



MERCED IRRIGATION DISTRICT

## **RULES AND REGULATIONS GOVERNING THE DISTRIBUTION AND USE OF WATER**

Adopted December 15, 2020

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### **PREAMBLE**

These Rules and Regulations Governing the Distribution and Use of Water (“Rules”) are established pursuant to Water Code Section 22257 to ensure the orderly, efficient, and equitable distribution, use and conservation of MID’s water resources. The District will endeavor to deliver District Water in a flexible, timely manner consistent with the physical and operational limits of the District’s Facilities.

The masculine, feminine, or neutral gender and the singular or plural number shall each include the others whenever the context so indicates.

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### **DEFINITIONS**

As used herein, the following words, whether or not initially capitalized, shall have the following meanings:

“**BOARD**” means the Board of Directors of the District.

“**CONSTRUCTION AND ENGINEERING DESIGN STANDARDS**” means such technical design specifications and constructions details as may be required by the District when changes or improvements are made to the District Facilities, as they may be upheld from time to time by the District’s Engineering Department.

“**CUSTOMER ACCOUNT (CUSTOMER ID’S or BILLABLE ACCOUNTS)**” consist of one or more District water accounts owner of leased by the same entity.

“**DEPUTY GENERAL MANAGER, WATER RESOURCES**” means the Deputy General Manager, Water Resources of the District, or his/her authorized representative.

“**DEPUTY GENERAL MANAGER, WATER RIGHTS/SUPPLY**” means the Deputy General Manager, Water Rights/Supply of the District, or his/her authorized representative.

“**DISTRICT**” means the Merced Irrigation District.



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**“DISTRICT FACILITIES”** means all water conveyance facilities of the District, including but not limited to, for example, District canals, creeks used for conveyance, laterals, ditches, drains, flumes, pipes, measurement and control devices, rights-of-way for canal banks or roadways and all related operational facilities, including dams, structures, wells, pumps, power plants, reservoirs, and all other facilities of the District.

**“DISTRICT WATER”** means any District water supply, whether from surface or groundwater resources, such as for example, surface water diverted from the Merced River and Lake McClure into the District’s water conveyance system for District purposes; or groundwater pumped as part of the District’s conjunctively managed Supplemental Groundwater Supply Pool Program. For purposes of these Rules, the District Water shall also include other water wheeled or conveyed through District Facilities.

**“DSO”** means a Distribution System Operator of the District.

**“GENERAL COUNSEL”** means the General Counsel of the District, the General Counsel’s authorized representative.

**“GENERAL MANAGER”** means the General Manager of the District, or the General Manager’s authorized representative.

**“IRRIGATOR”** means the Landowner or tenant of a parcel of land who has the primary responsibility for irrigating the parcel. The term includes the Irrigator’s officers, employees, and agents. In the event the customer is a water purveyor, municipal or industrial user, or other water user that requires District Water for purposes other than agricultural irrigation, then this term shall mean that water user, its officers, employees, volunteers and agents.

**“LANDOWNER”** means a holder of title or evidence of title to land.

**“MASTER ID”** means an identification number that can be assigned to two or more Customer Accounts, at the customer(s)’s written request.

**“POLLUTANT”** means any foreign or deleterious substance or material including, but not limited to, garbage, rubbish, refuse, animal carcasses, matter from any barnyard, stable, dairy or hog pen, herbicides, pesticides, or any other material which is offensive to then senses or injurious to health, or which pollutes or degrades the quality of the receiving water as defined by federal, state, or local law.



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**“PRIVATE IRRIGATION FACILITY”** means any water distribution facility or appurtenance that is not a District Facility, whether owned by or serving a single or multiple property(s) or irrigator(s). May also be referred to herein as a “community facility.”

**“ROW”** means a District Right-of-Way.

**“STANDBY CHARGE”** generally means the annual charge per acre for the District’s Facilities and maintenance and improvement of District Facilities.

**“TENANT”** means a person or entity who leases, rents, or sharecrops land from a Landowner.

**“TURNOUT”** means a gate, stop gates, gate structure, pump intake, standpipe, valve or pipeline installed in a District Facility for the purposes of diverting water from an MID Facility to a Private Irrigation Facility or a private parcel. The turnout includes all gates, valves, standpipes, pipelines, and other appurtenances located within MID right-of-way.

**“VEHICLE”** means any motor vehicle, self-propelled O.H.V. (Off Highway Vehicle), or All-Terrain vehicle.

**“WATER CHARGE”** means the volumetric charge for an acre foot of water.

**“WATER OPERATIONS SUPERINTENDENT”** means the Water Operations Superintendent of the District, or the Water Operations Superintendent’s authorized representative.

**“WATER TRANSFER OR TRANSFER”** means the contract for the lease, sale, use or exchange of District Water for use outside of the District’s boundaries.

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## **SECTION 1- GENERAL**

1. The ability to use District Water when it is made available is subject to full compliance with these Rules together with any rules or regulations adopted pursuant hereto. Violation to any of these Rules may result in, in addition to any other remedy available to the District, the termination of District Water Deliveries to any and all property owned or irrigated by the irrigator and a red tag as provided below.
2. At any time, but typically before the beginning of each irrigation season, the Board may adopt rules and/or procedures to, among other things, govern the delivery of water or operation of District Facilities for that year, e.g., a water management implementation plan. Water management implementation plans are intended to temporarily supplement these Rules during the year in which they are adopted and typically expire at the end of



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that years irrigation season (unless otherwise indicated). To the extent there is a conflict with these Rules, the water management implementation plan and the rules and/or procedures adopted by the Board shall take precedent.

3. In its discretion, the District may require Landowners to provide the District with a written application for water (or other informational form) with pertinent information, such as the number of acres to be irrigated, the kinds of crops to be grown that year, or any other such information that may be required by the District. The District may require a cash deposit not to exceed the water charge for water applied for.
4. District Water Allocation
  - a. All allocations of District Water are at the parcel(s) level, and are based on Merced County assessed acreage.
  - b. Annually, the Board will determine the District Water supplies to be made available to its Class I and Class II customers, typically but not necessarily on an acre foot per acre basis.
  - c. Unless otherwise directed by the Board, total allocations will be managed at the Customer Account or Master ID level.
5. Every District Director, officer, employee, authorized agent, or representative shall have free access, together with appropriate vehicle or equipment, at all times (including weekends or holidays) to enter any land irrigated with District Water for any of the following purposes: (1) investigating or inspecting District Facilities or Private Irrigation Facilities, the flow of water within the facilities (including measurement) or seepage therefrom, and the use of water on the land; (2) performing a land or crop survey; and (3) inspecting, maintaining or operating District Facilities.

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### **SECTION 2 – ENCROACHMENTS**

1. No encroachment of any kind shall be planted, constructed, or placed in, on, or over, under or across and District Facility or any District ROW, either temporarily or permanently, unless an application in writing has been made to the District and written authorization is granted upon the form(s) and agreements required by the District. In their sole discretion, the obligation to submit an application prior to execution of an agreement may be waived by the District's General Manager or Deputy General Manager, Water Resources. Examples of encroachments include, but are not limited to turnouts, screens, trash racks, flow measurement devices, weirs, well discharges and well discharge structures or pipelines, filter backflush discharges



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and backflush discharge structures or pipelines, temporary pumping facilities, trees, vines, shrubs, corrals, fences, buildings, shade structures, bridges, roadways, ditches and pipelines. Due to the unique nature of land and District Facilities, and encroachment permitted in one instance is not precedence in any other instance.

2. All agreements or other documents required by the District containing terms and conditions granting an encroachment shall be executed, and all costs and fees paid prior to planting, constructing, or placing the permitted encroachment.
3. All permitted encroachments shall be at the sole cost of the applicant and at no cost or liability to the District, and unless otherwise approved by the District shall be constructed by a licensed contractor to then-current District Construction and Engineering Design Standards.
4. Turnouts
  - a. After approval and acceptance upon inspection, permitted turnouts shall become the sole property of the District upon completion and acceptance by the District. The correction of undisclosed defects in the materials for construction of the turnout by the District shall be paid for or reimbursed by landowner regardless of when the defect is discovered.
  - b. Subject to Section 4.a, maintenance and replacement of permitted turnouts shall be at the expense of the District.
    - i. Any maintenance required on a turnout that has not been used for more than three (3) consecutive years shall be at the sole expense of the Landowner(s) being served by said turnout.
  - c. The location and number of turnouts and flow measurement devices required for the delivery of water from District Facilities, and the manner of delivery therefrom, shall be determined solely by the District.
  - d. All turnouts must include MID approved flow measurement devices which meets the accuracy and other requirements of then current state law, District requirements including MID's Construction and Engineering Design Standards, and any other applicable standard in place at the time of use.
    - i. Existing turnouts that do not meet flow measurement requirements must be upgraded by and at the cost of the Landowner(s) being served by the turnout upon written notice by MID as a condition of water service.



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- ii. Flow meters must be able to only read District water deliveries. Sufficient metering must be installed so District water deliveries to in-District parcels are measured separately from out-of-District parcels.
5. Any encroachment not permitted by the District may be removed by the District. At the District's sole discretion and after three (3) consecutive years of non-recordable use, the District may remove any turnout from District Facilities together with any associated appurtenances and equipment.
    - a. The Landowner(s) will be solely liable for all District costs, including staff time and out-of-pocket costs related to the removal of any encroachment, appurtenance and equipment. The Landowner(s) is solely liable for all costs to repair or restore its property once encroachment is removed.
    - b. Replacement of facilities removed because of non-use shall be at the sole expense of the Landowner(s).
    - c. Replacement of facilities removed because of not being permitted shall follow the standard encroachment process defined herein.
  6. The applicant shall not acquire any rights in the District's Facilities or ROW other than those set forth in the applicable executed agreement.
7. Unauthorized Encroachments
    - a. Any unauthorized encroachment on District Facilities contrary to the provision of these Rules is unlawful. An unauthorized encroachment may be removed by the District at the expense of the Landowner(s).
    - b. The Board authorizes the General Manager and General Counsel to enforce violations of this section by, among other things, and in addition to any other remedies permitted under these Rules or applicable law, seeking injunctive relief from the Superior Court requiring the immediate removal of any fees and costs expended by the District to obtain such relief. The Board shall be made aware of any such filing as soon as reasonably practical.
    - c. The Board delegates the authority to the General Manager, General Counsel, Deputy General Manager, Water Resources, or their designee, to review and consider such applications for encroachment, grant or reject any application, or impose any condition upon approval of such application, in their discretion. By delegating such authority, the





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Board further hereby approves all such discretionary decisions made by the General Manager, General Counsel, Deputy General Manager, Water Resources, or their designees.

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### **SECTION 3 – MODIFICATIONS TO PRIVATE IRRIGATION FACILITIES OR PREVIOUSLY UN-IRRIGATED GROUNDS**

1. Whenever previously un-irrigated ground is to be irrigated or previously irrigated ground is divided, District Water may not be delivered across property not owned by the Irrigator without written agreement from the District.
  2. Irrigators must notify the District in writing when grounds that have not been served with District Water within the last five (5) years are to be irrigated; when changes are made to property ownership changes are made to Private Irrigation Facilities; or changes are made to irrigation methods.
    - a. Upon notification and at the expense of the Landowner, the District may require modification or replacement of an existing turnout or District Facility improvement as a condition of water service, at the sole discretion of the District.
    - b. If modification or replacement of an existing turnout or District Facility improvement is required, it shall be modified or replaced in accordance with Section 2 and this section.
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### **SECTION 4 – CONTROL OF DISTRICT FACILITIES**

1. District Facilities are under the exclusive control and management of the Board, District staff and their authorized agents. No other persons shall have any right to operate or interfere with District Facilities in any manner, except as expressly authorized herein.
2. District staff and their authorized agents have sole and exclusive right and responsibility to operate turnouts on District Facilities, including opening and closing gates.
  - a. An irrigator may make arrangements in advance with the Irrigator's DSO to allow the Irrigator to operate turnouts during the period the Irrigator is scheduled to receive water, to place, or remove a board in a weir or drop, or to lock their turnout(s) from the District Facilities.



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3. Use of the District roadways/canal banks/ROW is at the sole risk of the user. The District reserves its right to limit the public and private use of its roadways/canal banks/ROW.
  - a. No person shall drive any vehicle upon any District roadway/canal banks/ROW unless such person has received permission from the District ahead of time.
  - b. The following persons have permission to drive a vehicle upon a District roadway/canal bank/ROW:
    - i. Any District Director, officer, employee, or agent in the course of their duties.
    - ii. Private parties actively involved with farming a parcel of land adjacent to the specific District roadways/canal bank/ROW, or that require the use of a specific District roadway/canal bank/ROW for access to irrigation facilities serving that parcel of land.
    - iii. Any Sheriff, Police, Fire, or Public Safety personnel on official business.
    - iv. Any District contractor performing work under a contract with the District.
  - c. The General Manager or Deputy General Manager, Water Resources is authorized to adopt regulations setting forth the procedure for other persons to obtain permission to drive a vehicle on specific District canal bank roads or rights-of-way.
4. Interference with District Facilities: Any interference with or damage to any District Facility is prohibited. Interference with or damage to District Facilities includes, but is not limited to, unauthorized encroachments, interference or damage by pedestrians, livestock, vehicles, parking of vehicles, any alterations to District Facilities or installation or placement of any obstruction of object whether temporary or permanent, placed on, in, buried under or upon District Facilities including District rights-of-way. Costs for repair of damages to District Facilities shall be borne by the party causing said interference or damage.
5. Except for authorized district employees, agents and representatives, and persons authorized under these Rules, no person shall be permitted to do any of the following, except as expressly authorized herein:
  - a. To open or close it turn out located on the district facility, attach or place any boards, chains, ropes, locks, pipes, hoses, pumps or any other object to, on, in, under or upon any district conduits or other district facilities;





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- b. To place or remove a weir board in a weir or drop;
  - c. To tamper with any counterweight, cable, or any parts of an automatic gate;
  - d. To remove or tamper with any chain, board, post, lock or gate placed on or across any canal bank road of the District or on any other District Facility.
6. Public use of District Facilities: District Facilities shall be used solely for the purposes of the District, including conveying District Water for beneficial use and at times, for the conveyance of stormwater.
- a. Use of District Facilities by a private party shall only be permitted if authorized in writing by the District. The use of District Facilities by a private party shall be at the sole risk of the user, subject to receipt of written permission from the District.
7. District wells and pumps are to be operated by District staff or their authorized agents only.
8. Limits of Liability
- a. The District's responsibility shall cease when the District Water leaves the turnout from a District Facility onto the Irrigator's land or into a Private Irrigation Facility.
  - b. The District shall not be liable for any damage caused by the District Facilities operated, managed or interfered with by any Irrigator or private party in violation of these Rules.
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### **SECTION 5 – DUTIES OF IRRIGATOR**

1. Irrigator Responsibilities
  - a. The District will not be liable for damage of any kind or nature resulting directly or indirectly from an Irrigator's use of any Private Irrigation Facility or the water flowing therein, or for negligent, wasteful, unreasonable or other use of handling of water by the users thereof.
  - b. The Irrigator is responsible and liable for any damage caused by the Irrigator's negligent, wasteful, unreasonable or other careless use of water, or the result of failure to of the Irrigator to properly operate or maintain any Private Irrigation Facility, or other facility for which the Irrigator is wholly or partially responsible.
  - c. When the District Water is made available to an Irrigator by a DSO, the Irrigator must have a responsible person present, and the land to be irrigated must be properly prepared to efficiently take the water.



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- i. From the time delivery of the water is commenced to the completion of irrigation, the Irrigator shall, day and night, attend and control the water.
    - ii. When water is delivered to the Irrigator, the Irrigator shall be responsible for the water at all times after it leaves the District Facility.
  - d. It is the Irrigator's responsibility to close all of the Irrigator's private valves at the end of each irrigation.
  - e. It is the Irrigator's responsibility to close any community facilities by opening stop gates and closing delivery gates, unless directed otherwise.
  - f. It is the Irrigator's responsibility to call their DSO immediately after the irrigation to report irrigation times on and off. Irrigation times and resulting billings may be estimated by the DSO if the Irrigator does not call in a timely manner.
  - g. It is the Irrigator's responsibility to provide the DSO adequate notification prior to the completion of an irrigation event, dependent on the particular distribution system. Failure to provide adequate notification may result in the irrigator being billed for unused water in the system.
2. Waste of Water: All water must be applied efficiently and used in a reasonable and beneficial manner. Any Irrigator who wastes water, such as by excessive application, ponding, flooding of roads, vacant land, neighboring land, land previously irrigated, or in any other fashion, either willfully, carelessly, or on account of defective or inadequate conduits or facilities, or inadequately prepared land, or by flooding a portion of the land to an unreasonable depth or amount in order to irrigate other portions of the land or other parcels, in which case the Irrigator may be refused District Water until such conditions are remedied. Such determinations may be made by the District staff, in their sole discretion.
3. Private Irrigation Facilities
  - a. All Private Irrigation Facilities must be kept free from weeds and other obstructions, be of sufficient capacity, and be properly constructed and maintained to carry the flow of District Water made available, without the danger of breaks, constrictions, overflow, or undue leaks or seepage.
  - b. Where private open channel conduits are constructed parallel to open channel District Facilities, a full and complete bank must be constructed adjacent to and in addition to the bank of the District Facility. Prior to construction of an open channel private conduit that parallels open channel District Facilities, the landowner shall obtain approval from the District, such approval to remain



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conditioned upon construction in compliance with the District's Construction and Engineering Design Standards. If upon review of engineering plans the District requires alterations to the proposed private facility, the alterations shall be made by Landowner, at its sole cost. Neither review of any engineering plans nor any requirement to alter said plans shall result in any liability to the District or waiver of any immunities accorded to the District by state law.

- c. The District may terminate delivery of District Water to any Irrigator or Private Irrigation Facility not meeting the above requirements and require them to be cleaned, repaired, or reconstructed before water is made available.
  - d. In District Water made available to Irrigators who utilize community facilities shall be delivered to the head of these facilities by the DSO. It shall be the Irrigators responsibility to coordinate the actions of other individuals taking water from said community facilities to mitigate or address individual concerns. The responsibility of the District shall cease once the water leaves the MID turnout and enters the community facility.
4. Private Lift Pump Facilities
- a. The Irrigator will be required to install and operate private lift pumps to receive District Water where the District is unable to deliver water using existing District Facilities.
  - b. All Irrigators who pump from District Facilities shall be governed in all respects by these Rules.
  - c. Private pump installations must be approved by District staff and include flow measurement devices meeting their requirements of MID's Construction and Engineering Design Standards.
  - d. District personnel shall have free access at all times to private facilities and land to take flow measurements of the District Water pumped.
5. "Borderlands" - facilities must be configured with sufficient controls (valves, gates, additional turnouts, etc.) and water measurement devices to be able to physically isolate and accurately measure District Water supplies delivered to out-of-district parcels versus water delivered to lands located within the District. If facilities do not meet configuration requirements, facility improvements may be required prior to the



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commencement of irrigation, at no cost to the District. Failure to meet configuration requirements shall be sufficient reason for the District, and its sole discretion, to refuse to deliver District Water to either in-District parcel(s), or out-of-District parcel(s), or both as may be appropriate.

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## **SECTION 6 – DELIVERY OF DISTRICT WATER**

1. Water Rates and Charges
  - a. Each year, the Board may establish such policies, rates, charges and fees as may be necessary including, but not limited to, standby fees, administrative fees, in-District and in-season and Supplemental Water Supply Pool Program prices, and water wheeling rates. These charges may be made payable in advance. The Board or staff may also establish the beginning and ending dates for the irrigation season.
  - b. All water charges and other related charges shall be due and payable as stated by the District and applicable notices and billing statements.
2. Failure to Pay Charges
  - a. The District may refuse to furnish water to any water account and associated parcel(s) if outstanding charges for water or service is already furnished or rendered such Irrigator or parcel (including any accrued interest and penalties) have not been paid in full by the District-prescribed payment date.
  - b. All charges shall be made for individual parcels and are the responsibility of the recorded owners of that water account and associated parcels even if the irrigator is only a tenant and not the Landowner. All delinquent charges and assessments, together with any accrued interest and penalties, may result in a lien on the property and will be collected in accordance with the procedures specified in Water Code Section 25806.
3. Irrigation Service
  - a. The District will make reasonable efforts to meet a requested time for delivery of District Water within the capacity limitations of the District Facilities while maintaining efficient and equitable water distribution between Irrigators. A time limit may be applied to each delivery of water in the discretion of the District, or to prevent unreasonable use or waste of water.



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- b. To schedule an irrigation, the Irrigator must place a water order a minimum of four (4) days in advance of the time the water is desired to be used. The District does not guarantee any or all such water will be delivered within four (4) days, but staff will endeavor to do so. In the initial water order, the Irrigator should give an estimate for the requested flow rate and length of time the water will be used and the day the water is desired for each individual water account to be irrigated. The Irrigator must have the land ready to receive water when the water order is placed.
- c. After receiving a water order, the DSO will call the Irrigator to inform the Irrigator of the anticipated flow rate, time of water delivery, and where applicable, to whom the water is received from and passed to.
- i. When the DSO is unable to locate the Irrigator after making two separate calls to the contact number provided by the Irrigator and leaving word when water will be available, it shall constitute a refusal and forfeiture of that irrigation. This applies to Irrigators that have been scheduled as well as those which have not been scheduled.
- d. All measurements of District Water shall be made by the District at the District approved flow measurement device location. Where a flow measurement device has not yet been installed or approved, the District, in its sole discretion, will determine the delivered flow rate at the District turnout or nearest available point.
- i. Water measurement devices shall be provided at the sole cost of the Irrigator, and shall comply with all applicable State and District standards.
- e. The District shall maintain records of the names of each Irrigator, the water account that each Irrigator has irrigated, the number of acre feet of water used by each water account, and other such irrigation and operations information as required by the District.
- f. Regular billings for water usage will be forwarded to water users by the District. Any dispute regarding a billed irrigation should be filed with the District within 20 days of the billing or invoice date, but in unusual circumstances and in the sole discretion of the District, the District may consider a disputed billing or invoice received up to 45 days from the date of the billing or invoice.



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4. Irrigation Scheduling, On-Demand, and Time-of-Use Operations
  - a. Due to capacity limitations on certain MID Facilities, on-demand and time-of-use scheduling is not guaranteed and is subject to approval by MID.
  - b. Irrigators requesting on-demand or time-of-use scheduling shall provide their desired schedules on a weekly basis to their DSO.
  - c. MID will perform a scheduling analysis once all schedules have been received and will operate the system to meet the Irrigator schedules whenever possible. However, where said schedules cannot be met, the DSO will inform Irrigators what hours they can run.
  
5. Refusal of Water by Irrigator: If an Irrigator fails or refuses to continuously use the entire head of water ordered, then the following shall apply:
  - a. The full amount will be charged to the Irrigator,
  - b. the Irrigator shall not be entitled to use the unused portion of water at any other time;
  - c. the Irrigator shall forfeit the unused portion of water.
  
6. Interruptions of Service: In case of an interruption in a District Facility, such as a pump failure or a canal or pipe break, the District Water shall be turned onto the nearest land above the interruption that can take water without substantial damage to the land or to the crops thereon until the DSO can otherwise allocate the water.
  - a. Receiving District Water in such cases shall not affect the right of any Irrigator to receive water in the Irrigators regular turn, but if the Irrigator decides to complete the irrigation of land under such circumstances, the DSO shall facilitate such requests this is operationally feasible. Irrigators whose irrigation was interrupted shall be allowed to finish irrigating when service is restored and as reasonably practical.
  
7. Unauthorized Use of Water
  - a. Any person who uses District Water without the District's authorization may become subject to criminal prosecution and civil liability.
  - b. A red tag may be issued for anyone using water without authorization. (See Section 10.)
  - c. The taking and use of District Water without authorization is a violation of the District rules. The first such offence shall result in additional charges for the water taken in the amount(s) currently set by the Board.





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- d. The subsequent taking and use of District Water without authorization shall result in a forfeiture of irrigation water for the remainder of the season, as well as additional charges for the water taken in the amount(s) currently set by the Board.
  - e. The District shall be entitled to make a reasonable estimation of the District Water taken and the number of occurrences of unauthorized taking using any information it has available. Reasonable estimates made by staff that are not appealed to the Board or not amended by the Board on appeal, shall be deemed conclusive and final.
  - f. In addition to any other remedy available to the District, the Board hereby authorizes staff through its General Manager and General Counsel to enforce violations of this section by seeking immediate injunctive relief from the Superior Court requiring the cessation of unauthorized diversions of District Water, in addition to any other remedies permitted under these rules or applicable law, including the recovery of any fees, penalties and costs expended by the District to obtain such relief.
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## **SECTION 7 – DISTRICT WATER MADE AVAILABLE FOR TRANSFER**

1. At its sole discretion and without regard to the amount of water made available to in-District customers in any given year, the Board may determine that it is in the best interest of the District to make District Water available for transfer outside of the District's boundaries. By accepting District Water, purchasers and users of water outside of District boundaries confirm that the water supplies made available are intermittent, a supplemental supply, not a firm supply to be delivered every year, and are likely not sufficient to grow a crop. The decision of the District to enter into a water transfer agreement(s) is made on a case-by-case basis, and at the sole discretion of the District. The board hereby delegates authority to the General Manager to make such determinations.
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## **SECTION 8 – DISCHARGE TO DISTRICT FACILITIES, WATER QUALITY**



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1. No discharge, including but not limited to agricultural runoff, lagoon water, tail water, sheet flow from storms or rainfall events that traverses across developed land, or excess irrigation water is permitted to enter or be drained into any district facility, at anytime, without prior written permission from the district.
2. The District shall not be responsible for any trash or debris that may flow or accumulate in any District Facilities or Private Irrigation Facilities or water, or for any interference with the operation or decrease in the capacity of any Private Irrigation Facilities.
3. No pollutant or water shall be placed, emptied, discharged, or otherwise allowed to enter into any District Facility without the prior express written approval of the District.
4. Discharge or drainage of nutrient enriched water is not permitted to any District Facility. Upon discovery of any nutrient enriched water discharged to District Facilities, whether intentional or unintentional, it shall be the Irrigators or Landowners sole responsibility to modify their Private Irrigation Facilities to prevent future occurrences. Such modifications shall be at the Irrigator or Landowner's sole cost and liability, and subject to application to and permission granted by the district.
5. Groundwater quality: Salinity and other pollutants from well water that discharge into District Facilities can adversely impact the quality of water delivered to Irrigators or spilled to creeks, streams and rivers. Discharges into District Facilities from wells shall be subject to water quality testing and compliance with District water quality requirements as determined by the District, at the Irrigators expense. The District reserves the right to prohibit discharges based on the water quality testing and compliance with District water quality requirements, as determined by the District.
6. Any person who willfully or negligently allows any discharge or pollutant to enter any District Facility without the prior express written approval of the District shall be liable for all damages caused thereby, including but not limited to the cost of the cleanup of all affected District Facilities and all property adversely affected, as well as any related costs, fees, fines or charges imposed. In addition, the District may, and its sole discretion, refused to deliver District water to any land owned or operated by the Irrigator or Landowner until such time as the Irrigator or Landowner comes into compliance with all District rules.



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7. The District is authorized to enforce violations of this section by seeking injunctive relief from the Superior Court requiring the cessation of unpermitted discharges to any District Facility, in addition to any other remedies permitted under these rules or applicable law, including the recovery of any fees, penalties and costs expended or imposed by the District to obtain such relief.
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### **SECTION 9 – REGULATIONS**

1. Authority to Adopt and Implement Regulations: the General Manager, General Counsel, Deputy General Manager, Water Resources, Deputy General Manager, Water Rights/Supply, or either of them, are hereby authorized to adopt rules or regulations to implement or supplement these Rules. The General Manager, General Counsel, Deputy General Manager, Water Resources, Deputy General Manager, Water Rights/Supply, or either of their designees, is authorized to do any and all things necessary or appropriate to implement and effectuate these Rules, and to exercise their reasonable discretion in doing so.
  2. Violation of a Regulation Constitutes a Violation of These Rules: A violation of a regulation duly adopted pursuant to this section shall constitute a violation of these Rules.
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### **SECTION 10 – ENFORCEMENT OF RULES AND REGULATIONS**

1. Notice and Orders
  - a. The Deputy General Manager, Water Resources or his/her designee is authorized to issue a Notice and Order to any Landowner or Irrigator determined to be in violation of any Rule herein. An oral or written warning may be issued in lieu of a Notice and Order.
  - b. The Notice and Order shall contain a brief description of the violation and a statement of the corrective action to be taken by the Landowner or Irrigator.
  - c. A Notice and Order may or may not be accompanied by a Red Tag, in the District's discretion.
2. Red Tags, Termination of District Water Delivery for Failure to Comply with Rules or Regulations: Violation of any of these Rules, or failure or refusal of any Landowner or Irrigator to comply with any of these Rules shall be sufficient grounds for the immediate termination of delivery of District Water to any and all lands of such Landowner or Irrigator without liability for any loss or inconvenience, and District Water shall not again be furnished until there is full compliance with all District



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Rules. A notice of termination or termination of District Water delivery for failure to comply with Rules constitutes a “Red Tag” of the Landowner’s or Irrigator’s property whether owned or leased, that is or may be receiving District Water.

- a. The Deputy General Manager, Water Resources or his/her designee is authorized to immediately terminate the delivery of District Water to any and all lands of a Landowner or Irrigator under any one of the following circumstances:
    - i. If the land or irrigation facility in question is in such a condition so as to make it immediately dangerous to any person, to the public, or to any property, including but not limited to the flooding of property.
    - ii. If the Landowner or Irrigator has failed to comply with a prior District Notice and Order or warnings pertaining to the same or similar problem, including corrective actions to be taken.
      - iii. Any violation of these Rules or Regulations adopted pursuant hereto.
  - b. Notice of an immediate termination of the delivery of District Water shall be given with a Notice of Order with a Red Tag.
  - c. When a Red Tag is issued, the Board will be notified by District staff at an upcoming Board meeting, as determined by District staff.
3. Service of Notice and Orders and Red Tags: Each Notice and Order and/or Red Tag shall be served upon the Landowner or Irrigator either personally, by e-mail or by regular mail at the address indicated in the District’s records. Service by mail shall be effective on the date of mailing. The Red Tag may also be posted on the affected land or irrigation facility.
4. Compliance with Notice and Orders and Decisions
- a. After a Notice and Order or a decision of the Deputy General Manager, Water Resources or his/her designee or of the Board has become final, no person to whom any such order or decision is directed shall fail, neglect, or refuse to obey any such order or decision.
  - b. If, after an order or decision has become final, the person to whom such order or decision is directed fails, neglects, or refuses to comply with such an order or decision, the District may refuse or continue to refuse to furnish water to any and all land owned or operated by that person, and the District may institute such other actions or proceedings as may be appropriate under these rules or applicable law, including but not limited to a request for a court order or injunction.



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5. Appeals of Notice and Orders and Red Tags
    - a. Landowner or Irrigator affected by a Notice and Order and/or Red Tag may appeal from said Notice and Order and/or Red Tag. A Notice and Order, either with or without a Red Tag, becomes final if a written appeal is not filed with the Deputy General Manager, Water Resources within ten (10) calendar days of the date of such Notice and Order. If denied the Deputy General Manager, Water Resources' decision may be appealed to the Board. However, the decision shall become final if a written appeal to the Board is not filed within ten (10) calendar days of the date of service of the denial. The Board's decision becomes final on the day the decision is issued.
    - b. If the final decision requires compliance with the Notice and Order or any portion thereof and delivery of water is terminated for failure to comply with the Notice and Order, no further appeal is allowed and the Landowner or Irrigator must fully comply with the Notice and Order and demonstrate compliance with all District Rules and Regulations before District Water will be delivered.
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## APPENDIX

Pertinent provisions of law:

The Merced Irrigation District is a California irrigation district, organized and operating under the Irrigation District Law contained in the California Water Code. Applicable provisions of California law set forth generally the powers and purposes of an irrigation district, including the broad power to do any act necessary to furnish sufficient water in the District for any beneficial purpose, and to perform all acts necessary to carry out its powers and purposes.

Water code section 22257 provides in part as follows:

“Each district shall establish equitable rules for the distribution and use of water, which shall be printed in convenient form for distribution in the District. A district may refuse to deliver water through a ditch which is not clean or not in suitable condition to prevent waste of water and may determine through which of two or more available ditches it will deliver water.



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A district may close a defective gate and a community water distribution system used for irrigation purposes and may refuse to deliver water through the defective gate if the landowner fails to repair the gate or outlet to the satisfaction of the district within a reasonable time after receipt of notice from the Board through its authorized water superintendent, manager, or ditch tender to repair the gate or outlet.”

Water Code Section 22282.1 provides that:

“A district may refuse service to any land outstanding charges for services already rendered such land have not been paid within a reasonable time.”

Penal Code Section 592 provides that:

“(a) Every person who shall, without the 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, agricultural, mining, irrigating, generation of power, or domestic uses is guilty of a misdemeanor.

(b) If the total retail value of all the water taken is more than nine hundred fifty dollars (\$950), or if the defendant has previously been convicted of an offense under this section or any former section that would be an offence under this section, or of an offence under the laws of another state or of the United States that would have been an offence under this section if committed in this state, then the violation is punishable by imprisonment in a county jail for not more than one year, or in the state prison.”

Penal Code Section 607 provides that:

“Every person who willfully and maliciously cuts, breaks, injuries, or destroys, or who, without the authority of the owner or managing agent, operates any gate or control of, any bridge, dam, canal, flume, aqueduct, levy, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp, overflow, tide, or marshland, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to do the same, or either of





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them, or willfully or maliciously makes, or causes to be made, and the aperture or plows up the bottom or sides in the dam, canal, flume, aqueduct, reservoir, embankment, levy, or structure, with intent to injure or destroy the same; Or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any sea bank, sea wall, dock, quay, jetty, or lock; Or who, between the first day of October and the 15th day of April of each year, plows up or loosens the soil in the bed on the side of any natural water course, reclamation ditch, or drainage ditch, with an intent to destroy the same without removing the soil within 24 hours from the water course, reclamation ditch, or drainage ditch, or who, between the 15th day of April and the first day of October of each year, plows up or loosens the soil in the bed or on the sides of the natural water course, reclamation ditch, or drainage ditch, with an intent to destroy the same and does not remove their far from the soil so plowed up or loosened before the first day of October next thereafter, is guilty of vandalism under Section 594. Nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any watercourse, reclamation ditch, or drainage ditch for the purpose of mining.”