

**KLAMATH IRRIGATION DISTRICT**

**Patron Water Management and Delivery Policy**

**Effective 11 April 2019**

**KLAMATH IRRIGATION DISTRICT**  
**PATRON WATER MANAGEMENT AND DELIVERY**  
**POLICY\***



\*This policy rescinds: "Klamath Irrigation District Water Management and Delivery Rules and Regulations", dated April 2015; Gates Policy & Procedure dated July 2016; and Policy Concerning Maintenance and Use of District Maintained Bridges, dated January 2013.

DISTRIBUTION: Upon signature, approved for public release, distribution is unlimited.



Effective 11 April 2019

By order of the Klamath Irrigation District Board:

Official:

Ty Kliwer

President of the KID Board of Directors

**History:** This policy is a major revision and consolidation of Klamath Irrigation District “Water Management and Delivery Rules and Regulations”, “Gate Policy”, and “Bridge Policy”.

**Summary:** This policy prescribes Klamath Irrigation District (KID) policy and stakeholder responsibilities pursuant to the Reclamation Act of 1902, 43 Code of Federal Handbooks, Oregon Revised Statute (ORS) 540, ORS 545, and KID Bylaws as related to water management and delivery.

**Applicability:** This policy is consistent with the District Bylaws and applies to all KID employees and landowners with irrigation rights within KID boundaries.

**Proponent and exception to authority:** The proponent of this policy is the KID Board. The proponent has the authority to approve exceptions or waivers to this policy that are consistent with controlling law. Requests for exceptions to this policy must be submitted in writing to the KID staff.

**Suggested Improvements:** Please send comments or suggested improvements in writing to the KID through our website.



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## Section 1: Introduction

**1-1. Purpose:** This policy prescribes Klamath Irrigation District (KID) water delivery policy and stakeholder responsibilities pursuant to law, regulations, and government policy. The main objective of this policy is to standardize operational procedures, resolve miscommunications, and inform stakeholders.

### 1-2. Explanation of Terms:

- a. Landowner: As used in this policy, the word “landowner” includes the owner of the land to which irrigation water is delivered, the owner’s employees, contractors, tenants, and all other people in possession of the land or applying water to the land; also referred to as water user.
- b. District Water Master: A KID employee, assigned by the District Manager, with overall directive responsibility for the legal diversion and distribution of irrigation water. The Water Master has direct supervisory responsibility for organizing and implementing a system of apportioning water.



## Section 2: Responsibilities

### 2-1. Klamath Irrigation District Responsibilities to Patrons

#### a. Water Delivery Operations

(1) KID will provide for the orderly, efficient, and equitable distribution, use and conservation of the available water resources to deliver irrigation water, consistent with the terms of the applicable water rights, the physical and operational limits of the delivery system facilities, and the availability of water for diversion in accordance with law.

(a) Water rights for irrigation water provided to KID are prioritized as follows:

- (i) Van Brimmer Ditch Company: 50 cubic feet per second from April 15 to October 15.
- (ii) Henley-Ankeny Lands
- (iii) Klamath Irrigation District & Tulelake Irrigation District "A Contracts"
- (iv) Inter-District/Project contracts for "A Contract Addendums or deliveries"
- (v) Warren Act contractors "B Contracts" (Equal - Not prioritized)
- (vi) Inter-District/Project contracts for "B Contract Addendums or deliveries"
- (vii) Rental contracts "C Contracts"

(2) Water Shortages. KID anticipates periods of inadequate water supply to divert and deliver irrigation water. Water shortages will result in modifications to deliveries based upon prioritized water rights.

(a) In times of short water supply, over demand on certain sections of the delivery system, or other causes, water delivery will be based upon a rotational use system.



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- (b) Irrigation Limits. KID will regulate irrigation waters to no more than 3.5-acre feet of water per year on each acre irrigated as outlined in contracts. The water provided must be used only for irrigation and in “a beneficial manner and without waste”.
  - (i) KID will track water usage to landowners based upon total allocation to lands held within the KID. If a landowner orders or applies water to a parcel of land that has exhausted its allocation, the landowner must provide written notice and documentation to KID HQ that they have elected to use a portion of their allocation from a separate parcel so that the amount will be deducted from parcels with remaining water credits.
  
- (3) Operation and Maintenance. Canals and other infrastructure of KID shall be under the management of KID’s Manager. Only persons authorized in writing by the Manager may operate any part of KID’s irrigation facilities. No other persons shall have any right to operate or interfere with said system in any manner.
  - (a) Emergencies. KID Emergency Operating Procedures are provided in a separate KID policy.
  - (b) Delivery Notice. KID’s ditch riders will endeavor to give advanced notice, personally or through other means, to the landowners. KID is preparing to provide notification through its website.
  - (c) Controls. KID may install and use locks on any such gates or structures and/or, through other means, seal or remove any gate or structure as



deemed appropriate to control the flow and use of irrigation water through KID's system.

(d) Shut-off Authority. The Board or Manager authorizes the Water Master to shut off turnouts or pumps to enforce the policies as expressed in Section 3 of this policy.

(4) Violations. KID employees will immediately report all observed violations of policy to the District Water Master. The Water Master will adjudicate violations in accordance with Section 3.

(a) Inter-District Violations: The District Manager shall provide a Notice to partner District in person or by registered or certified mail. Such district is expected to exercise its statutory right to control the use of water within the district by taking such action as may be necessary to stop the wrongful use of irrigation water. Any failure of a district to take action to remedy the violation will be deemed a violation, by that district, of its contract with KID which provides use of irrigation water by such district.

#### b. Annual Charges and Collections to Landowners

(1) Annual Rate. Rates and billing vary between Districts in contract with KID. Each parcel of land within each District shall be charged for specific irrigable acreage. Annual assessments and charges per acre are approved by the KID Board and shall be sent to landowners, with an irrigation water right, on December 1st of each year. Annual charges are due to KID on or before March 1<sup>st</sup> as per District policy. Annual charges are assessed to cover



KID operations, infrastructure maintenance, insurance, irrigation system improvements, and other liabilities.

- (a) Suspensions. Landowners without access to irrigation water may request to suspend their water right on their property title. KID employees will not suspend landowner's property water right if the property can receive irrigation water as confirmed by the KID Water Master.
  - (i) The KID Board makes decisions on a case-by-case basis and has no obligation to grant any suspension request, even if the request meets the requirements spelled out in this policy.
  - (ii) Suspending irrigation rights requires the account to be in good standing, current year dues are paid in full before the December 1st billing, an admin fee, a recording fee to remove the water right from the property title, and KID Form 1-1, "Suspension" to be submitted to the KID Board as per District policy; and
  - (iii) The KID Board of Directors must approve requests to suspend water rights.
  - (iv) The KID office staff will provide notification to the landowner of the Board's decision. When applicable, the KID staff will initiate the process to suspend water rights from the property title.



- (2) Penalties for Unpaid Annual Charges
  - (a) Unpaid Interest Charges. All charges not paid on or before March 1st of each year shall earn interest in accordance with District policy.
  - (b) KID will send reminder notices, per District policy, to accounts with an outstanding balance of \$10 or more the first week of March.
  - (c) Accounts with a balance under \$10 will not be sent a notice. However, the unpaid balance will accrue interest until paid.
- (3) Delinquency. A delinquency fee will be assessed on all unpaid accounts on April 1st of each year. The District will cause a Late Payment Notice sent as per District policy to the last known address the District has for each delinquent account.
- (4) Claim of Lien. An administrative fee will be assessed on any unpaid account on May 1st of each year in addition to a Notice of Claim of Lien to be recorded in the Klamath County Clerk's office for each such account. The District will send a Foreclosure Notice as per District policy to the last address known to the District for each such account.
- (5) Foreclosure. Any account remaining unpaid on July 1st of each year that has an unpaid balance of at least \$1000 shall be referred to an attorney for foreclosure.



## 2-2. Landowner Responsibilities

- a. Each landowner holds a legal interest in the water appurtenant to their land and is solely responsible for the use of the water appurtenant to their land.
  - (1) The landowner may provide written notice to KID providing that KID may only accept water orders from a specified person. If there is no such notice, then anyone ordering water on or off, or managing water delivered to a specific parcel of land, is deemed to be the authorized agent of the landowner.
  - (2) Landowners may dispute mapping errors with the KID Water Master, Assistant Manager, or Manager. KID utilizes official landowner information from multiple partners, to include the County tax assessor and Bureau of Reclamation.
- b. Compliance. The details provided in this policy shall be an accepted condition precedent to the delivery of water to any landowner. Each landowner who orders and/or uses water delivered by KID shall be deemed to have acknowledged and accepted these rules.
  - (1) If any landowner fails to comply with any of these rules the landowner shall be subject to assessment of fines, penalties, and charges as outlined in Section 3.
  - (2) Payments. Landowners are subject to assessments as outlined in this document.
  - (3) Landowners observing violations of this policy will report the violation to the District Water Master. The



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Water Master will validate the reports prior to directing corrective action. The public at large does not have the authority to enforce KID policy.

- (4) Each landowner and water user are responsible to keep themselves informed to changes to KID policies by accessing official KID communication channels. KID will post notices through the local paper, on its website at [www.klamathirrigation.com](http://www.klamathirrigation.com), on KID's section of the Klamath Water Users Facebook page, through Klamath Water Users Association webpage at [www.kwua.org](http://www.kwua.org), through LinkedIn, via mail, or may provide notice by personal contact from KID employees to the landowner.

c. Infrastructure Access and Maintenance. KID's Manager, Assistant Manager, Maintenance Supervisor, Water Master, and their specifically authorized representatives or agents, including ditch riders, shall always have free access, including weekends and holidays, to enter any land irrigated with water delivered by KID for any of the following purposes:

- (1) Inspecting KID's facilities or private irrigation facilities, the flow of water within the facilities, including measurement, and the use of water on the land;
- (2) Determining the acreage of crops irrigated or to be irrigated;
- (3) Maintaining or operating KID's facilities;
- (4) Inspect for any unauthorized change, use, alteration, or other interference with any portion of KID's facilities and delivery system including, but not limited to, head gates



and other control structures. No unauthorized person shall be permitted to do any of the following:

- (a) Place or remove a weir board in any weir or drop;
- (b) Open or close any head gate or other water control structure;
- (c) Remove any chain, lock, board, post, or gate from any control structure; nor
- (d) Attach or place any boards, dams, chains, ropes, or any other objects to, on, or upon any KID canals, laterals, drains, or other conduits or KID-operated structure.

#### d. Gates

- (1) KID employees **MUST** have free and unobstructed passage to the irrigation infrastructure. Fences and structures which are not in proper working order create a safety hazard to the District.
- (2) Gates must be a minimum of 12 feet wide to accommodate District vehicles and equipment.
- (3) Gates **MUST** swing freely and not drag across the ground.
- (4) Gates **MUST** have operable closures. (Bailing twine is not acceptable.) Acceptable gate materials include aluminum, steel, and wood.



e. Bridges

- (1) Nearly 100 bridges are maintained by the District are owned by the United States of America, Department of Interior, Bureau of Reclamation.
- (2) KID does not maintain bridges to accommodate heavy vehicles or loads. Many contemporary vehicles and machinery are substantially larger and heavier than the type of equipment for which the bridges were designed. The District shall not be responsible or liable to for damages of any kind to any landowner arising or resulting from the failure of a bridge.
  - (a) Over the years the landowners have used the bridges for their convenience and without permission of the Bureau of Reclamation or the District.
  - (b) The user who has ownership or control of tractors, combines, trucks, implements, or other machinery in excess of 20,000 pounds that crosses or attempts to cross a bridge shall be strictly liable to the District for the actual cost of repairing or replacing the bridge which fails or is damaged during such use, whether or not the failure or damage was caused exclusively by such use.
- (3) The District is not in the business of providing transportation systems for use of landowners and the public. Landowners may apply for permits to construct or replace a bridge to access lands they own through the Bureau of Reclamation's permitting processes.



- (4) All people and entities using a District-maintained bridge shall have a duty to monitor the condition of the bridge and to immediately report to the District Manager or Assistant Manager any and all damage or other structural deficiency of a District bridge observed by the user.

f. Water Deliveries.

- (1) Water Orders. All landowners must order water deliveries “on” no later than 7pm the day prior to use and order deliveries “off” no later than 7pm the day prior to ceasing use. Text message to your respective ditch rider is the preferred medium for water order requests in 2019.

- (a) Your ditch rider will provide confirmation of water orders prior to delivery.

- (b) Water orders may be sent to the ditch rider via the KID website when available.

- (c) Ditch rider schedules and contact information are available on the KID website.

- (2) Irrigation Notification. KID ditch riders will inform the landowner the date and time their rotation. Any landowner not taking water when his turn arrives may forfeit his right during the rotation.

- (3) Water Delivery. When water is made available to a landowner, the landowner must have a responsible



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- person present, and the land to be irrigated must be properly prepared to efficiently take the water. The landowner must apply all water efficiently and used in a reasonable and beneficial manner;
- (4) **Water Control.** When water is delivered to the landowner, the landowner shall be responsible for the water at all times after it leaves KID's delivery point. From the time delivery of water is commenced to the completion of irrigation, the landowner shall, day and night, attend and control the water. Each landowner is required to accurately document their own water use including their orders, diversion point (structure #), diversion rate, days (24 hr. periods) and total acre feet used for each of their irrigations daily.
- (5) **Irrigation Use.** The landowner shall ONLY apply water delivered by KID to land included on the maps of irrigated land within a property deed with water rights. The landowner shall not apply any water furnished by KID to land that is subject to any land idling contract, or other similar agreement. Any spreading of water by a landowner and application of water to non-approved land shall be subject to Section 3 of this policy.
- (6) **Drain Discharges.** All water discharges from a parcel must be made into the area designated as a drain. Each landowner is responsible for the quality of drain discharges. Anyone placing unauthorized material or creating a blockage in the drain shall be responsible for the maintenance, repair, and/or correction by the District.



- (7) Stock Grazing. By special arrangement with the District, stock grazing may be allowed on U.S. Government rights of way. Damage to the drain profiles will be repaired at the landowner's expense. Gates meeting District specifications are required when placed on ditch banks for private use. Gates not meeting specifications will be removed or replaced with gates by the District at the landowner's expense.
- (8) Waste of Irrigation Water. Any landowner who wastes water by flooding or sprinkling roads, vacant lands, neighboring properties, or land previously irrigated, or who wastes water in any other way, either willfully, carelessly, or on account of defective or inadequate canals or other conduits or facilities or inadequately prepared land, or who floods a portion of land to an unreasonable depth or amount to properly irrigate other portions will be subject to Section 3 of this policy.
- (9) Unauthorized Use. Any person who uses KID irrigation water without KID's authorization may be subject to criminal prosecution and civil liability as outlined in Section 3 of this policy.
- (10) Use of Excavated Materials. The use and removal of excavated materials placed on U.S. Government rights of way is reserved exclusively for the District. No landowner or water user may remove or take any excavated material from its original location without express written consent from the Manager or the Board.



## **Section 3. Enforcement**

### **3-1. Violations of law, regulation, or policy**

- a. The landowner is responsible and liable for any damage caused by the landowner's negligence or careless use of the water or as a result of the failure of the landowner to properly operate and maintain any facility for which the landowner is responsible.
- b. Illegal use of water: Illegal use of water is defined as a water user applying water to lands when that use of water has not been authorized in contractual agreements or applying water to unauthorized lands.
  - (1) The landowner shall only apply water furnished by KID to land included on the maps of irrigated land on file at the KID office, or subject to a written temporary transfer order issued by KID's manager.
  - (2) Any landowner using water delivered through the KID delivery system without a water right will be immediately shut-off.
  - (3) Head gates and/or pumps will be shut off and locked if possible. Tags will be placed on the gate, or pump, notifying the landowner of the illegal taking.
  - (4) Landowners will be notified of their illegal action by certified mail.



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- c. Landowner violations of KID policy will be assessed on a case-by-case basis to ensure a fair and equitable application of this policy.
  - (a) When a landowner takes responsible, and prudent actions to prevent a violation (such as applying shields to prevent accidental road watering), the KID manager will use expert judgement in assessing any violations of this policy.
  - (b) Multiple violations, by a single landowner, across multiple properties in a two-week period will be given consideration to the circumstances associated with managing dispersed operations.
- d. Violations of KID policy validated by a KID employee will incur the following actions:
  - (1) Violations which present a safety risk, health hazard, or determined by the KID Water Master as gross negligence will be immediately corrected by a KID employee, followed by a phone call or personal visit to the landowner by the District Water Master at the first available opportunity.
  - (2) First reported violation, confirmed by a KID employee, will result in a written warning to the landowner with an explanation of the violation. An oral warning may be issued, to be accompanied by a written warning. The warning shall contain a brief description of the violation, a statement of the action to be taken by the landowner, and a copy of this policy.



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- (a) Landowners will have one-week from notice to remedy identified issues or 60 days from notice to repair or replace gates.
- (3) A second violation, confirmed by a KID employee, will result in an \$50 fine, a second written warning delivered in person by the KID Water Master, Assistant Manager, or via certified mail. The warning shall contain a detailed description of the violation, a statement of the action to be taken by the landowner, and a copy of this policy.
  - (a) If gates are not repaired within 60 days of original notice, the District will issue a work order to make necessary repairs or replace the gate if reasonable repairs cannot be made.
  - (b) The District will mail an invoice, due within 30 days of billing, to the landowner for the labor and supplies required for the repair or replacement of the gate.
  - (c) Unpaid charges will accrue interest as outlined in Section 2.
- (4) A third violation will result in an immediate termination of delivery of water to a parcel, and an additional \$50 fine. Water delivery may be restored upon payment of the fines, and written agreement by the landowner to immediately cease and desist from violating the rules provided in this policy.
- (5) A fourth violation will result in a \$100 fine and an immediate termination of the delivery of water to all the



- landowner's properties for the remainder of the irrigation season.
- (6) In the event of repeat violations, the Board may commence a civil action to prevent violations of the rules and may seek such relief as it deems appropriate. The District shall be entitled to recover its costs and attorney fees incurred in such suit and in enforcing these rules, and such costs and fees shall be a charge against the land on which the violation occurred, or which received water as a result of the violation.
  - (7) The District may require permitted control and measuring devices prior to any future water deliveries.
  - (8) Failure or refusal of any landowner to comply with these rules is deemed grounds for terminating delivery of KID water to the lands of such landowner.



## **Section 4. Appeals.**

### **4-1. Appeal Procedures**

- (a) Landowners may appeal decisions of the Water Master to the Assistant Manager; an appeal of the Assistant Manager's decision may be brought to the Manager.
  - (1) The District Manager will provide a written notice of determination within 5 business days of hearing the appeal.
- (b) A written appeal of the Manager's decision may be filed with the KID Board of Directors within ten calendar days of the date of service of the Manager's notice. After ten calendar days, or as otherwise expressed in law, the person is deemed to have waived all rights to a hearing on the matter.
  - (1) The notice becomes final if a written appeal is not physically received within ten calendar days from the date of service.
  - (2) Filing of a notice of appeal shall not stay any act of the Manager or Assistant Manager, result in resumed water deliveries terminated to the landowner, nor result in the extension of the rotation for that portion of the delivery system.
  - (3) In the event a notice of appeal to the Board is filed, within 72 hours after receipt of such notice, one Board member, preferably from the representative zone, shall consider the written appeal, may interview the landowner and any KID staff involved in discovering the violation and



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enforcing the terms of this rule. After making a reasonable investigation, the Board member shall either sustain the notice or may reverse or modify the notice as the Board member shall determine. The decision of the Board member shall be final.



Klamath Irrigation District  
Patron Water Management and Delivery Policy

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Signed this 9<sup>TH</sup> Day of ~~April~~<sup>MAY</sup> 2019.

Ty Kliever Ty Kliever

Jerry Enman Jerry Enman

Grant W. Knoll Grant Knoll

Dave Hamil Dave Hamil

Ryan Hartman Ryan Hartman



## Appendix A: References

The Reclamation Act, 1902.

<https://www.usbr.gov/power/legislation/reclact.pdf>

United States Code of Federal Handbooks, Title 43.

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title43/43tab\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title43/43tab_02.tpl)

The Warren Act, 1911. (United States Code Title 43, Section 523-525).

[http://uscode.house.gov/view.xhtml?req=\(title:43%20section:523%20edition:prelim\)](http://uscode.house.gov/view.xhtml?req=(title:43%20section:523%20edition:prelim))

Oregon Revised Statute 540, 2017.

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Oregon Revised Statute 545, 2017.

<https://www.oregonlaws.org/ors/chapter/545>

District Contracts, as Amended

Klamath Irrigation District Rules and Regulations, 2015.

Klamath Irrigation District Policy Concerning Maintenance and Use of District Maintained Bridges, 2015

Klamath Irrigation District Gate Policy and Procedure, 2016.

Klamath Irrigation District Bylaws, 2017 as amended.

KID Accounting & Financial Policies and Procedures, 2018.