

NORTH YUBA WATER
DISTRICT

IRRIGATION POLICY

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DEFINITIONS

All of the following terms are specifically defined as used in this Policy as follows:

Applicant: Any landowner, lessee, or resident of property qualified to receive irrigation water per this Policy.

Application: District-approved application seeking to receive Water Service from the District.

Beneficial Use: After receipt of an approved application from District, the use of District Water provided to a Parcel or Premise. All irrigation water shall be put to beneficial use. “Beneficial use” as defined in this Policy, is the production of a crop or livestock for sale or barter, vegetable gardens of adequate size for family consumption, the irrigation of farm crops, orchards, pastures, gardens, and similar agricultural applications. This Policy does not include fire protection or using irrigation water as drinking water as beneficial uses for irrigation water.

Board: A quorum of the elected North Yuba Water District Board of Directors.

Charge: Includes all rates, fees, penalties, and services rendered by District, including, but not limited to, Water Service, monitoring, maintenance, repair, and labor and material costs (determination based on the actual amount of labor, equipment, and materials District personnel used to perform a specified task, including applicable overhead factors).

Customer: Any person or entity that has contracted with the District to receive irrigation water.

District: The North Yuba Water District and any person authorized to act on behalf of the District, including the General Manager.

District Facility: All items identified as “Works” under Water Code Section 30023, including, without limiting, all infrastructure owned by District, including conduits, canals, laterals, ditches, flumes, pipes, and appurtenances, and any other device or structure used for the conveyance, storage, distribution, treatment, or measurement of water.

District Water: Raw water diverted, stored, conveyed, and distributed, solely for irrigation of a legal crop under District’s water rights.

General Manager: An employee and officer appointed by the Board to direct and oversee the day-to-day operations of District. “General Manager” also includes his/her authorized representative(s).

Infrastructure: All aspects of the means and methods the District utilizes to receive, transport, manage, and deliver water, naturally occurring and constructed, including but not limited to rivers, streams, creeks, canals, culverts, pipes, flumes, siphons, conduits, and anything appurtenant to these, including but not limited to m surveillance and measuring devices

Irrigation Season: The period commencing April 15 and terminating on October 15, unless changed per this Policy.

Landowner: A legal holder of title to a Parcel located within District's boundaries.

Lessee: A tenant of a Landowner.

Measuring Device: A mechanical or electronic device installed by District personnel to a Service Outlet for the purpose of calculating applicable Charges by allowing and measuring the continuous unpressurized flow of District Water onto an approved Seasonal Water Contractor Parcel or Premises. Measuring Devices are District Facilities. If a Seasonal Water Contractor installs a secondary private measuring device, and the devices indicate different readings, the reading from District's Measuring Device controls.

Unit: The flow of water specified in the Irrigation Water Service Agreement entered into between the District and each customer, as presented or as modified by the District during any irrigation season, per this Policy.

Notice: Communication to or from District regarding acts done, required action, and/or legal process affecting rights, obligations, or duties.

Parcel: An individual lot or unit of land denominated by the Yuba County Assessor assigned and holding a separate Assessor Parcel Number (APN). A single Seasonal Water Service Customer may own or lease multiple contiguous Parcels that together serve as a single Point of Use.

Person: Any person(s), firm, association, organization, partnership, business trust, corporation, company, or other entity.

Physical Encroachment: Includes and is not limited to structures such as buildings, bridges, culverts, fences, pipelines, underground or overhead wires, roads, landscaping that either cross or lie within District-owned real property, easements, rights-of-way across or located so close to District real property as to unreasonably interfere or potentially interfere with District's operation, improvement, or reconstruction of District Facilities.

Point of Use: The Parcel(s) or Premises identified in an Application and approved by District for receipt of District Water.

Policy: This Irrigation Policy in its most recent form as ratified by the Board, including all of the rules, regulations, duties and obligation the Policy describes.

Premises: A land area comprised of a single or multiple contiguous Parcels that are under the same ownership.

Private Facility: Any District Water conveyance, distribution, or storage facility or equipment not owned by District and not located on District Property.

Property: All real and personal property owned by the District. (Water Code section 30023.)

Service Outlet: The point at which District Facilities connect to a Seasonal Water Contractor's Private Facility and where District installs a Measuring Device.

Unit Box: The devices (commonly referred to as a "miner's box") the District uses to measure and regulate the flow of water, and that the customer uses to receive water.

Waste: Generally includes the careless, excessive, extravagant, reckless, or unauthorized use of District Water, and expressly includes, but is not limited to excessive/unnecessary irrigation, using irrigation water on roads, vacant property, land growing an illegal crop, land not requiring irrigation for a legal crop, land which have been improperly prepared for the beneficial use of water. All irrigation water must remain on the approved point of use. Allowing water to flow - in any manner and via any means - out of/away from the point of use is a waste that this Policy prohibits. Irrigation water is not potable and is not intended for human consumption. Utilizing irrigation water, in whole or in part, as drinking water is defined as a waste per this Policy.

Water Service: The delivery of District Water through District Facilities to an approved Applicant for the sole purpose of irrigating a legal crop.

Within The District: Parcel(s) or Premises lying within the District's geographical boundaries/sphere of influence.

IRRIGATION WATER POLICY

SECTION ONE – GENERAL RULES AND REGULATIONS

- A. **POLICY FORMAT** – All of the rules and regulations within this Policy are equally important. The formatting used within this Policy is for presentational convenience purposes only. For example, terms or phrases in capital letters or shown in bold or italic text does not indicate that text shown in capital letters is more important than text that is not capitalized.
- B. **SCOPE OF RULES AND REGULATIONS** - Notwithstanding the provisions of any and all pertinent laws and/or ordinances then in effect, the use of District irrigation water shall be subject to all rules and regulations as established in this Policy.
- C. **PRIORITY OF POLICY** - This Policy is intended to supplement any and all existing policies, and when in conflict with such existing policies, rules, regulations, resolutions, or other prior Board actions, the rules and regulations established in this Policy shall prevail. The Board may hereafter, from time to time, establish such other policies, rules, and regulations as it deems necessary to carry out its responsibilities and functions in accordance with the California Water Code. When in conflict with this Policy, any other policy, or any prior Board action, any and all such subsequent actions of the Board shall prevail.
- D. **CONTROL OF SYSTEM** - Subject to the policies, rules, regulations, rates, and charges established by the Board, The maintenance, and operation, alteration, improvement and/or expansion of the irrigation system District's infrastructure shall be under the exclusive management and control of the District General Manager per his/her authority, personally performed or performed by his/her designated assistant(s). No other persons, except her/his assistants. or designated employees, shall alter or interfere in any manner with any canals, conduits, measuring devices or other appurtenances of the irrigation system, except in the case of an order from the Board.
- E. **COMPLAINTS** - All complaints as to service, lack of water, or other unsatisfactory conditions, should be made either by contacting the District by telephone (530) 692-1463 or (530) 675-2567) or in writing, addressed to the General Manager, North Yuba Water District, P. O. Box 299, Brownsville, CA 95919. Other than emergency complaints, the General Manager may require that shall be made in writing.

- F. CALL OUT FEE** - A fee of \$65.00 per call during normal business hours and \$170.00 per call after hours and weekends will be charged to the customers when staff investigates a customer complaint and finds that no problem exists. However, if a problem with district facilities is found, then no fee will be charged.
- G. ACCESS TO LAND** - The authorized ditch tenders and other agents of the District shall have free access to the canal system, easements and to all conduits for the purpose of inspection, examination, measurements, surveys, or other necessary purposes of the District, with the right to install, maintain, control and regulate all meters or other measuring devices, gates, turnouts, or other structures necessary or proper for the measurement and distribution of water. All irrigation water customers agree to provide District staff and/or contractors access to their property to determine whether irrigation water is being used for irrigation purposes as described in this Policy.
- H. RIGHT-OF-WAY** – All Customers recognize and will honor District’s right-of-way onto private property in order to conduct the District’s work. No Person may, without prior District written permission, interfere with the District’s right-of-way through any means, including but not limited to construct a fence or structure, plant anything, including but not limited to crops, trees, vines, or bushes. Necessary cross-fences shall be constructed in the manner directed by the General Manager.
- I. DAMAGE TO WORKS** - Any person who shall cause or permit any damage to any works of the District, or who shall dump any rubbish therein or thereupon, or erect fences on District rights-of-way, shall pay to the District upon demand all expenses incurred in responding to damage to works, including but not limited to the replacement of such property, or in the removal of such rubbish or fences.
- J. ENFORCEMENT OF POLICY** - Failure or refusal of any landowner or water user to comply with this Policy or any interference by any such landowner, water user or his/her tenants, employees or anyone acting on his/her behalf, with the rights, duties or obligations of the District, or its employees, shall entitle the District to discontinue the service of water to the lands of such owner or user until the landowner or water user shall furnish satisfactory proof to the Board of his/her intention to comply with this Policy or cease such interference, and shall remove any default existing at the time service of water is discontinued.
- K. CHANGES** - The District reserves the right to supplement, amend, eliminate, waive, or otherwise change all or any portion of this Policy, provided that such changes shall be effected only upon resolution or motion duly passed by the Board of Directors. The District further reserves the right to deviate from this Policy under unanticipated, unusual, or unique circumstances. Such digressions shall be considered to be tentative and provisional upon demonstrated satisfactory results,

and shall not be construed as having set a precedent whereby similar circumstances must be afforded the same consideration. If at any time the District, at its sole discretion, determines that any interim deviations from this Policy become undesirable for any reason whatsoever, the intent and specific provisions of this Policy may then be asserted accordingly.

- L. SERVICE CONNECTIONS REMAIN ON LAND** - Service connections and appurtenances associated with water service do not become the property of the landowner; they become part of the parcel because the opportunity to receive water is for the benefit of the parcel and not any owners or occupants, and the opportunity to continued water deliveries passes with the parcel rather than with any person(s). The person(s) to whom the sale, distribution, and use of water is made available shall be the owner(s) of the parcel thus served.

SECTION TWO - WATER USE

- A. OWNERSHIP** - The District has the right and duty to secure and make available for the beneficial use of the members of the District all surface and/or underground water sources which are not privately owned or sequestered by riparian or prior appropriative rights. Notwithstanding the foregoing, All water within the District shall be considered as is the property of the District and is subject to the District's exclusive use. The District expressly asserts the right to recapture, reuse, and resell any and all water which passes from the premises described in the application as the place of use, and emphatically asserts its right to all water within the District.
- B. AUTHORIZATION FOR USE** - All customers agree and understand that the receipt and/or use of District water per any contract entered into between the District and any customer does not create or vest a property/proprietary interest or enforceable expectation in past, present, or future water deliveries beyond the term of any contract between the customer and the District, and that all customers did not, do not, and will not have any right to resell water or use water for any purpose that is not described in this Policy. Each irrigation season, the distribution/delivery of irrigation water will be based on availability and priority of use as described in this Policy.
- C. POSSESSION** – Upon approval of a proper application and payment of all charges in accordance with provisions in this Policy, the District may, at its sole discretion, temporarily grant possession and control of certain quantities of water to the applicant, provided however that the quantity and use of such water shall be in accordance with any and all provisions contained in this Policy or enacted hereafter. Such possession and control shall remain with the applicant only so long as said water remains on the premises described in the application as the place of use. As said water seeps, flows, or is otherwise diverted, removed or escapes from said

premises, or if such water should in any manner reach a watercourse of the public domain, the possession of such water shall immediately revert to the District.

D. SERVICE RESTRICTED TO DISTRICT LANDS

1. Notwithstanding Section 31023 of the California Water Code, and subject to the Board's sole discretion, irrigation water shall normally be served only to lands which have been properly annexed into the District and any and all Improvement Districts formed for the purposes of delivery of the affected receiving irrigation water.
2. Whenever the District has surplus waters available, and individual consumers request delivery of such water to lands which are not annexed into the District, but are still within the sphere of influence, the District may at its sole discretion deliver such water accordingly. The charges for such deliveries may vary, but under no circumstances shall the unit rates for such water be less than one and one-half times the highest unit rate charged to District members for similar such use, regardless of volume.
3. Surplus waters which are not sold to individual consumers may be otherwise disposed of in accordance with Section 31023 of the California Water Code.

E. SERVICE RESTRICTED TO DESIGNATED PLACE OF USE

1. Delivery of water and the use thereof shall be restricted to the premises described in the application as the place of use.
2. The place of use shall be limited to a single tract of land.
3. For purposes of this section, a single tract of land shall be defined as an individual parcel, or a group of parcels under the control of one individual, joint ownership, or single business enterprise. A single business enterprise shall be defined as any sole proprietorship, partnership, corporation or other *bona fide* business enterprise. A business enterprise shall be recognized only when such is considered to be a taxable entity, nonprofit corporation, or public entity; an informal arrangement or agreement shall be insufficient to establish the validity of any business enterprise. A parcel of land or any portion thereof shall be considered to be under the control of the applicant whenever the applicant is the sole owner, joint owner, renter, or lessee of the subject land.
4. The applicant shall under no circumstances cause District water to be made available in any manner for use to any premises other than those shown on

the application as the place of use, nor shall the applicant cause District water to be made available to any other user(s).

F. RESALE OF WATER – The resale of District irrigation water is expressly prohibited. This restriction shall apply whether or not such water is obtained from the District in an authorized or unauthorized manner, and regardless of whether such water is containerized, transported by water truck, purified, or otherwise processed prior to such unauthorized distribution. The District expressly asserts its exclusive legal right to recapture, reuse and resell all water which is not wholly consumed by applicants, and further asserts its right to all water within the District notwithstanding any other provision of this Policy.

G. PURPOSE OF USE

1. **INTENDED USE** - The delivery of irrigation water was facilitated by the formation of an Improvement District which was organized and developed for the express purpose of supplying irrigation service for farm crops, orchards, pastures, gardens and similar agricultural applications.
2. **WATER QUALITY** - District irrigation water is intended for use solely for irrigation purposes, and even then is subject to certain risks hereinafter described, and any other uses whatsoever are hereby expressly unauthorized. Although not inclusive, such water is not authorized to be used for such purposes as domestic, industrial, or commercial use, human consumption, stock watering or consumption by animals, or the raising of fish or other aquatic animals or vegetation.
3. Water customers shall take all reasonably steps to prevent contamination, or control, monitor, or otherwise assure the quality of irrigation water .
4. District Water travels through open canals and ditches, and District does not guarantee that foreign objects and/or substances will not be introduced into the water received by a customer. In addition, all District Water is raw water. Raw water is not intended nor offered for any purpose other than irrigation. Use of District Water for domestic use, stock-watering, or raising aquatic life of any form is not allowed. District applies state and federally approved herbicides within District Facilities and District's rights-of-way to control terrestrial vegetation. District applies such herbicides in the manner prescribed on the label.

H. FIRE PROTECTION – Deliveries of District irrigation water are on a seasonal basis only and such deliveries are continually subject to fluctuations, interruptions, shortages and outages. District irrigation water is therefore not a reliable source of

water for fire protection purposes and is not intended for such use. However, in the event of a fire emergency, any water then available in District facilities may immediately be used for such an emergency, and there shall be no charge for fire suppression and emergencies.

I. RELIABILITY OF DELIVERY

1. **LIMITATIONS ON DELIVERIES TO DISTRICT** - Delivery of irrigation water is partially dependent upon supplementation of District water supplies with water entitlements derived from contractual arrangements with other agencies. Conveyance facilities for such water are not controlled by the District, and are subject to certain fluctuations, interruptions, and outages. Because of such circumstances, the District cannot be assured, nor can it assure, that delivery of such water will be uninterrupted.
2. **LIMITATIONS ON DISTRICT FACILITIES** - District facilities consist largely of many miles of open canals and conduits through rugged and sometimes unstable terrain. Such facilities are vulnerable to periodic and sometimes substantial physical failures. The District cannot therefore reasonably assure that deliveries will be made therefrom without periodic interruptions in flow. Moreover, after water is restored or adjustments in flows are made, the extreme length of the system can cause delays of up to approximately 36 hours before normal or desired levels are restored. Therefore, periodic fluctuations are somewhat inevitable and must be expected.
3. **LIMITATIONS ON SOURCES OF WATER** - The District has no storage reservoirs and must therefore rely on direct diversions from surface sources to provide irrigation water. Such sources are entirely dependent upon natural stream flows which in turn are dependent on such factors as rainfall, ground saturation, and extremes of weather. Because of this situation, the District cannot reasonably assure the volume of irrigation water which will be available at any time.
4. **LIMITATIONS ON DELIVERIES TO CONSUMERS** - Because of the foregoing considerations, deliveries of irrigation water are subject to interruptions and fluctuations in flows, shortages, and perhaps even extended outages. Applicants and users of District water should be aware of these limitations and are hereby advised not to depend on District deliveries for uses under which the foregoing conditions cannot be tolerated.
5. District employees/Board members are hereby cannot, and do not, commit the District to any agreement which has the effect of assuring an

uninterrupted and constant supply of water, and under no circumstances shall any such unauthorized agreement be binding upon the District in any manner whatsoever.

6. The District shall endeavor to deliver for the duration of the irrigation season the full flow of water as approved by the District in the application, subject to certain subsequent reductions as established in this Policy or hereafter. When, through shortages of water, lack of water, lack of conduit capacity, system failures, or any other cause it is not possible to deliver throughout the irrigations system or any portion thereof the intended flows of water, such supplies of water as can reasonably and economically be delivered shall be equitably prorated until such time as intended deliveries can be restored. Proration of available supplies shall be accomplished with consideration for the priority of use, type of use, and acreages benefited in accordance with such uses.

J. PRIORITY OF USE

1. The long-range plans for the development of the District include provisions for all domestic, agricultural, industrial, and commercial needs of prospective consumers. However, the fulfillment of such needs is contingent upon repairs and upgrades to the current system. Interim development, which is wholly dependent upon current supplies of water which are extremely limited, has resulted in the construction and operation of the existing irrigation system.
2. Current deliveries now require the use of virtually all water available from District supplies via existing conveyance structures; the maximum potential of the irrigation system has been reached, and in some years, exceeded. This maximum potential has been established at a level of net deliveries totaling approximately 150 units, which is currently being delivered to approximately 100 individual places of use. There is clearly an insufficient conveyance system available, and continued delivery to larger consumers cannot reasonably be assured until such a time that additional supplies of water become available.
3. It shall therefore be the policy of the District to ensure on a priority basis that distribution of water from the existing system shall continue to be made to the consumers for whom the benefits of the existing supplies were originally intended. It shall be a further priority of the District to pursue the acquisition of additional sources of water, and make continued repairs and upgrades, so that the ultimate needs of all potential applicants of the District can eventually be met.

4. Irrigation water is intended for the beneficial purposes specially defined in this Policy, including but not limited to the irrigation of farm crops, orchards, pastures, gardens, and similar agricultural applications. During periods of water shortages, such uses shall have priority over all other uses. Ponds or lakes on customer property may be considered as balancing reservoirs to allow the delivery of less water than a customer wants the District to deliver. Water available in ponds and lakes function as a means of conserving the District's irrigation water supply. However, most ponds generally are susceptible to extreme losses of water by evaporation and seepage, and when used for purposes other than as balancing reservoirs for irrigation water constitute an unnecessary, unreasonable, and non-essential use of water.
- K. NON-ESSENTIAL USE** - All unauthorized uses of District water, particularly as described in this Policy, shall be considered as non-essential uses. While such uses as irrigation of lawns and ornamental plants or shrubbery or uses for aesthetic purposes may be considered as a beneficial use of water, for purposes of this Section, such uses shall be considered non-essential. During periods of water shortages, non-essential use of water shall be curtailed in order to assure availability of water for essential uses.
- L. SHORTAGES** - During periods of water shortages, the District may, at its sole discretion, curtail the delivery of water to any ponds, and particularly to those ponds which are used primarily for aesthetic and/or recreational purposes.
- M. WASTE**
1. Waste, as defined in this Policy, is prohibited, regardless of why waste has occurred or is occurring, including but not limited to willful, careless, or negligent reasons, or on account of a defective or inadequate private systems. All customers agree that the District has the sole discretion to determine if waste has taken or is taking place, and all customers agree to assist the District to assess whether waste has taken or is taking place. Any customer that is wasting water or causing the waste thereof either shall receive one warning to stop wasting irrigation water. If the waste continues, then the District shall take remedial steps, including but not limited to immediately and permanently discontinuing water deliveries.
 2. Notwithstanding any other provision of this Policy, all Customers agree to reimburse the District for any costs the District incurs due to the violation of this Policy.

N. UNAUTHORIZED USE

1. **NATURAL STREAMCOURSES** – District’s water rights authorize it to divert District Water into certain natural stream courses and utilize such stream courses as conduits for conveying District Water, rendering such stream courses District Facilities. The water diverted and conveyed through such stream courses by District or from District Facilities is the sole and exclusive property of the District.
2. District water may at times intermingle with natural flow originating within natural stream courses. The natural waters of such stream courses may be subject to use by Persons other than District when diverted and used under an assertion of valid riparian and/or appropriative water rights, which may be enjoyed only upon submission of proper petition to, and under permit or license from, the California Department of Water Resources.
3. Any and all such licensed diversions are limited exclusively to the quantities of natural flow originating in such stream courses. The water diverted into such stream courses by the District or from District sources is the sole and exclusive property of the District.
4. Any unauthorized diversions from stream courses will be reported to the applicable State Agency (e.g., California Department of Water Resources and/or the State Water Resources Control Board) and to the extent that such unauthorized diversions include waters of the District, such unauthorized use shall be considered as a criminal offense (see Penal Code sections 498 and 592), and when discovered, shall result in the filing of a complaint with the Sheriff’s Department, and subsequent prosecution to the full extent of the law.
5. **DISTRICT FACILITIES** - No person shall in any manner divert or take water from any canal, ditch, conduit or stream course belonging to the District or being used by the District under any statutory, permissive, or prescriptive right. Any such unauthorized use of District water shall be considered as a criminal offense (see Penal Code, sections 498 and 592), and when discovered, shall result in the filing of a complaint with the Sheriff’s Department, and subsequent prosecution to the full extent of the law.

- O. RESPONSIBILITIES OF THE APPLICANT** - It shall be the responsibility of the Customer to assure that all water furnished by the District is used for beneficial purposes, and in a reasonable and efficient manner. The Customer must make every effort to avoid waste, including construction of a reasonably efficient irrigation system which will minimize waste of water. All such systems shall be installed, maintained, and kept clean by the users at no cost to the District. The District may,

from time to time, examine such systems, and in the event that such systems are found to be in disrepair to the extent that waste of water is imminent, delivery of water may be suspended until such conditions are corrected.

P. CIVIL PENALTIES FOR UNAUTHORIZED TAKING OF WATER

1. It shall be the responsibility of the applicant to exercise reasonable control over water delivered to the premises shown in the application as being the place of use of District waters.
2. Only District personnel may maintain, adjust, and/or alter District water conveyance. Any action that violates this Policy will result in the immediate termination of irrigation water deliveries, and subject those responsible any costs associated with the Districts response to violation of this Policy.
3. Whenever the unauthorized diversion or taking of District waters results in the delivery, use, or waste of water, regardless of whether or not such unauthorized diversion or taking of water was caused by, permitted by, or known to the applicant, the District may at its sole discretion pursue any action legally available to remedy the unlawful diversion/taking, including but not limited to refuse or curtail the delivery of water to such premises for the remainder of the irrigation season.
4. All suspected criminal violations of this Policy shall be reported to the Sheriff's Department for investigation, and if the perpetrator(s) of such violations are identified, they shall be prosecuted to the full extent of the law. Notwithstanding any other provision of this Policy, all Customers agree to reimburse the District for any costs the District incurs due to the violation of this Policy, whether the violation is civil or criminal. See Gov. Code, § 53069.45; Wat. Code, §§ 31027, 31029.)

Q. CRIMINAL PENALTIES

1. Through the publication and distribution of this Policy, the District gives notice that it will report any criminal violations of this Policy to law enforcement and will cooperate fully with any action law enforcement takes to enforce the law, including but not limited to California Penal Code Section 592, which states:

"Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agriculture,

mining, irrigating or generation of power, or domestic uses or who shall without like authority raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control of measurement of water; or who shall empty or place or cause to be emptied or placed into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water is guilty of a misdemeanor."

2. Any supported suspicion that a criminal violation has occurred, irrigation water services will be suspended until the criminal matter is resolved. If the perpetrator pleads guilty, nolo contendere, then their contract with the District will be permanently revoked.

SECTION THREE: NEW SERVICE

- A. SUBDIVISIONS OR NEWLY CREATED PARCELS** - For purposes of determining availability of water in the event of subdivision, the availability of water shall divide with the parcel(s) on which the actual use of water occurred. Delivery shall be made available to those newly created parcels on which water has not heretofore been delivered. Any original parcel in excess of 20 acres or receiving more than 1 unit of water will have the water proportionally divided among the newly created parcels. The new owner is responsible for installing infrastructure on their property to be able to be served. The original owner is required to cooperate with the new owner, grant easements and facilitate extension of the existing infrastructure to the new property, if needed. For recently divided parcels, the new parcel owner can apply to the District for water, which will be provided from the original, undivided parcel's share.
- B. SERVICE TO NON-CONTIGUOUS PARCELS** - Delivery shall not be made to any parcels which are not contiguous to District facilities until all easements have been legally filed with the recorder's office. The easement will be from the existing district facilities to the parcel requesting the service. except that delivery shall continue to be made to parcels which have previously been served therefrom.
- C. EXPANSION OF SERVICES** - Delivery to new services shall be restricted to a maximum of 1/2 Unit (5 gallons per minute) until all applicants on the waiting list have had the opportunity to be served.
- D. PRIORITY OF NEW SERVICE APPLICATIONS**
 1. Once the General Manager deems new water to be available, and only when this has been reported to the Board, new applications for service will be taken into consideration with the following priority of approval:

- a. Applicants who's parcels historically have been connected to the irrigation service in the last 7 years.
 - b. Applicants that own a parcel adjacent to the District's irrigation Ditch and who have been included on the waiting list for several years already.
 - c. Applicants that are contiguous to the current infrastructure.
 - d. Applicants growing food or livestock commercially.
 - e. Applicants growing food for personal consumption and non-commercial livestock.
2. The amount of available new water, once determined by the General Manager, will determine the amount of new services approved per irrigation season. It may take several years to build the capacity to serve every applicant that expresses a wish to be added to the system.
 3. No District employee or board member is authorized to promise new service to anyone. That decision can only be made by a Board majority.

SECTION FOUR: DELIVERY OF WATER

- A. REDUCTIONS IN DELIVERIES** - The District shall endeavor to make deliveries in the full amount ordered by each consumer, subject to approval of each application in accordance with this Policy. However, it should be anticipated that midseason cutbacks may be required to meet the needs of all consumers in an equitable manner. When cutbacks are deemed to be necessary, such cutback shall be accomplished as follows:
1. The most recent customers will be cut back until the end of irrigation season, and will have the opportunity to apply again before the next irrigation season.
 2. The full amount of the approved volume ordered will be delivered until such time as waters from and out of Dry Creek are no longer sufficient to meet the needs of the irrigation system. At such time, all deliveries more than 3 Units may be cut back to 50% of the amounts previously served.
- B. RATIONING** - In the event that cutbacks in accordance with the foregoing are insufficient to assure continued delivery of water to all consumers (which could

happen in some years), mandatory rationing shall be imposed in accordance with the following:

1. **MINIMUM BASIC VOLUME** - All consumers will be allocated a maximum of one Unit to assure that minimum basic needs are met.
2. **NON-ESSENTIAL USE** - All non-essential uses shall be curtailed. The District shall evaluate each service in excess of one Unit to determine the extent of use of deliveries for non-essential purposes.
3. Rationing shall only be applied after Board approval in a special/regular Board meeting. The General Manager may call for cutbacks and will announce the need for cutbacks on the District's website.

SECTION FIVE: APPLICATION FOR IRRIGATION WATER

A. APPLICATION FOR SERVICE - All requests for water service shall be made in writing on forms prepared by the District for such purpose. Delivery of water shall be made only upon approval by the District of a proper application, subject to all provisions in this Policy, and submitted in accordance with this Section.

B. INFORMATION REQUIRED ON APPLICATION

The application shall require the information shown hereinafter and/or any other information which the General Manager may from time to time deem necessary to facilitate the administration and/or operation of the system. Refusal by the applicant to provide or update such information when requested shall, at the District's sole discretion of the District, result in the refusal or suspension of delivery until such time as this Section is complied with. Such required information includes, but is not limited to, the following:

1. The inclusive parcel numbers of the intended place(s) of delivery, and the gross acreage and legal owner(s) of record of each such parcel.
2. The names of all renters, lessors, or other authorized users of the premises who will utilize District water.
3. The intended use(s) of District water, and the acreage or other measure of each such use.
4. The intended methods of irrigation.
5. The total volume (in Units of 10gpm) of water.

6. The number and types of service connections and volume (in Units of 10gpm) to each connection.

C. DEADLINE FOR APPLICATION

1. **GENERAL** - Upon receipt of all applications submitted by the deadline, the District immediately totals the accumulative volume requested by all applicants and compares the demand with the anticipated supply of water available. When the demand exceeds available supplies, the District must adjust the requested volume in order to ratably distribute supplies.
2. **DEADLINE** - Applications for service must be received by the District by no later than 4:00 p.m. on the first business day in April each year. An application shall be considered to have been received only upon its actual delivery to the District office, and upon receipt of payment in full of all charges then due. If an application is sent by mail and received by the District after the deadline, the postmark shall be of no consequence; the application shall be considered late. This deadline is absolute, and the District staff shall have no authority whatsoever to deviate from these provisions. The deadline within which applications must be submitted may be extended only by resolution or order of the Board of Directors.

D. DELIVERY OF APPLICATION

IN PERSON: Applications can be delivered to the District Office located at 8691 LaPorte Road, Brownsville, Monday through Friday, 8:00am – 4:00pm.

BY MAIL: Applications may be sent via mail to NYWD, P.O Box 299, Brownsville, CA 95919. Must be received by April 1st, regardless of postmark date.

E. PAYMENT METHODS

1. **BY CHECK:** A check may be mailed or delivered in person. Checks returned by a bank unpaid shall be returned to the water user and his or her Water User's District account will be debited for the amount of the check. The District also will impose a return check fee of \$20.00, which shall be added to the Water User's District account balance together with any other bank charges that may be assessed due to the returned check.
2. **BY CREDIT CARD:** Credit Cards may be used either online or over the telephone or at the office. There will be a \$20.00 penalty for any credit card charge that the card company declines.

F. PENALTY FOR LATE APPLICATION

1. **REFUSAL OF SERVICE** - Failure to make application and full payment by the deadline specified in this Policy may, at the District's sole discretion, result in no delivery of water for the current irrigation season. Upon failure of any landowner to make application for water or pay charges, the water to which such landowner would be entitled may be allotted by the District to other eligible landowners offering to make the required payments therefor.
2. **PENALTY FEE** - If a late application is approved by the District, an additional service charge, shall immediately become due and payable at the time of making application, and delivery shall not be made until such charge along with all other applicable charges are paid in full.

SECTION SIX: SCHEDULE OF DELIVERY

- A. SEASON OF USE** - The irrigation season commences on April 15 and terminates on October 15 of each year. Irrigation water should normally be expected to be delivered throughout the duration of this season, subject to certain fluctuations, interruptions, shortages, outages, and reductions in deliveries. However, the canals and ditches of the irrigation system are vulnerable to extreme damage from flows in excess of capacity during rainstorms. During such inclement weather, side spills must be removed (or not installed to begin with), and the canals must be dewatered insofar as practicable. The irrigation season may consequently be shortened when in the opinion of the General Manager such action is necessary in order to protect the system from imminent or potential damage.
- B. CONTINUOUS FLOW BASIS** - It is District policy that irrigation water is served on a continuous flow basis. Delivery on a continuous flow basis means that water is delivered by the District at a uniform rate continually for twenty-four hours each day, 7 days per week during the irrigation season. Customers must accept delivery on this basis.
- C. SUBSTANDARD INSTALLATIONS**
 1. Many consumers have, contrary to the policy, installed systems whereby water is drafted from District facilities only when desired by the consumer. While this may be viewed by some consumers as being beneficial to the District in that presumably less water is being used than is actually paid for, in reality no such benefits accrue, and in fact, severe problems result.
 2. In order to assure the volume of water required to meet the needs of consumers, the District must conserve all water possible, and adjust the flows

of the system to meet apparent demand. After system flows have been set, when consumers who have not been utilizing water on a continuous flow basis decide to draft their entitlement, the ensuing increase in demand causes a reduction in water available for other consumers, which in turn results in sometimes widespread shortages and outages.

3. In order to alleviate such a problem, the District then diverts additional water into the system, but because of the extreme distance such water must travel, increases in flows at problem areas may not occur until up to almost two days later. If in the meantime, the consumers who caused the original problem shut off their water, any excess quantity overflows at certain points along the canal, and is wasted. The overall effect of this situation is that the District must continually try to keep the system in balance, other consumers are deprived of water, much water is wasted, and District operating expenses (which must be borne by all consumers) are excessive.

D. WATER DELIVERIES

1. It shall be the responsibility of the applicant, at no cost to the District, to provide sufficient storage and/or an appropriate irrigation system to assure that all water delivered by the District is utilized on a continuous flow basis.
2. All water deliveries from District infrastructure to the customer must be provided through a means the District approves. Currently, water is delivered via a Unit Box. Water deliveries via Unit Boxes must be continuous throughout the irrigation season, both day and night. The customer shall bear the costs of replacing their Unit Box if the District determines that their Unit Box should be repaired, upgraded, or replaced with either another Unit Box or a different device that performs better than a Unit Box
3. PIPELINE CONNECTIONS - Connections from pipelines shall be unchanged provided that all use of water therefrom is on a continuous flow basis. Private facilities which will not facilitate use on a continuous flow basis shall be replaced at the applicant's expense with systems which will conform to the District's policy.
4. PUMPS -The use of pumps directly in the District's ditch is forbidden. If pumps are to be used by the customer, they must be used downstream of the District's measuring devices.

5. CONVENTIONAL DEVICES –

- a. OTHER CONNECTIONS - All drip systems, syphons, or other such connections, which may result in an unregulated flow of water, shall be removed.
- b. The District shall install Unit boxes. The deposit for such installation shall be paid by the applicant upon making application, and delivery shall not be made until such deposit along with all other applicable charges are paid in full.

6. DELIVERIES VIA PRIVATE PIPELINES

- a. Perhaps the most severe problems resulting from the noncontinuous use of water occur because of service connections into pipelines. Under ideal circumstances, the flows from pipelines to all consumers therefrom could be set at the beginning of the season, and never be changed. However, many users along such pipelines do not use water on a continuous flow basis. Other services, and flows into such pipelines, must then be adjusted accordingly. When consumers who had their water turned off then turn their water on, flows to other services along the entire pipeline are diminished because of changes in pressure therein.
- b. All customers using private lines will be solely responsible for maintenance and repair of the private line in the same manner private road owners are responsible for maintaining those roads. The District prefers customers using private pipelines to form/join pipeline associations, where members share maintenance expenses, and a chosen “line manager” can be the liaison between the association and the District.
- c. Customers on Private Pipe lines, non-contiguous to the Ditches, will be asked to form each a Private Pipeline Association. This Association will have chosen a Line Manager out of their midst. That person coordinates with the others, the need for repairs and maintenance, the financing of said repair and maintenance, and serves as the main spokesperson for this Association; a liaison between the District and the Private Line Customers.

E. ENFORCEMENT

1. **PIPELINE CONNECTIONS** - Failure to utilize water from pipelines on a continuous flow basis shall result in suspension of service until such time that facilities to accommodate continuous flow are installed at the applicant's expense.
2. **NONCONTINUOUS USE** – Failure to utilize water from an approved service connection on a continuous flow basis, and if noncontinuous use persists for a minimum of thirty days, delivery shall be effectively terminated altogether.

SECTION SEVEN: SERVICE CONNECTIONS

All deliveries of District water shall be made only by way of approved service connections and/or measuring devices which shall conform to and be installed, adjusted, maintained, replaced, and used in accordance with the following:

A. DISTRICT FACILITIES

1. All service connections and/or measuring devices shall be considered to be District facilities and are subject to the exclusive control of the District, even though the installation, maintenance, and replacement of such devices is the financial responsibility of the applicant. In the event that such devices are replaced or otherwise removed, they shall be considered to be the property of the landowner of the property to which water was served.
2. Service connections and/or measuring devices shall be considered to be facilities which are intended solely for purposes of delivering unpressurized water for the use of the applicant on a continuous flow basis, controlling the flow of District water thereto, and measurement of deliveries of such water for purposes of calculating charges therefor; no other purposes whatsoever are either expressed or implied.
3. All District conveyance facilities, including pipelines, are subject to certain future alterations which may affect the elevation of which water is available therefrom. Service connections and/or measuring devices shall be installed in such manner as to accommodate deliveries from District conveyance facilities at the water levels then existing therein, or at such other water levels that may be reasonably and imminently anticipated by the District. In the event that such conveyance facilities are subsequently altered by the District, and such alteration results in a water level which would render said devices

useless on account of the elevation of the inlet structure thereof, the District shall reinstall such devices at no cost to the applicant.

B. PRIVATE FACILITIES

1. All irrigation facilities located beyond the service connection and/or measuring device shall be the private facilities of the applicant, and the applicant shall be responsible for all costs and liabilities associated therewith.
2. It shall be the responsibility of the applicant to design, construct and maintain such private facilities in such manner as to assure that the District water is used for beneficial purposes in a reasonable and efficient manner, and without waste.
3. It shall also be the responsibility of the applicant to assure that such private facilities include features which will ensure that District water is, without exception, utilized on a continuous flow basis.

C. APPROVED AND UNAPPROVED DEVICES

1. **UNACCEPTABLE CONNECTIONS** - Service connections such as direct installations to conveyance facilities of drip systems, siphons, pumps, or similar such connections which may result in an unregulated or noncontinuous flow, shall be expressly prohibited.
2. **DELIVERIES FROM CANALS** – Notwithstanding any other part of this Policy, service connections for deliveries from canals, ditches, or other such open District facilities shall hereafter be made only by installation of an approved Unit box which shall be equipped with a means of locking to discourage or eliminate unauthorized adjustments and/or tampering.
3. **DELIVERIES FROM PIPELINES** - Deliveries from District pipelines shall essentially be equal in intent to deliveries from any other District facilities, that is, such deliveries shall be expected to be unpressurized water which shall be utilized by the applicant on a continuous flow basis.
4. Service connections for deliveries from pipelines shall consist of a sump box or similar such device intended to eliminate the need of maintaining a static head, or in fact any head whatsoever on such pipelines to assure a continuous flow therefrom, a valve to control and regulate flow, and an approved unit box. Both the valve and Unit box shall be equipped with a means of locking to discourage and/or eliminate unauthorized adjustments and/or tampering.

5. **OTHER DELIVERIES** - The District may periodically at its sole discretion approve other types of service connections which will accommodate certain specific, unusual, and/or temporary situations. If such connections are approved, such approval shall not be construed as having set any precedence whatsoever for requiring approval of any similar such connections. Furthermore, any such connections shall be considered as being temporary in nature, and if at any time the District at its sole discretion determines that such connections have become undesirable for any reason whatsoever, such connections shall be replaced with devices then recommended by the District as a conventional installation, and such replacement shall be at the expense of the applicant.

D. INSTALLATION

1. **INSTALLATION BY DISTRICT** - Because of certain insurance and liability limitations, and the need for the District to assure the integrity of its system, service installations and/or measuring devices shall be installed only by the District. There shall be no exceptions whatsoever to this provision.
2. **QUANTITY** - Any number of service connections and/or measuring devices may be requested by the applicant. However, the applicant shall then be responsible for all charges associated with each such device.
3. **LOCATION** - All service connections and/or measuring devices shall be installed only adjacent to District facilities, and within the right-of-way thereof.
4. Service connections and/or measuring devices shall generally be installed at a location along District facilities which is approved by the District on the basis of a field inspection by the applicant and District personnel.

- E. RESPONSIBILITY FOR PAYMENT** - The applicant shall be responsible for payment of all costs and charges associated with the installation of service connections and/or measuring devices.

F. MAINTENANCE AND REPLACEMENT

1. **CLEANING** - At the beginning of each season, and periodically thereafter, District personnel shall assure that all measuring devices are cleaned sufficiently to ensure an unobstructed and accurately measured flow of water. Charges for such service are included in initial service charges and charges for delivery of water; there shall be no additional or separate charges for such service.

2. REPAIRS - Whenever any service connection and/or measuring device requires repairs of any manner whatsoever, District personnel may immediately make such repairs and the applicant shall be responsible for all charges attributable thereto.
3. REPLACEMENT - Whenever any service connection and/or measuring device becomes worn, damaged, or otherwise unserviceable, the device shall be replaced at the expense of the applicant. The determination of serviceability and need for replacement shall be at the District's sole discretion and may be predicated upon, but not limited to, considerations such as the uneconomical and/or unreliable adjustment or control thereof, elimination of a potential hazard to facilities or adjacent lands, eliminating a waste or potential waste of water, or discouraging and/or eliminating unauthorized adjustments and/or tampering which makes replacement with a locking-type device advisable.

G. ADJUSTMENTS TO WATER DELIVERY INFRASTRUCTURE

1. Adjustments or alterations in District service connections, measuring devices, canals, or other facilities shall be made only by District personnel, except in the event that a failure of District facilities or other emergency situation is discovered by a user, such user shall take reasonable action to prevent further damage, and shall then notify the District.
2. No person shall in any manner adjust, change, molest, disturb or otherwise interfere with any District service connection, measuring device, gate, weir, conduit or other facility, nor shall any person construct any dam or otherwise impede or obstruct the flows thereof, unless such person shall have express written permission or emergency authorization from the District.
3. Whenever such unauthorized adjustments or tampering are known to have been caused by the applicant or other *bona fide* users of water on the affected premises, the District may, at its this Policy, refuse or curtail the delivery of water to such premises for the remainder of the irrigation season. If the offense is repeated the District may at its discretion terminate the service indefinitely. Moreover, all such violations shall be reported to the Sheriff's Department for investigation, and if the perpetrator(s) of such violations are identified, they shall be prosecuted to the full extent of the law.

H. REPLACEMENT OF MEASURING DEVICES

1. It shall be the responsibility of the applicant to exercise reasonable control over the premises shown in the application as the place of use. The applicant

shall exercise reasonable diligence in preventing unauthorized adjustments of, or tampering with, District facilities.

2. Whenever unauthorized adjustments and/or tampering occurs, the District, at its discretion, may consider such service connections or measuring devices as may be affected thereby to be unserviceable, and replace such devices with locking-type devices at the expense of the applicant.

SECTION EIGHT – LIABILITY

- A. LIABILITY OF APPLICANT AFTER DELIVERY** - The possession of water is passed to the applicant or user thereof upon water delivery, and such applicant or user, or the heirs or assigns thereof, shall be liable for any damages resulting from the use or presence of such water thereafter. Such liability shall specifically be extended to include, but is not limited to, any damages which may occur to or upon adjacent properties onto which the applicant or user has either willfully, carelessly, negligently, inadvertently, or unknowingly allowed or permitted such water to seep or flow.
- B. PRIVATE FACILITIES** - The District will not be liable for any damage of any kind or nature resulting directly or indirectly from any private conduit, or the water flowing therein, or by reason of lack of capacity therein, or for negligent, wasteful, or other use or handling of water by the consumers therefrom.
- C. DEFECTIVE MATERIALS** - The District must utilize certain conduits, meters, measuring devices, and other materials, supplies, and products which are manufactured by others, and the District has no control over the quality or integrity of such products. The District assumes no liability whatsoever for damages to persons or properties occasioned through defects or failures of such manufactured products. Any remedy for such losses shall be sought solely and directly from the manufacturers of such products.
- D. SEASON OF USE** - The District has enacted certain provisions in this Policy which may cause the normal irrigation season to be shortened somewhat, when advisable, to assure that District facilities are protected from potential damage which might result from unfavorable weather conditions. The District shall assume no liability for damages or losses which may be occasioned by the shortening of such normal season of use.
- E. UNAUTHORIZED USE** - All water furnished by the District is intended for use only for irrigation purposes, and every consumer who utilizes District water for any other purpose does so at his own risk and by so doing assumes all liability for, and agrees to hold the District, and its officers and employees, harmless from liability

and damages which might occur as a result of defective water quality, shortages, fluctuations or interruptions of flow, outages, or for any other reason whatsoever.

F. FIRE PROTECTION - Use of District water for fire protection purposes is not specifically an intended use of such water and the reliance on such shall be at the risk of the consumer. The District shall assume no liability for damages or losses arising from such use whether such damages and/or losses are directly or indirectly related to the lack of availability, insufficient quantity, or defective quality of water, or for any other reasons whatsoever.

G. POLLUTANTS AND CONTAMINANTS - The open channels of District facilities are subject to potential pollution and/or contamination and other quality deficiencies which could adversely affect crops. The use of District water for irrigation purposes shall be at the risk of the consumer, and in so using, the consumer agrees to hold the District and its officers and employees free and harmless from any and all liability, damages, and losses which may occur on account of defective water quality.

H. VARIATIONS IN FLOW - District facilities are subject to extreme variations in flow, and the District assumes no liability for damages or losses which might occur as a result of fluctuations or interruptions in flow, shortages and/or outages, or any other factors affecting the quantity of water available or the lack thereof.

I. POLICY ENFORCEMENT

1. This policy contains certain provisions of enforcement which require the refusal to deliver water initially, and the curtailment, reduction, suspension, and/or termination of deliveries thereafter. In making application, the consumer agrees to abide by all terms of this Policy and accepts the risks inherent in refusal to comply accordingly. The District assumes no liability for losses and/or damages which might result from curtailment of deliveries effected as a result of violations of provisions hereof.

2. All customers agree and understand that, in addition to any penalties for breaching any part of this Policy as described in this Policy, (1) any violation of this Policy will result in the immediate termination of irrigation water deliveries and cancellation of any agreement for water deliveries, and any resumption of water deliveries will be subject to any terms and conditions the District deems appropriate; (2) any customer who breaches this Policy will reimburse the District for any expenses associated with the District's investigation of, and response to, any breach of this Policy; and (3) any investigation and/or findings that a violation has occurred will be within the District's sole discretion.

- J. NONPAYMENT OF CHARGES** – Per Section 31024 of the California Water Code, the District has adopted a policy terminating service for nonpayment of charges. If any service is suspended or terminated in accordance with this Policy, neither the Board, the District, nor its officers, agents or employees, shall be liable for any damage or loss that may occur as a result thereof.

SECTION NINE - CHARGES AND PAYMENT

A. ESTABLISHING RATES AND CHARGES

1. The rates and charges for water, which shall include service charges, penalties, and interest on delinquent and unpaid accounts, shall normally be established by March 10 of each year. Such rates and charges may, however, be established or altered at any time when such changes are based on budgetary constraints and are within the scope of intent of Section 31007 of the California Water Code.
2. Rates and charges shall generally be established and/or changed only by resolution or motion of the Board of Directors. However, the General Manager may from time to time establish and collect charges for certain minor, unusual, and temporary uses or services, until such time that the Board has enacted specific rates and charges therefor.

B. RESPONSIBILITY FOR PAYMENT

1. Any applicant, as that term is defined in this Policy, may apply for irrigation water service. The applicant shall be responsible for all charges due at the time of application, and all charges later due as a condition of continued delivery for the benefit of such applicant.
2. Regardless of who the applicant is, the landowner shall be responsible for all violations of this Policy, including but not limited to water service payment obligations, regardless of whether the land is being rented, leased, farmed or otherwise used by other than the landowner.

C. PAYMENT OF CHARGES

1. Charges must be paid in full upon submission of application, as a condition of acceptance and/or approval of such application. However, some charges cannot practicably be made until the service has been rendered and the costs attributable thereto calculated.

2. **REQUIREMENTS FOR PAYMENT** - Charges shall be due and payable on the date that billing is issued by the District and shall become delinquent fifteen (15) days thereafter.
3. **INTEREST** - Interest on all unpaid accounts shall be charged at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance, commencing on the date on which any charges become delinquent.

D. SUSPENSION OF SERVICE

1. Receiving irrigation water is a privilege subject to the conditions described in this Policy. Receiving irrigation water does not create a property/proprietary right to water or water deliveries.
2. Regardless of how irrigation water is being used, and regardless of cancellation effects, the District has the discretion to suspend irrigation water deliveries and cancel water delivery contracts per the terms of this Policy, including but not limited to delinquent service payments.

E. COLLECTION BY TAX LIEN - All delinquent and unpaid charges for water and other services requested in writing by the owner of the property shall be added to, and become a part of, the annual taxes levied upon the property upon which the water for which the charges are unpaid was used and upon the property subject to the charges for any other District services, and shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing such annual taxes.

F. SPECIFIC CHARGES FOR WATER - Charges for water service or other charges shall be made in accordance with the following provisions and at the rates shown in Appendix A hereof. Rates shown in Appendix A shall prevail until such time that such rate should be revised or otherwise changed by resolution or motion of the Board of Directors. Subsequent to such Board action, a new or revised Appendix A shall be prepared accordingly, and such new or revised Appendix shall be included in this Policy and shall become a part hereof on the basis of such Board action. Thereafter, all charges incurred shall be calculated at the rates shown in the new or revised Appendix A.

G. CHARGES DUE UPON RECEIPT OF APPLICATION - Except as otherwise provided in this Policy, the following charges are due and payable upon receipt by the District of the Application for Delivery of Irrigation Water. Such charges shall be paid in full by the first business day in April of each year. Any application received and for which such charges are not paid in full by said date, shall be considered as a late application, and shall accordingly be subject to an additional

service charge. Water delivery shall not be made until all such charges are paid in full.

- H. SERVICE CHARGE FOR LATE APPLICATION** - Any and all applications received later than 4:00 p.m. on the first business day in April of each year, or for which all applicable charges are not paid in full by the same deadline, shall be considered as a late application and shall be subject to an additional service charge. Such service charge shall offset certain increased costs to the District made necessary by the processing of such late applications. Such costs include but are not limited to alterations of the delivery schedule, individual adjustments(s) of measuring devices, additional adjustments of major diversion points, and all administrative expenses attributable to the foregoing. Water delivery shall not be made until such charge is paid in full.
- I. FACILITY FEE** - A facility fee shall be charged for all new connections. All facility fees collected shall be deposited into a restricted reserve account, and funds from such account shall be expended only for such purposes as acquisition of additional sources of water or enlarging conveyance facilities to accommodate flows therefrom, construction of additional storage facilities, developing additional sources of outside revenues to offset costs of purchasing water as a means of expanding present sources of water, or to aid in the financing of any activities described in this policy, conservation of current supplies of water, reclamation projects, and/or any and all administrative or consultant expenses applicable to efforts to accomplish any of the foregoing.
- J. INSTALLATION DEPOSIT** - Any application which requires the installation of a service connection and/or measuring device shall be subject to an installation charge for each such device. Such installation charges are intended to cover the estimated costs of such installations, and any difference between the installation charge and the actual cost of such installation shall either be due and payable to the District or refundable to the applicant, whichever is appropriate.
- K. CHARGES FOR WATER**
1. **RATE STRUCTURE** - Charges for delivery of water shall be based on a rate structure whereby the unit rate increases as the volume of water requested increases. In this manner, consumers and/or landowners placing the greater demands on the system pay accordingly.
 2. **CHARGES DUE THROUGHOUT SEASON** - The following charges may be incurred throughout the irrigation season provided that the services for which such charges apply are performed.

L. REFUNDS

1. SERVICE CHARGE FOR LATE APPLICATION - The service charge for late application shall not be refundable for any reason whatsoever.
2. INSTALLATION CHARGE - The unused portions of all installation charges shall be refundable upon the completion of work for which such charges were made, and the determination of the charges due for such work.
3. Charges for delivery of water shall be refundable *pro rata* if the total flow of water delivered and paid for is subsequently changed for any reason, including but not limited to voluntary cutbacks, rationing, or termination of service.
4. Refunds shall only be valid for periods following a request by the applicant that the service be temporarily suspended and/or during periods that the District is aware that the water is not being delivered.
5. Refunds and temporary suspension of service, as described above, will not affect the opportunity to apply for future deliveries of water, except that, in the event deliveries are not fully reinstated, paid for, and put to beneficial use by the beginning of the second irrigation season following the event leading to the suspension in service, the service shall be considered as a "new service" upon subsequent application, and shall thereafter be subject to all restrictions and limitations affecting the availability of water to such services.

M. NONREFUNDABLE CHARGES

Charges shall not be refundable for the following reasons:

1. Failure on the part of the applicant to take the full amount of water approved in the application or otherwise determined thereafter, provided that such water was made available by the District.
2. Any interruptions of deliveries of less than 15 days for each occurrence for reasons set forth in this Policy, or to accommodate construction or emergency maintenance/repair projects.
3. The volume of water which was not delivered because of interruptions and/or shortening of the duration of the irrigation season.
4. Any volume of water which is not delivered during periods of suspension which are imposed in order to enforce provisions of this Policy.

N. CALCULATION AND PAYMENT OF REFUNDS –

1. The amount of any refunds shall be calculated within 15 days from the time that any charges become refundable, and such refunds shall be payable at any time thereafter.
2. **DEDUCTION OF OTHER CHARGES** - Refundable charges shall immediately be applied to any other charges then due and payable or delinquent, and any subsequent charges shall be deducted from the refund credit balance (if any), before issuance of billing for such other charges.
3. **REFUND CREDIT** - All refunds due shall be carried as a credit balance, unless payment is specifically requested by the applicant at the time of determination of the amount of refund then due, or at any time thereafter.
4. **INTEREST** - The District shall not pay interest for any deposit accounts. The district shall pay no interest on refunds, credit balances carried forward, or for any other reason whatsoever.