

# To The Landowners and Water Users of the Eagle Point Irrigation District

**AUTHORITY:** The following Rules and Regulations have been adopted by the Board of Directors of the Eagle Point Irrigation District by resolution under the authority of the Irrigation Laws of Oregon ORS 545.221, which states that the Board of Directors will:

- a) Manage and conduct the business and affairs of the District,
- b) Make and execute all necessary contracts, employ & appoint such agents, officers, and employees as may be required, and to prescribe their duties
- c) Establish equitable By-Laws, Rules and Regulations for the distribution & use of water among the owners of said lands,
- d) Generally perform all such acts as will be necessary to fully carry out the purposes of the Irrigation District Act.

**INTENTION:** It is the desire and intention of the Board of Directors to carry on the business of the District in a businesslike and economical manner, and to distribute the water equitably, and to this end every person in the District should feel a personal responsibility in helping to carry out such rules and practices in order that the available water may be used in the most efficient and economical manner.

The adoption of the following Rules and Regulations will not essentially change the manner of the distribution of water from the practices which have prevailed in the District for the past several years, but it is hoped that the following Rules and Regulations will give every water user in the District a definite understanding of the duties and intentions of the District, and to this end every person in the District should feel a personal responsibility in helping to carry out such rules and practices in order that the water may be used in the most conservative and economical manner.

## Rules and Regulations Governing the Distribution and Use of Water in the Eagle Point Irrigation District

Adopted By the Board of Directors July 12, 2016 – updated January 1, 2019

### **MANAGEMENT:**

**No.1)** All canals, laterals, pipelines and works of the District, including structures in or over District's canals and laterals, will, unless otherwise ordered by the Board of directors, be under the general management, control & supervision of the Manager of the District. No person will have any right to interfere with said canals, laterals or works of the District without express permission from the Manager. The District Office will be under the direction and control of the Manager.

### **DISTRICT EMPLOYEES:**

**No. 2)** The District Manager, appointed by the Board of Directors, will have the authority to employ such ditch riders and other assistants as may be necessary for the proper operation and maintenance of the system and the distribution of water, all of whom will be responsible to the Manager, and it will be the duty of the Manager to distribute the water of the District to the irrigated lands therein in accordance with these Rules and Regulations except as otherwise directed by the Board of Directors.

### **RESPONSIBILITY OF DISTRIBUTION:**

**No. 3)** It will be the responsibility of the Manager to distribute the water and operate the laterals, canals and structures of the District, including the diversion of water to private ditches.

### **WATER DISTRIBUTION IN GENERAL:**

**No. 4)** Unless otherwise ordered by the Board of Directors, all deliveries of water from the system of the District will be on a rotation basis to be fixed and determined by the Manager. In the case of water shortage, water will be prorated on the basis of water supply and acreage.

### **QUANTITY OF WATER:**

**No. 5)** The unit of measure for water will be cubic feet per second. One cubic foot per second flow for a period of twelve (12) hours is equal to one acre foot of water.

### **DUTY OF WATER USERS:**

**No. 6)** It will be the duty of water users to use water allocated to them continuously day and night, Saturdays, Sundays, and holidays until that particular irrigation is completed. Water users who turn the water back into the ditch or refuse water during their allotted time will be deemed to have used the water during such period and the water will be passed on to the other users at the time when such user could have finished irrigating had he used the water continuously.

**No. 7)** No continuous flow deliveries will be made except where the Manager will determine that a continuous flow will be of advantage to the District and no greater quantity of water will be used than as on a rotation basis.

**No. 8)** No water user will dump either live or waste water into District's system without providing de-silting facilities as specified by the District.

**No. 9)** If any water user will shut off his water without first giving notice, he will be liable to the lower users of water for all damages they may sustain by reason of the increased flow of water upon their lands.

**No. 10)** Every irrigator will be responsible for all damages caused by his neglect or careless act.

**WASTING WATER:**

**No. 11)** Water must not be wasted. Careless and wasteful use of water will be sufficient grounds for the Manager to reduce the size of the stream flow to one which he/she believes the irrigator can handle economically. If after reduction of the stream flow, the irrigator is still careless and wasteful; the water will be shut off from such user until he prepares to make better use of same to the satisfaction of the Manager.

Persons wasting water on roads or vacant land either willfully, carelessly or because of defective ditches or poorly prepared land, or who will flood certain portions of land to an unreasonable depth to properly irrigate other portions, or who use water on land not authorized for irrigation by the Manager, may be refused the use of water until such conditions are remedied.

**NON-LIABILITY OF DISTRICT:**

**No. 12)** All water furnished by the District will be for irrigation purposes only. The District's responsibility will absolutely cease when the water is turned therein according to these Rules and Regulations. Most of the water furnished by the District flows through many miles of open ditches and is subject to pollution, shortages, and fluctuations in flow and interruptions in service. The District will not make any agreement which binds the District to serve an uninterrupted, constant supply of water.

**POINT OF DELIVERY:**

**No. 13)** Notwithstanding anything else contained in these Rules and Regulations, the District will not be responsible for delivery to any points below and beyond those points at which delivery was made as of the date of October 4, 1966, or, in the case of new lands, that delivery point designated at the time of inclusion. Any person who sells, contracts to sell, leases, purchases or contracts to purchase any part of an existing tract will not look to the District to provide right of way, water transmission facilities or maintenance of said facilities in excess of that provided as of said date, whether the property is to be irrigated directly or by run-off methods. The deeding to Eagle Point Irrigation District of right of way will be completed only by acceptance of said deed by the Board of Directors of the District by motion duly entered in the minutes of meeting of the Board. The mere deeding or recording of right of way to the District will in no way create any responsibility to the District to make water delivery to any certain point or to construct or maintain water transmission facilities.

**No. 13a)** The District will preserve access and delivery points by every use of authority of the District. Any owner of lands within the District who divides a tract, whether by official plat or by land partition or otherwise, will be responsible for providing the necessary easements and delivery system from the original point of delivery.

**No. 13b)** As to the platting of subdivisions which include irrigated lands, the following requirements will apply:

**Section 1)** Any owner or owners, subdivides promoter or seller of any tract or tracts of lands lying in whole or in part within the boundaries of the Eagle Point Irrigation District and subject to the Rules and Regulations of the Eagle Point Irrigation District and who are subdividing by plat a tract or tracts of land currently on the District's charge roll, or their successors in interest, will be held responsible for the delivery of the District's waters to any subdivided tract or the original tract or tracts as shown on the District's charge roll.

**Section 2)** The only obligation that can be met by the District in delivering District waters to the subdivided tracts of the original tract or tracts will be to the original point of diversion of the original tract.

**Section 3)** The point of delivery will be specified and shown on the sub-divider's plat of the subdivision.

**Section 4)** The District's obligation will absolutely cease at the point of diversion as shown on the sub-divider's plat. In all cases the District will be considered as having discharged its obligation to the owners of the subdivided tracts by making the District's waters available at the specified point of delivery as shown on the subdivision plat.

**Section 5)** The subdivider will be required to file a restrictive covenant in the Jackson County Official Records describing the easements to be dedicated for the purpose of conveying the District's waters to the subdivided tracts. The design features for the diversion points within the subdivision will be, where practicable, shown on said plat. The sub-divider's compliance with the above stated conditions will not create an obligation on the part of the District, stated or implied, to cause the District to deliver District waters to them as specified on the plat.

**Section 6)** The sub-divider will show on the subdivision plat all new roads or crossings that will cross the District's ditches, laterals or canals, and prior to the construction of these crossings will secure from the District the specifications for the construction, reconstruction, modifications or any other changes that will be contemplated by the subdivide as they will affect the District's ditches, laterals, canals or any other District facility used for the conveyance of District waters.

**Section 7)** The provisions of this regulation will be placed as an encumbrance on the land by filing a restrictive covenant in the Jackson County Official Records concurrently with the filing of the subdivision plat to the effect that the purchase of any lot or lots in said subdivision plat purchases the same subject to the encumbrances, rules and conditions as provided in the Eagle Point Irrigation District regulations relating to irrigation of subdivisions, which regulations are on file at the office of the Eagle Point Irrigation District, Eagle Point, Oregon.

**Section 8)** Where required by the Board of Directors, the subdivider shall execute an Agreement and Declaration of Covenant running with the land as set out in Exhibits A and B attached hereto.

**TRANSFER TO OTHER LANDS:**

**No. 14)** Transfer of water to other lands will not be made except upon a finding by the Board of Directors that the transfer is of material benefit to the Eagle Point Irrigation District. All transfers are subject to laws, rules and regulations of the State of Oregon, including ORS 545.572-580.

**TRANSFER FOR NON-USE:**

**No. 14A)** ORS 540.572 – 540-580 provides a procedure for transferring water rights to other lands upon non-use of the water. It is the policy of the District to use this procedure, or any other applicable procedure, in order to avoid loss of water rights due to non-use.

**CONTROL OF FACILITIES:**

**No. 15)** The Manager may cause to be locked any and all head gates, turnouts, spillways or other control devices and District employees only will be allowed to open head gates or valves or adjust or place flashboards in checks, and any person who in any way interferes with the setting or adjusting of such gates, valves or checks will be held strictly liable for any damages resulting there from. The ditch rider may, with the consent of the Manager, grant permission for a specified time to allow shutting off or turning on water or the adjustment of checks in order to facilitate water delivery when it is impossible for him/her to perform such operations him/herself.

**STRUCTURES:**

**No. 16)** All structures such as bridges, stockades, fence crossings, etc., now on the easement or right of way of the District ditches will be considered District property. No new bridges, fences, fence crossings or stock gates, unless the same will have been provided for in right of way or easement contracts, will be constructed over, across or in a District canal or lateral or right of way without the permission of the District, and if permission is granted for such structures, they will be built under the specifications and directions of the Manager of the District or they may be built by the District provided the estimated cost of their building is advanced to the District before the start of such construction. Where any fence is constructed across an Eagle Point Irrigation District right of way or easement, adequate gates will be constructed across any such right of way or easement. Such structures will then become the property of the District. Unauthorized installations will be removed at the cost of the responsible party.

**DAMS AND RESERVOIRS:**

**No. 17)** No person will install or maintain a dam or reservoir within the boundaries of the District without first obtaining approval of the Board of Directors. The Board of Directors will grant approval only upon finding that such construction or maintenance will not interfere substantially with the distribution of water within the District. Nothing contained herein is intended to supersede the laws and regulations of the State of Oregon.

**CONVERTING TO SPRINKLER SYSTEMS:**

**No. 18)** From and after May 12, 1981, water users may not convert to sprinkling systems without first applying to the Board of Directors and receiving approval. Approval will be given only where the applicant can bear the burden of establishing that the District's distribution system will not be impaired.

**PUMPING:**

**No. 19)** All landowners using pumps lifting water from the canals of the District will be subject to these Rules and Regulations in the same manner as if they were gravity deliveries. All such installations must be approved by the Manager and there must be a valve control gate in the delivery line on the outside of the pump house. This requirement will apply to old, as well as new, installations. All such installations will be placed in such a manner that no checking will be required to deliver water to them. The Manager may permit landowners using pumps to pump continuously and out of rotation where it is for the best interest of the District and for the conservation of water that such be done. No pumping out of rotation, however, will be permitted which will interfere with other irrigators using water from such lateral or canal of the District from having as full or adequate supply of water on a rotation basis as would otherwise be available to them.

Pumping of District water is done at the water user's risk and the District assumes no liability for damages to pumping equipment or other damages, as a result of turbulent water, fluctuation in flow or other causes.

**WADING, SWIMMING OR BATHING:**

**No. 20)** No person will wade, swim or bathe in the canals, laterals, pipelines or works of the District and all members of the District are asked to notify the District at the District office if they observe any person wading, swimming or bathing in the District's facilities.

**STOCK AND SPRAY WATER:**

**No. 21)** The District will not supply water for stock water or spray purposes except during the irrigation season and then only when the same can be supplied without making special delivery for such purposes.

**DELINQUENCIES:**

**No. 22)** One-half of the annual charges for operation and maintenance service will be due and payable on or before the first work day following February 1 of the year to which operation and maintenance applies. If one-half annual charge is not paid by March 15, interest will be added retroactive from January 1<sup>st</sup>, along with a late fee. The manager will forthwith file a lien for the charges for the entire year, plus an added late charge to be determined by the Board of Directors, to be recorded in accordance with ORS 545.494.

Charges for the second half of the year are due on or before July 1, or in case July 1 is not a work day, the first work day following July 1. Where charges for the second half have not already been recorded as a lien as prescribed above, if the second half charges are not paid by August 15, interest shall be added retroactive from July 1<sup>st</sup>, along with a late fee. The amount of the late fee will be determined by the Board prior to the start of every irrigation season. The Manager will forthwith cause a lien for such charges as are due, to be recorded in accordance with ORS 545.494.

In the event any charges for any prior year are unpaid, the Manager will forthwith upon the beginning of an ensuing year file a lien for charges for that entire ensuing year, to be recorded in accordance with ORS 545.494. Lien Filing Fees will be determined by the Board prior to the start of every irrigation season. The fee is per tax lot, and will be in addition to the cost of the actual Jackson County recording fees incurred to record both the lien and the lien satisfaction. The lien filing fee is subject to change every time the County recording fees increase.

Beginning July 1, 1992, any water user whose account is in whole or in part unpaid in excess of one year (two half years) as of January 1, and as of July 1, is deemed to be delinquent. Water of all water users whose accounts are delinquent, as above described, will be withheld except where the withholding of water substantially impairs water service to water users whose accounts are not delinquent as above defined.

Where water to a user whose account is delinquent is not withheld for the reason specified above, foreclosure proceedings will be instituted at the discretion of the Board of Directors upon the account becoming delinquent. Withholding foreclosure will be ordered by the Board of Directors only upon good cause shown to the Board of Directors, as determined by the Board of Directors.

No. 22A) Any debts outstanding for labor, material or equipment used to perform work at the request of the water user must be paid 30 days after billing. In every case where a water user does not pay for labor, material, or equipment within the time required, a late fee is added along with interest charged from the date of billing and not from the date the bill was due. The amount of the late fee will be determined by the Board Prior to the start of every irrigation season. The District shall have the right to withhold delivery of water until such debt is paid in full.

#### **IRRIGATING SEASON:**

**No. 23)** The irrigating season will be normally considered from the 1st day of April to the 31st day of October, as set forth in the Rogue River Decree. The Board of Directors or the Manager may set up the opening day or extend the closing day of the irrigation season as conditions dictate.

#### **PRIVATE LATERALS:**

**No. 24)** Privately maintained laterals and other facilities served by the District must be in good condition so as to prevent loss of water and permit regular flow. The Manager may refuse the delivery of water into facilities which are not adequately prepared and maintained. The District will not be responsible for defects in privately maintained facilities.

Oregon Revised Statute 540.420 provides that in all cases where ditches are owned by two or more persons and one or more of such persons fails or neglects to do his proportionate share of the maintenance necessary for the proper operation of the ditch, the owner desiring the maintenance may, after having given 10-day written notice to the other owner who has failed to perform his proportionate share of the work, perform such share, and recover from the person in default the reasonable expense of the work. If the District is asked by the owner to do such maintenance, the District may do so providing the estimated cost of the maintenance work is advanced to the District before the start of such maintenance.

#### **ACCESS TO LAND AND DITCHES:**

**No. 25)** Any officer, employee, ditch rider or other authorized personnel of the District will have free access at all times to the private ditches and lands being irrigated for the purpose of determining whether the ditches are in satisfactory condition to handle water and whether the water is being used economically and efficiently.

No fences, ditches or other obstructions will be placed across or upon any District canal bank without special permission of the Manager and then only with the understanding suitable openings or gates will be provided to enable District employees to travel said canal banks without hindrance. The Manager will have the right to remove all fences or obstructions contrary to these provisions. Crops and other vegetation grown within the District's right of way, or which otherwise interfere with a District facility, will be subject to reasonable removal or destruction by the District.

#### **UNLAWFUL ACTS:**

**No. 26)** ORS 540.710, 540-720, and 540-990 prohibit any person from damaging, destroying, obstructing or removing any facility used for conveying or holding water, or using water without authorization and provide criminal penalties.

No tree or vine pruning, bush, weeds, grass, manure, rubbish, garbage, swill refuse, dead animal or other material or substance that will be or become offensive to the sense or injurious to the health or injuriously affect the quality of water, or obstruct the flow of water, or result in the scattering of seeds or noxious weeds, plants or grasses will be placed or dumped in any District canal, ditch, conduit or reservoir or be placed or left so as to roll, slide, flow or be washed or blown into any such canal, ditch, conduit or reservoir. All employees of the District will promptly report any violation of this rule, and the people of the District are especially urged to cooperate in its enforcement

**Oregon Revised Statute 540.710.** Interference with headgate, or use of water denied by Watermaster or other authority; evidence of guilt. No person will willfully open, close, change or interfere with any lawfully established head gate or water box without authority, or willfully use water or conduct water into or through his/her ditch which has been lawfully denied him/her by the Watermaster or other competent authority. The possession or use of water when the same will have been lawfully denied by the Watermaster or other competent authority will be prima facie evidence of the guilt of the person using it.

**Oregon Revised Statute 540.720.** Unauthorized use or waste of water; evidence of guilt of user. No person will use without authorization water to which another person is entitled, or willfully waste water to the detriment of another. The possession or use of such water without legal right will be prima facie evidence of the guilt of the person using it.

**Oregon Revised Statute 540.730.** Obstruction interfering with use of works or access thereto prohibited. Whenever any appropriator of water has the lawful right of way for the storage, diversion or carriage of water, no person will place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto.

#### **PENALTIES:**

**No. 26A)** Oregon Revised Statute 540.990. Violation of any provision of ORS 540.710, 540.720, 540.730, 540.370, is punishable, upon conviction, by a fine or by imprisonment in the county jail for not more than six months, or both.

**DAMAGE TO FACILITIES:**

**No. 27)** It will be the duty of every landowner to use due care to avoid damage to District canals or other facilities. Every person will be responsible for any damage caused thereto by the person, intentionally or negligently, including any damage caused by livestock.

**ENFORCEMENT OF RULES AND REGULATIONS:**

**No. 28)** Breach of these Regulations by water user will, at the discretion of the Board of Directors or Manager, cause the user to be subject to suspension of water delivery until breaches hereof have been adjusted.

**RULES AND REGULATIONS EFFECTIVE:**

**No. 29)** These Rules and Regulations will be in effect on and after July 12, 2016.

The foregoing Rules and Regulations were adopted by Resolution of the Board of Directors in regular session the 12th day of July, 2016, and will supersede previous Rules and Regulations pertaining to the distribution and use of water in Eagle Point Irrigation District heretofore in effect.

**INCLUSIONS:**

**No. 30a)** Applications for inclusion of lands into the Eagle Point Irrigation District shall be made in writing and on forms prescribed by the manager. Said applications shall be signed by an owner or owners as the term owner as described in ORS 545.002(3). It is not required that all owners sign said application, provided however, that petitions for Inclusion shall be executed according to the requirements of ORS 545.057-545.085.

**No. 30b)** Applications shall be filed in the office of the manager and the manager shall endorse the date of filing on the application, and place the application in a file organized by laterals from which the application requests water services. Subject to availability of water from the particular lateral from which water services are requested, and subject to ORS 545.057-545.085 and all applicable law, applications for water service shall be honored in the order in which the applications are filed in the office of the manager. Applications for water service which are on file in the office of the manager at the time of the enactment of this regulation shall be honored according to the date of filing in the office of the manager and shall be honored prior to applications filed after the date of the enactment of this regulation.

**No. 30c)** Upon the availability of water from a particular lateral, application on file will be honored if the applicant qualified as an owner under ORS 545.002(3) as of the time of the filing of the application and the fact that said owner's interest has been transferred to another person will not dishonor the original application, provided, however, that the present owner or owners may waive the right to have the original application honored.

**No. 30d)** Notwithstanding anything contained in this section 30, where there are no applications on file from a particular lateral, an application for inclusion of land to be served by a different lateral may be honored where in the judgement of the Board of Directors, upon advice from the manager, the serving of said land is economically feasible. The honoring of applications for land to be served by a different lateral shall be based on considerations of economic and physical feasibility, except that where two or more applications are equally feasible, the earliest application to be filed shall be given priority.

**GENERAL:**

The office of the Eagle Point Irrigation District in Eagle Point, Oregon, will be open between the hours of 7:30 a.m. to 4:00 p.m. daily, except Saturdays, Sundays and holidays.

The ditch riders, during the irrigation season, are subject to call twenty-four hours a day, and work long hours. It is requested that they not be disturbed during the night or at unreasonable hours in the morning except in cases of emergency.

The District Manager is responsible for the day to day operations of the Eagle Point Irrigation District and the water users of the District, and all persons conducting business with the District are requested to contact the District Manager and not the members of the Board of Directors. It will be the duty of the District Manager to advise the Board of Directors as to any matter pertaining to the affairs of the District.

The District Manager is authorized to act in emergencies on matters not covered by these Rules and Regulations. His/her actions, however, will be subject to appeal to the Board.

The officials of the District are instructed to aid the water user in every manner and to consider all criticisms and suggestions courteously and respectfully. Likewise, all water users are requested to cooperate with District officials in every manner and should report leaks, bad bridges and other things which might be detrimental to the interest of the District. Very often the landowner can repair small leaks, etc. in less time than it would take to notify a District official.

An irrigation district is a quasi-municipality, a cooperative organization, and every land owner is a member of the organization. It makes no profit and is operated for the sole benefit of the lands and people within its boundaries. The benefits they can derive from it will be measured by the extent to which the people within the District cooperate to make it a success.