

CAWELO WATER DISTRICT
RULES AND REGULATIONS
FOR
DISTRIBUTION OF WATER
(Amended February 8, 2000)

As authorized by the provisions of Section 35423 of the California Water Code, the Board of Directors of Cawelo Water District hereby adopts and establishes rules and regulations for the distribution of water by Cawelo Water District.

I.

DEFINITIONS

1. "Agent Authorization Form" means the form supplied by the District for a Landowner to designate authorized agents, including a Designated Representative.
2. "Agricultural Use" means use of water in the growing and producing of agricultural crops and products.
3. "Assessment" means the per acre charge upon land in the District (both the Service Area and the Non-Service area) fixed and levied by the Board pursuant the California Water Code.¹
4. "Board" means the Board of Directors of Cawelo Water District.
5. "Canal Service Area" means lands served through turnouts directly from the Lerdo Canal.
6. "Designated Representative" means a person or entity designated as such by a Landowner on an Agent Authorization Form to act on behalf of the Landowner in all matters relating to obtaining District water for Agricultural Use on the Landowner's Farm, including applying for water, ordering water, accepting delivery of water, paying District Water Charges, and communicating with the District. Provided, however, the Designated Representative may not bring land into or exclude land from the District Service Area.

¹See sections 35359, *et seq.*

7. “District” means the Cawelo Water District, a California Water District organized and existing pursuant to law, its agents, representatives, Directors and employees.²
8. “District Delivery Capacity” means the extent of capability of a District distribution facility to pump, carry, store, deliver or otherwise make available District water to Water Users for Agricultural Use at any given time.
9. “District Manager” means the person who is appointed by the Board of Directors to carry out the policies and directives of the Board, or someone who is acting in that capacity in the District Manager’s absence.
10. “Farm” means a single parcel of land, or contiguous parcels of land (no part of which is merely cornering another part), or non-contiguous parcels being served through a single District Turnout , the title or the equitable ownership to which is held of record in a single ownership.
11. “Landowner” means a holder of title to land as defined in the California Water Code.³
12. “Meter” means a measuring and recording device for determination by the District of the quantity of water delivered by the District through a Turnout.
13. “Non-Service Area” means those lands within the boundaries of the District which have been designated by the Board as developed for water use, but are not in the Service Area.
14. “Non-Service Area Water” means the water allocated to water users in the Non-Service Area, after the District meets the demands for Service Area Water, deliverable at the Non-Service Area Water Toll rate.
15. “Non-Service Area Water Toll” means the charge per acre foot for Non-Service Area Water.
16. “North Service Area” means lands served by the District’s Pump Station “C.”

²Division 13 of the California Water Code.

³Section 34026 of the California Water Code.

17. “Service Area” means those lands within the boundaries of the District to which surface delivery of water service will be made available pursuant to these rules and regulations, under the plan for water allocation adopted by the Board.⁴
18. “Service Area Water” means the quantity of water allocated to Water Users within the Service Area to satisfy Water User applications and deliverable at the Service Area Water Toll rate.
19. “Service Area Water Toll” means the charge per acre foot for Service Area Water.⁵
20. “South Service Area” means lands served between the District’s Pump Station “B” and the District’s Pump Station “C.”
21. “Standby Charge” means the per acre charge upon land in the Service Area fixed and levied by the Board for making water delivery service available, whether the water is actually used or not.⁶
22. “Supplemental Water” means any water available for delivery to lands within the District boundaries other than the water available annually under the District’s water supply contracts.
23. “Supplemental Water Toll” means the charge per acre foot for Supplemental Water.
24. “Turnout” means a device owned and operated by the District and used to deliver water from a District facility to a Farm.
25. “Water Charges” means Standby Charges, Water Tolls, and Assessments fixed, levied, and collected by the District, which Water Charges can be enforced as liens upon the subject land.⁷
26. “Water Shortage” means a condition where total Water User applications for water use in the Service Area received by March 1st exceed the sum of

⁴ Section 35526 of the California Water Code

⁵Section 35470 of the California Water Code.

⁶Section 35470 of the California Water Code

⁷Sections 36726, 36729, 35470, and 35470.5 of the California Water Code

the water supplies expected as a result of the District's contractual water supplies.

27. "Water User" means a Landowner or Designated Representative who uses water delivered by the District on lands within the District's boundaries.
28. "Year" means calendar year.

II.

SERVICE AREA

From the District's inception, it has not been intended that the District would supply all of the lands within its boundaries with water or to provide a full water supply to the serviced lands. Therefore, in order to provide cost effective service, the Board has designated the District's Service Area.⁸ Only some of the lands in the District are in the Service Area. The Board shall maintain a Service Area designation, which shall be available for inspection at the District office by anyone during regular business hours. Maps of the Service Area are available from the District's office. From time to time, the Board may consider the modification of the boundaries of the Service Area, by either adding lands thereto or removing lands there from.

The Service Area has the first priority for delivery of District water and the first priority for the use of District Delivery Capacity as described in Sections IV and V of these Rules and Regulations. The water tolls vary between the Service Area and the Non-service Area as described in Section VI of these Rules and Regulations.

Requests to add lands to or remove lands from the Service Area shall be submitted in writing, signed by the Landowner, to the Board of Directors. The Board may modify the Service Area boundaries independently of Landowner requests. The Board shall have a public hearing before taking such actions. Owners of land affected by the proposed change shall receive written notice of the hearing.

III.

APPLICATIONS FOR WATER

Water Users in the Service Area shall file with the District by February 1st each Year, applications for delivery of Service Area Water, subject to availability, for that Year on forms provided by the District. Water Users should consider possible capacity constraints when submitting applications for water delivery. The Board may determine

⁸California Water Code Sections 35525 through 35531.

an allocation for Water Users in the Service Area who do not submit a timely application. Any such determination by the Board shall be final.

Water Users in the Non-Service Area may file with the District, on forms provided by the District, their applications for delivery of Non-Service Area Water. Applications for Non-Service Area Water shall be submitted by February 1st to receive the highest priority for such water. Such applications shall be accompanied by deposits in an amount fixed by the Board. If the District is unable to acquire all of the water for which a deposit is made, the District will credit or reimburse the Water User for the excess deposit, i.e., that portion of the deposit relating to water that was applied for but is unavailable. The District shall not deliver any Non-Service Area Water to a Landowner unless all of the charges for such water have been paid in advance.

The Board shall review the applications and the projections of available water supplies after February 1st and determine the allocation on a per-acre basis. Water Users shall be notified of their final allocation no later than April 30th each Year.

If not all Water User applications can be filled from available supplies due to a water shortage, the District will attempt to obtain Supplemental Water. If the District is successful in obtaining Supplemental Water, it will notify Water Users of each block of Supplemental Water as it becomes available. The notification will usually include information on price and limitations on supply, if any. Water Users may opt to purchase Supplemental water by responding by the date indicated on the District's notification of availability. A form will be supplied by the District for making such response.

IV.

PRIORITIES FOR RECEIVING DISTRICT WATER

Priorities for receiving District water each Year are as follows:

1. The first priority is for use within the Service Area, which has been ordered or deemed ordered by February 1st of each year, allocated, if necessary, in proportion to standby acreage.
2. The second priority shall be for use outside the Service Area ordered by February 1st of each year, allocated, if necessary, in proportion to assessed acreage.

If, after the District has notified the Water Users of their final allocation, water supplies to the District are reduced, supplies to the Non-Service area shall be reduced before reducing supplies to the Service Area. Payments made for supplemental Water shall be refunded to Landowners in proportion to the reduction.

If multiple Water Users require additional water, each block of Supplemental Water shall be allocated first to the Service Area and then to the Non-Service Area. Within each priority, Water User applications shall be treated equally if submitted within

the response time designated by the District. Absent a known demand by multiple Water users, the priority for Supplemental Water applied for after February 1st shall be on a “first come, first served” basis.

The District Manager’s decisions respecting the proper distribution of any water, shall be final and conclusive, and there shall be no liability on the part of the District for any failure or alleged failure to distribute any water in accordance with any of said priorities.

V.

PRIORITIES FOR USE OF DISTRICT DELIVERY CAPACITY

District Landowners shall have the same priorities for the use of related District Delivery Capacity as they have for receiving District water. Except as expressly authorized by the Board, the District shall not wheel another district’s water through District distribution facilities during times the District distribution facilities are at capacity transporting District water.

VI.

WATER CHARGES

The Board shall set an assessment levied on a per acre basis on all the lands in the District; a Standby Charge levied on all lands in the Service Area; Service Area Water Tolls levied per acre foot for Service Area Water; and Non-Service Water Tolls levied per acre foot for Non-Service Area Water. Supplemental Water Tolls may be set by the Board from time to time and may vary within a year as additional sources of water become available to meet District demands.

Where a Farm is comprised of both Service Area and Non-Service Area land, deliveries to that Farm exceeding 3.0 acre feet per acre of Service Area Land shall be charged the Non-Service Area Water Toll.

Before the adoption of the District’s budget for the subsequent year and before the fixing the Water Charges, the Board shall duly call and notice public hearings at which all interested persons may appear and be heard. Following said hearings, the Board shall adopt its budget and fix the Water Charges.

As a courtesy to Water Users, the District shall collect current Water Charges in accordance with the following procedure:

3. Written notice of Water Charges shall be given sufficiently in advance that the payor has not less than 45 days between the date of notice and the due/delinquency date of the first installment. Bills for Standby Charges should be sent, as near as practical, during the second week of November of each Year.

4. The due/delinquency date for payment of the first installment of Standby Charges should fall, as near as practical, on the first Thursday of January in each Year.
5. If Standby Charges remain unpaid within two days of the delinquency date, the District will attempt to provide a phone call to each Water User; provided, however, (i) the District will make one attempt to reach the Water User; (ii) the District will not be responsible for failure to reach such Water User by telephone; (iii) the District will use the phone number on the Authorized Agent form on file with the District for the purpose of such call; and (iv) telephone notice is a courtesy only and the failure of the District to give or the Water User to receive such notice will not be sufficient grounds, in and of itself, to warrant waiver of delinquency penalties.

In the event of a Water Shortage, the Board may revise the Water Tolls. If the Water Tolls are revised, Landowners shall have the opportunity to revise their applications for Water Delivery.

VII.

CHANGE OF PLACE OF USE OF WATER WITHIN THE DISTRICT

The proposed place of use of any type of water may be changed in whole or in part to another Farm within the District located either within or outside the Service Area with the consent of the District Manager. Requests for change of place of use shall be submitted to the District Manager on a form supplied by the District. Standby Charges shall not be changed or otherwise affected by such change of place of use. The District Manager will not refuse to consent to such change of place of use unless he or she is of the opinion that such change would adversely affect another Water User. (For example, the change in the place of use which results in an increase in acreage served in the North Service Area when it is "on allocation," would normally have adverse impacts to other Water Users.)

Water Toll differentials between the North Service Area, the South Service Area, and the Canal Service Area shall be taken into account where appropriate. Differentials between the Water Toll and the Supplemental Water Toll shall be taken into account when water originally allocated to the Service Area is delivered to the Non-Service Area, unless the Service Area Land is followed.

VIII.

USES OF SURPLUS LANDOWNER WATER

If a Water User has surplus water (water that has been ordered and paid for but not needed in the current Year), the Water User may, after notifying the District in writing:

1. Transfer or sell the surplus water to another Water User within the boundaries of the District.
2. Return the surplus water to the District by August 31st. The District shall pool all such water, attempt to sell all such water inside or outside the District, return any revenues to Water Users in proportion to the quantity of water each Water User returned to the District before August 31st. In no case shall the refund to the Water User exceed the Water Toll, nor shall it be less than the refund calculated below.
3. Return the surplus water to the District after August 31st. The District shall pool all such water, attempt to sell such water inside or outside the District after selling all surplus water described in VIII.2. above, and return any revenues to the Water Users in proportion to the quantity of water each Water user returned to the District after August 31st. In no case shall the refund to the Water User exceed the Water Toll, nor shall it be less than the refund calculated below.
4. Subject to approval by the Board, and other necessary approvals, the Water User may transfer water from the District to land in substantially the same ownership outside the District. Among other concerns, the Board will require that all demands for water inside the District have been met before approving such a transfer and that groundwater conditions will not be adversely impacted.

If a Water User does not sell, exchange, transfer or return surplus water to the District, the Water User shall receive a refund, calculated by the District, equivalent to the variable delivery costs that were avoided by non-delivery. The refunds shall be calculated by service area so that each Landowner in each service area receives the same refund per acre foot.

IX.

AUTHORIZATION TO ACT FOR LANDOWNER

A Designated Representative is a person or entity (e.g., a management company), designated by the Landowner on the Agent Authorization Form supplied by the District, to act for the Landowner in all matters relating to obtaining District water for

Agricultural Use on the Landowner's Farm, including applying for water, ordering water, accepting delivery of water, paying District Water Charges, and communicating with the District. The Designated Representative is not authorized to submit requests to bring land into or remove land from the Service Area. The Landowner does not forego its powers or authority by naming a Designated Representative and the designation may be modified or withdrawn at any time by the Landowner upon notice in writing to the District.

Agent Authorization Forms shall be completed and delivered to the District by January 1st of each year. If a new form is not submitted by January 1st of a given year, the District shall rely on the most recently submitted form.

X.

SUBDIVISION OF FARMS IN SERVICE AREA

Problems may arise when a Landowner constructs a facility to distribute water on the Landowner's Farm and the Farm is subsequently subdivided and sold. For example, the facility may have insufficient capacity or the meter may be inaccurate. To help avoid such problems, the District will not recognize a subdivision of a Farm that requires shared use of an existing District turnout until the plans for the delivery facility and the meter have been approved by the District.

For the foregoing reason, if a Farm located within the Service Area is subdivided into different ownerships held by holders of title and equitable owners,⁹ the District will continue to fix, levy and collect Standby Charges with respect to said Farm the same as if such subdivision had not occurred. Also the District will continue to allocate water to the Farm the same as if no subdivision had occurred.

In no event shall the District be held liable for any failure to receive notice of any such subdivision or for any delay in failing to recognize any part of such subdivided land. It shall be the sole responsibility and liability of the subdividing Landowner to make timely notification to the subdivided parcel purchaser of these rules and regulations and the special assessment policies of the District. The District shall seek indemnity from any cost or expense to the District resulting from the failure of a subdividing Landowner to notify the District immediately of any subdivision of land within the Service Area of the District.

⁹Section 34026 of the California Water Code.

XI.**CONSTRUCTION OF ADDITIONAL
DISTRIBUTION FACILITIES**

Except for a major distribution facility, which in the opinion of the Board will directly benefit a substantial number of Landowners within the District, any addition to the existing District distribution facilities which a Landowner requests in order to obtain delivery of water to his or her land shall be paid for by the requesting Landowner pursuant to terms and conditions set by the Board, whether such request derives from a subdivision of land within the Service Area or otherwise.

XII.**NO WATER IF DELINQUENT WATER
CHARGE OR ASSESSMENT**

The District will not deliver any water for use upon any Farm as to which there exists any delinquent Water Charge or District special assessment as to any part of said Farm. Any refunds due on a delinquent Farm shall be credited first to the delinquent charges.

XIII.**NO LIABILITY FOR SHORTAGES IN WATER,
FAILURE TO DELIVER WATER, OR LACK OF
AVAILABLE DELIVERY CAPACITY**

In the event of water shortage or a shortage of related capacity in District distribution facilities, the available District water or related capacity shall be prorated proportionately on a per acre basis respectively within each of the two priority categories affected and in the order of priority. In no event shall the District be liable for any damage directly or indirectly caused by any failure of the District to deliver water to anyone for any reason whatsoever, whether or not by alleged failure to observe the water or capacity priorities as herein provided.

The obligation of the District to deliver District water pursuant to the District's rules and regulations shall be limited to the extent that the necessary water and distribution facilities are available, and neither the District nor any of its directors, officers, agents and employees shall be liable for any damage caused by any failure to deliver District water so long as the District and its officers, agents and employees have not acted in an arbitrary, capricious or unreasonable manner with respect to the cause or reason for any such failure to deliver District water.

XIV.

WATER QUALITY, DISCLAIMER AND INDEMNITY

Water shall be delivered by the District for Agricultural Use only. Water supplied by the District is not potable or fit for domestic use, and it may not be fit for stockwatering or mixing with pesticides.

The District makes no warranty or representation whatsoever as to quality or fitness for use or purpose of the water it delivers.

Should a Water User use or permit use of District water for any purpose other than Agricultural Use as defined in Section 1.2, such Water User or Landowner shall be solely responsible for any damage, injury, loss or expense of whatever nature resulting directly or indirectly from the District water being used for such other purpose or use. The District shall seek indemnity from any cost or expense to the District resulting from the failure of a Water User to adhere to this rule.

XV.

WATER DELIVERY OPERATING RULES

1. No facility of the District, whether a Turnout, a Meter or other facility, may be modified in any manner whatsoever without the prior written consent of the District Manager.
2. To the extent possible, the District will attempt to start and stop delivery of water as requested by Water Users but will not incur unusual costs to do so. To ensure delivery, and to avoid unnecessary expense to the Water User, at least 48 hours advance notice should be given for delivery and shut-off.
3. In the event a Water User requests the District to shut off his or her water because of an emergency, if reasonably possible the District will hold the subject water for a reasonable time, but otherwise the water will be released by District in a spill condition and the Water User must initiate a new order for water if and when desired; however, any water so spilled will be charged against the Water User's Allocated Water or ordered Supplemental Water.
4. If District water is ordered and the ordering Water User for any reason decides not to take the water, the District will attempt to deliver the water elsewhere, but if such is not reasonably possible in the opinion of the District Manager, the original ordering Water User will have to pay for the water even though he or she did not receive it.

5. In an emergency situation the District may shut off Turnouts without notice to Water Users, but in such case the District will make a reasonable effort to notify such affected Water Users in advance.
6. Water Users who connect to a District Turnout are advised to have protective devices on their distribution system so that if the Turnout is shut off without notice it will not cause damage to the Landowner's delivery system. The District shall not be responsible for damage resulting from failure to install such a device.
7. If a Water User hooks up solid to a District Turnout without an air gap, the Water User must install a back flow preventative device sufficient to protect the District's facility.
8. If a Water User is injecting fertilizer into his system which is connected to a District facility, the Water User must have installed an adequate back flow preventative device.
9. If a Water User has a water recovery system, he or she must maintain a back flow preventative device to prevent possible contamination of District water within its system.
10. If a Water User or Landowner operates any equipment or performs any act over, upon, at or near a District facility, in a manner which could cause damage to such District facility, then the Water User or Landowner must notify the District of such intention at least 48 hours in advance of any such act or operation. Irrespective of any such notice, each Water User and Landowner shall indemnify and hold the District harmless from any damage to a District facility resulting from any act, or operation of any equipment, caused by the Water User or Landowner.
11. It is understood that District personnel must from time to time enter upon Water Users' property with respect to the operation of the District's facilities and it is understood that all Landowners shall provide such access to water Meters, Turnouts, and related facilities.
12. Each Water User shall be responsible for controlling and disposing of tail water and filtration flush water on his or her property. Tail water and flush water shall not be allowed to collect upon District right-of-ways nor shall such water be returned to District facilities without written permission from the District being first obtained. Deliveries of District water to Water Users who fail to comply with this provision may be terminated until the problem is corrected.

XVI.**CHANGES IN RULES AND REGULATIONS**

These rules and regulations are effective as of the amendment date first above written and may be changed by resolution of the Board of Directors of District duly adopted according to law.

XVII.**ENFORCEMENT OF RULES AND REGULATIONS**

In addition to all remedies available pursuant to applicable law, the District reserves the right and privilege to discontinue or refuse to deliver District water for use upon a Farm or part thereof with respect to which place of use the Water User is in violation of any of these rules and regulations, in the good faith opinion of the District Manager, which opinion shall be conclusive and binding with respect to both the existence of any such violation and the duration thereof.

No Water User or Landowner or any other person or entity shall have any claim or cause of action of any nature whatsoever against either the District or the District Manager as a result of any claimed injury or damage caused by, arising out of or related to any such discontinuance of or refusal to deliver District water. Acceptance of water service under these Rules and Regulations shall be conclusive proof of Water User's and/or Landowner's agreement to said Rules and Regulations.