets on the third Tuesday of each month at 1:00 p.m. at the District offices. Any person desiring to appear before the Board of Directors or to present any document for their review must call the District Manager or Office Manager 5 days in advance of the meeting to be included on the Agenda.

Emergencies

The Manager of the District is authorized to act in emergencies on matters not covered by these Rules and Regulations; however his actions are subject to the approval of the Board of Directors.

Cooperation

All employees of the District are instructed to aid the water user in every manner possible and to courteously and respectfully consider all criticism and suggestions. Likewise, all water users are requested to cooperate with District officials in every manner so the District may operate with a minimum of problems and expense.

An irrigation district is a quasi-municipality, a cooperative organization, and every landowner is a member of the organization. It makes no profit and is operated for the sole benefit of the lands and people within its boundaries. The benefits they can derive from it will be measured by the extent to which the people within the District cooperate to make it a success.

RULES AND REGULATIONS EFFECTIVE

These Rules and Regulations shall be in effect on and after and are subject to change by the Board of Directors in regular session at any time to suit any special conditions which may arise.

The foregoing Rules and Regulations were adopted by Resolution of the Board of Directors of East Fork Irrigation District on the 15th day of May, 2007 in regular session.