

**RULES AND REGULATIONS
GOVERNING
THE DISTRIBUTION
AND USE OF WATER**

WALKER RIVER IRRIGATION DISTRICT

Revised as of _____, 2016

BACKGROUND

The Walker River Irrigation District (“District”) was formed on April 14, 1919 pursuant to Nevada’s Irrigation District Act, which was enacted that year. On March 2, 1920, as required by Nevada law, the Board of Directors of the District apportioned the benefits that would accrue to each tract of land within the District from the construction of the works of the District. That apportionment was confirmed by court order entered in the Eighth Judicial District Court of the State of Nevada in and for the County of Lyon on June 23, 1920. An appeal from that confirmation was taken to the Supreme Court of the State of Nevada. In that appeal, the Nevada Irrigation District Act was challenged as unconstitutional. Its constitutionality was upheld and the formation of the District was confirmed. *See, In Re Walker River Irrigation District*, 44 Nev. 321 (1921).

In 1924, the United States brought an action in the United States District Court for the District of Nevada to establish a water right for the Walker River Indian Reservation and to determine the relationship between that water right and the other water rights on the Walker River system (the “Walker River Action”). That litigation resulted in the entry of the Walker River Decree in 1936, as amended in 1940. The Walker River Decree adopted and incorporated the water rights determined by an earlier decree, the Rickey Decree, sometimes referred to as “Decree No. 731,” and additionally determined the rights of numerous other parties to use water from the Walker River. With certain exceptions, most of the water rights recognized by the Walker River decree were established before enactment of Nevada’s statutory water law in 1913 and California’s in 1914.

The Court in the Walker River Action retained jurisdiction for regulatory purposes and for the purpose of appointing a water master to apportion and distribute “the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water, in accordance with the provisions of [the] decree.” On May 12, 1937, the court in the Walker River Action entered an order appointing five persons to perform that function. Two of the persons were from Yerington, one was from Smith, one was from Topaz, and one was from Bridgeport. On June 27, 1940, the court entered an order adding a representative of the Walker River Indian Reservation to the Board of Water Commissioners. The orders establishing the Board of Water Commissioners gave that Board the authority to appoint an assistant, Chief Deputy Water Commissioner, who has the day-to-day responsibility of apportioning and distributing the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water, in accordance with the provisions of the Walker River Decree.

The Board of Water Commissioners, with approval of the court, may also make such rules as may be necessary and proper for the enforcement of the Walker River Decree and for carrying out its purposes. In 1953, the United States District Court for the District of Nevada entered an order approving detailed “Rules and Regulations for Distribution of Water on the Walker River System.” Among other things, those rules provide:

If at any time the Chief Deputy Water Commissioner, through investigation, determines that any users’ water is not being put to beneficial use, but is going to waste, he shall immediately refuse delivery of water to the said user unless and until he is satisfied that the water, when returned to the user, will be put to beneficial use within the meaning of the Decree.

The United States District Court for the District of Nevada, through the United States Board of Water Commissioners, has administered the Walker River in Nevada and California since 1937, and continues to do so today.

The surface water rights for lands within the boundaries of the District are comprised of four categories, rights to Decree Water, Supplemental Stored Water Rights, New Land Stored Water Rights, and District State Certificated Water Rights. The District was formed for the primary purpose of constructing, operating and maintaining Bridgeport and Topaz Reservoirs to conserve some of the surplus waters of the Walker River. Those reservoirs have a combined capacity of approximately 101,894 acre feet. They are not large enough to store all of the surplus waters of the Walker River. Because of those facts, lands within the boundaries of the District do not have a single priority, common water right as do lands in many other irrigation districts.

Lands within the boundaries of the District retained their water right for the direct diversion of water from the natural flow of the Walker River as recognized in the Walker River Decree. These water rights are owned directly by individual farmers, and are commonly referred to as “Decree Rights.”

The Walker River Decree also recognizes water rights of the District in Bridgeport and Topaz Reservoirs. When the Walker River Decree was entered, the District had pending applications before the California State Water Commission to appropriate additional water in those Reservoirs.

Nevada’s Irrigation District Act required the directors of the District to examine each tract or legal subdivision of land within the District, and to determine the benefits which would accrue to each tract or subdivision from the construction or purchase of irrigation works. The cost of those works was to be apportioned or distributed over the tracts or subdivisions of land in proportion to the benefits. The amounts so apportioned became and remain the basis for fixing annual assessments levied against the tracts of land.

As a part of that apportionment of benefits process, the flows of the Walker River system were analyzed, as were the expected yields of the two Reservoirs. As a result of that process, it was determined that lands with a Decree Right having a priority of 1873 and earlier would not require any supplemental stored water. Those lands were not and are not assessed for Bridgeport

and Topaz Reservoirs. Lands with a Decree Right having a priority of 1874 and later were determined to require stored water to supplement those rights. Those lands were allocated a portion of the stored water from Bridgeport and/or Topaz Reservoirs. Such lands have both Decree Rights and Supplemental Storage Rights. Finally, because analysis showed that there would be additional stored water available after all Supplemental Storage Rights were satisfied, the remaining stored water was allocated to land which had no water right at all. This land is referred to as “New Land.”

The District holds additional permits to surplus Walker River surface water in Nevada. It holds Permit No. 5528 and Certificate No. 8859 on the West Walker River for 491.2 cubic feet per second not to exceed 89,612 acre feet annually to irrigate described land within the District. That permit was issued by the Nevada State Engineer in 1971. The District holds Permit No. 25017 and Certificate No. 8860 on the East Walker River for 349.1 cubic feet per second not to exceed 63,688 acre feet annually to irrigate described land within the District. That permit was issued by the Nevada State Engineer on October 15, 1976. Use of water under all of these permits is limited to no more than 4.0 acre feet per acre of water from all sources. The benefits of these water rights have never been apportioned as were the District’s rights to stored water.

The District also holds Permit No. 25813 for 9.01 cfs of groundwater not to exceed 3,269.63 acre feet per season for use on specific lands. This right is further limited to no more than 4.0 acre feet per acre from all sources. The benefits of this groundwater right have never been apportioned. Other groundwater rights within the District are owned by individual farmers and other entities.

PREAMBLE

The distribution and use of surface water within the boundaries of the Walker River Irrigation District is subject to the applicable provisions of the Walker River Decree, rules and regulations adopted and approved pursuant to the Walker River Decree, applicable provisions of Nevada law, and these Rules and Regulations Governing the Distribution and Use of Water within the boundaries of the Walker River Irrigation District which have been adopted by the Board of Directors of the District pursuant to the provisions of N.R.S. 539.233.

Regulation No. 1

DEFINITIONS

Section 1.1 Unless the context otherwise requires, as used in Regulation Nos. 2 through Regulation No. 14, words and phrases shall have the following meanings:

(a) “Acquired New Land Stored Water Right” shall mean and refer to a New Land Stored Water Right owned by NFWF or its successor-in-interest.

(b) “Acquired Supplemental Stored Water Right” shall mean and refer to a Supplemental Stored Water Right owned by NFWF or its successor-in-interest.

(c) “Administrative Rules and Regulations” shall mean and refer to the Administrative Rules and Regulations Regarding Change of Point of Diversion, Manner of Use or Place of Use of Water of the Walker River and Its Tributaries and Regarding Compliance With California Fish and Game Code Section 5937 and Other Provisions of California Law as approved by the Court in the Walker River Action.

(d) “Agency” or “agencies” shall mean and refer to either or both of the State Engineer of the State of Nevada or the California State Water Resources Control Board, as appropriate, which has the responsibility for adjudicating a specific Change Application or Change Petition.

(e) “Applicant” shall mean and refer to any person making a Change Application pursuant to Regulation No. 6A, or Regulation No. 14, and to the District with respect to a Change Petition.

(f) “Change Application” shall mean and refer to any application filed in accordance with Regulation No. 6A, to permanently change the place of use of a Supplemental Stored Water Right or a New Land Stored Water Right, or Regulation No. 14, to temporarily change the point of diversion, manner of use and/or place of use of a Supplemental Stored Water Right or a New Land Stored Water Right from its existing point of diversion, its existing place of use and its existing manner of use to temporarily allow for its beneficial use from its reservoir of origin to and into Walker Lake for fish and wildlife resources.

(g) “Change Petition” shall mean and refer to any petition filed in accordance with Regulation No. 14 to temporarily add the East Walker River, West Walker River and/or the Walker River to Walker Lake and Walker Lake as an additional place of use, and to temporarily add fish and wildlife resources as an additional purpose of use to the District’s Stored Water Rights.

(h) “Chief Deputy Water Commissioner” shall mean and refer to the person employed by the United States Board of Water Commissioners, who has the day-to-day responsibility of apportioning and distributing the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water, in accordance with the provisions of the Walker River Decree.

(i) “Contested Application” shall mean and refer to a Change Application or Change Petition which is protested pursuant to the applicable provisions of Nevada law or California law, or Regulation No. 6A.

(j) “Decree Water” shall mean and refer to water from a water right to the natural flow of the Walker River and recognized in the Walker River Decree.

(k) “District” shall mean and refer to the Walker River Irrigation District.

(l) “District State Certificated Surface Water” shall mean and refer to the rights of the District appropriated under Nevada Permit No. 5528, Certificate No. 8859, and Nevada Permit No. 25017, Certificate No. 8860.

(m) “District’s Stored Water Rights” shall mean and refer to the rights of the District to store water in Bridgeport Reservoir pursuant to the Walker River Decree and California Water Rights License No. 9407 and the Walker River Decree, or to store water in Topaz Lake Reservoir under California Water Rights License Nos. 6000 and 3987 and the Walker River Decree.

(n) “Ditch Rider” shall mean and refer to the person or persons employed by the District, an irrigation ditch company, or tenant in common ditch owners to receive orders for water under Regulation No. 5, to operate and regulate headgates for the farm delivery of water downstream of the point of diversion of a ditch from the River, and to provide reports required by Regulation No. 10.

(o) “Emergency” shall mean and refer to a sudden, unexpected, or impending situation that may cause injury, loss of life, damage to property and/or interference with normal activities, and which, therefore, requires immediate attention and action.

(p) “Excluded Lands” shall mean and refer to lands within the District which have been excluded from participation in the benefits of the district pursuant to the provisions of N.R.S. 539.700.

(q) “NFWF” shall mean and refer to the National Fish and Wildlife Foundation.

(r) “Non-Water Right Land” shall mean and refer to land without an appurtenant surface water right.

(s) “New Land Stored Water Right” shall mean and refer to benefits of the District’s Stored Water Rights apportioned by the District to specific lands within the District with no appurtenant surface water rights adjudicated by the Walker River Decree.

(t) “Party” shall mean and refer to any person who appears or is allowed to appear in an agency proceeding or in a proceeding for approval or judicial review of an agency decision or report.

(u) “Person” shall mean and refer to a corporation, company, partnership, firm, association, society, governmental agency, Indian tribe, or any other entity, as well as a natural person.

(v) “Protestant” shall mean and refer to any person who protests a Change Application pursuant to the applicable provisions of Nevada law, or Regulation No. 6A, or a Change Petition pursuant to the applicable provisions of California law.

(w) “River Rider” shall mean and refer to the person or persons employed by the United States Board of Water Commissioners to regulate and operate headgates and other works for the diversion of water from the River into ditches within the District.

(x) “River” shall mean and refer to the Walker River, East Walker River, West Walker River, and tributaries thereof.

(y) “Stored Water” shall mean and refer to water from a New Land Stored Water Right or a Supplemental Stored Water Right.

(z) “State Engineer” shall mean and refer to the state engineer of the State of Nevada.

(aa) “Supplemental Stored Water Right” shall mean and refer to benefits of the District’s Stored Water Rights apportioned by the District to specific lands within the District with appurtenant surface water rights adjudicated by the Walker River Decree.

(bb) “United States Board of Water Commissioners” shall mean and refer to the board appointed by the Court in the Walker River Action to act as a water master or board of commissioners to apportion and distribute the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California.

(cc) “Walker River Action” shall mean and refer to that certain action entitled “United States of America, Plaintiff v. Walker River Irrigation District, et al., Defendants” in the United States District Court for the District of Nevada, In Equity No. C-125-ECR.

(dd) “Walker River Decree” shall mean and refer to that certain final decree entered in the Walker River Action on April 14, 1936, as amended on April 24, 1940.

(ee) “Water Resources Control Board” shall mean and refer to the California State Water Resources Control Board.

Regulation No. 2

LAND DIVISION AND RECORDS

Section 2.1.1 An owner of land which includes appurtenant surface water rights within the District’s boundaries and who divides that land must:

(a) Submit a plan for the District’s approval that provides for a system of water conveyance and delivery from the original point of delivery on the undivided land to each of the newly created lots, parcels or other units of land;

(b) Comply with reasonable specifications or requirements imposed by the District concerning the design and implementation of the water conveyance and delivery system

including any requirements to install measuring or regulating devices, to place facilities underground and/or to construct and maintain fences;

(c) Obtain the District's written approval of the water conveyance and delivery system no less than 30 days prior to filing or recording any tentative or final maps which would divide the land; and

(d) Establish and depict all necessary easements, right-of-ways and facilities necessary to maintain and implement the water conveyance and delivery system on all tentative or final maps submitted, filed or recorded with Lyon County.

Section 2.1.2 When required by the District, and before any of the divided land is sold or otherwise conveyed, the owner of the land must convey all necessary easements, right-of-ways, facilities or other property interests to the District necessary to maintain and implement the water conveyance and delivery system, which conveyance documents must receive the prior written approval of the District. The District may require the conveyance documents to include covenants and/or servitudes that burden all owners of the divided lands with the obligation to pay District assessments levied in connection with the maintenance, repair, replacement and operations of any easements, right-of-ways or facilities conveyed to the District. Such assessments shall be apportioned and levied by the District as a special charge against the divided lands. These special assessments so levied and apportioned shall be a lien upon the divided lands, and shall be collected in the same manner as all other assessments that are levied and collected by the District.

Section 2.1.3 The District shall expend all monies assessed and collected pursuant to Section 2.1.2 above as necessary to maintain, repair, replace and operate any easements, right-of-ways or facilities conveyed to it pursuant to this Regulation.

Section 2.1.4 The District may require the recordation of covenants, conditions and restrictions that require the owners of the newly created lots, parcels or other units of land to form and become members of a water users' association which incorporates the applicable provisions of this Regulation as well as any future modifications. The water users' association shall coordinate the irrigation of water-righted parcels within the subdivision, and operate and maintain the subdivision's irrigation and drainage system.

The lands located within the subdivision/association may be considered as a single farm unit by the District for purposes of ordering and delivery of water. The members of the association must select one individual as the coordinator and one individual as alternate coordinator, and submit those names to the District for approval. The coordinator and/or alternate will schedule all irrigations, order the water from the District, and coordinate the delivery of water with the ditch rider or other appropriate designee of the District.

Section 2.1.5 The District General Manager may impose any rules and requirements necessary to implement the provisions of this Regulation. The District may charge a reasonable fee for the review of documents, maps and any other materials as made necessary by this Regulation.

Section 2.1.6 The District may withhold the delivery of any stored waters appurtenant to lands to be divided if the owner of those lands fails to comply with the provisions of this Regulation. The District may also install any necessary system of water conveyance and delivery on the divided lands, and levy a special assessment against those lands to pay for any such installation.

Section 2.1.7 In exercising its authority under Sections 2.1.1 through 2.1.4, the District shall consult with representatives of any ditch or ditch company which may be affected by the land division.

Section 2.2 Based upon ownership information made available to the District by land owners and the Lyon County, Nevada Recorder, the District will maintain for each parcel of land within its boundaries with appurtenant water rights a record of water right acreage and appurtenant surface water rights, from which will be the basis for all charges made by the District for the operation and maintenance and drainage of the lands thereof.

Section 2.3 Where a parcel of land is leased in total the record of service will be as if the land owner was operating the land. When part of the parcel is leased and the remainder operated by the land owner, then one record of service shall be maintained in the name of the land owner.

Section 2.4 In cases where land with appurtenant water rights is leased, written authorization signed by the owner authorizing the lessee to order and use the land owner's water must be filed with the District by the said land owner prior to any such order and use.

Regulation No. 3

BASIS FOR CHARGES

Assessments and other charges imposed by the District shall be in accordance with the applicable provisions of Nevada law, including, without limitation, the provisions of N.R.S. Chapter 539. The annual charges for lands within the District with appurtenant surface water rights, decree, storage, and state certificated is based upon the number of acres of water right land. The annual charges for lands within the District with stored water rights are based upon the number of acre feet of storage to which land benefits have been apportioned. For purposes of this Regulation, "annual" refers to the fiscal year of the District, July 1 to June 30 of each year.

Regulation No. 4

DISTRICT OFFICE HOURS

The Board of Directors of the District will establish the regular District office hours for the irrigation season of March 1 to October 31 of each year by resolution at its regular board meeting in February of each year, and will establish the regular District office hours for the non-irrigation season of November 1 to the end of February of each year at its regular board meeting in October of each year. Those office hours will be posted on the District website and in the District office.

Regulation No. 5

ORDERING OF WATER

Section 5.1 District Processing of Orders. The Chief Deputy Water Commissioner apportions and distributes the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water. In order to facilitate that apportionment and distribution within the District, orders for water are processed through the District in accordance with this Regulation No. 5.

Section 5.2 Methods and Times for Placing Water Orders. During the irrigation season as set forth in Regulation 9 for the category of water being ordered, orders for water may be placed: (a) at any time by electronic order through the District website www.WRID.us; (b) by telephone to the District Office during District Office hours as established pursuant to Regulation 4; or (c) by telephone to the applicable Ditch Rider at the telephone number and at the times set forth in a notice provided by the District to water users in February of each year. A Ditch Rider who receives such an order shall promptly transmit it to the District Office, either by telephone or electronically.

Section 5.3 Orders for Deliveries, West Fork Upstream of Tunnel Section and East Fork Upstream of Elbow. Orders for water to be delivered to points of diversion on the West Walker River upstream of the Tunnel Section, or to points of diversion on the East Walker River upstream of the Elbow, must be received in the District Office by 11:00 AM of a day which is no more than 120 hours and not less than 24 hours prior to the requested delivery time. Orders received in the District Office after 11:00 AM of a day will be deemed received on the following day, and the delivery start time may be delayed by 24 hours, if necessary.

Section 5.4 Timing of Deliveries, West Fork Tunnel Section, East Fork Downstream of the Elbow and Downstream of the Confluence of the West and East Forks. Orders for water to be delivered to points of diversion on the West Fork at the Tunnel Section, on the East Walker River downstream of the Elbow, or downstream of the confluence of the West Walker River and East Walker River, must be received in the District Office by 11:00 AM of a day which is no more than 120 hours and not less than 48 hours prior to the requested delivery time. Orders received in the District Office after 11:00 AM of a day will be deemed received on the following day, and the delivery start time may be delayed by 24 hours, if necessary.

Section 5.5 Changes to Previously Scheduled Deliveries. Orders for change in quantity, or turn off of previously ordered deliveries, must be made and will be processed in the same manner as provided in Sections 5.3 and 5.4 above, as applicable.

Section 5.6 Quantity of Water Ordered or To Be Adjusted. Orders for the delivery of water or for adjustments to previously scheduled orders shall be in cubic feet per second flow rate and for a specific period of time, which shall not be less than 24 hours. Subject to the Chief Deputy Water Commissioner's discretion under the 1953 Rules and Regulations, orders shall be

for not less than one (1) cubic foot per second, and orders for adjustments to previously scheduled deliveries shall be for not less than one-half (.50) cubic foot per second.

Section 5.7 Delivery of Water Under Order. The quantity of water delivered will be in accordance with the order, insofar as normal operations of the canal or ditch permit.

Section 5.8 District Processing of Orders. By 12:30 p.m. of each day during the irrigation season, the District will provide the Chief Deputy Water Commissioner with all orders it has received for water by the water categories identified in Regulation 9 since Noon of the previous day for the Chief Deputy Water Commissioner's use in planning diversions from the River for the following and subsequent days.

Section 5.9 Notice of Turn-Offs. Except in the case of an Emergency, water users may not turn off a water delivery prior to its scheduled turn-off time without providing at least _____ hours prior oral notice to at least one of the Ditch Rider, the River Rider, the Chief Deputy Water Commissioner and/or the District. In the event of an Emergency, notice of turn off of a water delivery shall be given as soon as possible thereafter.

Regulation No. 6

IRRIGATION SEASON CHANGES TO STORED WATER

Section 6.1 General. Changes in the place of use of stored water to land within the boundaries of the District during an irrigation season are allowed with the approval of the District General Manager. Such changes may involve one or more land owners. Changes which involve an exchange of water from Bridgeport Reservoir to Topaz Reservoir (East Walker River to West Walker River, or Main Walker River to East Walker River or to West Walker River), or which involve an exchange of water from Topaz Reservoir to Bridgeport Reservoir (West Walker River to East Walker River, or Main Walker River to West Walker River or East Walker River), may be allowed up to a specific date established each irrigation season by the District. Changes which involve movement of stored water for the Main Walker River in proportion to the share contributed by each reservoir (1/3 Bridgeport Reservoir and 2/3 Topaz Reservoir) may take place at any time during the irrigation season in that proportion so that such Main Walker River stored water may be moved upstream to East or West Walker Rivers in those proportions. Changes to stored water from the West Walker River to the Main Walker River and from the East Walker River to the Main Walker River may also take place at any time during the irrigation season.

Section 6.2 Applications for Irrigation Season Changes to Stored Water. Applications for irrigation season changes to stored water shall be filed with the District on forms provided by the District. All applications filed with the District at least 10 business days before the next regularly scheduled Board meeting will be reported to the District Board by the General Manager at that next regularly scheduled meeting.

Section 6.3 District to Provide Information to Chief Deputy Water Commissioner. Throughout the irrigation season, the District shall inform the Chief Deputy Water Commissioner of changes which have been approved under this Regulation 6.

Section 6.4 Ordering of Water Under Approved Changes. Water under changes approved under this regulation shall be ordered and delivered as provided in Regulation 5.

Section 6.5 Changes to Land Without an Appurtenant Surface Water Right. Changes in the place of use of stored water to land which does not otherwise have an appurtenant surface water right is not allowed under this Regulation No. 6.

Regulation No. 6A

**PERMANENT CHANGES TO STORED WATER
FOR IRRIGATION USE WITHIN THE DISTRICT**

Section 6A.1 Authority and Applicability. Section 2.4 of the Administrative Rules and Regulations approved by the Walker River Decree Court provides that “any change in the point of diversion and/or place of use of storage waters adjudicated to the Walker River Irrigation District, which change is entirely within the boundaries of the Walker River Irrigation District, shall be made pursuant to adopted rules and regulations of the governing body for said District.” This Regulation applies to any change in the place of use of a New Land Stored Water Right, or of a Supplemental Stored Water Right for irrigation use to land wholly within the boundaries of the District which land does not have an appurtenant surface water right.

Section 6A.2 Prohibited Changes. No permanent change in place of use of a New Land Stored Water Right or of a Supplemental Stored Water Right will be allowed where the change is from land served by the West Walker River to land served by the East Walker River, or vice-versa, or from land served by the Main Walker River to land served by either the East Walker River or the West Walker River.

Section 6A.3 Change Application. A Change Application to change a Supplemental Stored Water Right or a New Land Stored Water Right for purposes of this regulation shall be filed with the District on forms provided by the District, and must contain such information as may be necessary for a full understanding of the proposed change, as may be required by the District. Each Change Application shall be accompanied by a map and drawings and such other data as may be prescribed by the District.

Section 6A.4 Notice of Change Application.

1. When a Change Application is filed in compliance with this Regulation, the District shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation in the county where the water is sought to be changed, a notice of the application which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the change is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.

The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Proof of publication must be filed within 30 days after the final day of publication. The District shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the District shall return to the applicant that portion of the application fee collected for publication.

Section 6A.5 Protest of Application.

1. Any person interested may, within 30 days after the date of last publication of the notice of application, file with the District a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which must be verified by the affidavit of the protestant, or an agent or attorney thereof.

2. On receipt of a protest that complies with the requirements of subsection 1, the District shall advise the applicant whose application has been protested of the fact that the protest has been filed with the District, which advice must be sent by certified mail.

3. Each applicant and each protestant shall, in accordance with a schedule established by the District, provide to the District and to each protestant and each applicant information required by the District relating to the application or protest.

Section 6A.6 Hearing. All Change Applications filed under this Regulation must be considered by the Board of Directors of the District, whether or not it has been protested, at a properly noticed meeting of the board.

Section 6A.7 Approval or Rejection. The District shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change does not adversely affect the cost of water for other holders of water rights in the District or lessen the efficiency of the District in its delivery or use of water;
- (c) Does not conflict with existing rights;
- (d) Does not threaten to prove detrimental to the public interest;
- (e) If a Supplemental Stored Water Right, the natural flow water right recognized by the Walker River Decree appurtenant to the existing place of use has been finally approved for use at the new place of use; and
- (f) Any supplemental groundwater right appurtenant to the existing place of use has been finally approved for use at the new place of use.

Section 6A.8 Judicial Review. Any person aggrieved by the decision of the Board of Directors may, within 30 days following the rendition of the decision, petition the district court of Lyon County, Nevada for the review thereof. The provisions of the Administrative Rules and Regulations concerning preparation and transmittal of the record to the court, insofar as applicable, shall be followed by the District.

Section 6A.9 Application Fee. The District shall charge the same application fee under this Regulation as is charged by the Nevada State Engineer for a similar application filed with the Nevada State Engineer.

Section 6A.10 Recordation of Order of Approval. If the Board approves the Change Application under this Regulation, a certified copy thereof must be recorded in the Office of the County Recorder of the county in which the land to be affected is situated, and thereafter the recorded copy must be delivered to the applicant upon payment of the recording fees.

Regulation No. 7

WATER FROM DISTRICT WELL

Section 7.1 Exchanges Involving Water From District Well. Pursuant to such limitations as the District Board may establish for a particular irrigation season, water available within a portion of the District under Nevada Certificate No. 8861 may be made available to land with appurtenant water rights within the District boundaries by exchange for stored water or decreed rights, or both, of lands which may receive water directly under Nevada Certificate No. 8861.

Section 7.2 District to Provide Information to Chief Deputy Water Commissioner. The District shall provide information related to all exchanges under Section 7.1 on a daily basis for the Chief Deputy Water Commissioner's use in planning river diversions.

Section 7.3 Ordering Water Under Approved Exchanges. Water under exchanges allowed under Section 7.1 shall be ordered and delivered as provided in Regulation 5.

Regulation No. 8

DIVERSION WORKS/HEADGATES

Section 8.1 Manually Operated River Diversion Works. The operation and regulation of manually operated headgates at the head of all canals and ditches and spill works for canals and ditches immediately downstream of said headgates are under the exclusive management and control of the Chief Deputy Water Commissioner and his agents. No person except the Chief Deputy Water Commissioner and his agents shall have any right to adjust or regulate such structures in any manner.

Section 8.2 Remotely Automated River Diversion Works. The operation and regulation of headgates and spill works with fully automated controls for adjusting and maintaining flows from the River into canals and ditches, which adjustments can be made from remote locations, shall be operated and regulated as provided in this Section 8.2. In all such cases, the Chief Deputy Water Commissioner establishes the flow of water to be diverted into any such canal or ditch each day consistent with orders received for diversion. Based upon the Chief Deputy Water Commissioner's establishment of the diversion rate at the River, the Chief Deputy Water Commissioner shall direct the District to make the necessary adjustments to any such canal or

ditch headgate remotely from the District Office or electronically in the field. When those adjustments are made, a representative of, or the Chief Deputy Water Commissioner shall be present, unless the Chief Deputy Water Commissioner and the District agree that such adjustments shall be made at a set time each day. A hard copy record of all adjustments made remotely shall also be provided to the Chief Deputy Water Commissioner each day to verify the adjustments are accurate and consistent with the flow rate established by the Chief Deputy Water Commissioner. The District shall not direct or input any adjustments without the prior consent of the Chief Deputy Water Commissioner. Automatic adjustments made by the automated system in the normal course of the automated system's operation to maintain a constant flow rate are excepted. The River Rider assigned to any such canal or ditch verifies in the field that the quantity actually being diverted is consistent with the flow rate established by the Chief Deputy Water Commissioner. That verification takes place in the same manner as verification takes place for manually operated headgates. If the River Rider's field verification results in a need for an adjustment to any such headgate, the River Rider directs the District to make the adjustment remotely from the District Office. In the event of a problem which prevents a remote adjustment, the District will respond with a trained person to correct the problem, or the adjustment will be made manually by the River Rider. The River Rider field verifies that the adjustment has been made as directed. In order to verify the diversions into any such canal or ditch, the Chief Deputy Water Commissioner at all reasonable times has access to the facilities in the District Office which display those diversions. If the diversion as displayed requires an adjustment, the Chief Deputy Water Commissioner directs the District to make an adjustment consistent with the provisions of this Section 8.2.

Installation of automated headgates will leave in place existing manually operated headgates at the head of all canals and ditches, and such headgates remain in complete and exclusive control of the Chief Deputy Water Commissioner. If the quantity of water being allowed to flow past the new headgate with automated controls is not consistent with the flow rate established by the Chief Deputy Water Commissioner, or adjustments are being made to the automated headgate which are not authorized by the Chief Deputy Water Commissioner, the Chief Deputy Water Commissioner can override the amount of water being allowed to pass through the new automated headgate by adjusting and locking the manually operated headgate which is upstream of the new automated headgate.

Section 8.3 Structures for Farm Water Delivery. The operation and the regulation of headgates for the farm delivery of water downstream of the point of diversion from the River on canals and works owned or operated by the District are under the exclusive management and control of the Board of Directors, through the manager or his agents, and no person except he or his employees or assistants shall have any right to adjust or regulate such structures in any manner.

Regulation No. 9

IRRIGATION SEASON

Section 9.1 Decree Water. The season for the delivery of decree water shall begin on March 1st and end on October 31st of each year.

Section 9.2 District State Certificated Surface Water. The season for the delivery of District State Certificated Surface Water shall begin and end as provided in the state permits for that water or in changes thereto.

Section 9.3 District Stored Water. The commencement of the season for the delivery of storage water shall be established by the Board of Directors of the District at its regular monthly meeting in March of each year, and shall end on October 31st.

Section 9.4 District Underground Water. The season for delivery of District underground water shall be as provided in the state permit for that water or in changes thereto.

Regulation No. 10

DITCH RIDER REQUIREMENTS AND RECORD KEEPING

Section 10.1 Ditch Rider Required. It shall be required to have a Ditch Rider available during the irrigation season at all times during the period in which irrigation water is being delivered through the individual ditch company canals or ditches where the users are tenants-in-common.

Section 10.2 Ditch Rider to Provide Water Use Information. Each Ditch Rider shall provide the District with daily reports of all water delivery and use on each ditch. Such daily reports shall be on forms provided by the District, and shall include information on the place of such use, the quantity delivered in cubic feet per second and the duration of the delivery.

Regulation 11

WATER USE REPORTING AND RECORD KEEPING

Section 11.1 District Delivery Reports to Chief Deputy Water Commissioner. From the reports provided by Ditch Riders, the District shall prepare and provide the Chief Deputy Water Commissioner daily reports of delivery and use of decree water, stored water, District Certificated Surface Water, and water from the District well. Such reports will be provided electronically.

Section 11.2 District Reports to Water Users. Periodically during the irrigation season, the District shall provide each water user within the District a report of cumulative water use by the water categories identified in Regulation 9 to the date of the report, and the balance of stored water allocated and remaining available for use. The same report will also be provided by the District to the Nevada State Engineer. A water user shall have 30 days from receipt of a report in which to notify the District in writing of any disagreements therewith. Such disagreements shall be resolved as promptly as possible.

Section 11.3 Information Obtained From Chief Deputy Water Commissioner. On a daily basis during the period beginning March 1st and ending October 31st of each year, the District will obtain and record the following information from the Chief Deputy Water Commissioner: (a) the water right priority being provided water under the Walker River Decree

each day and within each relevant River section, including information related to the establishment thereof; (b) inflow into Bridgeport Reservoir and into Topaz Reservoir; (c) the quantity of water being discharged from Bridgeport Reservoir and Topaz Reservoir along with an allocation of that total quantity to natural flow for the water rights in priority, to transportation allocated to storage deliveries and to storage deliveries; and (d) the resulting change, if any, in the elevation of Bridgeport Reservoir and Topaz Reservoir.

Regulation No. 12

ROTATION OF WATER

Section 12.1 Rotation Encouraged. The rotation of Decree Water is encouraged and recognized as beneficial, however, only that water which is available and of the same or senior in priority may be rotated during any one period, and may not be used on New Land or Non-Water Right Land during the rotation period in which one is entitled to the water. The rotation of stored water with stored water is also encouraged and recognized as beneficial.

Section 12.2 Rotation Not Allowed in Certain Instances. Land with no appurtenant water right other than a right to stored water shall not rotate with those lands with a decreed water right.

Section 12.3 Flow Efficiency. Those users having the right to use a small amount in a continuous flow are encouraged to engage in the rotation of water in order to receive, when available, an irrigation head of 1 cfs or greater for a shorter duration to bring about a more efficient use of the available water supply.

Regulation No. 13

COMPLAINTS ABOUT THE DISTRIBUTION OF WATER

Section 13.1 Decree Water Only. Complaints related to the delivery of Decree Water shall first be made to the Ditch Rider, and if not resolved, shall be made to the Chief Deputy Water Commissioner. Such complaints shall be made as promptly as possible.

Section 13.2 Stored Water Only. Complaints related to the delivery of Stored Water when there is no Decree Water in the ditch shall first be made to the Ditch Rider, and if not resolved, shall be made to the General Manager of the District. Such complaints shall be made as promptly as possible.

Section 13.3 Decree and Stored Water. Complaints related to the delivery of Stored Water when there is Decree Water in the ditch shall first be made to the Ditch Rider. If such a complaint is not resolved by the Ditch Rider, then it shall be made to the Chief Deputy Water Commissioner, who may consult with the General Manager of the District with respect to the appropriate resolution. Such complaints shall be made as promptly as possible.

Regulation No. 13A

**ALLOCATION OF DITCH CAPACITY IN DISTRICT OWNED DITCHES
FOR DELIVERY OF DISTRICT STATE CERTIFICATED SURFACE WATER**

When District State Certificated Surface Water is in priority of delivery, and capacity in District owned ditches is limited, the capacity allocated to each water user shall be the quotient of that water user's total water right acres served by that ditch divided by the total water right acres served by that ditch.

Regulation No. 14

**TEMPORARY CHANGES TO STORED WATER RIGHTS
FOR
BENEFICIAL USE AT WALKER LAKE**

ARTICLE I

APPLICABILITY

Section 14.1 This Regulation shall apply to all Change Applications and to all Change Petitions. This Regulation constitutes the District's limited and conditional consent to the temporary Change Applications and temporary Change Petitions provided for herein, and any such Change Applications and Change Petitions processed and approved hereunder shall be subject to all of its terms and provisions.

ARTICLE II

FILING CHANGE PETITIONS

Section 14.2.1 The District shall file temporary Change Petitions for the District's Stored Water Rights with the Water Resources Control Board on such forms and in such manner as required by that office and pursuant to the provisions of California Water Code sections 1707 and 1725.

Section 14.2.2 Each Change Petition filed by the District shall expressly provide that the changes requested will expire on a date which is not later than the one year anniversary of its final approval, provided, however, that the District may seek similar temporary changes for one year at a time for up to five consecutive years.

Section 14.2.3 Each Change Petition is subject to and shall comply with all of the requirements of the Administrative Rules and Regulations.

ARTICLE III

FILING CHANGE APPLICATIONS

Section 14.3.1 A Change Application to change an Acquired Supplemental Stored Water Right shall be filed with the State Engineer.

Section 14.3.2 A Change Application to change an Acquired New Land Stored Water Right shall be filed with the State Engineer.

Section 14.3.3 A Change Application to change a Supplemental Stored Water Right or a New Land Stored Water Right for purposes of participation in a 3-year water leasing demonstration program pursuant to the provisions of Section 208(b)(1)(B)(i) of P.L. 111-851 shall be filed with the State Engineer.

Section 14.3.4 Each Change Application filed with the State Engineer pursuant to this Regulation shall be filed pursuant to the provisions of N.R.S. 533.345, and shall expressly provide that it will expire on a date which is not later than the one year anniversary of its final approval, and that it is subject to the requirement that it will be deemed withdrawn in the circumstances provided for in Section 14.3.6.

Section 14.3.5 The District may provide written comments and recommendations to the State Engineer with respect to a Change Application. Any such written comments and recommendations shall be provided within thirty (30) business days after the District receives a copy of a Change Application.

Section 14.3.6 If the State Engineer determines that he must notice the Change Application as provided in N.R.S. 533.360 and hold a hearing and render a decision as provided in N.R.S. Chapter 533, all as provided in N.R.S. 533.345(3), the District, in a properly noticed meeting, shall consider whether the Change Application should be so processed based upon the same information as was submitted to the State Engineer. If the District's decision is that it should not be so processed, it shall be deemed withdrawn upon notice to the State Engineer by the District of that decision. If the District's decision is that it should be so processed, the State Engineer may thereafter proceed as provided in N.R.S. 533.345(3).

Section 14.3.7 It shall be a condition of any Change Application processed and approved pursuant to this Regulation that the approval is and shall remain subject to all of the provisions of this Regulation, including without limitation, the terms and provisions of Articles VIII and IX.

Section 14.3.8 Change Applications are subject to and shall comply with all of the requirements of the Administrative Rules and Regulations.

ARTICLE IV

PROCEEDINGS BEFORE THE AGENCY

Section 14.4.1 Except as otherwise expressly provided by this Regulation, all proceedings before an agency with respect to Change Petitions and Change Applications shall be in accordance with the practice and procedure of that agency. Protests to Change Applications

may be filed in accordance with the provisions of N.R.S. § 533.365, or to Change Petitions in California, in accordance with the relevant provisions of the California Water Code.

Section 14.4.2 The decision of the Water Resources Control Board with respect to a Change Petition shall be based upon the applicable provisions of California law, including, but not necessarily limited to, whether the proposed changes will injure any legal user of water, or result in any significant adverse impacts to water quality or the environment.

Section 14.4.3 The decision of the State Engineer with respect to a Change Application shall be based upon the applicable provisions of Nevada law.

Section 14.4.4 The preparation of and filing of the agency record of all proceedings concerning a Change Petition or Change Application shall comply with the Administrative Rules and Regulations.

ARTICLE V

AGENCY DECISION

Section 14.5 The decisions of the State Engineer and the District on Change Applications and of the Water Resources Control Board on Change Petitions shall be made, served and filed in accordance with the Administrative Rules and Regulations.

ARTICLE VI

JUDICIAL REVIEW

Section 14.6 The decisions of the State Engineer on Change Applications and of the Water Resources Control Board on Change Petitions shall be submitted to, reviewed by and approved by the Court in the Walker River Action as provided in the Administrative Rules and Regulations.

ARTICLE VII

IMPLEMENTATION, MANAGEMENT, MONITORING AND MITIGATION

Section 14.7.1 No water from District's Stored Water Rights shall be used for the benefit of Walker Lake unless and until: (1) the required Change Petition has been approved as provided in this Regulation and as provided in the Administrative Rules and Regulations; and (2) one or more related Change Applications have been approved as provided in this Regulation and in the Administrative Rules and Regulations.

Section 14.7.2 Prior to implementation of any Change Application approved in accordance with this Regulation, the District shall adopt a plan designed to monitor the impacts of all Change Applications which are approved with respect to conflict with existing rights, efficiency of delivery and use of water in the District, including, but not limited to, ditch transportation

efficiencies and stream channel conveyance losses, protection of District and ditch company assessments, carry-over storage in Bridgeport Reservoir and Topaz Lake Reservoir, and any other matter or issue relevant to determining whether such Change Applications, if allowed on a long term basis, will interfere with the primary purpose of the District and the interests of those water users who will continue to irrigate lands within its boundaries.

Section 14.7.3 The District shall cause to be prepared a report on the information obtained by the plan referenced in Section 14.7.2, along with recommendations, if any, concerning continuation of this Regulation beyond its expiration date, changes to the provisions of this Regulation, and any other matter the District deems relevant.

Section 14.7.4 The report required by Section 14.7.3 shall be submitted to the District Board, the Water Resources Control Board and the State Engineer, and shall also be available to the public in general.

ARTICLE VIII

EXPIRATION OF REGULATION

Section 14.8 This Regulation expires by limitation on a date which is the fifth anniversary of the date of its approval by the District Board, unless on or before that date the Board of Directors of the District adopts a resolution extending its effectiveness for a specific period of time. In the event that such a resolution is adopted, additional Change Petitions and Change Applications may be processed and approved pursuant to the terms of this Regulation as extended and/or as modified.

ARTICLE IX

CHANGE PETITIONS AND CHANGE APPLICATIONS REMAIN SUBJECT TO BY-LAWS AND RULES AND REGULATIONS OF THE DISTRICT

Section 14.9 Notwithstanding the fact that the effect a Change Petition and Change Application processed and approved pursuant to this Regulation may have the effect of allowing use of Supplemental Stored Water Rights and New Land Stored Water Rights outside the boundaries of the District, it is a condition of this Regulation and a condition of any approved Change Petition and Change Application that such water rights shall continue to be subject to the bylaws, rules and regulations of the District as are now, or may hereafter, be in effect.