



WATER DISTRIBUTION POLICY OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT



This Policy is established and adopted by the Middle Rio Grande Conservancy District (MRGCD) Board of Directors as of June 25, 2012. This Policy is intended to promote the effective, efficient, and equitable distribution of water to non-Pueblo irrigators within the boundaries of the MRGCD. It is not the intent of the MRGCD that this Policy or its enforcement, be used to make any determination of the status of land ownership, or ownership of a water right, or as a limitation of beneficial use, or as an indication of abandonment or forfeiture of a water right. It is also not the intent of the MRGCD that this Policy modifies the water, irrigation or property rights of the Six Middle Rio Grande Pueblos (the "Pueblos") nor does it modify the legal relationship between the MRGCD and any federal agency. In the event of a conflict between an applicable Federal or State law, regulation, or policy, or contractual obligation of the MRGCD and this Policy, such law, regulation, policy, or contractual obligation, shall control. In the event of a conflict between this Policy and a more specific MRGCD policy relating to another subject matter, such as the Water Bank Policy, the more specific provision shall control.

1. WATER DISTRIBUTION

Water that is available to the MRGCD will be distributed in proportion with the amount of land served. Water will be distributed to main canals, laterals, and ditches, considering local conditions, in proportion to and appropriate for acreage and crop scheduled for irrigation. The MRGCD distributes water to all users fairly and equitably without any preference. Water distribution and use within the MRGCD is subject to the following conditions:

a.) WATER TO PUEBLO LANDS

The MRGCD delivers water to six Middle Rio Grande Pueblos. The Pueblos occupy a unique position legally, historically, culturally, and physically within the Middle Rio Grande Valley. Scheduling of water deliveries to Pueblo lands is normally done by Pueblo majordomos, in cooperation with MRGCD staff. The MRGCD, to the greatest extent possible, will cooperate with the Pueblo majordomos to meet Pueblo water needs. Pueblo irrigators and majordomos are encouraged to follow scheduling of water delivery in a manner similar to non-Pueblo lands. Certain Pueblo lands have been designated by the US Congress as having "Prior and Paramount" water rights. During times of shortage, these lands will receive water preferentially over all other MRGCD lands and the MRGCD will coordinate with the Bureau of Indian Affairs Designated Engineer to assure Prior and Paramount water deliveries to the Pueblos. Allocations of water to all Pueblo Lands shall be carried out in strict conformance with the Act of February 14, 1927 (44 Stat. 1098), the Act of March 13, 1928 (45 Stat. 312) and the Act of August 27, 1935 (49 Stat. 887).

b.) WATER TO ALL OTHER LANDS

Irrigation water is available to lands within the boundaries of the MRGCD which are physically capable of receiving water via gravity. No water will be delivered to water users who are delinquent in the payment of MRGCD assessments, water service charges, or other fees. Water will not be delivered to lands from which water rights have been sold, severed, or transferred, according to New Mexico Office of the State Engineer records provided to the MRGCD, unless proof of either a leaseback agreement or enrollment in the MRGCD Water Bank program or alternate source of water is provided to the MRGCD.

c.) IRRIGATION SCHEDULING

All irrigation deliveries must be scheduled well in advance with the appropriate Ditch Rider for each service area. Water users will be provided advance notice of the schedule. A minimum of five (5) days advance notice is recommended for irrigation scheduling. To utilize available water supplies as efficiently as possible, it is essential that water users irrigate both day and night, seven days per week. Ditch Riders are normally available by phone between the hours of 7am and 6 pm Monday thru Saturday for scheduling water, and 24 hours per day for emergencies. In case a Ditch Rider cannot be reached, irrigators may call the appropriate Division Office for assistance.

d.) IRRIGATION PERIOD

When an irrigation delivery has commenced as scheduled, it will be continued without interruption; until completion. Turnouts should be opened fully to complete delivery as quickly as possible. Should an irrigator voluntarily cease irrigation before completion, delivery will be considered complete by the MRGCD, and the irrigator will be required to schedule a new delivery after a reasonable period of time has elapsed. If irrigation should be interrupted by causes beyond the irrigator's control, the Ditch Rider will re-schedule irrigation as quickly as possible for that irrigator, and in such a manner as to minimize impacts to other scheduled irrigators.

e.) MAINTENANCE OF ON-FARM DELIVERY SYSTEMS

It is the responsibility of the irrigator to maintain efficient On-Farm water delivery systems to lands irrigated. Water will not be delivered to silt-laden, vegetation-fouled, or otherwise obstructed On-Farm delivery systems (including community ditches). Where closed conduit systems are used, these must be appropriately sized for operating head and area served. On-Farm delivery systems should be capable, under normal irrigation conditions, of fully irrigating at least One (1) Acre/hour. Systems not capable of supplying this rate may be denied water if, in the opinion of the MRGCD, their use results in excessive use of water, or prevents other irrigators from receiving water in a timely manner.

f.) OPERATION OF TURNOUTS AND STRUCTURES

Turnouts, check structures, and other water control devices are the property of the MRGCD. Irrigators are permitted to open turnouts only for scheduled irrigation deliveries, and turnouts should remain closed and secured at all other times. Check structures on MRGCD facilities are generally to be operated by the Ditch Rider, and in some cases may operate automatically. Adjustment by irrigators of automatic control structures, diversion dams, or wasteway structures returning water to the Rio Grande are not allowed under any circumstance. Where necessary the Ditch Rider may permit irrigators to operate certain check structures, but this operation is to be precisely as specified by the MRGCD, and check structures are to be securely locked at all other times.

g.) MODIFICATION OF IRRIGATION STRUCTURES

Turnouts, check structures, and other water control devices are the property of the MRGCD. Irrigators may not alter, or cause to be altered, either temporarily or permanently, any MRGCD structure without the express permission of the MRGCD, and in the manner specified by the MRGCD. No modification will be allowed which results in a water surface elevation higher than the safe design capacity of the canal, or that reduces the safe design capacity of the canal, or results in changes to other associated hydraulic properties.

h.) RECORD OF IRRIGATION

Each Ditch Rider will keep an Irrigation Log for the purpose of documenting water use. The record will show date and time water was started and shut off for each irrigation delivery, place of use, irrigator using the water, and purpose of use (crop type). Notes shall be made of any special circumstances involving delivery or use of water. Any irrigation difficulties or violations of MRGCD rules/policies will be promptly reported to the Division Manager, and recorded in the Irrigation Log. The Irrigation Log will be in the format approved and specified by the MRGCD.

i.) SMALL TRACT IRRIGATION

Where a single turnout serves multiple small tracts (such as small community ditches), or where multiple small turnouts are aligned in close proximity along a canal and served by a single check structure, the Ditch Rider may request a single point of contact be designated for irrigation scheduling, so that all properties irrigate at a scheduled time to avoid repeated opening/closing of the turnout or check structure. Irrigators are encouraged to coordinate their irrigation requests with their neighbors to conserve water and efficiently manage the water delivery.

j.) WASTE OF WATER

If, in the opinion of the MRGCD a landowner or irrigator is wasting water, either willfully, negligently, or due to defective On-Farm delivery systems, and is unwilling to rectify the violation as outlined in this Policy in a manner acceptable to MRGCD, the MRGCD may refuse, discontinue, or limit the delivery of water until the wasteful practices are remedied. Wasteful irrigation practices include, but are not limited to the following:

- (1) Allowing water to leave land being actively irrigated, flowing onto lands not intended to be irrigated or not under the control of the irrigator, roads, ponds, drainage channels, vacant land, homes, buildings, livestock pens, etc.
- (2) Flooding land to an unreasonable depth, or using an unreasonable amount of water in order to inundate high elevation portions of land, or to compensate for inadequate On-Farm delivery systems.
- (3) Applying water to land that has been improperly prepared for efficient use of irrigation water.
- (4) Allowing excessive or unreasonable amounts of water to spill or drain to MRGCD drains or other channels; particularly while continuing to take delivery of water.
- (5) Applying water in such a manner as to result in ponded water remaining present on a property for an unreasonable amount of time, and inappropriate for crops being irrigated.
- (6) Applying water too frequently, and to soils already saturated or nearly saturated, such that the greater portion of the applied water cannot be stored for crop use and drains from the soil via surface or subsurface pathways, or evaporates.

k.) WATER SHORTAGE

The delivery of irrigation water within the MRGCD is highly dependent on flow of the Rio Grande. At times, this may be insufficient to supply all irrigator's needs. During such times, the MRGCD will practice "shortage sharing" in the distribution of water (please

note rule 1a. regarding delivery of water to Pueblo lands). At times, supplemental water may be available from El Vado reservoir to minimize the effect of low Rio Grande flows on the irrigation water supply. However, there may still occasionally be times when water is not available, and irrigators should be aware of that possibility. The MRGCD makes no guarantees regarding the availability of water; however, the MRGCD will keep irrigators informed as to the status of supplies and outlook for the future.

l.) PUMPING FROM MRGCD DRAINS AND CANALS

Pumping from MRGCD facilities is generally not permitted, except pursuant to a license in cases where it is not physically or financially feasible for water to be obtained from any other source. Water pumping is subject to the same regulations as water distributed through turnouts, including scheduling requirements and recordkeeping through Ditch Rider Log Book entries.

m.) CONSERVATION PRACTICES

The MRGCD supports and encourages the adoption and use of alternative water delivery systems and application techniques intended to promote water conservation and/or agricultural efficiency. To the greatest extent practical, the MRGCD will allow flexibility in its rules and regulations when needed to support conservation practices, with the exception that this flexibility may not result in water shortage, inequitable water distribution, or hardship to other irrigators. All water users are encouraged to laser-level their land and use other water conservation practices.

n.) THE DITCH RIDER

The Irrigation System Operator commonly known as the Ditch Rider, holds a key position and is responsible for proper coordination and operation of MRGCD facilities within his or her service area so that water is distributed equitably amongst all irrigators. Where conflicts arise between scheduling requests, or the operation of facilities, the Ditch Rider will determine what best meets the needs of all irrigators in an impartial manner. The Ditch Rider will show no partiality in distribution of water regardless of personal feelings, race, creed, relationship, political or social standing, or previous grievances. Any irrigator who is aware of any preferential treatment on the part of a Ditch Rider must report that information immediately to the MRGCD. The Ditch Rider is an employee of the MRGCD. Irrigators must not compensate Ditch Riders or any other MRGCD employee with monetary or other kinds of payments for any services rendered on behalf of the MRGCD.

o.) RESOLVING DISPUTES

Irrigation practices vary, and differences of opinion may naturally arise during the delivery of irrigation water. Irrigators must first attempt to resolve disputes directly with their Ditch Rider. If resolution cannot be attained, the Ditch Rider Supervisor may be contacted, followed by the Division Manager. If the dispute cannot be resolved locally with the assistance of the Supervisor or Division Manager, the MRGCD's Hydrology/Water Operations Department may provide assistance, followed if necessary by a decision of the Chief Engineer.

p.) VIOLATION OF MRGCD IRRIGATION RULES/POLICIES

Any irrigator found to be in violation of MRGCD rules/policies will be subject to loss or suspension of irrigation water delivery, and may be liable for damages resulting from those violations. Actions taken by MRGCD may include the following:

- (1) Securing turnouts to prevent operation using MRGCD locking devices, welding, burial, or removal.
- (2) Referral to local law enforcement authorities for prosecution, where appropriate.
- (3) Landowners, irrigators, or other persons who, by opening, closing, modifying, or otherwise interfering with the regulation of MRGCD facilities and structures cause any fluctuation on water flow or elevation that results in breaks or damage of any kind, will be responsible for the expense and damage caused and may be liable to others who are adversely affected.
- (4) All other remedies provided by law.

q.) ILLEGAL IRRIGATION

Irrigators determined to have been illegally irrigating lands from which water rights have been sold, severed, or transferred, according to New Mexico Office of the State Engineer records provided to the MRGCD will be provided with written notice that unless proof of either a leaseback agreement or enrollment in the MRGCD Water Bank program or alternate source of water is provided to the MRGCD within fifteen (15) days after the date of the notice, the head gate to the illegally irrigated property will be locked and all deliveries of water to the property will cease. The notice will explain to the irrigator that he/she may seek to resolve any dispute over the contents of the notice, first, with the Division Manager and/or MRGCD Engineering Department and if unsuccessful with the Chief Engineer. If no resolution is reached, the irrigator may assert remedies available as provided in paragraph 4 below. Following issuance of the notice, all Water Bank lease fees, including the annual administrative fee and the applicable lease fee, charged the illegal irrigator will be double the normal amount for the first year of any subsequent Water Bank lease, unless a resolution in favor of the irrigator is reached.

2. DUMPING TRASH

Dumping trash, waste, tree branches, grass clippings, animals, animal waste, or debris of any sort into MRGCD facilities, or on any MRGCD right-of-way is not allowed. Landowners, irrigators, and employees of the MRGCD are required to report to the MRGCD the description of the vehicle, license number, name of driver, if available, time and place of any observed dumping. Dumping will be referred to appropriate local law enforcement authorities for investigation and prosecution.

3. CONTAMINATION OF WATER IN MRGCD FACILITIES

Unauthorized discharge or wasting of water into MRGCD facilities from sources other than those associated with the normal delivery and management of irrigation water is not allowed. It shall be the duty of all MRGCD employees, landowners and irrigators to report promptly to the MRGCD any observations of unauthorized discharges. The MRGCD shall exercise best efforts to advise irrigators and the public as to regulations concerning contamination of waters conveyed by the MRGCD, and to advise as to water conditions should instances of contamination become known to the MRGCD.

4. APPEAL OF MRGCD DECISIONS

Notwithstanding any other language in this Policy to the contrary, if a dispute over any matter addressed in this Policy cannot be resolved administratively with the assistance of the Division Manager, the MRGCD's Engineering Department, or by a decision of the Chief Engineer, then the affected party may appeal to the Board. The affected party has the burden of providing specific evidence contradicting the position of staff regarding the matter. Otherwise, the Board must give deference to the factual determinations of its staff. The Board shall make a decision on the appeal no later than fifteen (15) days from the date of the presentation before the Board.

FOR MORE INFORMATION, PLEASE CONTACT YOUR RESPECTIVE DIVISION OFFICE:

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