

Eastern Irrigation District
BYLAW 907 (2016)

Being a Bylaw of the Eastern Irrigation District to govern the maximum amount of water that may be delivered for irrigation purposes and for any other purpose.

WHEREAS Section 177(2)(b) of the Irrigation Districts Act permits the District to make a bylaw governing the maximum amount of water that may be delivered by the district to each acre receiving water for irrigation purposes;

AND WHEREAS Section 13(1) of the Irrigation Districts Act authorizes a district to stop the delivery of water to a parcel if the district is of the opinion (a) that any further delivery of water may exceed the amount prescribed by bylaw or (b) the owner or lessee of the parcel has used or is using the water delivered by the district in a manner that is causing or may cause loss or damage to property or loss or injury to any person;

AND WHEREAS Section 13(2) of the Irrigation Districts Act authorizes a district to stop the delivery of water to a parcel subject to an annual agreement or terminable agreement if the district is of the opinion that it may not be able to deliver sufficient water to the irrigation acres of the district or to the irrigation acres in a portion of the district;

AND WHEREAS Sections 13(3) and (4) prescribe the order for stopping the delivery of water to parcels subject to an annual agreement or terminable agreement and further prescribe the requirement to provide notice before the delivery of water is stopped;

AND WHEREAS acres receiving water for irrigation purposes include irrigation acres, annual agreements, terminable agreements, and any other agreement whereby the User is entitled to receive water from the irrigation works of the District for irrigation purposes;

AND WHEREAS the District desires to enact this bylaw to specify the circumstances in which it would reduce, restrict or stop water deliveries to Users receiving water from the District for irrigation purposes and for all other purposes;

NOW THEREFORE, the Board of Directors of the Eastern Irrigation District hereby enacts as follows:

1. When used in this Bylaw,
 - (a) "Board of Directors" or "Board" mean the Board of Directors of the District.
 - (b) "Bylaw" means this bylaw being Bylaw **907 (2016)** of the Eastern Irrigation District.
 - (c) "District" means the Eastern Irrigation District or the geographic area contained within the boundary of the Eastern Irrigation District, as the case may require.
 - (d) "Irrigation Districts Act" or "Act" mean the Irrigation Districts Act, chapter I – 11, RSA 2000.
 - (e) "Manager" means the person appointed pursuant to section 49 of the Act and includes any person acting under the direction of or on behalf of the Manager.
 - (f) "Other User" means all users other than irrigators.
 - (g) "Parcel" of land includes not only a parcel as defined by the Act but also any parcel or parcels included in an Irrigable Unit designated pursuant to section 23 of the Act.
 - (h) "Point of Delivery" means the point on the District's irrigation works from which the District delivers and the User receives water and shall also mean and include, as the case or context may require, a Primary Point of Delivery, an Associated Point or Points of Delivery, or a Primary Point of Delivery and one or more Associated Points of Delivery.
 - (i) "User" means any person who receives water, for any purpose, through the irrigation works and includes irrigators, Other Users and a person who is a party to a use of irrigation works agreement under section 20 of the Act or a water conveyance agreement under section 21 of the Act, and, for the purposes of this Bylaw, will be deemed to also include a person who is a party to an annual agreement under section 16 of the Act, a terminable agreement under section 17 of the Act, a household purposes agreement under section 19 of the Act, a rural water use agreement under section 19.1 of the Act, and a person who is party to an Other Purposes Agreement; and

Any other word or phrase that is defined in the Act and used in this Bylaw shall have the same meaning as given to the word or phrase by the Act.

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2. (a) Unless altered by this or any other bylaw, the maximum amount of water per irrigation season that may be delivered by the District to each acre entitled to receive water for irrigation purposes shall not exceed **twenty-four inches (24")** per acre.
(b) It is the District's intention that, while the maximum amount of water may be delivered to one or more acres entitled to receive water for irrigation purposes, less water will be delivered to all other acres entitled to receive water for irrigation purposes so that the average amount of water delivered per irrigation season to all acres entitled to receive water for irrigation purposes, across the District as a whole, will be less than the maximum amount stated in paragraph 2(a). For planning and operational purposes, the District uses an average of eighteen inches (18") per acre across the District as a whole when the maximum is twenty-four inches (24").
3. (a) Where more than one Point of Delivery exists for a Parcel, the Manager may designate one of those Points of Delivery as the Primary Point of Delivery and, in such case, each of the other Points of Delivery that serve the Parcel shall automatically become designated as an Associated Point of Delivery. Where the Manager has designated a Primary Point of Delivery, all water delivered to the Primary Point of Delivery plus all of the water delivered to each of the Associated Points of Delivery shall be aggregated and recorded as though such water was delivered to the Primary Point of Delivery. The amount of water recorded as having been delivered to a Primary Point of Delivery shall be deemed to be the amount of water delivered to the Parcel, notwithstanding that some of the water may actually have been delivered to one or more of the Associated Points of Delivery.
(b) The land or Parcel served by a Point of Delivery shall be as shown in the District's assessment roll.
(c) For purposes of this Bylaw, measurement, by estimation or otherwise, of the amount of water delivered shall occur at the Point of Delivery.
4. (a) In the event the Manager has determined, due to an actual or forecast shortage of water due to drought or for any other reason, that the amount of water referenced in paragraph 2(a) of this Bylaw should be reduced, the Manager may make a recommendation in that regard to the Board.
(b) In the event the Manager has determined that the District may not be able to deliver sufficient water to the irrigation acres of the District or to the irrigation acres in a portion of the District due to drought or for any other reason and, therefore, consideration should be given to stopping the delivery of water to all or any of the Parcels that are subject to an annual or terminable agreement, the Manager may make a recommendation in that regard to the Board.
(c) The Manager shall include in his consideration of a recommendation to the Board all relevant and material factors, including consideration of the District's Drought Plan Guidelines.
(d) The Board will consider the Manager's recommendation or recommendations and, if the Board determines that:
(i) the maximum amount of water referenced in paragraph 2(a) should be reduced, the Board may, at any time, by bylaw, change the maximum amount of water per irrigation season that may be delivered by the District to each acre entitled to receive water for irrigation purposes.
(ii) the District may or will not be able to deliver sufficient water to the irrigation acres of the District or to the irrigation acres in a portion of the District, the Board may, by resolution, authorize that the delivery of water be stopped to all or any of the Parcels that are subject to an annual agreement or terminable agreement. In implementing such resolution, the Manager shall comply with section 13(3) and section 13(4) of the Act.
5. In the event the Board considers it desirable to implement a Drought Plan or to impose any other form of reduction or rationing of water delivered for purposes other than for irrigation purposes, the Board may, by resolution, reduce, ration, suspend or stop the delivery of water for any or all such purposes.
6. The following guidelines will be considered by the Manager in preparing his recommendation to the Board under section 4 of this Bylaw. These guidelines were developed at the suggestion of Alberta Environment and may be referred to as the District's Drought Plan Guidelines.
(a) Any bylaw or resolution pertaining to a reduction or rationing of the amount of water to be delivered will supersede the guidelines set out below.

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DROUGHT PLAN GUIDELINES				
Stage #	Water Delivered for Irrigation Purposes	Rural Water Use Agreements	Other Purposes Agreements	Other License Holders
1	Maximum 24"/acre to any Point of Delivery, with the average across the entire District being 18"/acre	Status Quo	Status Quo	Status Quo
2	Maximum 24"/acre to any Point of Delivery subject to the maximum of 18"/acre averaged across all irrigated acres in the Farming Unit. If a landowner does not designate a Parcel of land as part of a Farming Unit, the maximum of 18"/acre will apply to such Parcel.	Asked to conserve	Asked to conserve	Asked to conserve
3	Maximum volume of water delivered to a Farming Unit, or to a Parcel that is not part of a Farming Unit, will be something less than 18"/acre (could be 16", 15", etc). A landowner can apply to transfer any amount of unused irrigation water to any User (as User is defined in this Bylaw). An application to transfer is not valid and shall not be acted upon until approved by the District.	Reduced by same percentage as farms	Reduced by same percentage as farms	Reduced by same percentage as farms
4	<p>If a priority call is made that forces junior license holders located within the District to stop diverting water and those license holders do not have enough water in storage to get them through the period, the District is willing to:</p> <ul style="list-style-type: none"> • Provide an assignment for a portion of the District's water license to any municipality that needs one on the condition that the municipality has their own drought / conservation plan and has implemented it (this plan must be realistic). The District will provide these assignments at a reasonable cost. • Provide an assignment to most other industries or license holders that require one; many may be able to go without an assignment for a period of time. The District will provide these assignments at a reasonable cost. • Provide only very limited assignments to Ducks Unlimited to prevent major wildlife losses; most projects can be shorted for a year. The District will provide these assignments at a reasonable cost. 			

- (b) The following procedures and regulations form part of the Drought Plan Guidelines:
- (i) "Farming Unit" means the one or more irrigated Parcels, as designated in writing by the owner of each Parcel, that are linked together for purposes of Stage 2 and Stage 3 of the Drought Plan Guidelines and for any other water reduction or rationing program involving Farming Units. Subject to the requirements set out below, a Farming Unit may be comprised of:
 - (1) Parcels that are owned by the person designating the Farming Unit,
 - (2) Parcels that are leased by the person designating the Farming Unit, or
 - (3) A combination of Parcels that are owned and leased by the person designating the Farming Unit.
 - (ii) "Maximum Amount of Water" means the prevailing maximum amount of water per irrigation season that may be delivered by the District to each acre entitled to receive water for irrigation purposes, as prescribed in this Bylaw or in any amendment to or replacement of this Bylaw.
 - (iii) In order to participate in the averaging provisions in Stage 2 of the Drought Plan Guidelines and the transfer provisions in Stage 3 of the Drought Plan Guidelines (or any similar provisions in any water reduction or rationing program involving Farming Units), a landowner must designate a Farming Unit by choosing from the following options for each irrigated Parcel owned by the landowner:
 - (1) Include the irrigated Parcel in the landowner's Farming Unit.
 - (2) Subject to paragraph 6(b)(vii), include the irrigated Parcel in the lessee's Farming Unit.
 - (3) Subject to paragraph 6(b)(v), exclude the irrigated Parcel from a Farming Unit.
 - (iv) A landowner can designate a maximum of one Farming Unit.

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- (v) Any Parcel to which the Maximum Amount of Water has been delivered must be included in the landowner's Farming Unit, unless it is included in the lessee's Farming Unit.
 - (vi) If a Parcel is not designated as part of a Farming Unit, such Parcel shall, on its own, be subject to the Maximum Amount of Water.
 - (vii) A landowner, who has by written agreement (the "rental agreement") authorized someone other than the landowner (the "lessee") to farm or otherwise use an irrigated Parcel of the landowner's land, may designate such irrigated Parcel as part of the lessee's Farming Unit, provided the EID is first supplied with written confirmation, signed by both the landowner and the lessee, stating that the irrigated Parcel is, for that year, designated as part of the lessee's Farming Unit.
 - (viii) Landowners and lessees are encouraged, near the beginning of each farming season, to consider how they would allocate irrigation water amongst the irrigated Parcels in their Farming Unit (or in their prospective Farming Unit) in the event that the District is unable to deliver the Maximum Amount of Water. In the event that the District implements a drought plan or any other water reduction or rationing program that involves Farming Units, landowners and lessees will be required to inform the District, in writing, of the irrigated Parcels that comprise their Farming Unit. Such written notice may be provided to the District prior to the effective date of such a program and, in any event, not later than seven (7) calendar days after the effective date of such a program.
 - (ix) Once an irrigated Parcel is designated by its owner as part of a Farming Unit, it must remain part of that Farming Unit for the remainder of that irrigation season. Once a Farming Unit is designated, no Parcel can be added to or removed from the Farming Unit for the remainder of that irrigation season.
 - (x) For purposes of Stage 3, a landowner may apply to transfer any amount of unused irrigation water to any User (as User is defined in this Bylaw) in any of the following ways:
From an irrigated Parcel that is served:
 - (1) directly off the river to any other Parcel that is served directly off the river,
 - (2) directly off the river to any other Parcel that is served by a reservoir,
 - (3) directly or indirectly by Lake Newell Reservoir to any other Parcel that is served directly or indirectly by Lake Newell Reservoir,
 - (4) directly or indirectly by Crawling Valley Reservoir to any other Parcel that is served directly or indirectly by Crawling Valley Reservoir,
 - (5) directly or indirectly by Lake Newell Reservoir to any other Parcel that is served directly or indirectly by Crawling Valley Reservoir,
 - (6) directly or indirectly by Crawling Valley Reservoir to any other Parcel that is served directly or indirectly by Lake Newell Reservoir.
 - (xi) If a landowner applies to transfer unused irrigation water to the holder of a water license (a "licensee"), any approval to transfer such water will be restricted to the extent that the total amount of water approved for delivery to the licensee shall not exceed the maximum amount of water set out in the licensee's conveyance agreement.
 - (xii) Water delivered under a Household Purposes, Rural Water Use or Other Purposes agreement is not considered to be irrigation water; therefore, the holder of such an agreement is not eligible to transfer any water.
7. Notwithstanding any other provision of this Bylaw and pursuant to section 13(1) of the Act, it is lawful for the District to stop the delivery of water to a Parcel, when, in the opinion of the Manager, (a) further delivery of water will exceed the maximum amount of water per irrigation season that may be delivered by the District to each acre entitled to receive water for irrigation purposes as prescribed by this Bylaw or any other bylaw, or (b) the owner or lessee of the Parcel has used or is using the water delivered by the District in a manner that is causing or may cause loss or damage to property or loss or injury to any person.
8. (a) Without limiting the rights and powers of the District in law or pursuant to any other provisions of this Bylaw or any other bylaw, the Manager may, without notice, turn off or otherwise stop the supply of water to any User who is in breach of any water restriction or rationing as contemplated in this Bylaw or any other bylaw of the District or the Act dealing with that subject matter.

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- (b) A User to whom delivery of water is shut off or otherwise stopped pursuant to paragraph 8(a) of this Bylaw shall not be entitled to receive any further water from the District for any purpose for use through the Point of Delivery or on the affected Parcel and, if the Parcel is part of an Irrigable Unit, to that Irrigable Unit, until that User has:
- (i) provided satisfactory written confirmation to the Manager that the User understands and will comply with the water restrictions or rationing of the District and will further comply with all other bylaws, rules and regulations of the District;
 - (ii) paid to the District a Turn-On Fee in the amount of One Thousand Dollars (\$1,000.00); and
 - (iii) paid to the District all costs incurred by the District in shutting off, stopping and re-instating delivery of water; with such Fee and costs to be paid in full prior to the District turning the water back on to the affected Point of Delivery, parcel or the Irrigable Unit containing the parcel.
9. Notwithstanding the provisions of paragraph 8 of this Bylaw, once the delivery of water has been stopped, the Manager may determine that:
- (a) no further water shall be delivered to the Parcel or to the User for irrigation purposes or for any other purpose until the start of the next following irrigation season; or
 - (b) additional water is available and direct that additional deliveries, as determined by the Manager, may be made in proportion to the water actually available or forecast to be available.
10. The District may at any reasonable time enter onto any Parcel and onto any Parcel where water delivered by the District is being used to inspect for compliance with this Bylaw, any other bylaw or resolution, and to document and detect any incidents of water use in contravention of this Bylaw, any other bylaw or resolution, and may act to stop that contravention in accordance with the provisions of the Act and any applicable bylaw or resolution.
11. The District shall, at any time, have the right to enter upon any land for the purpose of monitoring the delivery and use of water, or to make any lawful enquiries or investigations required by the District, and such activities may include the periodical check of water being used for any purpose, the measurement (by meter, other device or by estimation) of water being used, and the investigation of sprinkler nozzles, flow regulators, meters and any other devices or appliances used in connection therewith.
12. The District may, at any time, conduct tests, provide reports and undertake any other measures or make any estimates required to monitor compliance with this Bylaw, any other bylaw or resolution.
13. The District shall not incur any liability of any kind whatsoever for:
- (a) approving or refusing to approve an application to transfer unused irrigation water,
 - (b) transferring any unused irrigation water, or
 - (c) reducing or stopping the delivery of water pursuant to this Bylaw, or any other bylaw or resolution,
- and nothing done pursuant to the provisions of this Bylaw, the Water Delivery and Operations Policy or any other resolution shall result in the reduction, abatement or cancellation of any fee, rate or charge imposed by, owing or owed to the District.
14. In the event that any paragraph or provision contained in this Bylaw is deemed to be ultra vires, invalid or otherwise inoperative, all remaining paragraphs and provisions shall remain fully in force to the extent practical.
15. Bylaw No. 829(2001) and Bylaw No. 614(1977) are hereby repealed.
16. This Bylaw shall come into force and take effect on the date it is finally passed.

Chairman

General Manager

Introduced and read the 1st time on the **24th** day of **February, 2016**.

Read the 2nd time on the **24th** day of **February, 2016**.

Read the 3rd time and finally passed on the **26th** day of **April, 2016**.