

HONEY LAKE VALLEY RESOURCE CONSERVATION DISTRICT
SUSAN RIVER WATERMASTER
RULES AND REGULATIONS

JANUARY 2016

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ARTICLE I

GENERAL PROVISIONS

1.0 Title. This document shall be known and may be referred to as the “Honey Lake Valley Resource Conservation District- Susan River Watermaster Rules and Regulations” adopted pursuant to the Order Granting Petition For Substitution Of Susan River Watermaster and Modifying Decree Case No. 4573.

1.1 Definitions. As used in these Rules and Regulations, these terms, including any grammatical variations thereof shall have the following meanings.

(a) “Advisory Committee” means the Water Advisory Committee as set forth in ARTICLE III.

(b) “CEQA” means the California Environmental Quality Act, Public Resources Code Sections 21000 et seq; 14 California Code of Regulations 15000 et seq.

(c) “Complainant” means a party to the Judgment that files a Complaint pursuant to ARTICLE VI.

(d) “Complaint” means an objection to an action, omission, or decision of the Watermaster filed pursuant to the provisions of ARTICLE VI.

(e) “Court” means the court exercising continuing jurisdiction under the Judgment.

(f) “Decisionmaker” means a body or committee designated by the Watermaster Board pursuant to these Rules and Regulations to consider and hear a Complaint.

(g) “Deputy Watermaster” means the Person designated as such by the Watermaster Board pursuant to section 2.15

(h) “Dispute Resolution Committee” means the three (3) person committee created pursuant to section 6.3.

(i) “Farm Bureau” means the Lassen County Farm Bureau, a California corporation.

(j) “Judgment” means the Judgment filed April 18, 1940, in Lassen County Superior Court Decree Case No. 4573 as modified by the July 31, 2007 Order Granting Petition For Substitution Of Susan River Watermaster And Modifying Decree Case No. 4573.

(k) “Person” means any individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority, water district and other entity of whatever nature including but not limited to the State of California and the Department of Water Resources.

(l) “Rules and Regulations” means these Honey Lake Valley Resource Conservation District, Susan River Watermaster Rules and Regulations as authorized pursuant to the Order Granting Petition For Substitution Of Susan River Watermaster and Modifying Decree Case No. 4573 and as they may be amended from time to time.

(m) “Service Area” means the Susan River Watermaster Service Area.

(n) “User Area” means a user area of the Service Area. The five User Areas are the Upper Susan River (Diversion 54 and above (i.e. Schedule 4 and Schedule 5 priority 1 and 2; Lassen Irrigation Company Lower Susan River (Diversion 55 and below (i.e. Schedule 5 priority 3), Baxter Creek, and Willow Creek.

(o) “Watermaster” means the Honey Lake Valley Resource Conservation District, including the Watermaster Board, all Decisionmakers and its agents, employees, and designees.

(p) “Watermaster Board” or “Board” means the Board of Directors of the Honey Lake Valley Resource Conservation District.

1.2 Rules of Construction.

(a) Unless the context clearly requires otherwise:

(i) The plural and singular forms include the other;

(ii) “Shall,” “will,” and “must” are each mandatory;

(iii) “may” is permissive;

(iv) “or” is not exclusive; and

(v) “includes” and “including” are not limiting.

(b) The masculine gender shall include the feminine and neuter genders and vice versa.

(c) Reference to any agreement, document, instrument, or report means such agreement, document, instrument or report as amended or modified and in effect from time to time in accordance with the terms thereof.

(d) Except as specifically provided herein, reference to any law, statute, ordinance, regulation or the like means such law as amended, modified, codified or reenacted, in whole or part and in effect from time to time, including any rules and regulations promulgated thereunder.

1.3 Consistency with Judgment. These Rules and Regulations shall be construed consistent with the Judgment. In the event of a conflict between these Rules and Regulations and the Judgment, the Judgment shall prevail.

1.4 Amendment of Rules. These Rules and Regulations may only be amended by the Watermaster Board.

1.5 Repeal of Existing Rules and Regulations. Watermaster's existing Rules and Regulations, any Watermaster ordinance, resolution, policy or procedure in conflict with these Rules and Regulations and the prior by-laws of the Water Advisory Committee shall be repealed upon the adoption of these Watermaster Rules and Regulations.

ARTICLE II

ADMINISTRATION

2.0 Principal Office. The principal office of the Watermaster shall be the USDA Service Center, located at 170 Russell Avenue, Suite C , Susanville, California, 96130, or at such other location or locations as may be designated by Watermaster Resolution and filed with the Court.

2.1 Records. The minutes of Watermaster Board meetings shall be open to inspection and maintained at the principal office. Copies of minutes may be obtained upon payment of the duplication costs thereof. Copies of other records may be obtained on the payment of duplication costs thereof and pursuant to Watermaster policy and any applicable law.

2.2 Regular Meetings. Regular meetings shall be held at the principal office of the Watermaster pursuant to Watermaster policy at such time(s) as may be contained in the necessary notice(s) thereof. The Watermaster Board shall ensure all regular meetings are conducted in accordance with the applicable provisions of the Ralph M. Brown Act ("Brown Act" Gov. Code, §§ 54950 *et seq.*)

2.3 Special Meetings. Special meetings may be called at any time by a majority of the Watermaster Board by delivering notice thereof at least twenty-four (24) hours before the time of such meeting. The Watermaster Board shall ensure all regular meetings are conducted in accordance with the applicable provisions of the Brown Act.

2.4 Adjournment. Any meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time or time. A copy of the order or notice of adjournment shall be conspicuously posted forthwith on or near the door of the place where the meeting was held.

2.5 Public Meetings/Hearings. All meetings, whether regular or special, shall be open to the public unless they are properly designated as a confidential session. Whenever a public hearing shall be required therein, written notice of such public hearing containing the time, date and place of the public hearing, together with the matter to be heard, shall be given to all parties to the Judgment and any person who requested, in writing, notice of such meeting, at least ten (10) days prior to the public hearing. At the public hearing, evidence shall be taken with regard to only the matters noticed, unless a sufficient urgency shall exist to the contrary, and full findings and decisions shall be issued and made available for public inspection. Notwithstanding this section, the provisions of ARTICLE VI shall control when applicable.

2.6 Confidential Sessions. The Watermaster Board may hold confidential sessions when authorized by and in compliance with the Brown Act. Minutes shall not be taken for confidential

sessions of the Watermaster Board, but a confidential memorandum shall be prepared to describe attendance and votes on decisions.

2.7 Notices. Notices shall be given in writing to all parties to the Judgment and each such person who has requested notice in writing, and shall specify the time and place of the meeting and the business to be transacted at the meeting. Notice may be provided by either facsimile or electronic mail delivery if the party so consents to such delivery. Delivery of notice shall be deemed made on the date personally given or within forty-eight (48) hours of deposit thereof in the United States mail, first class, postage prepaid, addressed to the designee and at the address in the last designation filed by such person. Watermaster will maintain a current list of the names and addresses of all parties to the Judgment.

2.8 Quorum. A majority of the Watermaster Board acting as the Watermaster shall constitute a quorum for the transaction of the affairs or business.

2.9 Voting Procedures. Only action by affirmative vote of a majority of the members of the Watermaster Board present and acting as Watermaster shall be effective. All actions may be adopted by a voice vote, but upon demand of any member of the Board acting as the Watermaster, the roll shall be called and the ayes and noes recorded in the minutes of the proceedings. Every member of the Board acting as Watermaster in attendance, unless disqualified by reason of an opinion of the Watermaster counsel that the member of the Board has a conflict of interest, shall be required to vote.

2.10 Conflict of Interest. Watermaster is an interest-based governing structure in which various interests must be represented in decision-making. It is expected and preferred that each interest be allowed to participate in Watermaster decisions except as provided in this Rules and Regulations. Each member of the Watermaster Board or any Decisionmaker shall vote on matters before the Board or any Decisionmaker unless that member has a conflict of interest pursuant to this Rule or applicable law. No member of the Watermaster Board or any Decisionmaker may vote, participate in meetings or hearings pertaining to, or otherwise use his or her position to influence a Watermaster decision in which he knows or has reason to know he has both a direct personal and financial interest.

(a) Subject to the qualification provided for in section 2.10(b) herein, a member of the Watermaster Board or any Decisionmaker is deemed to have a direct personal and financial interest in a decision where it is reasonably foreseeable that the decision will have a material effect on the Watermaster member, members of his or her immediate family, or the Watermaster member's other business, property, and commercial interests.

(b) To be classified as a direct personal and financial interest, the particular matter must be distinguishable from matters of general interest to the public or party to the Judgment, which the Watermaster member has been appointed to represent on the Watermaster Board or any Decisionmaker. The member must stand to personally gain discrete and particular advantage from the outcome of the decision beyond that generally realized by any other person or the interests he or she represents. Moreover, Watermaster representatives are expressly intended to act in a representative capacity for their constituents. A member of the Watermaster Board or any Decisionmaker shall not be considered to have a discrete and particular financial advantage

unless a decision may result in their obtaining a financial benefit that is not enjoyed by any other person. In those instances where the member of the Board or any Decisionmaker shall not be considered to have a discrete and particular financial advantage unless a decision may result in their obtaining a financial benefit that it not enjoyed by any other person. In those instances where the Board member or Decisionmaker member does have a designated alternate and the Board or Decisionmaker member with the identified conflict of interest may address the Board or Decisionmaker or participate in the hearing or meeting as a party to the Judgment.

(c) This section 2.10 does not purport to authorize or permit any person to participate in any meeting or hearing where doing so would violate applicable law.

2.11 Minutes. The secretary of the Watermaster Board or designee shall cause the preparation and subscription of the minutes of each meeting and make available a copy thereof to all parties to the judgment and each person who has filed a request for copies of all minutes or notices in writing in accordance with applicable law. The minutes shall constitute notice of all actions therein reported. Unless a reading of the minutes is ordered by a majority of the members of the Board acting as the Watermaster, minutes may be approved without reading.

2.12 Rules of Order. Except as provided herein, the procedures of the conduct of any meeting shall be governed by the latest revised edition of Roberts' Rules of Order. Strict compliance with such rules is not required as they are intended to be a guide for the conduct of any meeting. Failure to strictly comply with these rules shall not affect the jurisdiction or invalidate any action taken at a meeting that is otherwise in conformity with these Rules and Regulations and applicable law.

2.13 Compensation. Members of the Watermaster Board or any Decisionmaker shall receive fifteen dollars per meeting plus mileage from Watermaster for attendance at meetings, regular or special. Mileage shall be reimbursed subject to applicable provisions of law.

2.14 Employment of Experts and Agents. Watermaster may employ or retain such administrative, engineering, geologic, accounting, legal or other specialized personnel or consultants as it may deem appropriate and shall require appropriate bonds from all officers and consultants handling Watermaster funds. Watermaster may maintain records for purposes of allocating costs as may be necessary or advisable. No member of any Decisionmaker may be employed or compensated by Watermaster may be employed or compensated by Watermaster for professional or other services rendered to such committee or to Watermaster other than provided in section 2.13 above.

2.15 Appointment of Deputy Watermaster. Pursuant to Water Code section 4002 and the Judgment, the Watermaster Board may employ or retain an employee, consultant or other person as a Deputy Watermaster. The Deputy Watermaster may exercise any duty or authority vested in the Watermaster as authorized by the Watermaster Board and permitted by the Judgment and applicable law. Upon the appointment of a Deputy Watermaster, the Watermaster Board shall file a notice of such appointment with the Court as required by the Judgment. The Deputy Watermaster shall serve at the pleasure of the Watermaster Board.

- 2.16 Investment of Funds. Watermaster Board may hold and invest all Watermaster funds in investments authorized from time to time for public agencies of the State of California, taking into account the need to increase the earning power of such funds and to safeguard the integrity thereof.
- 2.17 Borrowing. Watermaster may borrow from time to time, amounts not to exceed the annual anticipated receipts of Watermaster during such year.
- 2.18 Contracts. Watermaster may enter into contracts and agreements for the performance of any of its powers pursuant to the Judgment.
- 2.19 Cooperation with Other Agencies. Watermaster may act jointly or cooperate with agencies of the United States of America, and the State of California or any political subdivisions, municipalities, districts or any person to the end that the purpose of Judgment may be fully and economically carried out.
- 2.20 Annual Administrative Budget. Watermaster shall prepare and adopt an annual administrative budget pursuant to the procedures set forth in ARTICLE V.
- 2.21 Annual Report. Watermaster shall prepare and lodge with the Court by January 1st of each year an annual report of its activities for the prior fiscal year.
- 2.22 Studies. Watermaster may undertake relevant studies of hydrological conditions, both quantitative and qualitative, and operating aspects of the implementation of the Judgment.
- 2.23 Demonstrated CEQA Compliance. Watermaster shall not approve any request made under the Judgment or these Rules and Regulations where the proposed action also constitutes a “project” within the meaning of CEQA unless the Watermaster finds that the person requesting Watermaster approval has demonstrated CEQA compliance.
- 2.24 Notice of Litigation. Watermaster shall provide reasonable notice to the parties to the Judgment of any existing litigation affecting the Watermaster or that challenges the legality, validity, or enforceability of the Judgment, the Rules and Regulations, or any decision of the Watermaster made pursuant to these Rules and Regulations.
- 2.25 Defense of Judgment. Watermaster shall reasonably defend the Judgment, these Rules and Regulation and any decision of the Watermaster made pursuant to these Rules and Regulations against challenges brought by any person who is not a party to the Judgment. Costs incurred by the Watermaster in defending such actions shall be considered a Watermaster general administrative expense. However, the State of California shall not be obligated to reimburse the Watermaster for any legal or administrative costs incurred in such defense.
- 2.26 Written Reports. All reports required to be provided by Watermaster under these Rules and Regulations shall be provided in written form unless the context requires otherwise.
- 2.27 Interventions. Watermaster will receive and make recommendations regarding petitions for intervention and accumulate them for filing with the Court from time to time.

ARTICLE III

WATER ADVISORY COMMITTEE

3.0 Purpose. The purpose of this Article is to prescribe the terms and conditions by which the business and affairs of the Advisory Committee shall be managed.

3.1 Creation. The Advisory Committee shall be a standing committee of the Watermaster charged with assisting the Watermaster Board in enforcing the Judgment as set forth in these Rules and Regulations.

3.2 Members. The membership of the Advisory Committee shall consist of seven (7) members as follows:

(a) Five (5) members to be appointed by a majority vote of the Watermaster Board with input from the water users for their respective User Areas. Each of these members shall be appointed from and represent a User Area;

(b) One (1) member of the Watermaster Board appointed by a majority vote of the Board; and

(c) One (1) member appointed by the Farm Bureau appointed by a majority vote of the Board.

3.3 Term of Office. Members of the Advisory Committee appointed pursuant to section 3.2(a) shall serve four (4) year terms. All other members may be removed from office by their appointing authority at any time for any or no reason.

3.4 Officers. The members of the Advisory Committee shall elect a Chairperson and Vice-Chairperson annually at their first meeting one or after January 1st of each year. No member shall hold office of Chairperson or Vice-Chairperson for more than two (2) consecutive years. The Chairperson or Vice-Chairperson may be removed from office and relieved of duties by a majority vote of the membership of the Advisory Committee.

3.5 Regular Meetings. The Advisory Committee shall meet monthly during irrigation season for the first year on the second Thursday of each month. After the first year the Chairperson shall call a meeting as needed. The time and location of such meetings shall be determined by the Advisory Committee.

3.6 Special Meetings. The Chairperson or a majority of the members of the Advisory Committee may call a special meeting of the Advisory Committee as necessary to conduct Advisory Committee business.

3.7 Conduct of Meetings. The Advisory Committee shall notice, conduct, and hold regular and special meetings in the same manner and pursuant to the same procedures as the Watermaster Board as set forth in ARTICLE II, except as expressly modified by this Article.

3.8 Powers. The Advisory Committee shall have the following powers:

- (a) Assist the Watermaster Board in evaluating the performance of Watermaster staff as requested by the Board;
- (b) Assist the Watermaster Board in preparing the annual report pursuant to section 2.21;
- (c) Assist the Watermaster Board in preparing the annual budget and statement pursuant to sections 5.1 and 5.2; and
- (d) Assist the Watermaster Board as otherwise requested.

ARTICLE IV

MONITORING

4.0 Scope. Watermaster may implement and conduct monitoring programs and activities as necessary to enforce the Judgment and these Rules and Regulations.

4.1 Waterflow Measuring Devices. Watermaster may utilize staff gauges and electronic gauging stations previously installed by the Department of Water Resources within the Service Area in furtherance of its monitoring activities.

4.2 Additional Devices. Watermaster may direct, install or construct additional monitoring devices within the Service Area as necessary to administer and enforce the Judgment and these Rules and Regulations. Pursuant to applicable law, the Watermaster may require any owner of any reservoir in the Service Area to construct and maintain monitoring devices above and below the reservoir. The failure of any owner of any reservoir in the Service Area to comply with this section may result in the Watermaster opening the outlet of such reservoir pursuant to the applicable provisions of Water Code section 4126.

ARTICLE V

BUDGET, APPORTIONMENT AND COLLECTION

5.0 Scope. This Article sets forth the Watermaster's rules and procedures for adopting an annual budget and apportioning the budgeted amount among the applicable water right holders within the Service Area.

5.1 Budget. Before June 1st of each year, the Watermaster shall prepare and adopt a proposed budget showing the amount of money estimated to be necessary to pay the costs of enforcing and administering the Judgment and these Rules and Regulations. This budget shall include the following:

- (a) The proposed distribution of water among the applicable water rights holders;
- (b) Expenses incurred in furtherance of its activities under the Judgment and these Rules and Regulations for which funds were not available;
- (c) The cost of preparing the annual report pursuant to section 2.21.
- (d) A reasonable estimate for contingencies or to establish a working capital reserve, if necessary; and
- (e) Any other anticipated costs of administering and enforcing the Judgment and these Rules and Regulations.

5.2 Statement. In conjunction with the proposed annual budget, the Watermaster shall prepare and adopt an annual statement apportioning the amount of the budget among the applicable water rights holders. The proposed apportionment shall comply with the Judgment and applicable law, including, but not limited to, Water Code sections 4251 to 4254.

5.3 Service and Filing. The proposed budget and statement shall be served by mail on the water rights holders within the Service Area and filed with the Court before June 15th of each year.

5.4 Objections. Any objections to the budget or apportionment must be filed with the Court within fifteen (15) days of service by mail on the water rights holders. Failing to object within the time set forth in this section shall waive the ability to do so. The time to object or otherwise respond shall not be extended by the provisions of Code of Civil Procedure section 1013. Objections to the apportionment shall be:

- (a) Limited to whether the proposed apportionment is consistent with the Judgment and the methodology set forth in Water Code sections 4251 to 4254; and
- (b) Set for hearing before the Court in the manner provided for a noticed motion with notice to be given to the Watermaster and to each water right holder who be affected in any manner by the objection.

5.5 Hearing.

(a) In the event no timely objection is lodged, the budget and statement shall be deemed approved by the Court without further hearing.

(b) To ensure the Watermaster is able to timely certify apportionments pursuant to section 5.6, any objections to the proposed budget or apportionment shall be heard and decided by the Court by August 10th. If an objection is not heard and decided by August 10th, the current fiscal year budget and apportionment shall be unaffected and the results of the objection, if any, shall be reflected in the next fiscal year budget and apportionment.

5.6 Certification and Collection. The Watermaster Board shall, on or before August 15th of each year, certify to the Lassen County Auditor and the Lassen County Board of Supervisors the

amount required in order to pay the apportionment for the ensuing fiscal year, to be levied on the land used in storage or diversion, conveyance or distribution of water stored or diverted under the right and the land on which the water is, or is entitled to be used. Levies shall be collected on the regular property tax bills of all affected water rights holders.

ARTICLE VI

DISPUTE PROCEDURES

6.0 Purpose. This Article sets for the general Watermaster rules and procedures for administratively adjudicating requests, disputes, and complaints arising from any action, omission, or decision of the Watermaster, excepting those arising under ARTICLE V.

6.1 Complaint. If a water user is unable to resolve an issue with the Deputy Watermaster, then any affected party may file a Complaint objecting to or otherwise disputing any action, omission, or decision of the Deputy Watermaster regarding the implementation of water distribution and reporting of the Judgment or such in administration of the Service Area within thirty (30) days of the action, omission, or decision. Complainant shall provide to the Watermaster Board, on a form prepared by the Watermaster Board, the following information:

- (a) The disputed action, omission, or decision of Watermaster staff, agent or designee, including, but not limited to, the Deputy Watermaster;
- (b) The grounds or basis for the Complaint, including copies of any reports, charts, maps, and other documentation; and
- (c) The Complainant's requested relief.

6.2 Copy of Dispute Procedures. Upon receipt of the Complaint, the Watermaster shall provide the Complainant with a written notice of the Watermaster's dispute procedures as set forth in this Article. Such notice shall be provided to the Complainant within three (3) days of the Complaint.

6.3 Informal Dispute Resolution. Upon the Watermaster Board's receipt of a Complaint, the Deputy Water Master, the Advisory Committee representative for the Complainant's User Area, and the Complainant shall meet to consider the Complaint within ten (10) days from the date of the Complaint. If there is a conflict between the Complainant and the Advisory Committee representative, then the Advisory Committee Chairman (or Vice-Chairman, if the Chairman is involved in the conflict) shall assign an alternate Advisory Committee representative. The Advisory Committee Representative shall provide the Complainant with at least three (3) days prior written notice of the date, time and location of the meeting. At the conclusion of the meeting, the parties shall attempt to come to consensus regarding the Deputy Watermaster's decision regarding the Complaint. In the event that there is not consensus among the parties, the WAC representative will provide the Complainant and the Watermaster Board with a written report regarding the outcome of the meeting within 3 days of the meeting. The report will include a recommendation regarding whether a third party legal and/or technical opinion should

be obtained. If the Complainant wishes to proceed with the process, he or she shall file a written notice of appeal with the Watermaster within seven (7) days of receipt of the written report.

6.4 Watermaster Board. On receipt of a notice of appeal regarding a Complaint, the Watermaster Board shall schedule a public hearing regarding the matter. The public hearing shall be conducted during a regular meeting or a special meeting called for that purpose. In no event shall the Watermaster Board commence the public hearing regarding the appeal more than ninety (90) days from the date of the notice of appeal. The Watermaster shall provide the Complainant with at least ten (10) days prior written notice via registered mail of the date, time, and location of the hearing. The Watermaster Board may continue the public hearing from time to time, including, but not limited to, continuing the hearing for a reasonable time to obtain a legal or technical opinion. At the conclusion of the public hearing, the Watermaster Board shall consider and decide the Complaint. The decision of the Watermaster Board shall be considered the Watermaster's final decision regarding the Complaint. The Complainant may appeal this decision to the Court within thirty (30) days of the Watermaster Board's decision.

6.5 Failure to Appeal. Any Complainant that fails to appeal any decision of the Watermaster within the applicable deadlines as set forth in this Article shall be deemed to have waived its right to do so.

6.6 Conduct of Hearings. Any public hearing regarding a Complaint shall be conducted pursuant to the following procedures:

(a) Watermaster staff shall first present evidence of the basis for the Watermaster's decision. Upon the conclusion of the Watermaster staff's presentation, the Complainant shall then have the opportunity to present evidence supporting the modification or reversal of the Watermaster's decision.

(b) The Complainant or Watermaster staff may present witnesses, documents, and exhibits. The Watermaster Board or Decisionmaker shall not be bound by formal rules of evidence and will control the hearing, reserving the power to exclude testimony or exhibits deemed irrelevant.

(c) The Watermaster Board or Decisionmaker shall ensure that an adequate and appropriate record of the hearing is kept. Any party, at that party's sole expense, may have a court reporter present at the hearing.

(d) At the conclusion of the hearing, the Watermaster Board or Decisionmaker may uphold, modify, or reverse the Watermaster's decision.

6.7 Notice. Any notice provided to a Complainant pursuant to this Article shall be provided in accordance with section 2.7.