

Bexar Medina Atascosa Counties  
Water Control and Improvement  
District No. 1

**Policy for Agricultural Water Sales and Delivery**

(Amended and Restated per Board action on 12/14/15)

(This policy does not apply to municipal water sales)

I. METHOD

1. The Demand Method shall be used. This being a method of delivery of water whereby the application for water is accepted for delivery as soon as practicable.
2. The District will make available a determined amount of non-municipal water for purchase by District Landowners in a calendar year.
3. The determined amount of non-municipal water for purchase by District Landowners will be presold on a first come first serve basis.
4. In January of each year, any District Landowner may elect to purchase up to 0.70 of an acre foot of water, per acre, on a given tract said District Landowner owns subject to 3. above and III.1.
5. In February of each year, should there be remaining water unsold of the determined amount, any District Landowner that purchased water in January may purchase an additional amount in proportion to the amount the District Landowner purchased in January.
6. A District Landowner may transfer all or part of water purchased for the tract to any other tract owned by the District Landowner or leased from a District Landowner subject to item 10 below.
7. The presale of non-municipal water will be paid at the prevailing rate of the District.
8. All monies prepaid for non-municipal water is non-refundable.
9. All water applications must be completed by December 1<sup>st</sup> of each calendar year.
10. Lessees must provide a notarized lease for District Landowner tracts and is subject to section XI below.

II. POINT OF DELIVERY

1. Actual delivery of water to an applicant shall be at the gravity flow service gate as set forth on the District's map illustrating the location of said District maintained gates. In the event an additional gate or gates are needed by an applicant in order to effectively

apply water to any tract designated as being part of the district, said gate or gates may be installed, subject to the approval of the District. Any gate or gates approved for installation shall be installed by the District or its designated contractor, to the specifications of the District. The applicant shall pay in advance the installation fee prevailing in the District's rate schedule at the time said installation is requested. Any gate or gates so approved and installed shall be the property of the District and become the District's responsibility to maintain.

2. The District, at its sole election, may deliver any water to an applicant by way of centrifugal pump. If an applicant is desirous of taking delivery of water at a point on the District's canal system not designated as a District service gate, it may do so subject to District approval.
3. All water applications will be metered with District meters.
4. After any water is delivered to an applicant through the District's service gate or through a centrifugal pump, said water shall become the sole responsibility of the applicant.

### III. CONDITIONS FOR DELIVERY

#### A. NON-PREMIUM CROP WATER

1. No water will be furnished unless all crop-water charges, flat-rate assessments, delinquency fees, fees and penalties, and interest, over-watering charges and any and all other fees or charges are paid in full at the time of application on all of applicant's lands in the District and on the land where the water will be used. All Lessees, renters, users will not have water furnished unless all crop water charges, flat rate assessments, delinquency fees, fees and penalties, and interest, over water changes and any and all other fees or charges on all previous applications made by the Lessee, renter, user are paid in full at the time the application and has a current lessee, renter, user form agreement signed by the landowner on file.
2. The water user must properly prepare the lands to be irrigated by way of removal of all plant growth alien to the crop thereon being irrigated, of which may obstruct or retard the even flow of water over the land. Any tract that is not properly terraced or furrowed or which is overgrown in any non-crop plant species such as mesquite, hackberry or other invader brush species which may obstruct or retard the even flow of water over the land, shall result in said application for water being denied.
3. An Applicant shall be required to have adequate earthen canals or pipe in place to properly contain and transport water being delivered for its intended purpose. Under no circumstances may the District's canal delivery system be utilized by an applicant for applying water to a crop. Water can only be delivered to an applicant's tract or tracts pursuant to Section II herein, by the District's employee or employees only.
4. a) Deliveries of water to applicants shall be on a first come, first serve basis except as to premium water sales, addressed herein, insofar as to applicant's tracts situated on

the same canal run, as set forth on the District's map identifying same. However, it is not permissible to have more than one outstanding water order on the same tract, at the same time. Therefore, an applicant is prohibited from placing a subsequent order on a tract of land, until such time as any existing, prior order has been filled.

b) At the time of application an applicant will be informed as to the number of applications situated in the same water delivery area as is being applied for. Based on the total volume of applications pre-dating a new application, the canal rider will estimate and communicate to the applicant the approximate number of days before the actual delivery of water will begin under application.

5. Applications for water will be filled subject to water being available in Medina Lake or the canal system and subject to the capacity of the canal and ditch system to satisfy the pending water orders. Any application for water received during a period of time the main canal between Diversion Dam and Pearson Lake is not actively transporting water, shall be delivered upon such time there is sufficient water available and the number of applications for water sales totals a feasible volume of water to be released into the main canal.
6. All applicants will receive water through metered devices and pay by volume, with the minimum water order amount of seventy two and no/100 dollars (\$72.00) paid at time of application for water. Applicants must still place and sign for orders in person. The water order applicant will be invoiced for the difference between \$72.00 and the actual amount of water received. Invoicing and payment may be made through the mail; however payment must be made within 30 days of the invoice date. A water delivery payment not received at the BMA office within 30 days of the invoice date shall be deemed delinquent and incur a late charge of the greater amount of \$25.00 or 1.5% monthly interest after the 30 day payment period. New orders will not be accepted until payment in full has been received.
7. All applications of water must be completed by December 1<sup>st</sup> of each calendar year.
8. Water will be released on or after February 1<sup>st</sup> of each calendar year after a cumulative 500 acre feet of water applications have been received by the District. If at any time the canal system has been shut down during the irrigation year, a cumulative 500 acre feet in water applications is required to restart the system.

#### B. PREMIUM CROP SALES

1. Premium water sales for tracts over three (3) acres that have high need crop water utilization and shall be at 50% over the prevailing District rate.
2. Crops that are considered by the District to be high need water utilization crops are: Leafy Greens, Chards, Spinach, Cabbage, Lettuce, Turnips, Collard greens, Mustard greens & Kale. Cilantro, Cucumbers, Green Beans, Beets, Okra, Tomatoes, Squash, Peppers, Carrots, Onions, Eggplant and Melons. Corn is not part of this group.

3. The Conditions for Delivery applicable to agricultural water sales set forth in III A., above shall also apply to Premium Crop Sales except as expressly provided in section III (B)(1), above.

#### IV. VOLUME DELIVERED

1. Water deliveries to an applicant shall be on an acre-foot basis and shall be at cost per acre-foot prevailing in the District's rate schedule at the time of application. However, the minimum cost to an applicant for delivery of water to a tract shall be for two-acre feet, regardless of the actual volume of water required to effectively irrigate such tract. The District shall install a meter at its service gate prior to the delivery of water and removed by the canal rider as soon as practical after the volume of water ordered has been filled. The canal rider shall be the sole party responsible for turning water into an applicant's tract and terminating the delivery of water through closing the service gate. An applicant shall not be charged for any overage of water delivered during business hours on weekdays caused by the canal rider's failure to timely shut off the water at the service gate, after the application for water has been filled; provided, however, the applicant has given the required notice to terminate delivery set out in Section IV.2(a) herein.
2.
  - a) The water user shall give three (3) hours notice to the canal rider to terminate the user's water delivery. Such notice shall be given in normal business hours from 8:00 AM to 5:00 PM. during weekdays. In the event the user's water is requested to be turned off on the weekend or a holiday, the user must give the ditch rider notice by 2:00 PM on Friday before the weekend or the day of business prior to a holiday of the time the water should be turned off. **The ditch rider must be notified between 8am and 5pm business days if water will need to be turned off during non business hours 5pm to 8am.** Ditch riders are not to be called or contacted in person at their residence after 5pm unless it is an emergency.
  - b) The canal rider shall be the sole party responsible for turning water into applicant's tract and terminating the delivery of water by closing and locking the service gate. Permission may be granted for the applicant to regulate water flow once the order has been started if approved in advance by the ditch rider.
3. If the District Board of Directors at it's regular scheduled board meeting in April, deems the District is in a critical delivery period due to drought conditions, then there shall be no lake, pond or tank applications accepted by the District between May 1 and June 30, except as to lakes, ponds or tanks that facilitate collecting water for water to be placed on a crop by pump.
4. The District will test the calibration of a meter at the written request of the water applicant for a service fee of \$35.00 AND cost of the calibration test. If the calibration test indicates a difference of over 5%., the water applicant will be refunded the required fees, costs and the percent differential of water indicated to have been delivered to the water applicant should the difference not be in the water applicants' favor.

5. Water users are limited to receiving and applying not more than four (4) inches of water over the area that is actually irrigated during the watering; provided, however, a tolerance of not to exceed twenty percent (20%) may be allowed based upon conditions at the site when the watering occurs. An applicant shall designate the specific acreage that will actually be watered when the water order is placed and a total volume not to exceed four inches for the area to be watered will be calculated by the BMA.

## V. REACTIVATION

The District shall charge a water reactivation fee prevailing in the District's rate schedule anytime a water order has been interrupted. In the event an applicant desires to terminate his application for water for any cause, prior to said volume of water applied for being filled by the District, the applicant may do so. However, before the application can be reactivated, the applicant shall be required to pay, in advance, a reactivation fee before said applicant shall receive any water under the interrupted application. All reactivation applications must be completed by December 1<sup>st</sup> of each calendar year.

## VI. APPLICATIONS FOR WATER

1. Application for water, or water orders, must be made at the District office, pursuant to the District's procedure and format for application. Applications for water delivery shall be made when applicant is available to accept delivery. In the event an application for water is temporarily withdrawn by an applicant, a request for reinstatement must be filled within the same calendar year the order was placed. Reinstatement of orders must be completed by December 1<sup>st</sup> of each calendar year. If the reinstatement is not completed by December 1<sup>st</sup> of the calendar year, said application will become null and void; releasing the District from any obligation to deliver the water forfeited in the application at a later date or refund any monies to the applicant.
2. No verbal application for water will be accepted.
3. Applications for water may be transferred to another tract or tracts of the applicant, which he may not have originally applied for, only if done so at the District office prior to the canal rider planning or implementing actual delivery. However, an application for water may only be transferred to a like application and when water is available.

## VII. SPOT WATER

1. There shall be no spot water sales between January 1 and the District's regular scheduled board meeting in April of any calendar year, except those pre-approved by the District. At its regular scheduled board meeting in April, the District shall take action on the availability of spot water. Spot water sales may be activated or terminated at any time by the district. Applications for spot water are accepted by the District. Spot water is considered by the District to be water sold for agricultural use to an applicant for utilization on lands not part of the District. Applications for spot water are accepted by the District only when spot water is available under the rules and regulations or

obligations of the District. An application for spot water may be filled at the discretion of the District with no obligation of the District to refill a subsequent spot water application.

2. All spot water sales are subject to the conditions set forth in III.1, III.2, III.3, III.4 (a) and IV.3 (a) herein and are approved solely at the discretion of the District. In the event the District's adjudicated water supply appears at any time not to be of sufficient quantity to meet the demands of the District's flat-rate paying Landowners in a given annual irrigation season, the District may suspend any further acceptance of applications for spot water.
3. All spot water applications shall be filled on an acre-foot basis only and shall be at a cost per acre-foot prevailing in the District's rate schedule at the time of application for a like sale of water for municipal purposes. However, the minimum cost to an applicant for delivery of water to a tract, lake, pond, or tank shall be for two acre-feet, regardless of the actual volume of water required to effectively irrigate the particular tract or fill the particular lake, pond, or tank.
4. Spot water will only be delivered to an applicant by way of a centrifugal pump, supplied and maintained by the applicant and only during the times and conditions set out above.
5. The District shall install a meter or other device for determining volume of water being delivered at the discharge point of the centrifugal pump, before the pump is activated. The meter shall be reset to "0" prior to delivery of water and removed by the canal rider upon the volume of water ordered being filled and the pump being shut down. An applicant shall not be charged for any overage of water delivered caused by the canal rider's failure to timely remove a meter; provided timely notice is giving by the applicant to the canal rider. Upon the application for spot water being filled, the District through its canal rider reserves the right to shut down the centrifugal pump, in the event the applicant is not present. The applicant agrees to hold the District harmless from any liability for damage that may occur to any centrifugal pump, due to improper shut down.

#### VIII. OBLIGATIONS OF APPLICANT

1. Be in compliance with Section III herein.
2. Prior to delivery of water all applicants must take whatever action needed to make sure tail water does not leave the property.
3. Take delivery of water either day or night and use same prudently and continuously until its application is filled.

#### IX. RIGHTS OF THE DISTRICT

1. Refuse delivery of water to any applicant not in compliance with Section III herein.
2. Prematurely terminate an application for water during delivery, in the event the District deems the applicant is not prudently managing the water being delivered.

3. Pursuant to the Texas Water Code, Article 49.221, the District's officers and employees shall have access to all private lands to insure any water applied for and delivered is being prudently managed to prevent waste.
4. At the Districts election all turn outs utilized for water delivery by the District will be locked with access to be restricted to District personnel only.

#### X. PENALTIES

1. A breach of any rule of the District shall result in a penalty for violation of District rules as set out by applicable law, including but not limited to section 49.004, Texas Water Code. Interference with the delivery of water under these rules may result in penalties provided by applicable law, including but not limited to section 49.228, Texas Water Code.
2. The following fees and penalties shall be assessed by the District for the respective violations:
  - a) Verbal and/or physical abuse to any District employee. Fee payable as set forth in District's prevailing rate schedule.
  - b) Applicant violating section IV.2.b, herein, by way of beginning, ending or regulating the delivery of an application of water themselves personally. Fee payable as set forth in the District's prevailing rate schedule.
  - c) Applicant violating section VIII.2 herein, shall result in the water order being immediately suspended until the applicant makes corrections to stop the tail water. The applicant will not lose his order but will be required to pay a penalty, set forth in the District's rate schedule, to resume the water delivery.
  - d) Party turning water into property without any application for same having been made. Fee payable as set forth in District's prevailing rate schedule. District will pursue having criminal charges and prosecution brought against violating party for theft.
3. Any and every instance of tampering, disconnecting, physically disorienting, altering, changing or bypassing a meter will result in the loss of the order and applicant will be required to pay the penalty set forth in the Districts rate schedule.

#### XI OWNERS AND RENTER/LESSEE/USER

Any Landowner who may rent, lease, or allow the use of real estate property to other persons, is responsible for all water application charges due the BMA, including but not limited to any and all unpaid bills left by the renter/lessee/user. The BMA may carry the consumer on the books as a third party and send bills to the renter/lessee/user if the Landowner signs the BMA's form agreement for Landowner alternate billing, but the Landowner is fully responsible for any and all unpaid bills incurred by the renter/lessee/user. The BMA will notify the Landowner of the

renter/lessee/user's past due payment status. A renter/lessee/user will be unable to order water without a current BMA form agreement signed by the Landowner on file. The forms are available at the BMA office or will be mailed upon request.

**AMENDED BY THE BMA BOARD OF DIRECTORS  
ON DECEMBER 14, 2015**



## RATE SCHEDULE

1. Flat rate tax - \$25.00 for the first acre  
\$10.00 for each additional acre's
2. Water Sales
  - a) Volumetric, minimum of 2 acre feet  
\$36.00 per acre foot
  - b) Spot Water, minimum of 2 acre feet  
\$72.00 per acre foot
3. Re-activation fee - \$36.00
4. Fees
  - a) Verbal or physical abuse to District employee - \$250.00 to \$500.00 or the maximum allowed by law to be determined by District Manager and Board of Directors.
  - b) Violation of Section IV.2.b), in which applicant personally begins, ends or regulates a water order - \$300.00.
  - c) Violation of section VIII.2., addressing excessive tail water
    - i) 1<sup>ST</sup> violation - \$200.00
    - ii) Any subsequent violations - \$400.00
  - d) Theft of Water
    - i) 1<sup>st</sup> violation - \$500.00
    - ii) 2<sup>nd</sup> violation - \$1,000.00
  - e) Meter Tampering and Meter Bypassing  
Any and every violation \$1,000.00
5. Gate installation fee – Actual cost plus \$100.00