

**NORTH UNIT IRRIGATION DISTRICT
Jefferson County, Oregon**

RESOLUTION No. 2011-08

**A RESOLUTION ADOPTING A POLICY REGARDING
ALLOCATIONS OF NEWLY AVAILABLE DESCHUTES RIVER WATER**

The Board of Directors of the North Unit Irrigation District (Jefferson County, Oregon) (hereinafter referred to as “the District”) hereby adopts the following Policy Regarding Allocations of Newly Available Deschutes River Water.

**“North Unit Irrigation District
Policy Regarding Allocations of Newly Available Deschutes River Water”**

Authority and Purpose for Policy

The authority for this policy is contained in ORS Chapter 545, and in particular, ORS 545.221(1)(c), which provides that the Board shall “[e]stablish equitable bylaws, rules and regulations for the administration of the district and for the distribution and use of water among the landowners.” The Board anticipates that new water from the Deschutes River may become available for irrigation use, whether as a result of conserved water projects carried out pursuant to ORS 537.455 et seq. or agreements with other irrigation districts in the Deschutes Basin such as Central Oregon Irrigation District, and this Policy is intended to provide an equitable means of allocating this newly available water to lands currently covered with primary water rights from the Crooked River. In furtherance of efforts to diminish the District’s overall reliance on Crooked River water supplies, and due to issues and concerns surrounding Crooked River water use, including Endangered Species Act issues, water quality issues, the electricity costs of pumping Crooked River water, etc., this Policy seeks to allocate newly available water to lands currently receiving primary Crooked River water. In the event all lands currently receiving primary Crooked River water are fully covered with primary Deschutes River water, it is anticipated the Board will revisit this policy and determine an equitable means of allocating additional Deschutes River water to lands currently covered with primary Deschutes River water.

Lottery to Determine Distribution Order of Newly Available Deschutes River Water

The District will conduct a one-time “lottery” to determine the order in which District lands currently covered with certificated primary Crooked River water will be allocated newly available Deschutes River water. The District will conduct the lottery according to the rules set forth below.

Lottery Rules

1. Procedure.
 - a. The District will first create a list of all Parcels in the District that currently receive primary Crooked River water from the District. A Parcel will be identified and included in the list in a manner consistent with Parcel

identifications and determinations made by the County Assessor's office. For purposes of this Policy, the cities of Culver, Madras, and Metolius will be treated as Parcel owners, and all lands receiving irrigation water by way of a particular city will be treated as a single Parcel for lottery ordering purposes.

- b. The District will use a method for randomly selecting Crooked River primary Parcels to create a lottery ordering, whereby the first Parcel selected will assume the first position in the lottery, the second Parcel selected will assume the second position in the lottery, and so forth, until all Parcels have been selected and placed in the ordering. Lands with currently permitted but uncertificated Crooked River primary water rights will be added to the end of the lottery ordering only after such water rights are certificated.
 - c. Lottery ordering results will be made available upon inquiry to the District.
 2. Water allocation and distribution. The District will make available an allocation of, and distribute accordingly, newly available Deschutes River water to each Parcel in the order of the lottery results, with newly available water being offered to the Parcel in the first lottery position, then the Parcel in the second lottery position, etc. Should a Parcel owner agree to accept the newly available water, then the Parcel owner must agree to accept Deschutes River primary water on all of the lands included in the Parcel with Crooked River primary water rights. The allocation of newly available Deschutes River water will be at a duty of 2.5 acre feet per acre. If the District does not have sufficient newly available water to cover all of a Parcel's Crooked River primary acres at a particular point in time, a portion of the Parcel's acres will be covered with what is available, and then as more newly available Deschutes River water becomes available, the full amount of the Parcel's acres will be covered before newly available water is offered to the Parcel in the next lottery position. Only when a particular Parcel's acres are fully covered will the Parcel in the next position be offered newly available water. In the event that a Parcel owner declines to accept newly available water on all of the Parcel's acres, then the District will "skip" that Parcel and move on to the Parcel in the next lottery position. A Parcel owner for any Parcel eligible for an allocation of newly available Deschutes River water under the lottery may accept or decline the allocation by notifying the District within 7 business days of the District mailing notice to the Parcel owner that newly available water is available to the subject Parcel. If the Parcel owner fails to either accept or decline the allocation within 7 business days, the lack of response will be treated as a decline, and the District will move on to the Parcel in the next lottery position. After all Parcels have been offered newly distributed water, the District will then return to the top of the lottery ordering, and proceed through the lottery ordering again. This process will be repeated until all of the remaining Parcel owners decline the newly available water. At that point, all of the remaining Parcel owners will be required to accept the newly available water in the order of the initial lottery ordering results as newly available water becomes available.
 3. Water availability. The allocation and distribution of newly available water is subject to and dependent on all necessary and requisite approvals of local, state, and federal governments, including but not limited to approval of any water rights transfer required

by the Oregon Water Resources Department (OWRD). Depending on the terms and conditions of the projects resulting in newly available water, the District will likely be required to either transfer the existing primary Crooked River water rights to instream use, or convert them to supplemental status, prior to delivering the newly available Deschutes River water. Parcel owners will be required to consent to and facilitate such transfers or conversions to the extent such consent and facilitation are necessary.

4. Lottery Positions. Lottery positions will run with the land. No sale or other disposition of rights in any Parcel assigned a position in the lottery will affect the Parcel's position in the lottery. In the event a Parcel subject to the lottery is subdivided into multiple sub-Parcels, then all of the resulting sub-Parcels will maintain the same lottery position as the original Parcel. In the event a primary Crooked River water right is transferred off of a Parcel that is subject to the lottery, then the new "TO" lands will assume the same lottery position as the original "FROM" lands.
5. Eligibility. In order to receive newly available water, the Parcel owner must be current on assessments, incurred charges, and any other payments owed or payable to the District.
6. Practicability of Distribution May Alter Lottery Position. The District will not distribute water to any land otherwise eligible for allocation and distribution under the lottery in the event that the District reasonably determines that distribution would be impracticable or unreasonably expensive based on the particular conditions of the distribution, including but not limited to the location of the eligible Parcel, constraints of the water distribution infrastructure, etc. If the District determines that newly available water which would otherwise be distributed to an eligible Parcel cannot be distributed to such Parcel for the reasons set forth in this Paragraph 6, such eligible Parcel (or any portion thereof) shall retain its lottery position for subsequent allocations and distributions.
7. Additional Parcel Owner Responsibilities. The Parcel owner of land eligible for distribution is responsible for any added costs and fees associated with distribution of water under this Policy, including for example the costs and fees associated with necessary improvements to the District's distribution system, "proving up" the water right associated with the newly available Deschutes River water, etc. In addition, the Parcel owner must put the newly available Deschutes River water to full beneficial use within one year of the newly available water being made available.
8. Applicable Laws and Other District Policy. The District will follow applicable law and District Policies in carrying out this Policy.

Appeal Process

After the District provides notice of the lottery results to the Parcel owners entered in the lottery, any Parcel owner of such land may appeal the lottery results by submitting to the Board a request for appeal. All such requests must:

- be in writing;
- be submitted within two weeks following the date of the District’s notice;
- include the name, address, and telephone number of the Parcel owner appealing the lottery results and a concise statement of the reasons the Parcel owner believes the lottery results should be modified to comply with this Policy.

Upon receiving a properly submitted request, the Board shall consider the appeal at one of the next two regularly scheduled meetings. The District shall provide notice to the requesting Parcel owner of the date the appeal will be heard.

Grounds for Appeal: The Board shall limit its consideration to whether the lottery results comply with this Policy. The Parcel owner appealing the lottery results shall have an opportunity to address the Board concerning the appeal.

Decision by the Board: On appeal, the Board may make one of the following determinations:

- grant the appeal and reject the lottery results;
- modify the lottery results as proposed by the appealing water user; or
- reject the appeal and approve the lottery results as noticed.

Applicability

This Policy applies to all water becoming available to the District following the date of adoption described below.

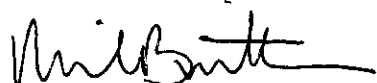
THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

ADOPTED BY THE BOARD OF DIRECTORS OF NORTH UNIT IRRIGATION DISTRICT AT A REGULAR MEETING HELD ON THE 15th DAY OF NOVEMBER 2011, BY THE FOLLOWING VOTES.

AYES: 5 NAYS: 0 ABSENT: 0


RICHARD MACY, Chairman

ATTEST:


MIKE BRITTON, Secretary-Manager