

BY-LAWS OF THE  
DALY DITCHES IRRIGATION DISTRICT

A PUBLIC CORPORATION  
10-16-91

1. The general purpose of said Public Corporation shall be for operation and control of water for lands within said Irrigation District by a program for obtaining water or water rights and providing through a non-profit system the distribution of the same to and for the use of said water on the lands within Irrigation District.
2. The office of the District shall be at 566 Tammany Lane, Hamilton, Montana 59840, for the transaction of its business. Regular meetings of the commissioners shall be held once each month of each year. All meetings of the commissioners shall be public and a complete record of all proceedings shall be kept by the secretary. Regular meetings of the commissioners shall be held at such times as the commissioners may rule or by law prescribe; and special meetings may be called on twenty-four hours notice by the president or any two members of the board or upon such other notice as the commissioners may rule or by law prescribe. All meetings of the commissioners may be adjourned as the commissioners shall order or direct. A majority of the commissioners shall constitute a quorum.
3. The owners of land situated within said irrigation district must file a petition with the District Court to become members of said corporation if they wish to receive water from Daly Ditches Irrigation District for irrigation. When a member ceases to own lands within the District, he ceases to be a member; and the membership passes to the new owner of said lands.
4. The Daly Ditches Irrigation District shall be divided into five (5) election divisions, with one commissioner to be elected for each division. The election or appointment of commissioners shall be in conformity with 85-7-1702 MCA and 85-7-1703 MCA. However, the three (3) year terms are to be staggered: One commissioner elected one year, two elected the next two years.
5. To be qualified to hold the position of commissioner, a person must be an owner of irrigable lands within the District; and he/she shall be a resident of the county, of the District, and of the division or some portion thereof for which he/she is elected. The reorganization meeting shall be held within 40 days following the election. Officers of the District shall be elected by the commissioners and shall serve at the pleasure of the commissioners. They shall consist of a president, first and second vice-presidents and shall all be members of the board of commissioners. There shall also be appointed by the commissioners, a secretary who may or may not be a member of the board of commissioners. The compensation of the secretary, and all other paid employees of the District shall be fixed and determined by the commissioners.
6. The commissioners shall hold an annual meeting in February or March of each year for the purpose of giving a financial and operating report. The date to be determined by the commissioners.
7. Where lands within the District are owned by a partnership, a corporation or co-owners, these entities shall be entitled to the same voting privileges as an individual owner of such lands. The owners may designate one of their number or an agent to cast the vote for the owners. "When voting, the agent of a corporation or co-owner, agent or purchaser of land under contract of sale, as the case may be, shall file with the secretary of the District or with the election official, a written instrument of his authority, executed and acknowledged by the proper officers of the corporation, by the co-owners, or by the owners of land under contract of sale, as the case may be, and thereupon the agent, co-owner or purchaser, as the case may be, is an elector within the meaning of this part." 85-7-1710(3)MCA.

8. The business and property of the District shall at all times be under the management and control of the commissioners.

9. The commissioners shall have the power, and it shall be the duty of the members thereof, to manage and conduct the business and affairs of the District in a proper and efficient manner, adopt a corporate seal; make and execute all necessary contracts; employ a chief of operations and appoint such other agents, officers and employees as may be required and prescribe their duties and see that the employees conform to all federal, state and local statutes and/or the by-laws.

10.

A. All meetings are to be conducted under Roberts Rules of Order, where it does not conflict with these by-laws.

B. Regular meetings shall be held on the second Tuesday of each month, provided this day does not fall on a holiday or may be changed at the discretion of the board.

C. The president of the board shall have a vote on all motions.

D. Any commissioner may request that each person's vote be recorded.

11.

A. The commissioners are to keep or cause to be kept a complete record of all the minutes and accounts and of all the proceedings of the District.

B. The commissioners shall levy assessments, administrative charges, collect excess water charges and rentals and miscellaneous revenues, review and approve annual budgets and process payments on District obligations.

C. The commissioners shall prepare or cause to be prepared annual financial reports, maintain permanent water ledgers, review board policies on an annual basis after reorganization of the board is completed, have a bi-annual audit of District records and accounts prepared, as required by law.

12. The commissioners, as a board, are to approve policies, that have been formally written and attached as an addendum to the by-laws for the operation of the District, including but not limited to the functions prescribed by the Civil Rights Amendment concerning equal opportunity and comparable pay.

These policies should be reviewed annually and reaffirmed or changed, to fit the wishes of the majority of the board of commissioners and for information of the employees. The board must be ready and willing to assist in all major decisions and share responsibility for such decisions.

13. The commissioners shall be responsible for an equal division of water, with each water user receiving the same proportionate share of water available.

14. The commissioners are hereby authorized and empowered to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the functions of the District. The said commissioners may sue, appeal, and defend in person or by attorneys, and in the name of this irrigation district.

15. The commissioners may adopt or repeal rules governing the calling and holding of meetings of the commissioners, the manner of transacting business thereat, and the publishing or posting of the orders, resolutions, and proceedings of the commissioners.

16. The establishment, conduct and operation of this organization shall be financed primarily by assessments made upon and against the lands and owners of lands included and situated within the Daly Ditches Irrigation District in the manner as authorized and provided by the provisions of 85-7-2103 MCA et seq.

17. The commissioners shall set up an operating fund. All required operating funds for replacement and reconstruction of the irrigation works of the District, and replacement of necessary equipment shall be determined and budgeted by commissioners each year; and in the same manner, the amount of tax required to be levied against the lands in the District in order to provide such funds. The amount of such levy or assessment as so determined shall then be submitted to the appropriate county officers to be included by them in the annual tax statement for all lands with the District.

18. The money so provided by levy of taxes upon the lands of said District, shall be collected, held and disbursed through the county treasurer in the manner as provided by the statutes of Montana (85-7-2101 to 85-7-2167 MCA).

19. In the matter of delivery of water, the District is only responsible for the main canals and the main laterals to the first division with all sublaterals being the responsibility of the water users and the water users are responsible for their waste water.

20. These by-laws may be altered, amended or repealed and new by-laws adopted by a majority of commissioners at a meeting called for that purpose.

21. We, the undersigned, all being commissioners of the Daly Ditches Irrigation District and its secretary, do hereby certify that the above set of by-laws were duly adopted by a majority vote of all commissioners of said corporation at a meeting held on

SIGNED

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ATTEST

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POLICIES  
Revised 05-08-07

1. Any on-farm improvements, i.e. land leveling, farm delivery structures sprinkler systems, etc., must be engineered so as not to interfere with the original or amended measuring device. The Board of Commissioners may grant permission to change the measuring device providing that the landowner installs an approved standard system at his own expense. Interference or removal of existing measuring devices without approval shall be basis for non-delivery of water by the District. Any headgate or measuring device that is installed by owner will still be controlled by Daly Ditches Irrigation District.
2. Direct pumping from canals or laterals will be allowed only if in compliance with Daly Ditches Irrigation District specifications. This is to avoid any sudden turning off of pumps that will put the canal in danger of overflowing.
3. The landowners and/or lessee shall have the responsibility for maintenance of waste ditches and removal of waste water from his land. This responsibility is the same whether it is a single or multiple user waste ditch. The landowner is responsible for his waste water according to Montana state law.
4. All rights-of-way for maintenance of roads shall be the sole responsibility of the District and will be maintained only for the satisfaction of the District and are only to be used for the purposes of the District and by its employees.
5. The District cannot grant permission to third parties to use certain District easements for any purpose. Where rights-of-way are owned in fee simple the District may grant use of right-of-way upon Board approval.
6. No fences and/or gates shall be installed within the District's right-of-way on main canals without permission from the Board of Commissioners. Fences and gates must meet the District specifications. The District shall not be liable, however, for fences and/or gates installed within the right-of-way, and it shall be the landowner's responsibility to remove the fence at his own expense whenever the fences interfere with movement of equipment and the cleaning of the canal. Upon failure to remove the fence upon request, the landowner shall be billed for the cost of removal.
7. All utility crossings of District rights-of-way must have written consent approved by the Board of Commissioners.
8. District canals and laterals within the County road dedication have prior right-of-way. Anyone, constructing a utility on a District right-of-way without written consent approved by the Board of Commissioners, must assume any and all costs involved when the District performs operation, maintenance or rehabilitation within the District right-of-way.
9. No bridges are to be built or maintained by the district. Access crossings when permitted by the Board of Commissioners, shall be constructed and maintained by the landowner according to specifications approved by the District. All pipes that cross ditch bank roads are to be buried or run through a culvert so as not to obstruct pickup and equipment moving or working on the canal banks. The District must approve all crossings over the irrigation and drainage system before construction has begun.
10. It shall be the duty of the Board of Commissioners to have maintained and recorded accurate records of all water distribution, which records shall be maintained in the District office. These records shall contain information on the following:

Canals  
Laterals  
Water deliveries  
Canal inflows and outflows

11. The irrigation season will begin approximately May 1st and continue until approximately October 1. Each year delivery is subject to adjustment according to prevailing weather, ground conditions and water supply. *No irrigation water will be delivered after October 1.* No stock water will be delivered in the laterals and canals after November 1 at the discretion of the management.

A. The system will be operated to deliver water on a modified demand basis.

1. Whenever possible, water deliveries will be made in the full amount as ordered up to 6/10<sup>th</sup> of an acre foot per month per acre.

2. During periods of high demand, water will be rationed out on a prorate basis by the ditchriders to provide a fair and equitable division of water available to each water user insofar as it confirms efficient management up to 6/10<sup>th</sup> of an acre foot per month per acre. Such divisions of water must be coordinated by the Manager and Board of Commissioners.

B. The District reserves the right to withhold or stop deliveries to water users who fail to maintain their lateral ditches, and/or fail to control their waste water.

C. No water will be delivered to any land except that to which it is entitled.

D. Water requests shall be made 24 hours in advance of the desired delivery time. Requests for "turn off" shall be made 24 hours in advance. "Turn off" orders will be handled by the ditchrider on his first trip through the canal except during the peak season when special arrangements are made at the convenience of the ditchrider. Except in emergencies, order for "water on" must be taken by the water user for the day ordered until such time as the water can be removed from the system, unless the ditchrider can utilize the water in the same lateral.

1. Phone orders received after 1 P.M. shall be considered as being ordered the following day.

E. All turnouts from the canals will be operated only by the District personnel. Exceptions may be made, subject to prior arrangements with the ditchrider,

F. The District reserves the right to shut down or withhold deliveries in order to perform maintenance necessary for the safety or efficient operation of the system.

12. Beneficial use shall be the basis, and limit of the right to use water at all times. Daly Ditches Irrigation District shall maintain control of all appropriated and permit water.

13. A. During periods when water is in short supply, i.e., low snowpack, rainfall below normal, the water deliveries and allotments will be modified to a percent of acre feet of water available.

B. Diversifying or grouping of land unit deliveries will be permitted.

C. The total rate of delivery for grouping of deliveries shall not exceed the amount the individual farms or parcels would be entitled to under individual operation and does not interfere with the entitlement of other water users.

14. The rates for water deliveries shall be set each year by the Board of Commissioners prior to submission of the assessments to the County Assessor.

15. There may be a charge against each separately owned tract of land regardless of its size, as provided by law (MCA 85-7-2104(b)).

16. No water will cross the next lower ditch for irrigation except under certain circumstances which have been approved by the Board of Commissioners.

17. In cases of subdivisions of land within the Daly Ditches Irrigation District, it shall be the responsibility of the District to deliver water only to the original point of diversion. (It will be the responsibility of the subdivider to have equitable distribution of the water to each parcel.)

18. As of January 1, 1994, no new pumping station or gravity system will be installed in any canal without a measuring device. Subdivisions may be required to install a flow meter.

19. Any pivot system will have the approval of the Board of Daly Ditches Irrigation District. No self-propelled irrigation system will cross a canal or lateral of Daly Ditches Irrigation District.

20. All increases or decreases done in Daly Ditches office will be charged a \$25.00 fee. All major subdivisions will be charged \$100, and minor subdivisions will be charged \$25. This is to help defray the costs of courthouse visits and map updates. No land in a new subdivision will be allowed to petition out of the District for the convenience of the subdivider without Board approval. The subdivider will be required to provide an easement for water delivery to each lot in the subdivision, and to any irrigated land beyond the subdivision where water was historically delivered through the land being subdivided. Individual lots in a new subdivision may be considered by the Board for petitioning out of the district.

A. In deciding whether to grant approval or not grant approval to a petition to remove land from the District, the Board will consider the following criteria:

- (1) The number of proposed lots in the subdivision.
- (2) The size of proposed lots in the subdivision.
- (3) The configuration or design of lots and roads and easements in the proposed subdivision.
- (4) The existing water delivery system to the proposed subdivision and the existing water delivery system within the proposed subdivision.
- (5) Whether the proposed subdivision will have adequate access to water for irrigation from other sources than the Irrigation District, such as municipal water systems.
- (6) The burden upon landowners of maintaining or constructing delivery systems within the proposed subdivision.

B. After considering the above criteria, the Board should determine whether the proposed subdivision is appropriate to consider removing from the District. If it is determined that the land should be considered for removal from the District, then the Board shall consider the following factors related to mitigating the financial impact of removing the land from the District:

- (1) Whether the District can arrange for the water to be transferred to other lands within the District, which will then be assessed.
- (2) Whether the landowner can arrange for other land that he owns to be transferred or petitioned into the District, which will then be assessed to replace the land the landowner wishes to petition out of the District.
- (3) The District has and will maintain a current waiting list for available water to be petitioned into the District and will be offered to the next available person on the list.

(4) Whether the subdivider will pay a lump sum payment to the District to mitigate the loss of assessments in the future. In this regard, the District shall consider the future needs for operation and maintenance of the District, acquisition of capital assets and additional water, and other projected future needs of the District which may affect assessments in the future, as well as considering historical assessments upon the land sought to be removed. The District shall also consider the likelihood that costs of operating the District will increase over time. The District shall also consider an appropriate rate and an appropriate time period to determine the present value of the assessments that will be eliminated by removal of the post-subdivision land.

21. On subdivision of farm units (subdivision defines as a farm unit divided) no additional turnouts will be allowed. The irrigation district will be responsible to deliver water only to the point of diversion for the original farm unit. The operation and maintenance of the delivery system, including all laterals and structures, and the distribution of water within the subdivided farm unit, will be the responsibility of the landowners within the subdivision.

22. No water shall be delivered to any divided farm unit until a subdivision form is properly filled out and signed by the manager of Daly Ditches Irrigation District indicating correct division of irrigated acreage. In order for the manager to consider a request for subdivision approval, the following information shall be provided by the subdivider:

a. A detailed design/construction drawing, prepared by a competent engineer or person with expertise in designing irrigation water deliver systems, showing the size and location of all measuring devices, new and existing ditches, abandoned ditches, new and existing pipelines and appurtenances, and new and existing turnouts. The drawing shall also show the allocation of water to each unit in the subdivision, and the proposed method to restrict the amount of water to that allocated to each unit.

b. A written statement detailing an irrigation schedule for each unit in the subdivision if needed.

c. A statement from the subdivider certifying that all new pipelines and appurtenance will conform to the Natural Resources Conservation Service specification for underground irrigation pipelines.

23. Change of point of delivery: The landowner may be granted permission to change the point of delivery from the original farm unit or previously amended farm unit to a more convenient point if it doesn't adversely affect another water user in the district. The landowner shall pay for all costs of installing an approved farm turnout, measuring device and any other appurtenances.

a. Measuring devices

1. All measuring devices which are approved by the Board of Commissioners, acting through the management, will be maintained by the district. Cippolietti & Rectangular Weirs, Flow Meters and Parshall Flumes are the standard measuring devices acceptable to the district. Unless conditions otherwise determine, the above measuring devices shall be used to avoid supply and administrative problems.

b. Structure Maintenance

1. Lateral maintenance is the responsibility of the users of the laterals.

2. Lateral structure construction and maintenance is the responsibility of the district from the canal to the point of diversion.

3. Lateral structure construction and maintenance from the point of diversion to the place of use is the responsibility of the users.

4. The point of diversion is defined as the original farm turnout.

24. Rights of Ways:

A. Generally, all rights-of-way for maintenance of canals, laterals, distributaries and drains of all types shall be operative under conditions solely defined by the Board of Commissioners. Interference with O & M activities shall not be permitted and if unauthorized, the district shall re-establish the right-of-way at the expense of the landowner. The district cannot grant permission to third parties to use district right-of-way for any purpose. Where rights-of-way are owned in fee, the district may grant use of right-of-way upon Board approval.

B. Maintenance of roads is the responsibility of the district; district will maintain roads only to satisfy district operations.

C. O & M roads are not public roads and any unauthorized persons using the roads are traveling at their own risk.

D. O & M roads are to be used only for Daly Ditches Irrigation District access.

E. Fences. No fences shall be installed within the district's right-of-way on main canals without permission from the Board of Commissioners. All gates must be 16' wide, of the swinging type. Any gate not hinged to swing without ground interference will be left open by the ditchrider. By special request and approval, temporary gates may be permitted on district right-of-way by the Board only when sufficient area is left by the landowner for proper operation and maintenance of the waterway. The district shall not be liable, however for fences installed within the right-of-way, and it shall be the landowner's responsibility to remove the fence at his own expense whenever the requested by Daly Ditches Irrigation District, the landowner shall be billed for the cost of removal. The landowner shall be responsible for re-installing any fence removed by the district.

## 25. Ditch Cleanup Policy

Daly Ditches Irrigation District adopts the following policy for cleanup of its ditches and ditch banks:

Whereas trees, shrubs, other vegetation, debris, rocks, soil and other material in the ditches and on the ditch banks may interfere with the District's ability to inspect and maintain its ditches and may interfere with the delivery of water to its members.

In order to assure delivery of water to its members and to avoid damage to its ditches and waterworks, the District shall promptly cleanup all such things from its ditches and ditch banks and remove them to a disposal site or dispose of by chipping on site or burning on site or dispersal on site, or the District may use such other reasonable disposal methods as may be appropriate for that material and that location.

The District shall not be required to give notice to any landowner of such cleanup.

If the material originates from a landowner's property outside of the District's right of way or easement then the landowner shall be responsible for cleanup and the District's costs of cleanup. In such instance the District shall provide reasonable notice to the landowner to give the landowner the opportunity to promptly cleanup the material and properly dispose of it. If the landowner does not do so promptly then the District will do so and bill the landowner for the costs of cleanup and disposal.

In the event of an emergency that prevents the District from delivering water or threatens immediate harm to the District's ditches or waterworks or both then no notice needs to be given to a landowner before the District cleans up the material. The landowner still may be responsible for the cost of cleanup if the material originated on the landowner's land outside the District's right of way or easement.

The District may at its option cleanup and bear the cost of cleanup of material that originates from a landowner's land outside the District's right of way or easement without giving notice to the landowner.

DEFINITIONS  
Revised 05-08-07

**ASSESSMENT** - The amount determined by the Board of Commissioners to be paid by each member of the District for delivery of water for beneficial use. It will be shown on the property tax bill under code 74.

**COMMISSIONER** - An elected member of the District to the Board of Commissioners. The board is the governing body of the District.

**DISTRICT** - The geographical boundary serviced by the Daly Ditches Irrigation District.

**DIVISION** - A geographical area within the District. There are five (5) Divisions in the District.

Division 1 From the center of Fish Hatchery Road to the South boundary of the District.

Division 2 From the center of Golf Course Road to the center of Fish Hatchery Road.

Division 3 From the center of Hamilton Heights Road to the center of Golf Course Road.

Division 4 From the center of Willow Creek Road to the center of Hamilton Heights Road.

Division 5 From the North boundary of the District to the center of Willow Creek Road.

**MAIN CANAL** - The canals coming out of the River and Creek diversions. They are: Republican Canal, Hedge Canal, Ward Canal, Hughes Canal, Skalkaho Highline Ditch, Gird Creek Highline Canal, Studbarn Ditch, The Tucker Bottom Waste Ditch on the Bitter Root Stock Farm, the Reeser Ditch and the Thompson Ditch.

**MAIN LATERALS and SUB LATERALS** - The first laterals coming out of the main canal; and, laterals coming out of the main lateral.

**MCA** - Montana Code Annotated.

**MEMBER** - A water user that petitioned through the District Court to have Daly Ditches Irrigation District deliver water through its system to their property.

**OPERATING FUND** - Budgeted assessments to be used to operate the Daly Ditches Irrigation District.

**TAKEOUT or TURNOUT** - The place on the main canal where water is diverted into a main lateral.

**WASTE DITCH** - Any shallow surface drain whose primary purpose is to remove surface waste water from place of use.

**MODIFIED DEMAND** - The amount of water to time ratio up to 6/10ths of an acre foot.

**PRO-RATED SHARE** - To provide a fair and equitable division of water available to each water user insofar as it confirms efficient management up to 6/10<sup>ths</sup> of an acre foot per month per acre.

**BENEFICIAL USE** - The amount of water necessary for the proper irrigation, without waste, of a tract of land.

