



**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 amongst other things stop the delivery of water to a User if the District is of the opinion that (a) any further delivery of water may exceed the amount prescribed by bylaw, (b) the User 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:

1.0 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 **970 (2024)** 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, RSA 2000, chapter I – 11, including any amendments or successor legislation thereto.
- (e) "Irrigator" means an owner of a Parcel with irrigation acres.
- (f) "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.
- (g) "Parcel" means land consisting of a quarter section, a part of a quarter section described in a certificate of title, a surveyed lot or land designated as an irrigable unit 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; and

Unless otherwise defined in this Bylaw, any 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.

## 2.0

- (a) Unless altered by this or any other bylaw and subject to clause 2(c), 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 the prescribed inches per acre as initially set forth in Stage 3 of the Drought Plan Guidelines, or as otherwise set forth in the applicable stage of the Drought Plan Guidelines implemented by the Board from time to time.
- (b) **By way of default, Stage 2 of the Drought Plan Guidelines is in effect unless the Board, by resolution, determines a different stage is more appropriate for a period of time taking into account various factors including, without limitation, the time of year, snowpack, precipitation, river and reservoir levels, and weather forecasts.** In this regard, the Board may consider on a monthly basis, or more frequently as may be required, whether a different stage of the Drought Plan Guidelines needs to be implemented. Notwithstanding the foregoing, the stage of the Drought Plan Guidelines in effect on the date of a regular June Board meeting shall be reviewed by the Board at such meeting.
- (c) 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 clause 2(a). For planning and operational purposes, unless Stage 3 of the Drought Plan Guidelines is implemented, the District uses an average of eighteen inches (18") per acre across the District.

## 3.0

- (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.



4.0

- (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 clause 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.
- (d) 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 clause 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.

5.0 In the event the Board considers it desirable to implement a different stage of the Drought Plan Guidelines 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, implement a different stage of the Drought Plan Guidelines, or reduce, ration, suspend or stop the delivery of water for any or all such purposes.

6.0 The following guidelines will be considered by the Manager in preparing his recommendation to the Board under clause 4 of this Bylaw. These guidelines may be referred to as the District's Drought Plan Guidelines.



<b>DROUGHT PLAN GUIDELINES</b>					
<b>Water Delivered for Irrigation Purposes</b>	<b>Max Inches to Parcel</b>	<b>With Transfers / Purchases</b>	<b>RWUP Agmts</b>	<b>Other Purposes Agmts</b>	<b>Other License Holders</b>
<b>Stage 1:</b> Maximum 24"/acre to any Point of Delivery plus option to purchase up to an additional 4 inches of deliveries, subject to the average delivery across the entire District not exceeding 18"/acre. No water transfer option. Option to purchase inches also subject to water availability and obtaining consent from Manager.	24"	28" (4" of Purchases)	Maintain Efficient Use	Maintain Efficient Use	Maintain Efficient Use
<b>Stage 2:</b> Maximum 18"/acre to any Point of Delivery plus option to: <ul style="list-style-type: none"> <li>transfer any amount of unused irrigation water, up to 24" to any other Parcel; an application to transfer is not valid and shall not be acted upon until approved by the District.</li> </ul> No option to purchase additional inches. Above is subject to the average delivery across the entire District not exceeding 18"/acre.	18"	24" (6" of transfers)	Maintain Efficient Use	Maintain Efficient Use	Maintain Efficient Use
<b>Stage 3:</b> Maximum volume of water to any Point of Delivery being something less than 18"/acre as determined by the Board from time to time (the "Drought Maximum Threshold") plus option to: <ul style="list-style-type: none"> <li>transfer up to 6" above the applicable Drought Maximum Threshold to any other Parcel.</li> </ul> An application to transfer is not valid and shall not be acted upon until approved by the District. No option to purchase additional inches. All above subject to average delivery across the entire District not exceeding the Drought Maximum Threshold.	< 18" (as set by the Board)	6" above set amount (by transfers)	Reduced by same % as farms	Reduced by same % as farms	Reduced by same % as farms
<b>Stage 4:</b> 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 may be willing to: <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> </ul>					



- (a) The following procedures also form part of the Drought Plan Guidelines:
  - (i) Provided the District approves the purchase of additional inches of water, the following surcharges will apply:
    - a. During Stage 1, the surcharges set forth in clause 10 of the District's Rate Bylaw in effect at the time of such purchase.
  - (ii) During Stages 2 and 3, a landowner may apply to transfer any amount of unused irrigation water to any Irrigator in any of the following ways:
    - From an irrigated Parcel that is served:
      - a. directly off the river to any other Parcel.
      - b. directly or indirectly by Lake Newell Reservoir to any other Parcel that is served directly or indirectly by Lake Newell Reservoir.
      - c. directly or indirectly by Crawling Valley Reservoir to any other Parcel that is served directly or indirectly by Crawling Valley Reservoir.
      - d. directly or indirectly by Lake Newell Reservoir to any other Parcel that is served directly or indirectly by Crawling Valley Reservoir.
  - (iii) 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.
  - (iv) 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.
  - (v) The Board reserves the right, by its motion, to vary, alter or waive any guidelines, criteria and procedures relating to the Drought Plan Guidelines.

7.0 Notwithstanding any other provision of this Bylaw and pursuant to section 13(1) of the Act, it is lawful for the District to amongst other things stop the delivery of water to a User, 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 for each acre entitled to receive water for irrigation purposes as prescribed by this Bylaw or any other bylaw, (b) the User 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, (c) the User supplies water delivered by the District to (i) another person, and (ii) in a manner that is contrary to the Act or to an agreement entered into between the User and the District, or (d) the User irrigates, using water delivered by the District, acres that are not shown on the assessment roll of the District.

8.0

- (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.
- (b) A User to whom delivery of water is shut off or otherwise stopped pursuant to clause 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.
- 9.0 Notwithstanding the provisions of clause 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.
- 10.0 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.
- 11.0 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 appurtenances used in connection therewith.
- 12.0 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.
- 13.0 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.
- 14.0 In the event that any clause or provision contained in this Bylaw is deemed to be ultra vires, invalid or otherwise inoperative, all remaining clauses and provisions shall remain fully in force to the extent practical.



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

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15.0 Bylaw **959 (2022)** is hereby repealed.

16.0 This Bylaw shall come into force and take effect on the date it is finally passed.

A blue ink signature, appearing to be 'R. L.', written over a horizontal line.

Chairman

A blue ink signature, appearing to be 'M. J. Jensen', written over a horizontal line.

General Manager

Introduced and read the 1<sup>st</sup> time on the **23<sup>rd</sup>** day of **January 2024**.

Read the 2<sup>nd</sup> time on the **27<sup>th</sup>** day of **February 2024**.

Read the 3<sup>rd</sup> time and passed on the **27<sup>th</sup>** day of **February 2024**.