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ARTICLE 2. REGULATIONS FOR THE ALLOCATION AND USE OF AGRICULTURAL WATER WITHIN WESTLANDS WATER DISTRICT

2.1 PURPOSE

Westlands Water District has long-term contractual and legal entitlements with the United States for a firm supply of 1,191,185 acre-feet (AF) of Central Valley Project (CVP) water during each water year. In some years, the District may acquire additional water pursuant to its entitlements, or other water. On April 2, 2002, the District and landowner representatives executed the "Agreement for Distribution of Water, Allocation of Cost, and Settlement of Claims", thereby resolving issues and controversies relating to and providing for the allocation of CVP water to lands within the District. These Regulations establish the rules and procedures for allocation and use of agricultural water.

2.2 GLOSSARY OF TERMS AND DEFINITIONS

A. Acreage Based Cap – the per acre amount of water determined by dividing the Cap for the rescheduling period by the District's irrigable acres, net of District owned lands, as of March 1 that may be rescheduled into the subsequent Water Year.

B. Acquired Lands – lands acquired by the District, or lands for which the permanent right to its per acre entitlement has been acquired by the District, and lands acquired by the United States pursuant to an agreement with the District dated August 11, 1998.

C. Agricultural Water - water used for irrigation and other agricultural purposes directly related to the growing of crops.

D. Agricultural Water Allocation Application and Purchase Agreement (referred to as Allocation Application) - an agreement between the District and a water user which describes the land held by the water user, the amount of water requested by the water user, and which obligates the water user to accept and pay for all water supplied by the District.

E. Allocated; Allocation - amount of water ratably distributed to eligible District lands.

F. Annexed Lands - lands which became a part of Westlands Water District after July 1, 1965 (the annexed area), as shown on Westlands Water District Dwg. No. 582, dated December 21, 1976, revised November 12, 1986, entitled "Areas of Service Priority."

G. Cap Loss – amount of water remaining at year end in excess of the Cap imposed by the Bureau of Reclamation or the District on water that may be rescheduled at the end of the water year and which shall be lost.

H. Contract Water - any water obtained under the contractual and legal entitlements including additional and interim supplies.

I. Cropland - irrigable acreage as determined by U.S. Farm Service Agency (FSA or District measurements.

J. Cushion - water set aside for system losses and other uses each water year, in the amount of 1 percent of contract water or 6,000 acre-feet, whichever is greater.

K. Eligible Cropland – land that is eligible for allocation or delivery of water under Reclamation law and any applicable District Regulation. Eligible Cropland must maintain Proper Land Stewardship.

L. Entitlements - water provided pursuant to the contractual and legal obligations between Westlands Water District and the United States for water supply and distribution.

M. Furnish - to deliver or provide. For purposes of these Regulations, water has been furnished, delivered, or provided to a water user at the time the water in question physically exits District-owned facilities, property, or infrastructure.

N. Merged Lands - lands which formed a part of the original Westplains Water Storage District on June 28, 1965 (the original Westplains area), as shown on Westlands Water District Dwg. No. 582, dated December 21, 1976, revised November 12, 1986, entitled "Areas of Water Service Priority."

O. M&I Use - the use of water for drinking, cooking, bathing, showering, dish washing, and maintaining oral hygiene or purposes of commerce, trade or industry. “M&I” is short for “Municipal and Industrial.”

P. Other Water - water other than contract water.

Q. Overuse - use in excess of available supply.

R. Per Acre Entitlement - ratable share of contract water determined by 1,191,185 AF divided by the number of Pre-Merger Lands and Merged Lands cropland acres, excluding acquired lands, for which Allocation Applications are timely received.

S. Pre-Merger Lands - lands which formed a part of Westlands Water District on June 28, 1965 (the original Westlands area), as shown on Westlands Water District Dwg. No. 582, dated December 21, 1976, revised November 1, 1986, entitled "Areas of Water Service Priority."

T. Proper Land Stewardship – Water user implementation of land management best practices that are customary for similarly situated water users within the District and that are intended to minimize infestations, outbreaks or spread of weeds, pests and disease that are harmful to growing crops and fire that threatens crops and irrigation and water delivery infrastructure. It shall be improper to abandon a crop in a manner or for a duration that would permit it to become a source of any of the aforementioned conditions.

U. Rescheduled; Rescheduled Water – water carried over for use in the next water year.

V. Rescheduling Loss – loss of water that may occur at the end of the Rescheduling Period due to the Bureau of Reclamation’s annual rescheduling guidelines.

W. Rescheduling Period – the period of use for Rescheduled Water.

X. System Gain - an increase in water available for allocation due to the difference in relative accuracy between state operated and maintained headworks meters and District operated and maintained water delivery meters.

Y. System Loss - either a direct loss or a reduction in water available for allocation because of the difference in relative accuracy between state operated and maintained headworks meters and District operated and maintained delivery meters.

Z. Transfer - assignment of water from one water user or landowner to another.

AA. Unused Water - available supply at the end of the water year.

BB. Water User - landowner or lessee of land who has submitted and executed an Allocation Application.

CC. Water Year - each 12-month period that begins on March 1 and ends on the last day of February following.

2.3 CONTRACTUAL ENTITLEMENTS

A. The entitlement of agricultural water for Pre-Merger Lands and Merged Lands is 1,191,185 AF less water set aside therefrom for M&I use, system losses, and other uses.

B. No contract water shall be allocated to Annexed Lands until the allocation of contract water for eligible cropland, excluding acquired lands, in the Pre-Merger Lands and Merged Lands areas is 2.6 AF per acre.

C. Any contract water in addition to the quantities described above will be allocated ratably on a per acre basis, excluding acquired lands, to satisfy timely applications first to eligible cropland in Pre-Merger Lands and Merged Lands areas, then to eligible cropland in the Annexed Lands area, and finally on a first-come, first-served basis to all District cropland.

D. Prior to, and in conjunction with, the calculation of the per acre entitlement in any water year, the General Manager shall set aside from the available water supply the amount of water for M&I use in accordance with Article 19 of the District's Rules and Regulations, system losses, and other uses approved by the Board of Directors. The General Manager may later allocate this water according to these Regulations if it is no longer necessary for such purposes.

E. If there is a reduction in the rate at which water can be delivered to the District because of operational or other limitations, each water user's share of the delivery rate will be equitably adjusted as determined by the General Manager.

2.4 OTHER ALLOCATION RULES AND PROCEDURES

A. Other water obtained by the District shall be made available to all eligible cropland in the District, excluding acquired lands, and shall be allocated on a per acre basis, unless otherwise directed by the Board of Directors.

B. Allocations of other water obtained shall be increased or decreased as more or less water becomes available for distribution within the District.

C. 1. System loss will be deducted first from the water set aside for such purposes, and second, from water users in direct proportion to the water used by each water user.

2. System gain shall be allocated to water users in direct proportion to the water used by each water user, excluding such use on acquired lands.

D. Other water made available to the District specifically for direct transfer to a water user shall be allocated to the water user for whom it was intended. This water may be used or transferred within or outside of the District at the discretion of the water user, subject to applicable state and federal laws and District approval, or any conditions of use placed on the water when it was first transferred into the District.

E. No water will be allocated to any person or for any land in violation of the District's "Article 1. Regulations for the Groundwater Allocation Program and Use of Groundwater Within the Westside Subbasin" at the time the water is allocated.

F. Proper Land Stewardship is necessary and appropriate best practices to maximize reasonable and beneficial use of water within the District and avoid "waste" within the meaning of California Constitution Article X, section 2, which is self-executing and the District's Water Management Plan, required by its Water Repayment Contracts with the United States and the Water Conservation Act of 2009 (SB 7X-7). Therefore, no water will be allocated to eligible cropland if, after providing notice and a 30-day opportunity to cure, the water user fails to cease the conduct inconsistent with Proper Land Stewardship, cure the identified issues and engage in Proper Land Stewardship.

G. Notwithstanding any other provisions of the Regulations, water made available for specified purposes shall be distributed and used in accordance with such specified purposes.

H. All per acre allocations of water will be made on the basis of cropland acres as determined prior to the time of the allocation. Any changes to cropland acres will be used for future allocations only, and will not be used to adjust prior allocations.

I. A landowner who owns land designated as Eligible Cropland, that intends to modify or modified after January 1, 2020 that land to a non-irrigable use, may request pursuant to Appendix A of Article 2 that the land maintain its designation as Eligible Cropland upon modification. The request will be processed, and decisions will be made pursuant to Appendix A of Article 2.

2.5 APPLICATION FOR WATER

A. To receive an allocation of contract water for agricultural purposes in any water year, a water user must timely apply therefore by filing an Allocation Application at a designated District office annually on or before January 15. Applications received after January 15 shall not receive an allocation unless accepted by the General Manager. Applications received after January 15 that are accepted by the General Manager shall only be entitled to receive a proportionate share of contract water made available to the District after the date of such late application's acceptance.

B. Allocations Applications shall require the Water User or Landowner (as necessary) to provide the District access to and necessary consent to access and inspect the parcels of land receiving the allocation, to further the intents of this Article under Water Code section 35413.

C. The General Manager may require supplemental application(s) for additional contract water or other water made available to the District.

D. If more than one Allocation Application for the same parcel of land is received and there is a dispute between the applicants regarding who should receive the water, priority will be given to the landowner, if one of the applicants owns the land in question. If no applicant owns the land, priority will be given to the water user who can provide satisfactory evidence of the right to occupy the land and receive the water. A lease or written consent from the landowner is considered satisfactory evidence. If the dispute arises after the application period and the water has been allocated, remedy is limited to unused water.

E. No water will be allocated to any land for which water charges, assessments, land-based charges, or any other money owed to the District have been delinquent for 30 days or more at the time the water is allocated or to any land for which advance payment is required until such advance payment is received, or in lieu thereof security, in a form acceptable to the General Manager, for such payment has been provided.

2.6 USE AND TRANSFER OF WATER

A. No water may be transferred out of the District without District approval or as

authorized by the General Manager according to “Transfer of Water Out of the District” policy approved on August 20, 2019.

B. All water may be used on any eligible cropland within the District.

C. A water user may transfer his water to another water user in any area of the District. Such transfer shall be in writing on a form provided by the General Manager.

D. The District will not transfer water from a water user to another resulting from a change in ownership or lease of land. However, if land is transferred by a change in ownership or lease with the result that the water user no longer owns or leases any District land, the unused water shall be transferred to the water user to whom the ownership or leasehold of such land has passed unless a transfer of water is requested pursuant to these Regulations.

E. The General Manager may restrict or prohibit the use or transfer of water allocated to any cropland if a dispute exists among landowners regarding the allocation or use of such water.

F. Water service shall be discontinued when a water user has exhausted his available water supply.

G. Each water user shall take reasonable steps to reuse or control tail water and shall engage in Proper Land Stewardship, which activities are necessary to maximize the reasonable and beneficial use of water within the District and avoid waste. The failure to do so constitute a per se waste of water authorizing General Manager to remediate at the water user’s cost, after oral or written notice to the water user and a 30-day opportunity to cure, provided that in the event of an emergency the District may proceed as reasonably required to ameliorate the condition.

H. The General Manager is authorized, after oral or written notice to the water user, to lock the delivery facilities of, or discontinue water service to, any water user who violates these Regulations or Terms and Conditions for Agricultural Water Service.

I. The unauthorized using, taking, or wasting of water, including, but not limited to, the failure to engage in Proper Land Stewardship, is prohibited and is a violation of these Regulations and may subject the water user to the imposition of civil remedies, including injunctive relief, penalties or criminal prosecution to the extent authorized by law.

2.7 WATER USER TRANSFERS FROM SOURCES OUTSIDE THE DISTRICT

A. Any water user may apply to the District to transfer into the District water from sources outside the District.

B. The General Manager, or his designee, shall cooperate to a reasonable extent with any water user in connection with that water user's efforts to obtain water from sources outside of the District. In so reasonably cooperating, the General Manager, or his designee, shall not devote so much time or energy as to significantly distract from his or her duties and responsibilities to the District. Furthermore, such reasonable cooperation shall not be construed so as to affect the nature of the General Manager's, or his designee's, relationship with and duties to the District; nor shall such reasonable cooperation be construed as to create a fiduciary or other obligation owed by the General Manager, or his designee, to any person or entity other than the District.

C. Subject to applicable state and federal laws and the requirements of these regulations, the General Manager or his designee may approve a water user's application to transfer water from sources outside of the District into the District for the benefit of that water user and shall execute any agreements or other documents required to accomplish the transfer.

D. A water user's application to transfer water from sources outside of the District may be denied if the approval of that application would impair the District's ability to obtain sufficient other water, reduce the quantity of other water obtained by the District or delay or otherwise negatively affect the delivery to the District of other water obtained by the District.

E. Priority to access of excess capacity of any facility required to deliver other water obtained by the District and water acquired by a water user from sources outside the District shall first be used to deliver other water obtained by the District.

F. Access to excess capacity of any facility required to deliver water by water users from sources outside the District shall be apportioned among water users seeking access to excess capacity on a per acre basis.

G. The District's administrative costs for review, approval, and other activities related to a water user's application for approval of a transfer into the District water from sources outside the District shall be borne by the water user. The General Manager, or his designee, may require a deposit of the estimated costs for such activities prior to review of an application.

2.8 PAYMENT FOR WATER OR AGREEMENTS

No water shall be made available for delivery, transfer, or any other use by a water user who fails to make required payments to the District, regardless of the source of the water user's obligation for payment. Rules for payment are set forth in the Terms and Conditions for Agricultural Water Service and other agreements, if any, between the water user and the District.

2.9 YEAR-END PROCEDURES

A. After final water use and supply accounting is completed for the water year, the District will determine the amounts of unused water or overuse for each water user.

B. Unused water may be rescheduled if such a program is available. See 2.10 RESCHEDULED WATER regarding the procedures for rescheduling water.

C. A water user with unused water that cannot be rescheduled shall pay all water costs that the District incurs, applicable San Luis & Delta Mendota Water Authority operations and maintenance rates and applicable District rates.

D. A water user with overuse will have his allocation of contract water in the following year reduced by the amount of his overuse, first from the cropland farmed by the water user in which the overuse occurred and then from any cropland farmed by the water user. If this water user is not a water user in the following year, the amount of

overuse will be attributed to the cropland that had been farmed by the water user. Further, any allocation of contract water to that cropland will be reduced by the amount of overuse attributable to such cropland.

2.10 RESCHEDULED WATER

A. Subject to the program's availability, the District or a water user may reschedule water, regardless of source, from one water year to the next. The period of use for Rescheduled Water (Rescheduling Period) shall be the following, unless otherwise restricted by the Bureau of Reclamation:

   1. If San Luis Reservoir fills, March 1 to date determined by Reclamation (usually about April 15); or
   2. If San Luis Reservoir does not fill, to the end of the current water year.

   The use of all contract water supplied by the Bureau of Reclamation, including use of the then current year's allocation, shall be counted toward the use of Rescheduled Water.

B. Unless the District is notified before the end of the water year, all water remaining in a water user's account at the end of the water year will be rescheduled on its behalf by the District.

C. The Bureau of Reclamation or the District may limit the amount of water that may be rescheduled at the end of the water year. "Cap Loss" is the term for water remaining at year end in excess of the limit imposed by Reclamation or the District which shall

be lost. In addition, loss of water may occur at the end of the Rescheduling Period, called “Rescheduling Loss”, due to Reclamation’s annual rescheduling guidelines.

D. Both Cap Loss and Rescheduling Loss, in that order, will be applied to a water user’s account at the end of the Rescheduling Period, so that the water user has the greatest opportunity to deliver all its water supply. However, if the Rescheduling Period is extended to the end of the current water year, Cap Loss will be applied to water user accounts at the beginning of the Rescheduling Period, after adjusting such accounts for internal transfers of Rescheduled Water received and approved by the District on or before March 10. Any loss by water users will be applied based upon acre-feet per acre, from highest to lowest.

E. Losses will be apportioned to and in the following order and manner:
   1. Water rescheduled by the District.
   2. Remaining Rescheduled Water.
   3. Delivered Rescheduled Water.

F. For losses, water users shall pay all water costs that the District incurs, the San Luis & Delta-Mendota Water Authority O&M rate and any applicable District rates.

2.11 MISCELLANEOUS

A. The General Manager is authorized and directed to do any and all things necessary to implement and effectuate these Regulations.

B. An appeal from any decision made pursuant to these Regulations shall be made to the Finance and Administration Committee of the Board of Directors. Such appeal shall be in writing and shall be filed with the District Secretary within 15 working days after notice of the decision. The decision of the Finance and Administration Committee may be appealed to the Board of Directors. Such appeal shall be in writing and shall be filed with the District Secretary within 15 working days after notice of the Finance and Administration Committee’s decision. The decision of the Board shall be final.

C. The General Manager shall provide notice of any changes or revision to these Regulations to all District landowners and water users.

APPENDIX A

CONTINUED BENEFITS TO MODIFIED AGRICULTURAL LAND

A. Upon a request from a landowner with Eligible Cropland, that intends to modify or modified after January 1, 2020 that agricultural land to a non-irrigable use, the District shall designate the modified agricultural land as Eligible Cropland, notwithstanding its temporary, albeit long-term, modification, if the Board finds the following criteria are met:

1. A conditional use permit or other entitlement is obtained from the county or other local agency ("lead agency") for the modification of the agricultural land as described in the conditional use permit or land use entitlement ("Project").
2. The lease or easement on the land defines and limits the terms of use, consistent with Project purposes as approved and conditioned by the lead agency.
3. The lead agency for the Project has complied with the California Environmental Quality Act ("CEQA") and the environmental analysis is adequate for the District's use for the limited purpose of verifying the Project satisfies the criteria identified herein thereby ensuring the conversion, though long-term, is temporary.
4. The Project analyzed and approved by the lead agency includes or the lead agency has adopted measures to ensure that the Project, though long-term, is not permanent because either: the existing agricultural character of the land will be retained during the operational life of the Project; or, upon cessation of Project uses, the land will be suitable for agricultural uses. At a minimum, such measures shall include:
    a. Plan(s) to remove Project fixtures and equipment (not including any transmission, distribution, or gen-tie electrical power lines) such that the land will be suitable for agricultural uses upon cessation of Project uses ("Decommissioning Plan(s)").
    b. Financial Assurances provided to the satisfaction of the lead agency (i) through a performance bond or other financial securities to ensure

timely completion of the activities in the Decommissioning Plan(s) by the Project owner, Project operator, and/or the landowner(s), and (ii) with reserved authority of the lead agency or the landowner(s) that will result in completion of said activities if necessary, upon cessation of Project uses or within a time period thereafter as may be established by the lead agency.

5. The Project analyzed and approved by the lead agency includes Land Maintenance Assurances provided to the satisfaction of the District that the modified agricultural land shall be maintained in Proper Land Stewardship. At a minimum, such assurances shall include:

   a. Plan(s) that specify actions and their timing to ensure the standards of this Article are maintained ("Land Maintenance Plans"); and

   b. Financial Assurances provided to the satisfaction of the Lead Agency and the District (i) through a performance bond or other financial securities to ensure timely completion of the activities in the Land Maintenance Plan by the Project owner, Project operator, and/or the landowner(s), and (ii) with reserved authority of the lead agency or the landowner(s) that will result in completion of said activities if necessary.

Upon verification by the Board that the Project satisfies the criteria identified herein, District designation of the modified agricultural land as Eligible Cropland, and the attendant District benefits to that land resulting from the designation as "Eligible Cropland", shall continue for the operational life of the Project, subject to the measures described in Paragraphs A.4 and A.5 of this Section A, and for so long as all the criteria established in Paragraph A of this Appendix continue to be satisfied. Land designated as Eligible Cropland prior to adoption of Paragraph A.5 shall be required to comply with Proper Land Stewardship Project operator and/or the landowner.

B. After the Board designates the modified agricultural land as "Eligible Cropland", ownership of the modified agricultural land may change (holder of fee title) and the

modified land will retain the attendant District benefits to that land resulting from the designation as “Eligible Cropland”, provided all the criteria established in Paragraph A of this Appendix continue to be satisfied.

C. The Board of Directors may decide to de-designate as “Eligible Cropland” the modified agricultural land upon a failure to comply with the requirements of this subsection or the requirements imposed by the forms referenced in Paragraph A.2 of Section A. An appeal from any decision made pursuant to Paragraph A of this Appendix shall be made to the Board of Directors. Such appeal shall be in writing and shall be filed with the District Secretary within 15 working days after notice of the decision. Before recommending to the Board of Directors that it de-designate as “Eligible Cropland” the modified agricultural land, District staff shall provide a landowner notice and at least 30 days to cure an alleged failure to comply with the requirements referenced above.

FOR LANDOWNER OR THE DULY AUTHORIZED LEGAL REPRESENTATIVE OF THE LANDOWNER(S)

I, the undersigned, own the land identified below or am the duly authorized legal representative of one who owns that land. I am authorized to complete and file this form with the District.

As the landowner or the duly authorized legal representative of the landowner, I am requesting that, pursuant to Article 2 of the District's Rules and Regulations and upon modification, the District designate as Eligible Cropland the following land:

Owner(s) Name(s): APN(s): Number of Acres:
Use attachment to provide additional information, if necessary.

As the landowner or duly authorized legal representative of the landowner(s) of the land referenced immediately above, I will notify Westlands Water District within 5 business days if fee title to that land or any portion thereof is transferred.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

_____ _____

Signature of Landowner or the duly authorized legal representative of the Landowner

Date