



## **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, with approved updates as of August 10, 2020. 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 ("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 lease 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 Irrigation System Operator (ISO) 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 be available to irrigate both day and night, seven days per week. ISOs are available by phone between the hours of 7 am to 11 am, and 4 pm to 6 pm Monday thru Saturday for scheduling water, and 24 hours per day for emergencies. In case an ISO cannot be reached, irrigators may call the appropriate ISO Supervisor, the Water Distribution Division Manager or the MRGCD General 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 ISO will reschedule 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, with the inclusion of community ditches. Where closed conduit systems are used, these systems 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 per 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 should be operated by the ISO, and in certain cases operate automatically. Adjustment by irrigators of automatic control structures, diversion dams, or wasteway structures returning water to the system is not allowed under any circumstance. Where necessary the ISO 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, 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 ISO 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 or 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 ISO Supervisor or Water Distribution Division Manager as appropriate and recorded in the Irrigation Log. The Irrigation Log will be in the format approved and specified by the MRGCD.

**i.) SMALL TRACT IRRIGATION**

Any irrigator who has access and can receive MRGCD water on a tract of irrigable land consisting of one(1) acre or less (Small Tract) with a cumulative total of irrigation under One (1) acre shall be required to pay a water service charge equal to the current water service charge in effect for the One (1) acre rate that is paid by all other irrigators within the district. The time allowed for irrigation of each such Small Tract shall that of all other On-Farm systems and not be greater than a rate of One (1) acre per hour. If an irrigator is appropriating water from an MRGCD canal or drain by a pump to irrigate one or multiple Small Tracts and cannot meet the One (1) acre per hour requirement, the irrigator shall be required to install a meter at the diversion point(s) from the drain or canal at their own cost. The irrigator will be required to enter into a license agreement that will allow pumping and will include the metering and reporting requirements.

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 ISO 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, being 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 the 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 and/or evaporates.

**k.) WATER SHORTAGE**

The delivery of irrigation water within the MRGCD is highly dependent on flow of the Rio Grande. At times, there may be insufficient supply for all irrigators' needs. During such times, the MRGCD will practice "shortage sharing" in the distribution of water exclusive of Rule 1(a) 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 will occasionally be times when water is not available and irrigators should be aware of the possibility of insufficient supply. 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**

The MRGCD canal system was designed and intended to supply water by gravity flow. This is not always the most efficient or practical method of irrigation, and pumping from MRGCD facilities may be permitted 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 ISO Logbook entries. Permits to pump water may be issued as follows:

- (1.) Livestock watering. Small quantities of water may be periodically pumped into impoundments, for direct ingestion by cattle, horses, sheep, goats, pigs or other farm animals. Impoundments may be earthen, metal, concrete, or other materials, and shall have a fixed maximum surface area and depth. Pumping shall be measured, and the user charged based on the volume of water pumped annually. Volumes pumped are expected to be small. Pumping shall be scheduled by the area ISO.
- (2.) Industrial/Construction Water. Small quantities of water may be pumped for construction, road maintenance, dust control, or other temporary non-agricultural uses. Pumping shall be measured, and the user charged based on the volume of water pumped. Volumes pumped are expected to be small. Pumping shall be scheduled by the area ISO.
- (3.) Small Agricultural Pumping. In situations where it is impossible or impractical to take water from a canal by gravity flow, pumping may be allowed by permit. Typically, these will be small areas such as lawns and gardens. Pumping shall be measured, and an annual allocation of water made to the permit. Users will be charged the minimum One (1) acre water service charge, or water service charge x acreage, whichever is greater. The permit will specify allowable minimum and maximum pumping rates. Pumping shall be contingent on the land having appurtenant water rights, a lease of water rights, or direct lease of water. Pumping shall be scheduled by the area ISO.

(4.) Drain Pumping. In situations where it is impossible, or impractical to receive water from canals, pumping from MRGCD drains may be allowed by permit. Pumping shall be measured, and an annual allocation of water made to the permit. Users will be charged the minimum One (1) acre water service charge, or water service charge x acreage, whichever is greater. Pumping from drains shall be contingent on the land having appurtenant water rights. Pumping shall be scheduled by the area ISO. The permit will specify minimum and maximum pumping rates. Application for permit must be accompanied with pump/delivery system specification for MRGCD approval. Permits will not be issued unless MRGCD is satisfied that the proposed pumping system can efficiently deliver irrigation water without harm to other users or MRGCD maintenance. Permits will not be issued if the land can receive water via gravity from a canal.

**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.) IRRIGATION SYSTEM OPERATOR (ISO)**

The Irrigation System Operator (ISO), commonly known as the "Ditch Rider", holds a key position and is responsible for proper coordination and operation of MRGCD facilities within their service area so that water is distributed equitably amongst all irrigators. Where conflicts arise between scheduling requests or the operation of facilities, the ISO will determine what best meets the needs of all irrigators in an impartial manner. The ISO 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 an ISO should report that information immediately to the MRGCD. The ISO is an employee of the MRGCD, and irrigators must not compensate ISOs or any other MRGCD employee with monetary or other kinds of payments or gifts for any services rendered on behalf of the MRGCD as this may place that person's employment with the MRGCD in jeopardy.

**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 ISO. If resolution cannot be attained, the ISO Supervisor may be contacted, followed by the Water Distribution Division Manager. If the dispute cannot be resolved locally with the assistance of the supervisor or the manager, the MRGCD's Chief Engineer may provide a final decision.

**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 and maintenance of MRGCD facilities and structures, cause any influence on water flow rate, water surface elevation, structural damage, or erosion that results in canal 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) Fines may be assessed for violation of Water Delivery Policy, at the direction of the MRGCD Board of Directors.
- (5) 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 lease agreement, 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 Water Distribution Division Manager and/or MRGCD Assessments and Mapping staff and if unsuccessful may be elevated to 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 rights-of-way is not allowed. Landowners and irrigators are encouraged, 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 Water Distribution Division Manager, the MRGCD's Hydrology or Engineering Departments, or by a decision of the Chief Engineer, then the affected party may appeal to the MRGCD Board of Directors. 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 determination 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:***

**GENERAL and WATER DISTRIBUTION DIVISION OFFICES**

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