**RULES AND REGULATIONS**

**(Second Amended and Restated 12/17/19)**

**Governing the Distribution and Use of Water in the Wallowa Lake Irrigation District**

**AUTHORITY**

The following Rules and Regulations were adopted during a regular meeting of the Board of Directors of the Wallowa Lake Irrigation District by resolution under the authority of the Irrigation District Law of Oregon, ORS 545.221(1), which states:

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

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

**INTENTION**

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

The District was organized for the purpose of supplying irrigation service for farm crops. Water quality and District facilities are not suitable for domestic use. Any source for purposes other than growing agricultural crops will be provided only on a special order of the Board of Directors and entered in its minutes.

**OPERATION AND MAINTENANCE**

**Management**

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

**District Employees**

The Board of Directors and/or the Manager shall employ such personnel as may be necessary for the proper operation and maintenance of the system and the distribution of water.

**WATER**

**Water Distribution**

Water will be apportioned to each area by the Manager.

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

**Irrigation Season and Other Water Delivery Seasons**

The normal irrigation season shall be the season provided by the Oregon Water Resources Department (OWRD) in the basin. These dates are subject to change in relation to seasonal weather conditions and availability of water supply.

Water rights of use in the District's name or assigned to the District for water delivery will not be taken and used outside the District boundaries without prior approval of the Board of Directors.

**Water Quality**

Water quality varies. The District will continue to deliver water during the presence of low water quality occurrences. In the event of catastrophic events affecting water quality, the District reserves the right to completely shut down its irrigation system for as long as may be necessary.

**Shortage of Water**

In the case of water shortage from drought, water shall be distributed equitably. In case of drought and reduced source flow, deliveries will be decreased by (1) priority; (2) a fixed percentage cutback, i.e., 10% cutback; or (3) mandatory rotational schedules.

**Wasting Water**

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

Persons wasting water on roads or vacant land either willfully, carelessly, or because of defective private lines or poorly prepared land, or who use water on land not authorized for irrigation

delivery by the Board of Directors, may be refused water delivery until such conditions are remedied.

**Water Use Requests**

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

The District has no affirmative obligation to clean, repair, or improve its ditches or other waterworks for any purpose other than irrigation including, but not limited to, stock watering purposes. A landowner may submit a written request to the Board of Directors that the District clean or otherwise repair or improve its ditches and waterworks for non-irrigation uses, such as stock watering. The Board will determine whether to grant such request and the amount (if any) of proper compensation that must be paid by the requesting landowner if the request is granted by the Board.

**Non-liability of District**

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

All water delivered by the District will be for irrigation purposes. Any water user putting the water to other uses does so at his/her 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.

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

**Damage to District Facilities**

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

**Point of Delivery; Subdivisions; Partitions**

Points of delivery are established as conveniently to all patrons as possible. Each tract within the District has at least one original point of delivery, at which point water is delivered by the District and at which point the water user accepts the responsibility for the efficient use of the water.

The point of delivery for each tract is subject to relocation or modification by the Board if it is in the best interest of the District. The District, however, cannot insure that private landowners within the District have easements or access to delivery points which are on private land over which the District has no established rights-of-way. Access to delivery points on another’s land is the responsibility of the water user.

When property located within the District is subdivided or partitioned, the District shall have no obligation to change the point of delivery to the original tract or to provide additional points of delivery to the resulting lots or parcels. It shall be the responsibility of the land developer to allocate and distribute water to the lots or parcels in the subdivision or partition.

**Common Delivery Systems**

When multiple water users share a common irrigation water delivery system, the District will deliver irrigation water to only one point of delivery. It will be the obligation of the water users to distribute water amongst themselves.

When multiple landowners located outside of the District boundaries share or desire to develop a common irrigation water delivery system and such landowners desire to be furnished with irrigation water, domestic water, or domestic expanded water by the District, all of such landowners must: (1) Submit a joint written request to the District that the District furnish the landowners with irrigation water to a single point of delivery; (2) Provide the District with a copy of each landowner’s certificated water rights; and (3) Agree to pay the assessments or such other compensation required by the District. The District, however, reserves the right to deny any such requests.

**ACCESS AND CONTROL**

**Control of Facilities**

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

**Right to Enter Upon Lands**

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

**Access to Lands and Ditches**

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

**Licenses/Easements**

No new bridges, fences, fence-crossings, or stock gates shall be built across the rights-of-way of the District without the express permission of the Manager, unless the same shall have been

provided for in rights-of-way or easement agreements. All plans to construct a new structure upon or across District facilities must be submitted to the District for approval and built under the specifications of the District under the direction of the Manager. Such structures must be maintained by the property owner to the satisfaction of the District.

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

**FACILITIES**

**Failure To Maintain Private Facilities**

It shall be the responsibility of the landowner to maintain private water boxes and pipelines in good working condition so that water may be delivered without hindrance. However, when privately maintained facilities are not maintained in good condition so as to prevent loss of water and permit regular flow, the Board of Directors may, but is not required to, authorize District personnel to construct, repair or maintain such private facilities. The Board of Directors is additionally authorized pursuant to ORS 545.287(2) to levy and collect assessments upon all tracts of land benefited by the improvements in order to defray the whole or any portion of the cost and expense incurred in maintaining private facilities.

**Replacement of Pipelines and Other Facilities**

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

**WATER RIGHTS INFORMATION**

**District Permanent Transfers**

A District Permanent Transfer is used to manage water rights within the District boundaries. The transfer is used for changes in place of use and can be used for changes in character of use (irrigation to industrial). A district transfer cannot transfer water rights of use subject to forfeiture under ORS 540.610 (5 years’ nonuse). At times, water rights of use which are subject to forfeiture can be transferred under ORS 540.572, Notice of Intent to Transfer, prior to 5 years’ nonuse (ORS 540.580).

**Voluntary Removal of Water Rights**

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

**INCLUSION/EXCLUSION OF LANDS TO AND FROM DISTRICT BOUNDARIES**

**Inclusion**

Landowners with land adjacent to the boundaries of the irrigation district may submit a written petition to the Board of Directors asking to be included in the district. ORS 545.057 to 545.091.

**Exclusion**

Beginning January 1, 2019, a landowner within the boundaries of the irrigation district may submit a written petition to the Board of Directors asking to be removed from the District. The landowner’s written request must be submitted to the Board of Directors by no later than October 1st for the following year and must include (1) documentation from the landowner proving that they are the record owner of the lands sought to be excluded from the District; (2) a legal description and tax lot identification of the lands sought to be excluded from the District; and (3) a map of the lands sought to be excluded from the District with cross-hatching showing the water rights located on the property sought to be excluded.

Exclusion from the District is subject to approval by the Board of Directors and is subject to any terms and conditions determined by the Board of Directors including, but not limited to, execution of an affidavit by the landowner stating that they have no objection to and will assist in transferring the water rights from the landowner’s property to other property within the District boundary, execution of an affidavit by the landowner confirming their acknowledgement that any water rights not used by the landowner are subject to forfeiture, the execution of any other necessary documents (such as easements) that may be requested by the Board, and/or payment of any amount of indebtedness that is determined by the Board to be attributable to the lands requested to be excluded.

The landowner will be required to pay a fee determined by the Board of Directors to process the landowner’s petition, administrative per hour costs actually incurred by the District in processing the petition, payment of any recording fees, all past due charges and assessments of the District, and all other costs incurred by the District related to or arising out of the processing of the petition.

**ADMINISTRATION**

**Delinquencies in** **Payments**

The District may withhold delivery of water from any tract of land until the charges and assessments are paid, whether such charges and assessments are for operation and maintenance, delinquent payment, repairs, construction, or other purposes. Collection of delinquent assessments shall be made pursuant to ORS 545.496.

**Notice of Lien**

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

**Administrative Fees**

The District assesses administrative fees for work associated with all land use actions, including without limitation, temporary and permanent water right transfers, inclusion in the District, voluntary removal of water rights, debt collection, filing of liens, foreclosures, or any other fees as the District's Board of Directors may deem appropriate. These fees are subject to revision at the sole discretion of the Board of Directors. Copies of the District's current administrative fee schedule are available upon request.

**Unlawful Acts**

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

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

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

**GENERAL**

**Office**

The office of the Wallowa Lake Irrigation District is located at 65196 Dobbin Road, Joseph, OR 97846.

**Board Meetings**

The Board of Directors of Wallowa Lake Irrigation District shall meet annually as required by ORS 545.181 and monthly as required by ORS 545.185. The dates of regular monthly meetings shall be set pursuant to ORS 545.181 and 545.185. Any person desiring to appear before the Board of Directors or to present any document for their review must call the District Secretary or the District Manager five (5) days in advance of the meeting to be included on the agenda.

**Emergency**

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

**Cooperation**

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

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

**RULES AND REGULATIONS EFFECTIVE**

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

The foregoing Rules and Regulations were adopted by Resolution of the Board of Directors of

Wallowa Lake Irrigation District on the 17th day of December, 2019 in regular session.

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Dan Butterfield, President