

RESOLUTION OF THE DELTA LAKE IRRIGATION

September 7, 2005 Board Meeting

Revised July 2, 2008 Board Meeting

The board hereby adopts the following rules and instructs the District's general manager to published a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located:

NEW RULES

- 1) The taking or diversion of water by persons other than the District's employees or agents from the District's canals, lateral canals, pipelines, reservoirs, or other facilities without a water ticket issued by the District is prohibited. The penalty for the taking or diversion of water without a water ticket shall be \$200 per violation per occurrence for each 24 hour period in which such violation occurs in addition to the value of the water as determined by the sole discretion of the District. The penalty and value of the water shall be assessed against the owner of the land on which the water was applied or assessed against the owner or operator of the equipment or facility used to divert the water.
- 2) *Water users shall contact the canal rider prior to opening or closing their field gate to schedule delivery. This will allow the canal rider adequate time to divert the water. The penalty for not contacting the canal rider prior to opening the field gate will result in the field gate being shut off until canal rider can schedule delivery. The penalty for not contacting the canal rider prior to shutting off your field gate could result in a wasted water ticket.*
- 3) *All water users are responsible for using efficient methods of water conveyance when irrigation their crops. If it's determined the method of irrigation being used is inefficient the user will be*

required to use a more efficient method or be required to meter their water. All metered water will be charged an acre feet rate.

- 4) Waste of water (as defined) diverted from the Districts canals, lateral canals, pipeline, reservoirs, or other facilities by persons other than the District's employees or agents is prohibited. Waste of water shall be defined as excessive water running off an irrigated field for more than 24 hours as determined by the District's General Manager or his designated agent, and the District's Water Master. The penalty for waste of water shall be \$200 per violation per occurrence for each 24-hour period in which such violation occurs and such penalty shall assessed against the water user.
- 5) Non-district use of the District's Real Property without the approval of the District's Board of Directors is prohibited.

BACKUP MATERIAL – TEXAS WATER CODE

§ 11.088. DESTRUCTION OF WATERWORKS.

No person may willfully cut, dig, break down, destroy, or injure or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for milling, mining, manufacturing, the development of power, domestic purposes, agricultural uses, or stock raising, with intent to:

- (1) maliciously injure a person, association, corporation, water improvement or irrigation district;
- (2) gain advantage for himself; or
- (3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

§ 11.091. INTERFERENCE WITH DELIVERY OF WATER UNDER CONTRACT.

No person may willfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 11.042 of this code.

§ 11.092. WASTEFUL USE OF WATER.

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use.

§ 11.093. ABATEMENT OF WASTE AS PUBLIC NUISANCE.

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

(b) In case of a wasteful use of water defined by Section 11.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected.

§ 11.094. PENALTY FOR USE OF WORKS DECLARED PUBLIC NUISANCE.

No person may operate or attempt to operate any waterworks or irrigation system or use any water under contract with any waterworks or irrigation system that has been previously declared to be a public nuisance.

§ 58.127. ADOPTING RULES.

A district may adopt and make known reasonable rules to:

- (1) prevent waste or the unauthorized[0] use of water; and
- (2) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district.

§ 58.128. EFFECT OF RULES.

After the required publication, rules adopted by the district under Section 58.127 of this code shall be recognized by the courts as if they were penal ordinances of a city.

§ 58.129. PUBLICATION OF RULES.

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules is on file with the principal office of the district where it may be read by any interested person.

(d) Any number of rules may be included in one notice.

§ 58.130. EFFECTIVE DATE OF RULES.

The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rules shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty.

§ 49.004. PENALTY FOR VIOLATION OF DISTRICT RULES.

(a) The board may set reasonable civil penalties for the breach of any rule of the district that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.

(b) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(c) If the district prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.