

# RULES AND REGULATIONS

## Governing the Distribution and Use of Water in the North Unit Irrigation District

Adopted by the Board of Directors on  
March 12, 2019

### 1. Mission, Intent, and Purpose.

a. Mission. The District's mission is to deliver irrigation water to District patrons by managing and maintaining the District's water delivery system in the most efficient and cost effective manner possible, consistent with applicable local, state, and federal laws and the District's organizational documents, bylaws, and rules and regulations.

b. Intent. The Board of Directors intends to carry out the District's business in a business-like, economical, and equitable manner. This requires the adoption of general rules and regulations that are consistent with applicable laws and the District's articles of organization and bylaws. Such rules and regulations will give District patrons and other interested parties a clear understanding of the rights and obligations of the District and District patrons.

c. Purpose. The primary purposes of the District are to manage the District's water rights and delivery of irrigation water within the District for the benefit of all District patrons and to provide a common system of infrastructure for the delivery of irrigation water to District patrons. The District holds the District's water rights in trust for the common benefit of District patrons.

### 2. Authority; Interpretation.

a. Authority. The District is an irrigation district organized under the Irrigation District Law, Oregon Revised Statutes Chapter 545. An irrigation district's board of directors must:

i. Manage and conduct the business and affairs of the district;

ii. Make and execute all necessary contracts, employ and appoint such agents, officers, and employees as may be required, and prescribe their duties;

iii. Establish equitable bylaws, rules, and regulations for the administration of the district and for the distribution and use of water among the landowners; and

iv. Generally perform all acts necessary to fully carry out the purposes of the Irrigation District Law.

The District's Board of Directors adopts these amended and superseding Rules and Regulations pursuant to this authority.

b. Interpretation. To the extent possible, the Board of Directors will interpret these Rules and Regulations in a manner consistent with applicable laws and the District's articles of organization and bylaws. If an irreconcilable conflict exists between these Rules and Regulations and applicable laws or the District's articles of organization or bylaws, the District will follow the controlling authority.

### **3. Management.**

a. General. All reservoirs, canals, laterals, pipelines, and other works of the District, including structures in or over such works, are under the general management of the Manager and the exclusive control of the District, except in those instances where the District has surrendered control to Reclamation or any other federal, state, or local governmental authority. No person has the right to interfere with said works of the District without express permission from the Manager and, in some instances, Reclamation.

b. Emergencies. The Manager is authorized to act in emergencies on matters within the authority of the Board of Directors but not covered by these Rules and Regulations. Such actions by the Manager are subject to the approval of the Board of Directors at the next meeting of the Board of Directors.

### **4. District Employees.**

a. The Manager has the authority to employ such personnel as may be necessary for the proper operation and maintenance of the District's water delivery system and the distribution of water.

b. Each Ditch Rider shall have charge of his or her respective division and shall be responsible to the Manager for carrying on the routine of water delivery and other related work.

c. Each District employee will aid District patrons to the extent within such employee's authority and will be courteous and respectful when receiving feedback, criticism, and suggestions.

d. District patrons will cooperate with District employees to ensure the effective and efficient operation of the District.

### **5. District Office.**

a. Location. The District's office is located at 2024 NW Beech Street, Madras, Oregon, 97741.

b. Hours. The District's office is open during the Irrigation Season from 8:00 am to 5:00 pm Monday through Friday and 8:00 am to 4:00 pm on Saturday.

Outside of the Irrigation Season, the District's office is open 8:00 am to 4:30 pm Monday through Friday, or as otherwise determined by the Board of Directors.

c. Contact Information. During the Irrigation Season, the Ditch Riders may be contacted through the District's office at (541) 475-3625 and (541) 475-3652 when the office is open. For after-hours emergencies, contact (541) 475-3625. This number will be forwarded to the District's emergency response person if your situation constitutes an emergency. For purposes of this Section, an emergency exists if property damage is occurring or imminent or the situation poses an imminent threat to public safety.

**6. Irrigation Season.** The Irrigation Season cannot begin before April 1 and cannot run beyond October 31 in any given year. The Board of Directors reserves the right to establish start and end dates for the Irrigation Season within the April 1 and October 31 time period. The Irrigation Season may be subject to change in relation to seasonal weather conditions and the available water supply. The Board of Directors may shorten or lengthen the Irrigation Season within those parameters as established by the District's water rights or as required by law.

**7. Water Distribution.**

a. Water will be apportioned to each division of the water delivery system by the Watermaster under the direction of the Manager, and the Ditch Rider will be responsible for the economy of the water distribution. The Ditch Riders will also be responsible for the operation of the canal and lateral structures in their respective divisions, including the diversion of water through headgates to private ponds, pumps, and ditches.

b. All water deliveries are subject to the availability of water. In the event canals or laterals become loaded to capacity, water will be delivered on a "Demand Rotation System," where orders will be filled according to water order date and length of time from the last irrigation.

c. Delivered water, whether it is metered or not, shall be measured once a day and charged on a 24 hour basis.

d. Each point of delivery (headgate) has a headgate number. Water orders must include the headgate number. District patrons can obtain headgate numbers from their Ditch Rider or by contacting the District office.

**8. Allocations; Shortage of Water.**

a. Allotment. At the beginning of each Irrigation Season the Board of Directors will set an allotment of water for District patrons. In case of a water shortage, all water deliveries will be allotted on the basis of the available water supply, acreage under irrigation, and other relevant factors. Allotments are subject to change based on availability of water.

b. Assignment of Allotment. When an allotment is set, and a District patron has used all of their allotment, the patron will not receive any additional water unless the

patron finds another patron that has an unused allotment. A signed "Assignment of Allotted Water" form must be on file in the District office before the assignment of any allotment will be recognized by the District. Signatures are required from both parties.

c. Unauthorized Use of Water. Any person who knowingly takes water without the knowledge or permission of the District may forfeit their right to water at their next regular irrigation. Such person shall also be subject to the applicable laws regarding unauthorized appropriation of water.

**9. Quantity of Water.** The unit of measure will be cubic feet per second. The maximum amount deliverable will be 2.0 acre-feet per acre, per season, as specified by the Repayment Contract with the United States for Deschutes River lands, and 1.0 acre-feet per acre, per season for Crooked River lands. Any water delivered above this amount shall be classified as excess water and extra charges will be made.

**10. Wasting Water; Disposition of Waste Water.**

a. Wasting Water Prohibited. Water must not be wasted. Careless and wasteful use of water by a patron or other water user will be sufficient grounds for the District to reduce the size of the water delivery to an amount that can be used beneficially. If after reduction of the water delivery amount, the patron or water user is still careless and wasteful, the water will be shut off from such patron or water user until they prepare to make better use of such water, to the District's satisfaction.

b. Management of Waste Water. Every District patron and water user shall be responsible for runoff from their property and/or use of water, and all damages caused by their intentional, negligent, or careless acts. Patrons and water users wasting water on roads or vacant land either willfully, carelessly, or because of defective ditches, poorly prepared land, poorly maintained sprinkler systems, or who flood certain portions of land to an unreasonable depth to properly irrigate other portions, 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. Under no circumstances shall waste water or overflow from ponds be returned into the District's water delivery system without prior written approval. District patrons and water users will dispose of such waste water only pursuant to a plan submitted to and approved by the District in writing.

**11. Water Orders.**

a. Placing Orders. Water orders will not be taken more than a day in advance unless it is a 24 hour order, which must be stated at the time of the order. Water will be delivered until an order is placed to shut off the delivery. Only the patron, or such other person designated in writing by the patron, can place a water order. The water order must include the name of the person placing the order, the applicable headgate number, the date on which the change is to occur, and the amount of water to be turned on, off, or changed.

i. Rides Above Haystack (South of Haystack). Water orders for a turn on, off, or change may be placed with the Ditch Rider from 6:30 am to 7:30

am for the same day or by calling the office before 5:00 pm the day before the needed request.

ii. Rides Below Haystack (North of Haystack). Water orders for a turn on, off, or change must be called into the District office the day before the needed change by 5:00 pm. Water orders cannot be placed for the same day.

b. Contacting Ditch Riders. Ditch Riders are on call 24 hours a day, 7 days a week during the Irrigation Season for emergencies. Ditch Riders work Monday through Saturday regardless of holidays during the Irrigation Season. Unless there is an actual emergency, District patrons should not contact Ditch Riders after 5:00 pm or before 6:30 am Monday through Saturday. No water changes are made on Sundays.

c. Delivery Delays. Water deliveries may be delayed due to such natural causes as high wind blowing trash and weeds into the canal and laterals, as well as leaks, erosion, vandalism, and general maintenance. The District will make reasonable efforts to ensure a continuous supply of water to District patrons, but the District does not guarantee uninterrupted flow.

d. Point of Delivery. Ditch Riders are responsible for the operation of the canal and lateral structures in their respective divisions, including the diversion of water through headgates, weirs, and meters to private pumps, ditches, and ponds. The District's responsibility for water ordered by patron stops at the Point of Delivery, at which point the patron becomes responsible for the water.

## **12. Duties of Patrons/Water Users.**

a. Continuous Use. It shall be the duty of all patrons/water users to use ordered water continuously night and day, Sundays, and holidays until that particular irrigation is completed or authorized under a valid water order. Patrons/water users who fail to use ordered water or who turn water back into the District's water delivery system at night or on Sundays or holidays will be considered to have used the water during such period and will be charged the full usage amount, regardless of whether the water is subsequently used by another person.

b. Unauthorized Shutoff. Any patron/water user who shuts off their water without a valid water order shall be liable to downstream patrons and property owners for all damages they may sustain by reason of the increased flow of water upon their lands.

c. Discharges to District System. No patron/water user shall discharge water, including live flow and waste water, into the District's water delivery system without prior written approval. A request to discharge water into the District's water delivery system must be made in writing to the Board of Directors. Any water being returned to the District's water delivery system shall not exceed or impair water quality standards as defined by local, state, or federal law, and no discharge into the District's water delivery system shall be allowed if it would cause the District to violate any applicable law.

### **13. Non-Liability of District.**

a. The District will not be liable for any damages resulting directly or indirectly from (i) any unauthorized use of water or the District's water delivery system or property, (ii) trespassing on District property or facilities, or (iii) use of any private ditch or the water flowing therein. The District assumes no liability for any damages resulting directly or indirectly from water that passes beyond the Point of Delivery.

b. Water delivered by the District flows through many miles of open canals and may be subject to windblown trash and debris, pollution, shortages, fluctuation in flow, interruption in service, and evaporation and seepage. The District does not warranty or otherwise guarantee to patrons an uninterrupted supply of water or the delivery of water of a particular quality. District patrons shall bear the risk of interruptions in water supply or damages related to or arising from the quality of water delivered by the District.

c. Given the nature of the District's water delivery system, ordinary and natural seepage is reasonably expected to occur along certain reaches of the system due to the natural characteristics of the system and adjacent lands and as a result of the District's normal operation of its system. Any damaged property, equipment, or crops resulting from seepage shall be borne by District patrons. The District may assist a patron to eliminate or minimize seepage related issues; however, the District will not pay for piping or laying of any seepage collecting or drain off systems. The District may assume the cost for digging and backfilling as related to seepage remediation.

d. District patrons shall under no circumstances locate any septic tanks, drain fields, or other facilities (such as feed lots) for disposal of sewage or waste water either at or on the right-of-ways of the District or in such a manner as to risk contamination of the water in District's water delivery system. Such facilities must be constructed and located according to all applicable laws.

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

f. Damages resulting from Acts of God (e.g., storm water), whether directly or indirectly, are not the responsibility of the District, as the District has no control over these events. Any assistance rendered during such Acts of God by the District are simply a courtesy to the public and does not suggest or indicate any assumption of current or future responsibility.

**14. Point of Delivery.** Any owner, developer, or seller of any tract or tracts of land lying within the District and subject to these Rules and Regulations who is subdividing a tract or tracts of land currently subject to the District's charges and assessments will be held responsible for providing the necessary easements and delivery system from the original Point of Delivery for said tract to each of the subdivided tracts and notifying the District of these changes prior to delivery. If the developer chooses not to provide irrigation to all the tracts of land, then the water

rights must be removed from the property prior to the property being divided, as explained in Section 28 below.

**15. Multiple Use Weirs.** The division of a single tract of land into multiple tracts may result in more than one District patron/water user taking delivery of water at the same weir. Patrons/water users sharing a single weir must coordinate their water orders to avoid disputes. To avoid such disputes, patrons/water users sharing a single weir may, at their own cost, install additional measuring devices to separate each patron's/water user's use.

**16. Bunching.** To provide an economical usage of water, combining or "bunching" the minimum acre feet on property either owned or leased by a single patron/water user is allowed. Bunching is not allowed if land is not owned or leased for the entire Irrigation Season or if land has already received water during the Irrigation season.

**17. Pumping Systems; Gravity Pressure Systems; Gravity Systems.**

a. All patrons/water users using pumps to lift water from the District's water delivery system and those using gravity pressure systems or regular gravity systems will be subject to these Rules and Regulations in the same manner. The District must approve all pump installations and there must be a lockable control gate valve in the delivery line. This requirement will apply to old as well as new installations. All such installations shall be placed in such a manner that no checking (raising the water elevation) of the District's water delivery system will be required to deliver water to the patron/water user.

b. Use of the District's water delivery system is done at the patron's/water user's risk and the District assumes no liability for damages to pumping equipment or other damages as a result of turbulent water, fluctuation in flow, or other causes. The District recommends that patrons/water users who irrigate with pumps install an automatic shut off or low pressure valve on the pump. This might prevent an irrigation pump from damage if the water supply fluctuates.

**18. Pipelines.** All pipeline installations must be approved by the Board of Directors. The Board of Directors, in its discretion, may require obligation and liability forms to be completed prior to the start of construction. The District may assist with the installation of a pipeline within certain limits based on the benefits of the pipeline to the District.

**19. Control of District Water Delivery System.**

a. Only District employees will be allowed to operate headgates, turnouts, valves, or other control devices or to adjust or place checkboards in checks, except as provided in this Section. The District, in its discretion, may lock any or all headgates, turnouts, spillways, or other control devices. Any person who, in any way, interferes with the setting or adjustment of such headgates, turnouts, valves, or checks shall be held strictly liable for any damage resulting therefrom and may be subject to fines and imprisonment under applicable laws. The Ditch Rider may, with the consent of the District, grant permission under certain conditions to a patron/water user to shut off or turn on water or to adjust checks in order to better regulate water delivery and conserve water.

b. The District may require a patron to install and maintain a lockable and controllable headgate or other water control device at the Point of Delivery to the patron's property or to install a measuring device at the Point of Delivery as necessary to assist the District in determining the amount of water delivered. When practicable, water control and measuring devices will be constructed on property for which the District holds existing easements.

c. Except when an emergency requires the immediate installation of a water control device to avoid loss of water, the District will notify a patron in writing that the patron is required to install a water control or measuring device. Within 14 days after delivery of the notice, the patron can file a written objection and request a hearing before the Board of Directors. After the hearing, the District shall affirm, amend, or rescind its order to the patron. The decision of the District is final.

**20. Issue Resolution.** If a patron/water user is experiencing an issue that they need help to resolve, the patron/water user should first contact the District office. The issue will be referred to the Ditch Rider or appropriate personnel. If the Ditch Rider does not satisfactorily resolve the issue, the patron/water user should contact the District office and ask to speak to the District Watermaster or Assistant Manager. In the event the District Watermaster or Assistant Manager and patron/water user are not able to resolve the issue, the issue will elevate to the Manager. Should the issue not be resolved by the Manager, the issue will be placed on the next regular meeting agenda of the Board of Directors if requested by the patron/water user.

**21. Protection of Water Quality and District Water Delivery System.**

a. Protection of Water Quality. No person shall discharge or otherwise release anything into the District's water delivery system or place any substance or material such that it could roll, slide, flow, or be washed or blown into such system. Patrons who own property underlying the District's water delivery system shall keep the rights-of-way along such system open and free of all obstructions (e.g., trees, vegetation, and structures). District employees shall promptly report any violation of this rule, and all patrons are urged to cooperate with enforcement of this rule.

b. Protection of District Water Delivery System. Every District patron and water user shall use due care to avoid damage to the District's water delivery system. The patrons and/or water users shall be liable for any damage, intentional or negligent, including damage from livestock under their possession or control, to any facility or property belonging to or being operated by the District. If such damages occur, the District may charge the patron and/or water user for such damages.

Any person who, in any way, willfully interferes with the setting or adjustment of headgates, turnouts, valves, or checks shall be held strictly liable for any damages resulting therefrom and may be subject to fines and imprisonment under applicable laws.

No new bridges, fences, fence crossings, stock gates, pipes or utility crossings, trees, vegetation, or other obstruction or facilities either above ground or subterranean



may be introduced or constructed crossing or otherwise blocking or impairing the District's property or rights-of-way, including canal banks, unless:

i. The same shall have been provided for in written rights-of-way, easements, or crossing agreements; or

ii. The party proposing to introduce such has executed a written Right of Use Application with Reclamation and paid the applicable fees. Any such construction, planting, etc. is subject to the District and Reclamation's specifications for construction and maintenance. Such structures, plantings, etc. must be built and maintained to the District and Reclamation's satisfaction. A patron may obtain the Right of Use Application by contacting the District office or from the District's website. The District shall have the right to remove all trees and vegetation, fences, bridges, stock gates, pipes, utility crossings, or other obstructions, or to fill in ditches constructed contrary to these provisions without liability.

**22. Trespass Upon Lands.** The real property underlying the District's water delivery system is often owned by private parties. The District regularly receives requests for permission to allow people to walk, hike, ride, etc. along the water delivery system. The District generally lacks authority under its use authorizations (e.g., easements) to grant third-parties permission to use the lands along the District's water delivery system. Such permission generally must be obtained from the owner of the underlying property.

**23. Access to Lands and Ditches.** The District shall have the right to access private ditches used to convey District water, lands being irrigated using District water, and lands on which the District's water delivery system is located or water flows, for the purpose of determining whether the ditches are in satisfactory condition to handle water and for repair and maintenance or other legitimate District purposes or interests.

**24. Stock, Spray, Dust and Frost Control Water.** The District has no obligation to deliver water through its system for stock water, spray application, dust control, or frost control. The District may, in its discretion, deliver water during the Irrigation Season for such purposes, provided such use is authorized under the District's water rights.

**25. Ponds for Irrigation Purposes.** No patron may install a pond to store water delivered by the District, unless the patron first contacts the Department and provides satisfactory documentation to the District that installation of such pond is authorized under applicable laws. The use of the pond must be for irrigation purposes only. A pond used for aesthetics or maintained at full capacity at all times is not considered a beneficial use of the water. The District lacks authority to allow a private pond to store or carryover water from one year to the next. Authorization for such storage or carryover must be obtained from the Department. The District will not be liable for any damages relating to or arising out of the installation of a private pond or the storage or water in such pond.

**26. Responsibility for Water Delivery; Maintenance of Private Ditches/Pipelines.**

- a. The District's responsibility for water delivery ends at the Point of Delivery. At that point, the responsibility passes to the patrons and/or water users who receive water downstream from the Point of Delivery.
- b. The District does not assume any responsibility to control insects, water borne or otherwise, as part of its delivery of water.
- c. Many small acreages have received their allotment as a portion of a larger water delivery made to a larger tract that was subdivided at some point in the past. In such cases, the patron may be some distance from the Point of Delivery. The patrons along the private ditches/pipelines beyond such Point of Delivery have both a right and a responsibility to work with their neighbors to maintain these private delivery systems. If issues arise, the District may be able to facilitate conversations among the various patrons, but the responsibility ultimately lies with the patrons along that ditch.
- d. Any person who sells, contracts to sell, leases, or purchases any part of an existing piece of land shall not look to the District to provide right-of-ways, water transmission facilities, or delivery measurement. All costs will be the responsibility of the landowner regardless of whether the property is to be irrigated from the District's water delivery system.

**27. Private Ditches and Stream Diversions.**

- a. All water gates on private ditches shall be subject to District access and inspection when used by more than one water user. The owners of such systems must provide suitable locking devices on all private gates and checks and allow access to the District. However, the District will not construct, maintain, or control private delivery systems. Responsibility for such construction, maintenance, and control, and liability for damages resulting from the operation of such systems, rest solely with the users served by such systems.
- b. Private delivery systems served by the District must be in good condition so as to prevent loss of water and permit regular flow.
- c. The District is not responsible for inspecting private delivery systems. If the District learns that a private delivery system is not adequately prepared or maintained so as to prevent loss of water and permit regular flow, the District will take one of the following actions:
  - i. Stop water deliveries to the system; or
  - ii. In the sole discretion of the Board of Directors, construct, repair, or maintain such system, with all costs levied and collected against the lands benefited by the improvements.

d. When more than one water user is on a private ditch, each water user shall provide their own diversion facilities at their high point and provide their own distribution system.

e. Each user of a private lateral is responsible to patrol the lateral from their point of diversion to the main lateral as necessary to remove obstructions and stop all leakage while irrigating.

f. Patrons and water users who lift or divert the District's water supply from natural stream courses or depressions do so at their own risk and must comply with all applicable laws.

## **28. Partitions and Subdivisions.**

a. Anyone partitioning/subdividing a tract or tracts of lands lying wholly or in part within the boundaries of the District and that is subject to the District's charges and assessments or anyone making changes to a subdivision which is on a tract or tracts of land that is subject to the District's charges and assessments is responsible for:

i. Notifying the District of the proposed changes and obtaining District approval of the design for the delivery system before making any changes to a subdivided tract;

ii. The delivery of the District's water to any subdivided portion of the original tract or tracts; and

iii. Providing the necessary easements and delivery system from the original Point of Delivery for said tract to each of the portions of the subdivided tract and inside the subdivision as needed.

b. If the developer intends to supply water to the partition/subdivision exclusively through a municipal system, the developer shall notify the District of their intention and cooperate with the District to transfer all District water rights off the property to be subdivided before beginning any construction on the property.

c. Before making any changes to a subdivided tract that may affect the District's water delivery system or other District property, the developer must obtain the authorization of the Board of Directors. This includes the relocation, construction, or reconstruction of any portion of the District's water delivery system or of any road or crossing of any ditch, lateral, canal, easement, or right-of-way owned or controlled by the District or Reclamation. The developer shall provide to the District a partition/subdivision plat showing all existing easements, rights-of-way, and facilities; all proposed easements, rights-of-way, and facilities; and any roads or crossings, new or existing, which cross any of the District's ditches, laterals, canals, easements, or rights-of-way. The information must be submitted with the fee set forth in the District's fee schedule. In addition to the applicable fees, the developer shall be solely responsible for all costs related to the relocation, construction, reconstruction, or crossing of the

District's water delivery system or other District property, including necessary attorney fees incurred for the negotiation or review of any documents or agreements.

d. The developer shall develop the partitioned/subdivided property in such a manner as not to adversely affect the District's water delivery system, other District property, or any downstream patron or water user's rights. In approving any proposed change in facilities or operations, the District will preserve access to delivery points for all irrigable lands. The design for the delivery system must comply with the District's specifications and requirements. The District may require relocated facilities to be placed underground at the District's discretion and require the installation of fences along District facilities.

e. Any person who sells, contracts to sell, leases, purchases, or contracts to purchase any part of a partitioned/subdivided tract, shall not look to the District to provide rights-of-way, water transmission facilities, or maintenance of said facilities from the original Point of Delivery of the original undivided tract. All private delivery systems from the original Point of Delivery are the sole responsibility of either the developer or the individual land owners. The District's obligation to deliver water shall cease at the Point(s) of Delivery as shown on the developer's plat as finally approved by the District and filed in the District's office.

f. Further guidelines and requirements for Partitions and Subdivisions can be found in District Ordinances.

## **29. Rights of Way.**

a. Portion of the District's water delivery system are located within rights-of-way held by Reclamation. These rights-of-way provide the District sufficient rights to operate, maintain, and repair the District's water delivery system. All patrons, water users, and the general public are prohibited from encroaching in any manner upon these right-of-ways. These right-of-ways are not public thoroughfares, and the public lacks any right to use of the District's water delivery system and other property.

b. No bridge, fence, fence crossing, stock gate, pipe crossing, cattle guard, or other infringement upon District property or a Reclamation right-of-way shall be constructed without prior written approval from the Board of Directors and Reclamation, as required. Contact the District office well in advance of construction so that necessary paperwork and fees can be submitted and necessary approvals obtained.

## **30. Apportionment of Water to Parcels of Land.**

a. Whenever a parcel of land lying within the District is subdivided into parcels of five acres or less, the owners of those parcels shall be responsible for apportioning water among those parcels. If the owners fail to properly apportion the water to the various parcels in the subdivision, the District may employ a competent person to distribute and apportion water for such parcels.

b. The reasonable cost of such services shall be apportioned and charged by the District as a special charge against the subdivided parcels. The special charges so levied and apportioned shall be a lien upon the subdivided parcels of land and shall be collected in the same manner as all other charges are levied and collected by the District.

**31. Wading or Swimming in Canals.** No person shall wade, swim, or bathe in the canals, laterals, pipelines, or works of the District. All District patrons and water users are asked to notify the District office if they observe any person wading, swimming, or bathing in District facilities.

**32. Water Related Charges and Assessments.**

a. Water charges are established annually by the Board of Directors based upon the budgeted cost of operating the District, as provided under ORS 545.482 to 545.508. Land owned by a person constituting a fractional portion of an acre will be rounded to the next higher whole acre.

b. All charges must be paid each year whether or not the water is used or available, without exception.

c. Deschutes water rights are subject to the payment of Operation & Maintenance (O & M) assessments and the construction assessments (these funds are used to make Reclamation repayment contract payment for the District's share of the cost of building this project), as well as a bond assessment (these funds are used to repay a bond for lining the main canal for water conservation). The Deschutes water rights are also assessed a charge to pay Reclamation for the Safety of Dams project at Wickiup Dam/Reservoir. Crooked River water rights are subject to and pay for the O & M assessments and construction assessment. All landowners are charged an account charge for each account owned.

d. All billings on Deschutes and Crooked River water right lands will be mailed on or about December 1 with a due date of December 31. All charges become delinquent after April 15 and interest will accrue at the rate of 1 1/3% per month on any delinquent accounts.

e. Payment of the O & M assessment on the Deschutes water right land entitles a patron to 2.0 acre feet of water per acre if available. If more than 2.0 acre feet per acre is used, this extra water is charged as excess water. Payment of the O & M assessment on Crooked River water right land entitles a patron to 1.0 acre foot of water per acre if available. If more than 1.0 acre foot per acre is used, this extra water will be charged as excess water. A billing for the excess water used will be sent to the patron on or about November 1 with a delinquency date of April 15 each year.

f. No water will be delivered to any land until the charges and assessments on such land, any excess water charges, and any past due accounts are paid in full and, if required, a new RRA form (see Section 39 below) completed and on file in the District office.

g. It is the water user's responsibility to notify the District office of any mailing address changes as they occur.

h. Patrons are responsible for payment of the charges and assessments. If land is sold, the responsibility for payment of charges and assessments shifts to the new owner. It is the responsibility of the previous owner or his agent to notify the new owner of this responsibility and to notify the District when such a change takes place. To keep the District records up to date, if a landowner in the District sells any or all of their property, the landowner is responsible for notifying the District office of these changes. A recorded copy of the deed, legal description, the amount of acreage involved, and the name and address of those persons who have purchased land are required. Submitting this information to the District at the time the change takes place will help in preventing problems and misunderstandings going forward.

**33. Leasing/Renting of Irrigated Lands.** When land is leased/rented to and/or operated by someone other than the patron, it is the responsibility of the patron to notify the District of this arrangement. The operator's name and their assessment responsibilities are required for record keeping and billing. If the operator has been given the option to pay the charges and assessments and fails to do so, the patron remain liable to the District for payment of the charges and assessments.

**34. Equipment Rental.**

a. At the District's discretion, and as time allows, the District may make available to any patron of the District, at the current rental rates, any equipment, including an operator, that is required for the normal operation of an irrigation district. Operation of District equipment through the equipment rental program can be performed only by qualified District personnel trained in the use of the equipment being rented. The qualified equipment operator is inclusive of the hourly rental rate. The equipment must be used by District patrons only for improvement of water distribution systems and only at the convenience of the District and with the understanding that the District is without liability in connection with such use and is fully indemnified therefrom by the patron. The District will only allow the use of equipment within the District boundaries.

b. Any debts outstanding for labor, material, or equipment used to perform work at the request of a patron must be paid thirty (30) days after billing. Interest on past due amounts accrues at a rate of 1 1/3% per month from the date the bill was due. The District shall have the right to withhold delivery of water until such indebtedness is paid in full.

**35. Liens and Foreclosures.**

a. If water charges are not paid when due, the District shall place a lien upon the subject property in the total amount of the unpaid water charges, interest, and penalties pursuant to ORS 545.494.

b. A lien on the property may be filed any time after a charge becomes past due in the total amount of the unpaid water charges, interest, penalties, and lien and

collection costs and fees, including attorney fees. Such lien may be filed on lands that received the benefit of the water or were entitled to receive the benefit of the water.

c. Any time after filing a notice of claim of lien and after the delinquency date fixed by the Board of Directors, the Board of Directors may, by resolution, direct that all delinquent charges be foreclosed upon by the District. The Board of Directors has set the foreclosure date as three years from the first non-payment of charges (at the latest), to allow the District time to transfer the water rights before they are lost due to non-use.

**36. Unlawful Acts; Civil Actions.** The District may bring a civil action for damages against any person who knowingly and willfully commits the unauthorized use of water or tampers with the District's water delivery system or any District property. Pursuant to ORS 30.184, the District may recover from the defendant the amount of actual damages incurred, plus punitive damages. The District may also recover the cost of the suit, reasonable attorney fees, and expert witness fees. These remedies are in addition to, and not in lieu of, any and all other remedies, civil and criminal, provided by law. Unlawful acts include without limitation, the following:

a. Discarding any glass, cans or other trash, rubbish, debris, or litter on land within 100 yards of any waters of the state, as defined under state law, other than in receptacles provided for the purpose of holding such trash, rubbish, debris or litter;

b. Any person, including a person in the possession or control of any land, discarding any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious, or offensive substance into or in any other manner befoul, polluting, or impairing the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern, or pond of water; or

c. Intentionally damaging or destroying property of the District directly or by intentionally interfering with, obstructing, or altering in any manner, the service of the District, or intentionally using, manipulating, arranging or rearranging the property of the District.

**37. Transfer of Water Rights.**

a. A patron seeking to transfer water rights within the District must comply with the District's Transfer Procedure. The purchasing and selling of water rights and the amount of money being paid for water rights is a private matter between the water right seller and buyer. All water rights being transferred must be inside the boundary of the District and must be able to be served from the District's existing water delivery system.

b. Once an agreement has been reached between the seller and the buyer, they each need to file the proper paperwork as outlined in the District's Transfer Policy and pay the applicable fee, which is non-refundable. The transfer is then submitted to the Board of Directors of the District for preliminary review.

c. The Board of Directors will review each transfer request on a case-by-case basis, and approval will be contingent on obtaining any necessary approvals from the Department and Reclamation. All requests for water rights that are received go into the existing request file (waiting list). When the District receives a request for transfer of water rights which must include payment of all applicable deposits and fees, it will perform a preliminary review to determine if the request is feasible. Contact the District office for the current fee schedule. The Board reserves the right to deny any application for transfer of water rights. All decisions by the Board of Directors are final and non-appealable.

### **38. Beneficial Use of Water Right; Forfeiture.**

a. Oregon law requires that, in order to maintain a water right, water must be beneficially used, at least once in every five year period, on each acre of irrigable land with an appurtenant water right. If lands to which a water right is appurtenant are not irrigated during such five-year period, a presumption of forfeiture arises and the Department has authority to initiate a proceeding to cancel the water right.

b. Patrons who no longer intend to use their water rights due to subdivisions or other land use changes must notify the District of such non-use so that the District may petition to transfer the water right to other irrigable land within the District, as authorized by the Irrigation District Law. If patron were to forfeit any water right, rather than notifying the District so that the District can transfer the water to other irrigable land, the water delivery to all District water users within the District would be injured.

c. If a patron or other water user has not made beneficial use of the water to which the patron or water user is entitled for a period of three consecutive years, the District may advise the patron and/or water user and any security interest holder of record that, if the patron and/or water user does not use the water for a fourth consecutive year, the District may petition the Department for a transfer of the water right, as authorized by the Irrigation District Law.

d. No patron or other water user within the District shall execute an affidavit of non-use or voluntary cancellation without District approval.

e. If a patron is unable or unwilling to beneficially use an appurtenant water right, there are alternatives available to avoid a presumption of forfeiture. For more information please contact the District office.

f. When water rights are lost on Deschutes acres, the owner of the lands to which those rights were appurtenant remains liable for the construction cost to Reclamation in compliance the District's repayment contract.

### **39. Reclamation Reform Act of 1982 (RRA).**

a. Because federal funds were used to finance the construction of certain District facilities, the RRA applies to District patrons. The District amended its contract with Reclamation on January 3, 1984, electing the new 960 acreage limitation law.



Under the acreage limitation, if a patron purchases more than 960 acres, the acres over 960 become excess lands and are ineligible to receive water.

b. The RRA requires that anyone who owns and/or leases 240 acres or more in an irrigation district (within the 17 Western States) under contract with Reclamation submit yearly certification of landholding forms before water delivery. This requirement applies to individuals, married couples and their dependents, legal entities (partnerships, corporations, trusts, estates, joint tenancies, tenancies-in-common, etc.), religious or charitable organizations, and public entities. This means that even if a person owns and/or leases less than 240 acres in the District but also owns and/or leases in another Federal Reclamation project with total acres adding up to 240 or more, the person must submit a certification form. The exception to this is for a public entity that needs to report if they own and/or lease 40 acres or more. If a patron's ownership or leasing arrangements change during the irrigation season, a new certification form is required.

c. For patrons who own and/or lease more than 960 acres, the acreage over 960 is considered full-cost land. This land is subject to a full-cost rate that is payable to Reclamation on yearly basis. The full-cost rate varies by district. The District's full-cost rate is \$8.31 per acre, minus the yearly rate for the construction repayment charge.

d. Reclamation prohibits ineligible land, whether it be ineligible because of excess status or ineligible because of failure to meet the reporting/certification requirements, from receiving water from the District until the requirements of the law have been met.

**40. Crop Reports.** At the close of each Irrigation Season, the District will obtain from each patron who owns five or more acres a crop census report covering the number of acres and production of each variety of crops grown.

**41. Public Records Request Policy.** The District will respond to public records requests as set forth in its Public Records Request Policy.

**42. Document Retention and Destruction Policy.** The District will manage document retention and destruction in accordance with its Document Retention and Destruction Policy.

**43. Meetings.**

a. The District is subject to Oregon's Public Meeting Law. Subject to some exceptions, the Board of Directors will allow public testimony or comment on any action item after receiving a specific request in writing submitted to the Manager at least ten days prior to the board meeting.

b. The Board of Directors shall meet on the second Tuesday in January following their election. At that meeting, the Board of Directors shall elect officers, establish the time for the monthly board meetings, and establish the date for the annual District meeting.

c. The Board of Directors regularly meets at the District office on the second Tuesday of each month at 7:00 p.m. during Irrigation Season and 8:30 a.m. during non-Irrigation Season, except when required by state law to meet on any other specified day, or from time to time, as agreed to by a quorum of the Board of Directors. Any person wishing to have a matter placed on the agenda must submit a request in writing to the Manager at least ten days prior to the next scheduled Board of Directors meeting.

d. Notice of all meetings of the Board of Directors shall be provided. The District publishes notice of the regular board meetings in the Madras Pioneer prior to each meeting. The notice sent to the newspaper includes the time and place of the meeting. For regular meetings, the notice shall be in the form of an agenda, which shall be sent to all members of the Board of Directors.

#### **44. General Board Member Election Information.**

a. Due to the fact that Board of Directors terms are staggered, there will be an election held the second Tuesday in November each year for the purpose of filling the positions being vacated the beginning of the next year. The only reason for an election not being held would be because there is only one candidate running for the position. The person who receives the highest number of votes at any election shall be elected and hold office for a term of three years from the first Tuesday in January next following the election and until a successor is elected and qualified. Additional requirements regarding electors and elections are described in the bylaws.

b. Any patron interested in running for a position on the Board of Directors should contact the District office.

c. The District does not allow any write-in candidates or voting by proxy.

**45. Rules and Regulations Effective.** These Rules and Regulations shall be in effect on and after MARCH 12, 2019. Upon the effective date, all existing District Rules and Regulations, including those adopted March 5, 1985, will be superseded by these Rules and Regulations. These Rules and Regulations are subject to change by the Board of Directors at a regular meeting.

The foregoing Rules and Regulations were adopted by Resolution of the Board of Directors of the NORTH UNIT IRRIGATION DISTRICT on the 12 day of MARCH, 2019, in regular session.

Richard Macy, President  
Martin Richards, Vice President  
Phil Fine, Director  
Vern Bare, Director  
Mike Kirsch, Director

## GLOSSARY

**Acre:** An acre of land is 43,560 square feet.

**Acre foot:** The volume necessary to cover 1 acre of land to a depth of 1 foot.

**Board of Directors:** The elected board of directors of the District.

**Business Day:** Means a day other than Saturday, Sunday or a legal holiday and on which at least one paid employee of the District is scheduled to and does work.

**Cubic foot per second (cfs):** A continuous flow amounting to 1 cubic foot passing a particular point each second.

**Check:** A structure that impedes flow for the diversion of another ditch.

**Department:** Oregon Water Resources Department.

**District:** North Unit Irrigation District.

**Ditch Rider:** a person who patrols and inspects irrigation systems and distributes water to farmers.

**Diversion Box:** A box, usually concrete, that allows for an accurate water measurement into one or more deliveries.

**Gallon:** A gallon is 231 cubic inches.

**Gallon per minute (gpm):** A continuous flow amounting to 1 gallon passing a point each minute.

**Gate:** A control structure that provides measured amounts of water into a ditch or delivery system.

**Head:** The depth of the water above the weir crest measured at a distance from the weir notch so as to be unaffected by the curve of the water surface as the water flows over the weir. In the submerged orifice, the head is the difference in elevation between the water surfaces above and below the orifice.

**Irrigation Season:** The irrigation season established by the Board of Directors under Section 6 above.

**Manager:** The manager of the District, as appointed by the Board of Directors.

**Patron:** The owner of property subject to the District's charges and assessments.

Point of Delivery: Location at which the District transfers control of delivered water to the irrigator or group of irrigators.

Public Record: As defined under ORS 192.410, as amended from time to time.<sup>1</sup>

Public Records Law: ORS 192.410 to 192.505, as amended from time to time.

Public Records Policy: The policy set forth in Section 41 above.

Public Records Official: The office manager for the District.

Reclamation: The United State Bureau of Reclamation.

Writing: As defined under ORS 192.410, as amended from time to time.<sup>2</sup>

---

<sup>1</sup> As of the effective date of these Rules and Regulations, “public record” includes “any writing that contains information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.”

<sup>2</sup> As of the effective date of these Rules and Regulations, “writing” means “handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.”

## **FEE SCHEDULE**

1. **Partition/Subdivision Review Fees.** The fees associated with partitions and subdivisions are provided by ordinance.
2. **Transfer Fees.** The fees associated with transfers are provided under the District's Transfer Procedure.
3. **Public Records Fees.** Fees associated with public records requests are those described in the District's Public Records Request Policy.

North Unit Irrigation District  
Jefferson County, Oregon

RESOLUTION No. 2019-05

RESOLUTION ADOPTING THE RULES AND REGULATIONS

WHEREAS, The Board of Directors intends to carry out the District's business in a business-like, economical, and equitable manner. This requires the adoption of general rules and regulations that are consistent with applicable laws and the District's articles of organization and bylaws. Such rules and regulations will give District patrons and other interested parties a clear understanding of the rights and obligations of the District and District patrons.

WHEREAS, The primary purposes of the District are to manage the District's water rights and delivery of irrigation water within the District for the benefit of all District patrons and to provide a common system of infrastructure for the delivery of irrigation water to District patrons. The District holds the District's water rights in trust for the common benefit of District patrons.

BE IT RESOLVED:

That the North Unit Irrigation District Board of Directors hereby adopts the Rules and Regulations governing the distribution and use of water in the North Unit Irrigation District.

EFFECTIVE DATE:

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY UPON ADOPTION BY THE BOARD OF DIRECTORS.

ADOPTED BY THE BOARD OF DIRECTORS AT A REGULAR MEETING HELD ON THE 12<sup>th</sup> DAY OF MARCH 2019, BY THE FOLLOWING VOTES.

AYES: 5  
NAYS: 0  
ABSENT: 0

  
MARTIN RICHARDS  
Chair

ATTEST:  
  
MICHAEL BRITTON  
Secretary-Manager