

North San Joaquin Water Conservation District

Surface Water Rules

Final Adopted January 27, 2020

THESE RULES APPLY TO THE DELIVERY AND USE OF SURFACE WATER IN NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT. ALL LANDOWNERS SHOULD READ AND BE FAMILIAR WITH THESE RULES.

I. Definitions:

1. **Board:** The Board of Directors of the North San Joaquin Water Conservation District as duly constituted pursuant to Division 21 of the California Water Code.
2. **District:** The North San Joaquin Water Conservation District.
3. **District Office:** The office designated from time to time by the Board of Directors. The current District office is located at 498 East Kettleman Lane, Lodi, CA 95240. The mailing address of the District Office is P.O. Box E, Victor, CA 95253. The telephone number is 209-368-2101.
4. **District Facilities:** All infrastructure, equipment, or other property which are owned and/or operated by the District for the purpose of diverting, conveying, controlling, measuring, pumping, storing, or delivering water to land within the District, including but not limited to any pipelines, pumping stations, ditches, pumping stations, and valves.
5. **Improvement District No. 1:** The Tracy Lake Improvement District formed by District Resolution No. 2012-1 (“ID#1”).
6. **Improvement District No. 3:** The South System Surface Water Users Improvement District formed by District Resolution No. 2018-15 (“ID#3”).
7. **Landowner:** Any individual or legal entity owning real property within the District.
8. **Landowner Facilities:** Facilities that are designed, constructed, and installed by the landowner, at the landowner’s expense, that are required in order to receive deliveries of water from District Facilities. “Landowner Facilities” includes facilities that are shared by multiple landowners, such as lateral pipelines from District Facilities that are privately owned and deliver water to more than one Landowner.
9. **Watermaster:** An employee or contractor of the District authorized to operate District Facilities.

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II. Access to Surface Water from District Facilities

1. **Under District Control:** The operation and maintenance of District Facilities shall be under the exclusive management and control of the Board, and the Watermaster, and their duly appointed representatives. No unauthorized person(s) shall interfere with District Facilities in any manner, including, but not limited to, the opening, closing, or regulating of any of the District's valves, gates, or turnouts unless authorized by the Board. Any damage to District Facilities resulting from a Landowner's actions, or the actions of a Landowner's agents, tenants, or employees, shall be the responsibility of the Landowner. If satisfactory repairs are not made promptly by the responsible Landowner, the District will make the necessary repairs and charge the responsible Landowner for the cost. All costs owed to the District for repairs shall be paid in full before a Landowner is eligible to receive surface water from the District.
2. **Use of District Facilities:** A Landowner is eligible to receive water from District Facilities at the times indicated on the Irrigation Schedule when: (1) the Landowner has installed a turnout and measurement device in compliance terms set forth in an Encroachment Permit issued by the District; (2) the District has inspected and approved that the Landowner Facilities comply with the Encroachment Permit; and (3) the Landowner has a contract to receive water from District facilities; and (4) is current on all required payments.
3. **Responsibility for Landowner Facilities:** Landowners are responsible for all costs related to construction, design, and approval of Landowner Facilities. The District shall not assume or incur any liability for the construction, maintenance or repair of privately-owned turnouts, gates, pumps, weirs, measurement devices, or other appurtenances. Before water is delivered from District Facilities to Landowner Facilities, the Landowner shall be responsible for ensuring that Landowner Facilities are in a proper condition to receive water and are free from obstructions to flow.
4. **Turnouts and Measurement Devices:** Landowners are responsible for the costs of design, construction, installation and maintenance of Turnouts and Measurement Devices. Landowners shall not construct a Turnout to take water from District Facilities until they have submitted an Encroachment Permit Application to the District, and the permit has been approved. Encroachment Permit Applications will be made using forms that are provided by the District upon request.
5. **Priority to Available Surface Water.** The District has a right to receive up to 20,000 afa of surface water from the Mokelumne River, when available. The available supply is typically 20,000 afa in above normal and wet years and zero in dry years. In some cases, the available supply under the District's right is between 3,000 and 20,000 afa,

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but this is rare. The District also may receive additional supplies from other sources. Available supplies will be allocated as follows.

- a. **Class 1 Supplies:** Landowners with lands located within Improvement District No. 1 and Improvement District No. 3, who are not delinquent on payment of any annual acreage assessments, water charges, or penalties may submit an application for Class 1 Supplies. Class 1 Supplies will be distributed as follows:
 - i. The first 3,000 af of surface water available to the District will be allocated pro-rata based on acreage to all eligible Landowners in ID #3 that have timely Submitted an Application for Class 1 Supplies and paid the applicable Water Charge Deposit.
 - ii. The next 4,000 af of surface water available to the District will be allocated pro-rata based on acreage to all eligible Landowners in ID #1 that have timely Submitted an Application for Class 1 Supplies and paid the applicable Water Charge Deposit.
 - iii. Any remaining surface water will be allocated as Class 1 supply pro-rata to ID#1 and ID#3 lands based on application demand.
 - iv. All pro-rata allocations will be capped at the amounts requested in the Landowner applications for the given year and shall not exceed the reasonable demands of the applicable crop. Pro-rata allocations are for scheduling purposes only and may only be used on the applicable land; they may not be transferred.
 - v. If there is additional water remaining after all allocations to ID#1 and ID#3 applications have been satisfied, any remaining water supplies available will be treated as Class 2 supplies as allocated as set forth below.
 - b. **Class 2 Supplies:** If the District determines that Class 2 Supplies are available, then Applications for Class 2 Supplies will be granted on a first-come, first-served basis.
 - c. **Other Supplies:** The District is pursuing water banking programs with third parties. Any water available from non-District sources will be allocated separately to Landowners participating in the banking programs by contract.
6. **No Guarantee on Quantity:** The District's irrigation season shall begin on a date and time set by the Board and shall end when the available supplies of water run out or on dates to be established by the Board. The District does not guarantee the availability of water either in the amount or the timing of the delivery requested by the Landowner.

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7. **No Guarantee on Quality:** Water furnished by the District to Landowners is to be used for irrigation purposes only and is not considered fit for human consumption without treatment. The character and quality of the water furnished may vary from time to time, and the District does not represent, guarantee or warrant in any manner or respect the character of quality thereof. The District may, however, suspend service during any period of time it has determined that the water is unfit for agricultural purposes which determination shall be final and conclusive.
8. **Access to Premises:** The Watermaster and other authorized agents of the District shall have free access at all times to all lands irrigated from District Facilities, and to inspect all Landowner Facilities eligible to receive water from District Facilities.

III. Water Charges

1. **Setting Water Charges:** The District will set water charges on an annual basis for each acre-foot of water scheduled for delivery, consistent with applicable laws and District contracts. Different water charges will apply per acre-foot to Class 1 Supplies and Class 2 Supplies and to Landowners within ID#1 and ID#3. Currently lands within ID#1 pay an operation and maintenance acreage assessment, while lands within ID#3 do not pay an operation and maintenance assessment. Thus, the cost per acre-foot of water sold to Landowners along the South System will be higher to account for operation and maintenance costs.
2. **Payment of Water Charges:** If a Landowner's Application is approved, the District will send an invoice to the Landowner requiring payment of 30% of the cost of the water requested in the Application. Payment of the invoice will be due within 30 days. Landowners shall pay all remaining water charges 30-days after invoice by District. Charges will be based on the quantity of water delivered, except that Landowners may also be charged for water scheduled and provided by the District, but not diverted by the Landowner.

IV. Application and Contracts for Surface Water Delivery for Irrigation

1. **Application:** Any Landowner desiring to purchase surface water from the District shall submit an Application by mail to the District Office using forms provided by the District. Landowners who have submitted an Application will be kept informed on a regular basis of water availability. Schedules will be coordinated weekly by the Watermaster. Submission of a schedule does not guarantee delivery of water. Applicants can request Class 1 or Class 2 supplies before May 1st. Any applications submitted after May 1st may be treated as Class 2 water at the Watermaster's discretion.

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2. **Contracts to Receive Water from District Facilities:** If the District approves the Application, the District will provide a contract to the Landowner. The Landowner must return the signed contract and the required deposit before water is scheduled for delivery.

V. Application and Contracts for Surface Water Delivery for Field Flooding

1. **Generally:** The District may consider delivering water to Landowners for field flooding to effectuate groundwater recharge on terms and conditions to be established by the District on an annual basis based on water rights, water availability, budget and other parameters.
2. **Application:** Any Landowner desiring to receive surface water from the District for field flooding shall submit an Application by mail to the District Office, postmarked no later than July 1st of each year, using forms provided by the District. If the District approves the Application, the District will mail a contract to the Landowner setting forth the terms under which the Landowner may receive water from District Facilities for field flooding and the specific lands to which water from District Facilities may be applied. The Landowner must return the signed contract and the required deposit within 15 days.

VI. Water Ordering

1. **Water Delivery Policy:** District Facilities shall be operated to the maximum extent possible to distribute water on a demand basis.
2. **Monthly Water Delivery Schedule:** As soon as the District becomes aware of available supplies, the District will prepare a monthly water delivery schedule which will designate the particular week during the irrigation season when Landowner's who have submitted applications for water will be eligible to receive water from District Facilities. Landowners should request modifications to the monthly water delivery schedule at least two-weeks before they are scheduled to receive deliveries.
 - a. **Daily Water Delivery Schedule:** On Monday of each week during the irrigation season, the District will notify each Landowner on Water Delivery Schedule of the particular date(s) and time(s) that the Landowner will be eligible to receive water from District Facilities for the next 7 days. Landowner is only eligible to receive water at the date(s) and time(s) identified on the Daily Water Delivery Schedule.
 - b. **Modifications to Daily Water Delivery Schedule:** The District will try to accommodate changes to the schedule, but does not guarantee that it will be able to. Water that is ordered, scheduled and made available by the District may be billed to the Landowner even if the Landowner chooses not to divert it.

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- c. **Landowner Responsibility:** The Landowner is solely responsible for operation of any Landowner Facilities required to receive water from District Facilities and ensuring that the Landowner Facilities are operated to take water that is scheduled and made available by the District.

VII. Unauthorized Activity

1. **Unlawful Diversions:** It is unlawful to take any water from a District Facility except in express compliance with these rules and regulations. Unlawful diversions shall be subject to a fine of \$1,000 per day and \$2,500 per acre-foot of water taken, in addition to any other damages and penalties allowed by law, including but not limited to Penal Code Section 592.
2. **Water Waste:** The District will furnish water for reasonable and beneficial use, but not for waste. It is the responsibility of each Landowner to prudently manage the water supply received from District Facilities. The Board reserves the right to refuse delivery of water to a Landowner when it appears that the Landowner's proposed use or method of use will constitute waste.
3. **Use of Water on Ineligible Lands:** Only lands identified in a contract with the District are eligible to receive water from District Facilities. Landowners may not use water furnished by the District to irrigate other lands.
4. **Discharges into District Facilities:** Landowner shall not discharge or cause to be discharged any water, which includes tailwater, wastewater, drainage, groundwater, and/or filter backwash water, into District Facilities. District Facilities shall not be used for the application of fertilizers, pesticides, or chemicals.
5. **Placement of Debris or Garbage in District Facilities:** No tree or vine pruning, rubbish, refuse or other materials or substances that will affect the quality of water or obstruct the flow of water, shall be placed in or allowed to be emptied into, or placed as to roll, slide or flow into any District Facilities or on the right of way used for the distribution of water by the District.
6. **Enforcement of Rules:** The District may enforce these rules to the full extent permitted by law, including by withholding water deliveries. The District's enforcement of these rules and the interruption of water deliveries pursuant hereto shall not result in any liability to the District, its officers, agents, or employees.