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Introduction to the Irrigation Districts Elections Guidance Manual

The intent of the Washington State Water Resources Association (WSWRA) Irrigation Districts Elections Guidance Manual is to be faithful to the basic content of the election statutes and has been designed to closely follow the existing irrigation districts statutes related to elections. This manual has been arranged in an outline or bulleted format to better break up the material into manageable sections. At this early stage, this manual will not delve deeply into the specific actions that an irrigation district takes to effectuate the intent of the statutes.

We will, however, provide materials in the appendix to this guidance document that have been provided by certain irrigation districts as examples of policies or manuals they have developed. The reason for reliance on these appendices is that an individual irrigation district, in order to carry out its elections, may take specific actions, in compliance with the statutes, that are consistent with how they must conduct an election based on the districts size, location, and other resources available.

It is the intention of WSWRA to work with you and educate you about the processes related to irrigation district elections so elections are carried out in a consistent manner and in accordance with state laws. WSWRA’s member districts are committed to seeing this standardization effort implemented.

This guidance document is in the initial draft stage and will be reviewed, revised, and improved over time with the able assistance and contributions of our member districts and their staff.
Organization of Guidance Manual

This manual is organized in the order of proceeding with an election and not necessarily in the order the procedures occur in the irrigation districts statutes. The manual is faithful to the language in Revised Code of Washington (RCW) 87.03 et sequentes. At the end of this guidance document, there will be numerous appendices that may be used as reference materials for the reader.

About WSWRA and Our Members

The Washington State Water Resources Association (WSWRA) is the coordinating agency for irrigation districts in Washington State. WSWRA was established in 1947 by Revised Code of Washington (RCW) 87.76.010. The enacting legislation required that:

“The directors of the several irrigation districts in the state shall take such action as they deem necessary to effect coordination of their common programs for the economical and efficient operation of their districts and the reclamation of lands therein, and prepare reports annually for such operations.”

WSWRA is made up of a coalition of over 100 irrigation districts scattered across Washington State from the Dungeness River basin to the Walla Walla River basin. WSWRA member districts provide water to over 1.2 million acres of irrigated agriculture in Washington State. A common characteristic amongst all WSWRA members is their dedication to the promotion of the reclamation of arid lands for the purpose of developing and serving irrigated agriculture. WSWRA member districts play a significant role via water delivery in supporting the enormous agricultural economy Washington State.

WSWRA is governed by a 15-member Board of Directors and its principal office is located in Olympia, Washington.
Irrigation Districts Elections – Generally

Irrigation District Election Laws

Washington State law is clear that all statutes related to irrigation district laws are contained within the Revised Code of Washington (RCW) title 87.03. However, you may need to look at other resources such as the Attorney General’s opinions or case law to better understand the requirements of RCW section 87.03.030.

Irrigation District Elections Calendars

It may be helpful at this point to have an irrigation district election calendar available for your reference as you move through the sequence of irrigation district election procedures. You may choose to create your own calendar that is specific to your district’s operation needs, but a couple good examples of the election calendar are located in the appendices at the end of this guidance document. See Appendix E – South Columbia Basin Irrigation District Materials and Appendix G – Yakima Tieton Irrigation District Materials.
Elections are Governed by Irrigation District Laws

All elections in irrigation districts, general or special, for any district purpose, and in any county of the state shall be called, noticed, and conducted in accordance with the laws of the state, specifically relating to irrigation districts.
Irrigation District Directors – Number and Length of Term

As a part of the initial organization of an irrigation district, Revised Code of Washington (RCW) 87.03.020(4) requires a district to choose the number of directors to govern the district. A district can be governed by three, five, or seven directors.

RCW 87.03.080 explains the director terms at the creation of the district. Regardless of the number of directors selected, the term of an irrigation district director shall not exceed three years between elections:

- **Three Directors:** “If the board consists of three directors the candidate receiving the highest number of votes shall serve a term of three years; the next highest, two years; and the next highest, one year.

- **Five Directors:** In case of five directors, the two candidates receiving the highest number of votes shall each serve a term of three years; the next two highest, two years; and the next highest, one year; or until successors are elected and qualified.

- **Seven Directors:** In case of seven directors, the three candidates receiving the highest number of votes shall each serve a term of three years, the next two highest, two years, and the next two highest, one year, or until their successors are elected and qualified.”

After the initial organizational phase of staggered elections, irrigation district director terms are for three years. Under these circumstances, a district will have at least one director come up for election each year.

The one exception to this rule is when an irrigation district director position has been vacated out of its normal election cycle.
Table: Summary of Irrigation District Directors – Number and Length of Director Term at the Initial Organization of the Board

<table>
<thead>
<tr>
<th></th>
<th>Candidate(s) with the highest number of votes</th>
<th>Candidate(s) with second highest number of votes</th>
<th>Candidate(s) with third highest number of votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three Directors</td>
<td>3 year term (one position)</td>
<td>2 year term (one position)</td>
<td>1 year term (one position)</td>
</tr>
<tr>
<td>Five Directors</td>
<td>3 year term (two positions)</td>
<td>2 year term (two positions)</td>
<td>1 year term (one position)</td>
</tr>
<tr>
<td>Seven Directors</td>
<td>3 year term (three positions)</td>
<td>2 year term (two positions)</td>
<td>1 year term (two positions)</td>
</tr>
</tbody>
</table>

Directors – Filling Vacancies

A vacancy in the Office of Director shall be filled by appointment by the Board of County Commissioners of the county in which the proceedings for the organization of the district were held.

At the next election of directors occurring thirty days or more after the appointment, a successor shall be elected who shall take office on the first Tuesday in January next and shall serve for the term for which he or she was elected. Failure on the part of any irrigation district to hold one or more annual elections for selection of officers, or otherwise to provide district officers shall not dissolve the district or impair its powers, where later officers for the district are appointed or elected and qualify as such and exercise the powers and duties of their offices in the manner provided by law.

Directors – Recall and Discharge
Every member of an irrigation district board of directors is subject to recall and discharge by the legal voters of the district, pursuant to the provisions of the Revised Code of Washington (RCW) chapter 29A.56.
Open Director Position Filing Period

Once irrigation district elections are conducted in a regular cycle, any applicant for the expiring director position must follow certain steps to properly apply.

The first step of the application process is the opening of the filing period for the expiring position. The Revised Code of Washington (RCW) 87.03.075 states that candidates for the position of director, *in lieu of filing a declaration of candidacy hereunder*, shall file with the secretary of the district a petition of nomination signed by at least ten qualified electors of the district or of the division, if the district has been divided into director divisions.

Petitions are due no later than 5 o'clock p.m. on the first Monday in November.

The petition for nomination is the common method for filing for an open or expiring irrigation district director position. A good example of this petition may be found in *Appendix G – Yakima Tieton Irrigation District Materials Form K*.

It is necessary that all 10 signatures be from qualified electors from within the district and from within the specific division being petitioned, for districts divided into director divisions. The laws for determining qualified electors can be found below in the section entitled, "qualification of electors".
The Uncontested Election

An uncontested election occurs when only one candidate has properly filed a petition of nomination for an expiring director position. For these occurrences, the Revised Code of Washington (RCW) 87.03.075 states that if, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated thereby for each position to be filled:

- it shall not be necessary to hold an election, and
- the board of directors shall at their next meeting declare such candidate elected as director.

The secretary shall immediately make, sign, and deliver to the candidate a certificate of election bearing the seal of the district.

An example of the certificate the election can be found in Appendix G – Yakima-Tieton Irrigation District Materials, Form J.

Note: It is important to note that RCW 87.03.075 related to uncontested director elections does not apply to other irrigation district elections. The statute clearly states “The procedure set forth in this paragraph shall not apply to any other irrigation district elections.”
Qualifications of Electors

The statutes that determine the qualifications for irrigation district electors are among the most important since they determine who has the legal right to vote under the irrigation district code title 87.03 RCW. Under Washington State irrigation district election laws, there are two separate statutes for determining qualified electors to an irrigation district election:

1. RCW 87.03.045 describes the process for determining qualified electors for districts of over 200,000 acres.

2. RCW 87.03.051 describes the process for determining qualified electors for districts under 200,000 acres.

It is important to identify the category for your district falls under and to follow the process carefully.

Qualifications of Electors: Districts of 200,000 Acres or More

The Revised Code of Washington (RCW) 87.03.045 states that “in districts with two hundred thousand acres or more” an elector must meet the following to be qualified and entitled to a vote:

- Be eighteen years old or older,
- a citizen of the United States,
- and a resident of the state,
- and hold title or evidence of title to land in the district or proposed district.

The statute then explains the number of votes for each qualified elector:

- He or she shall be entitled to one vote for the first ten acres of said land or fraction thereof and
- Receive one additional vote for all of said land over ten acres.

The statute also describes the qualified electors’ residency requirements:

- An elector resident in the district shall vote in the precinct (division) in which he or she resides, all others shall vote in the precinct nearest their residence.
That same section, RCW 87.03.045, then goes on to explain the division of votes among individual and entities:

- Where land is community property, both the husband and wife may vote if otherwise qualified.

- An agent of a corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his or her instrument of authority.

Qualifications of Electors – Districts of Less than 200,000 Acres

In districts of less than 200,000 acres, there are some differences in determining who is a qualified voter. The Revised Code of Washington (RCW) 87.03.051 says “In districts with less than two hundred thousand acres”:

- a person eighteen years old, being
- a citizen of the United States and
- a resident of the state and
- holding a title or evidence of title to assessable land in the district or proposed district shall be entitled to vote therein, and to be recognized as an elector.

- A corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington owning land in the district shall be recognized as an elector.

- As used in this section, "entity" means a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington. An agent of an entity owning land in the district, duly authorized in writing, may vote on behalf of the entity by filing with the election officers his or her instrument of authority.

- "Ownership" shall mean the aggregate of all assessable acres owned by an elector, individually or jointly, within one district.

The relative voting rights are then described within that same section. “Voting rights shall be allocated as follows”:

- Two votes for each five acres of assessable land or fraction thereof.
● No one ownership may accumulate more than forty-nine percent of the votes in one district. If assessments are on the basis of shares instead of acres, an elector shall be entitled to two votes for each five shares or fraction thereof.

The division of votes among individuals and entities is then further described within that same statutory section RCW 87.03.051:

● The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors or when land is held as community property, (for an example, see Appendix G – Yakima-Tieton Irrigation District forms M and N).

● When land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership.

● In the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest.
Residency Requirements for a Qualified Director

The Revised Code of Washington (RCW) 87.03.045 and 87.03.051 describes the residency requirements for a qualified director.

- A majority of the directors shall be residents of the county or counties in which the district is situated and all shall be electors of the district.

- If more than one elector residing outside the county or counties is voted for as director, only the one who receives the highest number of votes shall be considered in ascertaining the result of the election.

- A director shall represent the precinct in which he or she resides or shall represent the precinct nearest their residence.

- No director shall be qualified to take or retain office unless the director holds title or evidence of title to land within the district.
Certain Districts – Individual Ownership, Two Votes

In some situations, an irrigation district’s voting shares are converted to a system where each voter has a right to only two votes. The Revised Code of Washington (RCW) 87.03.071 describes this process.

In any irrigation district where more than fifty percent of the total acreage of the district is owned in individual ownerships of less than five acres, each elector who is otherwise qualified to vote pursuant to RCW 87.03.045 shall be entitled to two votes regardless of the size of ownership.

Each ownership shall be represented by two votes if there are multiple owners or joint owners of a single ownership. The owners shall decide among themselves what their two votes shall be.

If the ownership is held as community property, the husband shall be entitled to one vote and the wife shall be entitled to one vote, or they may vote by common agreement.

Note: The terminology used in this statutory section utilizes a different terminology indicating that the vote allocation changes to two votes regardless of the size of the size of the ownership when the “total acreage” of the district is more than 50% owned in individual ownerships of less than 5 acres. It may be up to the district and their legal counsel to determine the meaning of the term “total acreage”.

Interpreting the Term “Qualified Voter” – AGO 1962 Number 157

Washington State Attorney General’s Opinion: AGO 1962 number 157 – August 24, 1962 (see Appendix A)

Because of some ambiguity regarding the meaning of “title or evidence of title” for the purposes of determining whether an individual or entity is a “qualified voter” in the irrigation district statutes, the Washington State Attorney General’s office was asked to weigh in on what interests in land meet the requirement of holding title or evidence of title in defining a qualified voter.

Here is a list summarizing the Attorney General’s opinion regarding who or what is a qualified voter for the purpose of irrigation district elections:

**Qualified Voter**

A qualified voter can be:

- a contract purchaser of land and an irrigation district,
- a contract vendor of land in an irrigation district,
- the heirs and devisees of a deceased holder of title to land in an irrigation district,
- an incompetent person holding title to land in an irrigation district,
- persons holding title to land in an irrigation district as tenants-in-common,
- persons holding title to land in an irrigation district as joint tenants,
- husband and wife holding land in an irrigation district as community property,
- a trustee who holds title to land in an irrigation district for the benefit of another person, or
- an agent of a corporation, church, limited liability corporation (LLC) or the trustee of a trust may cast one ballot. The agent must show authorization to vote.

For our landowners of partnerships and other similar associations, the number of votes depends on the partner’s percentage in the ownership in the land in the partnership. In no circumstance may a qualified voter cast more than 2 votes in districts of over 200,000 acres.
Not Qualified Voter:
The following interests in land are not sufficient to establish qualifications to vote in irrigation district elections:

- the executor or administrator of the estate of the deceased holder of title to the land in an irrigation district,
- the guardian of an incompetent person who holds title to land in an irrigation district, or
- the beneficiary of a trust which holds title to land in an irrigation district.

Identifying the Qualified Elector
Washington State law does not specifically describe the process a district must go through to determine who is a “qualified elector” within their district. Instead, potential electors may ask for an absentee ballot and provide their statement of qualifications or elector qualifications will be determined by the election board at the polling place when the elector provides evidence of title and other necessary qualifications.

Irrigation districts take a significant amount of time and effort to determine their assessment roles. These roles often serve as the underlying document for determining an electors’ qualifications for casting a valid vote with the district.

For an example of the process that an irrigation district goes through to determine its assessment roles refer to Appendix D - Naches-Selah Irrigation District (NSID) Election Document, Irrigation District Timeline for Assessments.

It is up to each district to determine its internal processes for identifying qualified electors. The irrigation district statutes and interpretations by the state Attorney General’s Office will guide each district in this process.
Example of Process: Sunnyside Valley Irrigation District (SVID)

SVID maintains the assessment roll through information that comes from county assessor department, title companies, buyers, and sellers.

- County(s) send new parcel numbers via email throughout the year. Once information is received staff checks ownership from the appropriate county assessor department.
- Title Companies will fax new ownership information.
- Buyers and sellers will verbally give the District new landowner information.
- District staff will continually check the county’s website for updated information.
- District staff will refer to the GIS system to verify an elector’s director division.

Notice to Qualified Voters of Irrigation District Elections

The requirements for conducting an election can be found in the Revised Code of Washington (RCW) 87.03.085.

- **Timing of Notice:** Timing of Notice is fifteen days before any election held under this chapter, subsequent to the organization of any district.
- **Placement of Notice:** The secretary of the Board of Directors shall post notices with the time and place the election will be held in three public places within each election precinct. The secretary shall also post a general notice specifying the polling places of each precinct in the office of the Board. The posting location within the Board office shall be a fixed location and determined by the Board.

**Note:** The irrigation district laws provide the minimum requirement for notice to qualified voters of an upcoming election.

You can find an example of the notice of election in both English and Spanish in Appendix G – Yakima-Tieton Irrigation District Form C. It should be noted that the law does not specifically require the notice to be in both English and Spanish this was a choice made by the district to better serve its water users.

In Appendix G – Yakima-Tieton Irrigation District, you can find Form H which is an affidavit of posting notice which is signed by the irrigation district manager attesting to the fact that the posting of notice has been properly completed.
Irrigation districts are required to conform with the letter of the law as relates to their statutes on notice of elections. However, districts may take voluntary actions to further supplement the process of notification of elections even if such election may take place or not in the future. Some examples of this are:

- new water user newsletters
- regular newsletters
- assessment notices
- newspaper ads
- public service announcements
Absentee Voting

It is fairly common that individuals cannot be present to cast their vote at the established voting time and place during an election. If an individual can't be present, they may ask for an absentee ballot. The Revised Code of Washington (RCW) 87.03.031 states that any qualified district elector who certifies (as provided in RCW 87.03.032 through 87.03.034) shall be entitled to a vote by absentee ballot. To qualify for an absentee ballot, qualified elector must certify that they can’t be present at their proper election precinct on the day of the election to cast their ballot.

The appendices to this document contain some good examples of how to manage absentee voting processes. Below are just a few of those examples.

For an example of a request for absentee ballot see Appendix G – Yakima-Tieton Irrigation District, Form B.

For absentee ballot instructions see Appendix G – Yakima-Tieton Irrigation District, Form D.

The Notice of Election – Absentee Voting

The Notice of Election produced by the district also contains requirements related to absentee voting. The Revised Code of Washington (RCW) 87.03.032 states that:

- Notice of Election shall conform to the requirements for election notices provided by Title 87 RCW for the election being held, and shall specify in addition:
  - that any qualified district elector who certifies that he or she cannot conveniently be present at his or her proper election precinct on the day of election may vote by absentee ballot,
  - and that a ballot and form of certificate of qualifications will be furnished to him or her on written request being made of the district’s secretary,
  - and, the requisite ballot and form of certificate of qualifications shall be furnished by the district’s secretary to any person who prior to the date of
election makes written request stating that he or she is a qualified district elector.

Irrigation districts may voluntarily mail ballots to known qualified electors.

**Form of the Absentee Ballot:** RCW 87.03.033 contains requirements for the form of the absentee ballot.

(1) To be counted in a given election, an **absentee ballot must** conform to these requirements:

(a) It must be sealed in an unmarked envelope (for the purpose of this guidance “unmarked” means the envelope should not have identifying information regarding the elector or the vote cast. The envelope may include an envelope identifier and voting instructions) and

- delivered to the district's principal office prior to the close of the polls on the day of the election;
- or be sealed in an unmarked envelope and mailed to the district's secretary,
- postmarked no later than midnight of that election day and received by the secretary within five days of that date.

(b) The sealed envelope containing the ballot shall be accompanied by a certificate of qualifications stating, with respect to the voter, his or her name, age, citizenship, residence, that he or she holds title or evidence of title to lands within the district which, under RCW 87.03.045, entitles him or her to vote in the election, and that he or she cannot conveniently be present to cast his or her ballot at his or her proper election precinct on election day.

(c) The statements in the certificate of qualifications shall be certified as correct by:

- the voter by affixing his or her signature thereto in the presence of a witness's signature who is acquainted with the voter,
- and the voter shall enclose and seal his or her ballot in the unmarked envelope in the presence of this witness but without disclosing his or her vote.
- The witness, by affixing his or her signature to the certificate of qualifications, shall certify that he or she is acquainted with the voter, that in his or her presence the voter's signature was affixed and the ballot enclosed as required in this paragraph.
(2) The form of statement of qualifications and its certification shall be substantially as prescribed by the district's board of directors.

- This form may also provide that the voter shall describe all or some part of his or her lands within the district which, under RCW 87.03.045 entitles him or her to vote in the election, **but** a voter otherwise qualified shall not be disqualified because of the absence or inaccuracy of the description so given.

- The regular form of irrigation district ballot shall be used by absentee voters.

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*The certificate of qualifications is the statement found on the Certificate of Absentee Voter in Appendix G – Yakima-Tieton Irrigation District, Form E.*
Conducting the Election

In the event there are two or more appropriately filed petitions for a single director position, the Revised Code of Washington (RCW) 87.03.085 provides that:

- An election of directors in an irrigation district shall be held on the second Tuesday of December of each year,
- The term of each director shall be three years, and
- The term will begin the first Tuesday of January following his or her election.
Precincts and Board of Elections

The Revised Code of Washington (RCW) 87.03.085 gives very specific instructions on appointing a board of elections and the options for the Board of Directors to determine the location of the polling places. It is important to note that districts of less than 200,000 acres with more than one director division, the Board of Directors may use their discretion to designate only one polling place within the district to serve more than one election precinct. Also, the board of directors of any irrigation district may designate the principal business office of the district as a polling place to serve one or more election precincts and may do so regardless of whether the business office is located within or outside of the boundaries of the district.

1. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for the precinct.

2. If the board of directors designates a single polling place for more than one election precinct, then the election officials appointed by the board of directors may serve more than one election precinct and the election officials may be electors of any of the election precincts for which they are the election board.

3. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the replacement of an absent member thereof.

4. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election(s) must be held.
Election Officers: Responsibilities, the Oath and Voting Hours

The Role of the Election Inspector
The Election inspector is chair of the election board, and may:

- Administer all oaths required in the progress of an election
- And appoint judges and clerks

The board of election for each precinct may, if they deem it necessary, before opening the polls, appoint two persons to act as clerks of the election.

The Oath
Before opening the polls, each member of the Board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath.

If, during the progress of the election, any judge or clerk ceases to act, any member of the Board of Election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election.

You can find an example of an Oath of Office in Appendix G – Yakima-Tieton Irrigation District, Form L.

Polling Hours
The polling location must be opened at one o'clock p.m. on the afternoon of the election, and remain open until eight o'clock p.m., when the polling location can close.

Form of Ballot
The provisions of the general election law of this state, concerning the form of ballots to be used shall not apply to elections held under this act: PROVIDED, that any district elections called before this act shall take effect shall be noticed and conducted in the manner prescribed by law in effect at the time the election is called.
Counting Votes – Record of Ballots

The Revised Code of Washington (RCW) 87.03.095 is very specific regarding the process for counting and reporting ballots.

- Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened. (1:00 p.m. to 8:00 p.m.)

As soon as the polls are closed, the judges shall open the ballot box and commence counting the votes. When counting the votes:

- in no case shall the ballot box be removed from the room in which the election is held until all the ballots have been counted;
- the counting of ballots shall in all cases be public;
- the ballots shall be taken out, one by one, by the inspector or one of the judges, who shall open them and read aloud the names of each person contained therein and the office for which every such person is voted for;
- each clerk shall write down each office to be filled, and the name of each person voted for such office, and shall keep the number of votes by tallies, as they are read aloud by the inspector or judge; and
- the counting of votes shall be continued without adjournment until all have been counted.

Absentee Voting: How Incoming Ballots are Handled – Canvass Statement of Result of Both Regular and Absentee Ballots

(1) Absentee ballots shall be accumulated and kept, unopened, by the district’s secretary until the 5th day following the election (which will always land on a Sunday for director elections).

(a) The secretary shall deliver them to the board of directors as early as practicable on the following day.

- That board shall proceed at once to determine whether the voters submitting absentee ballots are qualified so to vote and to count and tally the votes of those so determined to be qualified.

- The board shall make, record, and certify the result of its determinations and count; and promptly thereafter it shall deliver the ballots, certificates of qualifications, and its certificate to the district's secretary. The provisions
of RCW 87.03.100 with respect to recount shall govern also in the case of absentee ballots.

(2) On the completion of the canvass of the regular returns of the several election precincts as provided in RCW 87.03.105, the board of directors shall canvass the returns of the absentee votes and declare the result thereof in substantially the same manner as provided for the returns of the votes cast in the regular manner. Thereupon the statement of the result conforming as nearly as practicable to the requirements of RCW 87.03.110 shall be made covering both regular and absentee votes.
Certification of Returns – Preservation for Recount

The Revised Code of Washington (RCW) 87.03.100 again gives a very specific process for certifying returns and preserving all materials in the event of a recount.

Certificate of Returns

As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll list and tallies, or attached thereto. The certificate shall be signed by the clerks (if appointed), judges, and the inspector and:

- state the number of votes each candidate has received in both written figures and in words at full length,
- state the office each candidate was running for,

One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him or her for at least six months.

The Ballots

The ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector, in the presence of the judges and clerks (if appointed), and endorsed "Election returns of [naming the precinct] precinct". The election returns will:

- be directed to the secretary of the board of directors, and
- shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and
- the ballots shall be kept unopened for at least six months, and
- if any person is of the opinion that the vote of any precinct has not been correctly counted, he or she may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is claimed to have been incorrectly counted.

See also the Government Records Retention Schedule DAN GS2012-019.1 regarding records retention requirements for election records.
Canvassing the Vote

It is the duty of the irrigation districts Board of Directors to determine that the vote has been correctly counted. This process is called canvassing. Specific direction on canvassing can be found in the Revised Code of Washington (RCW) 87.03.105.

- **Canvassing:** No list, tally paper, or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood.

- **Time for canvassing:** The board of directors must meet at its usual place of meeting on the **first Monday after each election** to canvass the returns.

- If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns.

- If, at the time of meeting, all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had.

- The canvass must be made in public, and by opening the returns and announce the vote of the district for each person voted for, and declaring the result thereof.
Statement of Result of Election – Certificate of Election

The secretary of the Board of Directors must, as soon as the result is declared, enter in the records of such board a statement of such result. The statement must show the:

(1) whole number of votes cast in the district;
(2) name of the persons voted for;
(3) office to fill which each person was voted for;
(4) number of votes given in each precinct to each of such persons; and
(5) number of votes given in each precinct for and against any proposition voted upon.

The Board of Directors must declare elected the person having the highest number of votes given for each office. The secretary must immediately make out, sign, and deliver to such person a certificate of election authenticated by the seal of the district.

For an example of a statement the result of election see Appendix G – Yakima-Tieton Irrigation District, Form I.
APPENDIX A – Washington State Attorney General’s Opinion:
AGO 1962 Number 157, August 24, 1962 - Qualification of Voters
DISTRICTS -- IRRIGATION -- ELECTIONS -- QUALIFICATIONS OF VOTERS -- PERSONS HOLDING TITLE OR EVIDENCE OF TITLE -- NUMBER AND LOCATION OF POLLING PLACES

AGO 1962 No. 157 - Aug 24 1962

Attorney General John J. O'Connell

DISTRICTS -- IRRIGATION -- ELECTIONS -- QUALIFICATIONS OF VOTERS -- PERSONS HOLDING TITLE OR EVIDENCE OF TITLE -- NUMBER AND LOCATION OF POLLING PLACES.

1. A contract purchaser of land in an irrigation district under an ordinary contract for the sale of real property holds evidence of title to such land and therefore, if otherwise qualified, is entitled to vote in an irrigation district election.

2. A contract vendor of land in an irrigation district holds title to such land, and therefore, if otherwise qualified, is entitled to vote in an irrigation district election until such time as he does, by appropriate delivery of a deed, pass title to the purchaser.

3. The executor or administrator of the estate of a deceased holder of title to land in an irrigation district does not hold title or evidence of title to such land, and therefore is not entitled to vote in an irrigation district election.

4. The heirs or devisees of a deceased holder of title to land in an irrigation district do hold title to such land and therefore, if otherwise qualified, are entitled to vote in an irrigation district election.

5. The guardian of an incompetent person who holds title to land in an irrigation district does not, as guardian, hold title or evidence of title to such land, and therefore, is not entitled to vote in an irrigation district election.

6. An incompetent person who holds title to land in an irrigation district is, if otherwise qualified, entitled to vote in an irrigation district election.

7. Persons who hold title to land in an irrigation district as tenants in common each are entitled, if otherwise qualified, to vote in an irrigation district election.

8. Persons who hold title to land in an irrigation district as joint tenants each are entitled, if otherwise qualified, to vote in an irrigation district election.

9. In the case of partners owning land in an irrigation district as such, present law is not clear as to whether they may, if otherwise qualified, vote in an irrigation district election.

10. A husband and wife holding land in an irrigation district as community property may, if otherwise qualified, each vote in an irrigation district election.
(11) A trustee who holds title to land in an irrigation district for the benefit of another person is, if otherwise qualified, entitled to vote in an irrigation district election.

(12) The beneficiary of a trust which holds title to land in an irrigation district does not hold title or evidence of title to such land, and therefore, is not entitled to vote in an irrigation district election.

(13) There may not be more than one polling place in each precinct in an irrigation district, either at an election for the formation of a proposed irrigation district or at an election held after organization of an irrigation district.

(14) Where elections are held after the formation of an irrigation district, each polling place must be physically located within the territorial limits of the irrigation district; however, in the case of an election for the formation of a proposed irrigation district, the polling places need not be physically located within the territorial limits of the proposed district.

August 24, 1962

Honorable H. Maurice Ahlquist
State Representative, 11th District
Hilltop Ranch
Touchet, Washington

Cite as: AGO 61-62 No. 157

Dear Sir:

By letter previously acknowledged you have requested the opinion of this office on a number of questions pertaining to irrigation district elections. We paraphrase your questions as follows:

(1) Under the provisions of RCW 87.03.045, establishing, in part, the qualifications of voters in irrigation district elections, which, if any, of the following described persons is "A person . . . who holds title or evidence of title to land in the district . . .":

(a) The contract purchaser of land in the district under an ordinary contract for the sale of real property;

(b) The contract vendor under this same ordinary contract for the sale of real property;

(c) The executor or administrator of the estate of a deceased holder of title to land in the district;

(d) The heirs or devisees of the decedent title holder described in (c), supra;

(e) The guardian of an incompetent holder of title to land in the district;

(f) The incompetent ward who actually holds title to land in the district as described in (e), supra;

(g) Persons who hold title to land in the district as tenants in common;

(h) Persons who hold title to land in the district as joint tenants;

(i) Partners owning land in the district as such;

(j) A husband and wife holding land in the district as community property;

(k) A trustee who holds title to land in the district for the benefit of another person;

(l) The beneficiary of the trust described in (k), supra?

(2) May there be more than one polling place in each precinct in an irrigation district?

(3) Must the polling places be physically located within the territorial limits of the irrigation district?
DISTRICTS ~ IRRIGATION ~ ELECTIONS ~ QUALIFICATIONS OF VOTERS ~ PERSONS HOLDING TITLE OR EVIDENCE OF TITLE...

You have indicated that the basis of your interest in the several questions is a desire to be apprised of which, if any, of the points raised are in need of clarifying legislation. With this thought in mind, we answer your questions in the manner set forth in our analysis.

ANALYSIS

RCW 87.03.045 provides, in material part:

"A person twenty-one years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to land in the district or proposed district shall be entitled to vote therein, . . . Where land is community property both the husband and wife may vote if otherwise qualified . . . ." (Emphasis supplied)

So far as we have been able to ascertain, this statute has been construed by the Washington court upon only one occasion; namely, in State ex rel. Holt v. Hamilton, 118 Wash. 91, 202 Pac. 971 (1921). The specific question presented in that case was the same as part (a) of your first question, supra; i.e., whether the [[ Orig. Op. Page 4 ]] contract purchaser of land in the district under an ordinary real estate contract "holds title or evidence of title" within the meaning of the statute.

The Washington court answered this question in the affirmative by holding that a contract purchaser held "evidence of title". The reasoning behind the court's decision is to be found in the following excerpt from its opinion, at p. 92:

"A copy of the contract, which is alleged in the complaint to be of the same character as all of the other contracts involved, is attached to and made a part of the complaint. It is the ordinary contract for the sale of real property, with the time essence clause and provisions for forfeiture. It contains provisions requiring the purchaser to improve the land and grow crops upon the same, and expressly requires the purchaser to pay all irrigation district assessments. There is a further provision that the purchaser shall be entitled to keep possession as long as the contract is kept in good standing. We do not think it is necessary to define the legal standing of a contract of this character in all respects. In our opinion, the legislature used the words 'evidence of title' for a purpose, and to permit the people who have written evidence of their right to acquire title, coupled with possession and actual control of the land, the people, who are the ones really interested in the proper operation of the affairs of the district and are the ones who have to meet its burdens, to have a voice in selecting the officers to operate the irrigation district." (Emphasis supplied)

Upon the basis of this decision of the Washington court, we advise, in response to part (a) of your first question, supra, that a contract purchaser of land in the irrigation district under an ordinary real estate contract is a person who "holds . . . evidence of title" within the meaning of RCW 87.03.045, supra.

With regard to part (b) of your first question, supra, until the contract vendor has actually conveyed the land in question to the purchaser upon performance of the contract by the purchaser, the contract vendor retains legal title. See, Ashford v. Reese, 132 Wash. 649, 233 Pac. 29 (1925), and cases following. Accordingly, until the contract vendor does convey legal title, it seems an inescapable conclusion that he continues to "hold title" within the meaning of RCW 87.03.045, supra. Consequently (assuming that [[ Orig. Op. Page 5 ]] he meets the various other qualifications set forth in the statute), such a contract vendor is entitled to vote in an irrigation district election.

It will be observed that, from the conclusions thus far stated in this opinion, more than one person may be entitled to vote on the basis of interest in the same parcel of land. This factor seems to us to be of no consequence in regards to the validity of the conclusions. Clearly, it is not the land which votes (through the act of a person holding title or evidence of title therein); rather, it is any person (otherwise qualified) who "holds title or evidence of title in the district . . . ." (Emphasis supplied) who is entitled to vote. Accordingly, as in the circumstances thus far discussed, where one person holds title and another person holds evidence of title in the same land, it follows that both are entitled to vote.

Normally, of course, it is the contract purchaser of real property who has actual possession and control of the land. State ex rel. Holt v. Hamilton, supra. Yet, it is to be noted, by sections 2-5, chapter 105, Laws of 1961 (cf. RCW 87.03.031 - 87.03.034) the legislature has made elaborate provision for absentee voting in irrigation district elections. While not conclusive, this legislation is at least persuasive of a notion on the part of the legislature that numerous persons, including contract vendors not in actual possession of their land, who reside at an inconvenient distance from the territorial area of the irrigation district, are nevertheless entitled to vote in the irrigation district election.

Further, it should also be noted and emphasized that assessments made in order to carry out the purposes and functions of an irrigation district run against the benefited land, in rem, and not against the holders of varying legal or equitable interests in the land, in personam. See, Roberts v. Richland Irrigation District, 169 Wash. 156, 13 P. (2d) 437 (1932), affirmed 289 U.S. 71, 53 S.Ct. 519, 77 L.Ed. 1038, State ex rel. Wells v. Hartung, 150 Wash. 590, 274 Pac. 181 (1929), State ex rel. Clancy v. Columbia Irr. Dist., 121 Wash. 79, 208 Pac. 27 (1922), and other authorities cited therein. Accordingly, both the contract vendor who holds legal title, and the contract purchaser who holds evidence of title have a very real interest in the conduct of the affairs of the district. On the other hand, neither, any more than the other, is personally liable for the payment of assessments.

[[ Orig. Op. Page 6 ]]
Next, by parts (c) and (d) of your first question, supra, you inquire as to the status of an executor or administrator of the estate of a decedent holder of title to land in an irrigation district and, as well, as to the status of the heirs or devisees of such decedent.

In re Gallatin Irrigation District, 48 Mont. 605, 140 Pac. 92 (1914), under a statute similarly worded to our own RCW 87.03.045, supra, it was held that the executrix of the estate of a decedent title holder did not hold either title or evidence of title to the land of the decedent. This, we believe, would also be the holding of the Washington court, particularly in view of RCW 11.04.250, which provides:

"When a person dies seized of lands, tenements or hereditaments, or any right thereto or entitled to any interest therein in fee or for the life of another, his title shall vest immediately in his heirs or devisees, subject to his debts, family allowance, expenses of administration and any other charges for which such real estate is liable under existing laws. . . ." (Emphasis supplied)

Thus, the executor or administrator of the estate of the decedent does not hold title to the decedent's real property. Nor does the executor or administrator hold "evidence of title" as that phrase was construed in State ex rel. Holt v. Hamilton, supra. We repeat, for ease of reference, the following pertinent language from the Hamilton opinion:

". . . In our opinion, the legislature used the words 'evidence of title' for a purpose, and to permit the people who have written evidence of their right to acquire title, coupled with possession and actual control of the land, the people, who are the ones really interested in the proper operation of the affairs of the district and are the ones who have to meet its burdens, to have a voice in selecting the officers to operate the irrigation district."

Obviously, while an executor or administrator may have actual control of the land of the decedent for certain purposes, he has no right, as executor or administrator, to acquire title to the land.

On the other hand, pursuant to RCW 11.04.250, supra, the heirs or devisees of the decedent do "hold title" to the decedent's land.

[Orig. Op. Page 7] Consequently, in specific response to part (d) of your first question, we conclude that such heirs and devisees who are otherwise qualified as provided in RCW 87.03.045, supra, are entitled to vote in irrigation district elections. Again, for the reasons previously stated, the fact that there may be more than one person thus holding title in a particular parcel of land is of no consequence.

As for the case of guardian and ward, presented by parts (e) and (f) of your first question, supra, it is manifest that legal title to the land remains vested in the ward. The guardian holds neither title nor evidence of title, again, as the latter phrase is construed in State ex rel. Holt v. Hamilton, supra. Accordingly, it is our opinion that the guardian is not entitled to vote in his own behalf. The ward, as holder of title, is entitled to vote (assuming his incompetence does not otherwise disqualify him - see, Article VI, section 3, Washington constitution). In the event the ward is unable to vote because of extreme incompetence, a question may arise as to whether his guardian may cast a vote on his behalf. However, we do not understand you to be presently concerned with that specific question.

By the next several parts of your first question, supra, you inquire with regard to the voting qualifications of various types of co-owners of land in an irrigation district; namely, tenants in common, joint tenants, and partners. You also inquire regarding the voting qualifications of a husband and wife owning land in an irrigation district as community property.

With regard to the husband and wife holding land as community property, RCW 87.03.045, supra, expressly provides:

". . . Where land is community property both the husband and wife may vote if otherwise qualified. . . ."

In the case of persons who are co-owners of land in an irrigation district either as tenants in common or as joint tenants, it is our opinion that each "holds title" to the land within the meaning of RCW 87.03.045, supra. Accordingly, each, if otherwise qualified, may vote in an irrigation district election. We recognize, in thus concluding, that substantial differences exist regarding the precise nature of the interest of a tenant in common and of a joint tenant in real property. See, article entitled "Joint Tenancy for Washington?", 35 Wash. L. Rev. 292. However, we see no reason to distinguish between these two types of co-ownership for purposes of the instant problem.


In the case of land located in an irrigation district which is owned by a partnership as partnership property, RCW 25.04.240 provides:

"The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management."

RCW 25.04.250 provides:

"(1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

"(2) The incidents of this tenancy are such that:
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"(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

"(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

"(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representative of a deceased partner, cannot claim any right under the homestead or exemption laws.

"(d) On the death of a partner, his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

"(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin."


In view of these statutory provisions, it is arguable that, in the case of partnership property, each partner "holds title" within the meaning of RCW 87.03.045, supra, and, accordingly, if otherwise qualified, may vote in an irrigation district election. However, this point is not at all clear. It is equally arguable that where land is owned by partners as such, title is "held" by the partnership as a separate entity. See RCW 25.04.080. Yet the statute here under consideration makes no specific provision for voting by an authorized agent of a partnership owning land in an irrigation district. On the other hand, RCW 87.03.045, supra, does provide:

"...An agent of a corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his instrument of authority..." (Emphasis supplied)

Recalling your interest in securing clarifying legislation where necessary, perhaps some thought might be given to enacting a similar provision as regards to partnerships owning land in an irrigation district. (See also, in this regard, an opinion of this office dated December 11, 1945, to Mr. H. Singleton [[1945-46 OAG 467]], a copy of which is herein enclosed, wherein we made a similar suggestion concerning land owned by a state institution).

By the final parts of your first question, you have inquired as to the voting qualification (in terms of holding title or evidence of title to land) of (1) a trustee holding land in an irrigation district in trust for another, and (2) the "other" or beneficiary, of the trust.

A trust in real estate implies a holding of legal title by one for the benefit of another, who holds the equitable title - a separation of the legal estate from the beneficial enjoyment. State ex rel. Wirt v. Superior Court, 10 Wn. (2d) 362, 116 P. (2d) 752 (1941). Accordingly, the trustee, holding legal title to the land in trust, is entitled (if otherwise qualified) to vote in an irrigation district election.

On the other hand, we do not believe that the beneficiary of the trust "holds title or evidence of title" in the land held in trust, within the meaning of RCW 87.03.045, supra. It seems clear to us that by "title", is meant legal "title". Accordingly, the beneficiary, who holds equitable title, does not "hold title" within the meaning of the statute here under consideration. Nor, do we believe, does the beneficiary "hold...evidence of title." Again referring to State ex rel. Holt v. Hamilton, supra, it is to be remembered that "evidence of title" was construed by the Washington court as pertaining to,


"...the people who have written evidence of their right to acquire title, coupled with possession and actual control of the land,..."

Manifestly, though the beneficiary of the trust may or may not be in actual possession and control of the land, in any event he ordinarily has no "written evidence of...his" right to acquire title,...".

Accordingly, it is our opinion that the beneficiary of a trust is not, by reason of his beneficial interest in land in an irrigation district, qualified to vote in an irrigation district election. In thus concluding, we are nevertheless aware that federal legislation governing the Columbia Basin Project involving an area of the state of Washington wherein are situated innumerable irrigation districts) provides:

"...Lands held in trust for any person shall, for the purpose of sections 835 to 835c-5 of this title, be deemed to be held both by that person and, if the trustee derives any profit or advantage from the trust other than a moderate fixed fee for the management of the same, by the trustee." 16 U.S.C. 835 (a) (b) (v).

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However, what may be the case for the purpose of this particular federal legislation cannot be said to govern the meaning and application of the phrase "who holds title or evidence of title" as it appears in RCW 87.03.045, supra.

We turn next to consideration of your second question; namely, whether there may be more than one polling place in a precinct within an irrigation district.

In considering this question, it is first to be noted that separate statutes govern the conduct of elections for the formation of an irrigation district, and the conduct of post-organization irrigation district elections.

With regard to elections for the formation of an irrigation district, section 2, chapter 57, Laws of 1955 (cf. RCW 87.01.070) provides as follows:

"The board of county commissioners shall establish a convenient number of election precincts in the proposed district and define the boundaries thereof, and designate polling place and appoint the necessary election officers for each precinct: . . ." (Emphasis supplied)


In the case of post-organization elections, Laws of 1889-90, p. 674, section 5 (cf. RCW 87.03.085) provides:

"Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held." (Emphasis supplied)

Clearly, the first statute above quoted, providing for the conduct of elections for the formation of irrigation districts, authorizes the designation of but a single polling place in each precinct. Accordingly, we conclude that in the conduct of an election for the formation of an irrigation district, there may not properly be designated more than one polling place in each precinct in the district.

As for post-organization irrigation district elections, it is to be noted that the statutory provision governing the conduct of such, last above quoted, is self-contradictory on the point of the number of voting places for each precinct. One portion of the statute, relating to the content of the mandatory general notice of election, provides that the notice shall specify " . . . the polling places of each precinct." (Emphasis supplied)

On the other hand, the last sentence of the statute, relating to the order appointing the board of election, provides:


" . . . The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held." (Emphasis supplied)

It was observed by the Washington court in State ex rel. Tacoma R. & P. Co. v. Pub. Serv. Corp., 101 Wash. 601, 172 Pac. 890 (1918) that:

" . . . It is a familiar canon of construction that the different sections or provisions of the same statute should be so construed as to harmonize and give effect to each; but if there is an irreconcilable conflict the subsequent one prevails. . . ." (Emphasis supplied)

The phrase "subsequent one prevails" was interpreted by the court, in State ex rel. Olympia Credit Bur. v. Ayers, 9 Wn. (2d) 188, 114 P. (2d) 168 (1941) to mean " . . . the latest in order of position will prevail."

Inasmuch as the provision of Laws of 1889-90, p. 674, section 5 (cf. RCW 87.03.085), supra, which directs the board of directors of an irrigation district, in its order appointing the board of election, to " . . . designate the house or place within the precinct where the election must be held." is subsequent to, or is latest in order of position in relation to, the provision that the general notice of the election shall specify " . . . the polling places of each precinct," (Emphasis supplied) application of the rule of construction last above stated results in the conclusion that, in post-organization elections as well as in elections for the formation of an irrigation district, only one polling place may be designated in each precinct.

In further support of this conclusion, it seems obvious that only a "house or place" which has been designated by the board of directors as a polling place can be a polling place for the purpose of the election. Therefore, because the provision of the statute under which the board of directors of the irrigation district is to designate a polling place is expressed in the singular rather than the plural, it follows that there can be but a single polling
place in the precinct. A general notice of election purporting to specify polling places in the plural would be ineffective as a designation of polling places in addition to the "house or place" designated by the board of directors in the order appointing the board of election.

It is the conclusion of this office, then, that in the case of a post-organization irrigation district election as well as in the case of an election for the formation of an irrigation district, only a single polling place may be designated for each precinct within the district.


By your final question, i.e., question number 3, supra, you have asked whether the polling place may be located outside of the territorial area of the irrigation district.

Again, we must distinguish between elections for the formation of an irrigation district, and post-organization irrigation district elections. Section 2, chapter 57, Laws of 1955 (RCW 87.03.035), supra, relating to elections for the formation of an irrigation district, provides, it will be recalled:

"The board of county commissioners shall establish a convenient number of election precincts in the proposed district and define the boundaries thereof, and designate a polling place and appoint the necessary election officers for each precinct; . . ." (Emphasis supplied)

On the other hand, Laws of 1889-90, p. 674, section 5 (cf. RCW 87.03.085), supra, provides, in pertinent part:

". . . The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held." (Emphasis supplied)

Precincts, obviously, are to be located within the territorial area of the district or proposed district. And, in the case of a post-organization irrigation district election, from the express language of the statutory provision pertaining to such elections, it seems clear that the polling place must be located within the precinct. Accordingly, it follows that in the case of a post-organization irrigation district election, the polling place must be located within the territorial area of the irrigation district.

However, such does not appear to be required in the case of an election for the formation of an irrigation district. The statutory provision pertaining to such an election (i.e., RCW 87.03.035, supra) merely provides that a polling place be designated for each precinct. Thus, while the precinct must be located within the proposed irrigation district, it is not required that the polling place be located within the precinct. Therefore, in the case of an election for the formation of an irrigation district, it is our opinion that a polling place may be physically located outside of the area of the proposed district.

We believe that each of these two conclusions last stated follow from the plain, clear and unambiguous language of the pertinent statutory provisions, above quoted. Accordingly, no judicially [[Orig. Op. Page 14]] pronounced rules of statutory construction need be applied in arriving at these conclusions. The fundamental object or purpose of all judicial construction or interpretation is to ascertain, if possible, and to give effect to, the intention of the lawmakers in enacting a particular statute. Layton v. Horne Indemnity Co., 9 Wn. (2d) 25, 113 P. (2d) 538 (1941); Lynch v. Dept. Labor & Industries, 19 Wn. (2d) 802, 145 P. (2d) 265 (1944). However, whereas the language of a statute is plain, there is no room for construction, since the meaning will be discovered from the wording of the statute itself. State v. Houck, 32 Wn. (2d) 681, 203 P. (2d) 693 (1949), and cases cited therein.

We trust that we have sufficiently answered each of the several questions which you have posed, and that the information herein contained will be of assistance to you.

Very truly yours,

JOHN J. O'CONNELL
Attorney General

PHILIP A. AUSTIN
Assistant Attorney General
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Antitrust/Unfair Trade Practices (/antitrustunfair-trade-practices)
Medicaid Fraud Control (/medicaid-fraud)
Lemon Law (/lemon-law-0)
Tobacco Compliance (/tobacco)
Protecting Youth (/protecting-youth)
Protecting Seniors (/protecting-seniors)

Social Justice & Civil Rights
Civil Rights Division (/wing-luke-civil-rights-division)
Counsel for Environmental Protection (/counsel-environmental-protection-unit)
Hanford Litigation (/hanford)
Campaign Finance Law Enforcement (/enforcement-campaign-finance-laws)

Criminal Justice & Public Safety
Crime & Safety (/crime-safety)
Criminal Litigation Division (/criminal-justice)
Sexually Violent Predators (/sexually-violent-predators)
Homicide Investigation Tracking System (HITS) (/homicide-investigation-tracking-system-hits)
Financial Crimes Unit (/financial-crimes-unit)
Death Penalty Cases (/death-penalty-cases)
Firearms (/firearms)

Initiatives
Open Government (/opengovernment.aspx)
Wing Luke Civil Rights Division (/wing-luke-civil-rights-division)
Environmental Protection (/counsel-environmental-protection-unit)
Human Trafficking (/human-trafficking)

APPENDIX B – East Columbia Basin Irrigation District (ECBID) Elections Materials
EAST COLUMBIA BASIN IRRIGATION DISTRICT

RESOLUTION NO. 2019-16

Policy and Procedures for District Elections

WHEREAS, Chapter 87.03 RCW sets forth the qualifications of voters and directors and the requirements for the conduct of District Elections; and

WHEREAS, the District follows the director division option rather than the precinct option and the definition of elector both as set forth in RCW 87.04.010 as evidenced by the minutes of the Boards of Directors meetings of November 6, 1940, November 5, 1941 and October 7, 1942; and

WHEREAS, the boundaries of Director Divisions 1, 2, 3, 4 and 5 were reaffirmed by a special District-wide election on June 22, 2004, said results being confirmed by Resolution R-60-04 adopted by the Adams County Board of Commissioners on July 7, 2004; and

WHEREAS, those Director Division boundaries are as follows:

   Director Division 1: The part of the East District located in Grant County north of Wheeler Road.

   Director Division 2: The Grant County portion of the District bounded on the north by Wheeler Road, on the east and south by the Grant/Adams County line, and on the west by the East District Boundary.

   Director Division 3: All of the East District located in Lincoln County and that part of the East District located in Adams County north of Providence Road.

   Director Division 4: Totally in Adams County, bounded on the north by the Grant/Adams County line, on the south by the Franklin/Adams County line and on the west by the East District boundary. The east boundary of this Director Division follows Booker Road from the Grant/Adams County line to Cunningham Road, then follows Cunningham Road to the east for three miles to the range line separating Ranges 30 and 31 East (Fox Road and its extension) which it follows to the Franklin/Adams County line.

   Director Division 5: All of the East District located in Adams County and a portion located in Franklin County, bounded on the north by Providence Road and on the east by the East District boundary. The west boundary of this Director Division follows Booker Road from the Grant/Adams County line to Cunningham Road, then follows Cunningham Road to the east for three miles to the range line separating Ranges 30 and 31 East (Fox Road and its extension) which it follows to the Franklin/Adams County line. The south boundary is defined by the Adams/Franklin County line, and also includes certain Franklin County lands that have been included in the East District.

WHEREAS, the Board of Directors has determined to update and consolidate the District’s policy and procedures for the conduct of District Elections,

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the East Columbia Basin Irrigation District that the District’s policy and procedures for the conduct of District Elections are stated as follows:
1.0 Director Division Filing Period

1.1 Filing periods, elections and terms of office for the District's five Director Divisions shall occur and reoccur in the following sequence:

<table>
<thead>
<tr>
<th>Year</th>
<th>Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1 and 3</td>
</tr>
<tr>
<td>2</td>
<td>2 and 4</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
</tr>
</tbody>
</table>

1.2 The opening of the Director Division filing period will be announced and be effective the first Wednesday of October. This announcement will be made by the President of the Board of Directors at the October regular meeting of the Board of Directors and by the issuance of a news release by the District. In the event that the regular meeting of the Board of Directors occurs later than the first Wednesday of October the issuance of the news release shall nevertheless be issued and announce the first Wednesday as the opening of the filing period.

The news release is to include a description of the qualifications to serve as Director, a general description of the Director Division boundaries and instructions of how, when and where to file and the date for the Director election. The news release will be issued to newspapers known to be in general circulation within the District area and may also be issued to radio and television media known to be broadcasting within the District area. Paid advertisements and legal notice advertisements are not required.

1.3 The Director Division filing period will close at 5:00 PM on the first Monday in November.

1.4 To qualify as a candidate for Director, an individual must file a Petition of Nomination signed by at least 10 qualified voters in the Director Division he or she is filing to represent and also be a qualified voter within the Director Division he or she is filing to represent. To qualify as a voter an individual must:

1.4.1 Be 18 years of age or older
1.4.2 Be a U.S. citizen
1.4.3 Be a resident of the State of Washington
1.4.4 Own land or hold evidence of title to land in the District. Ownership of land and evidence of title includes contract sellers and purchasers of land, land held as part of community property with a spouse and land held in partnership with other(s). Ownership of land and evidence of title for purposes of serving as Director does not include officers or shareholders of corporations wherein the land is owned in the name of the corporation.
1.4.5 Must vote only in the Director Division in which he or she owns land or holds evidence of title to land. Persons owning land or holding evidence of title to land in more than one Director Division shall vote only in that Director Division in which he or she owns land or holds evidence of title to land that is nearest his or her residence.
1.5 Petitions of Nomination will only be available at the District's main office located at 55 North 8th in Othello and only after the opening of the filing period. Each Petition form supplied by the District shall include information about the qualifications for voting and serving as a Director. Upon request, the Secretary-Manager or his designee will provide a copy of the voter list for the Director Division to the prospective candidate.

1.6 Upon filing of a Petition of Nomination at the main office the Secretary-Manager or Assistant Secretary will verify that the candidate is a qualified voter within the Director Division he or she is filing to represent and verify that the Petition includes the valid signatures of at least 10 qualified voters in that Director Division. If discrepancies or deficiencies in the Petition or in a candidate's qualifications as a voter are noted, the Secretary-Manager or his designee in consultation with the District's Attorney shall research the circumstances and notify the candidate. Corrections and/or additional signatures to remedy the discrepancy or deficiency may be made provided the filing period has not ended. A candidate may request a review by the Board of Directors of the Secretary-Managers' findings in such situations at a regular, continued or special meeting provided the filing period has not ended.

2.0 When An Election Is Not Required

2.1 When only one valid Petition of Nomination for a Director Division is filed prior to the close of the filing period an election is not required.

2.2 The unopposed candidate will be declared elected by the Board of Directors at the next meeting of the Board of Directors following the close of the filing period in the manner set forth in RCW 87.03.075.

2.3 Following the declaration of election by the Board of Directors a certificate of election shall be delivered to the unopposed candidate in the manner set forth in RCW 87.03.075.

3.0 Conducting Director Elections

3.1 When two or more valid Petitions of Nomination for a Director Division are filed prior to the close of the filing period an election will be held on the second Tuesday of December.

3.2 The Board of Directors shall appoint a Board of Election and designate a polling place as set forth in RCW 87.03.085. The Board of Election shall consist of two Judges and one Inspector. Individuals serving on the Board of Election shall be paid by the District as follows:

   Judges – Then current hourly rate for Year 1, Watermaster Clerk
   Inspector – Then current hourly rate for Year 1, Water Records Clerk

3.3 The Secretary-Manager or his designee shall post notices of the election in the manner set forth in RCW 87.03.085 and issue a news release informing voters of the election. The news release is to include the names of the candidates, date of the election, location of polling places, voting hours and instructions for absentee voting.
The news release will be issued to newspapers known to be in general circulation within the District area and may be issued to radio and television media known to be broadcasting within the District area. Paid advertisements and legal notice advertisements are not required.

3.4 The Secretary-Manager or his designee shall procure and manage ballots in the manner set forth in RCW 87.03.075. The names of the candidates are to be printed on the ballot in the chronological order in which their respective Petition of Nomination were filed with the District. Ballots shall contain a space for the writing in of the name of an undeclared candidate.

3.5 Absentee voting is to be made available and carried out in the manner set forth in RCW 87.03.031, 87.03.032, 87.03.033 and 87.03.034. Requests for absentee ballots must be made on forms provided by the District. Fax requests are permissible only if they are on forms provided by the District. Email requests are not permissible.

3.6 Upon request, the Secretary-Manager or his designee will provide a copy of the voter list for the Director Division to the candidate.

3.7 Candidates may distribute Absentee Voter’s Application forms to voters. Candidates may not distribute absentee ballots.

3.8 Voters may deliver absentee ballots to the District’s Main office rather than by mail up until 8:00 PM on election day. Voters may mark absentee ballots in the reception area of the District’s Main Office until noon on election day when all ballots are transferred to the Board of Election. Voters may deliver absentee ballots to the Board of Election, if all documents and envelopes are included, on the day of the election during the hours the polls are open for voting.

3.9 On the day of election the District’s Main Office shall be kept open until 8:00 PM for the purpose of responding to questions or requests for assistance from the Board of Election and for the acceptance of absentee ballots delivered by voters.

3.10 On election day the voting shall be carried out in the manner set forth by RCW 87.03.090, 87.03.095 and 87.03.100. The Secretary-Manager or his designee shall provide assistance to the Board of Election to the extent requested. Once voting begins neither the Secretary-Manager nor any other employee or Director of the District may enter the polling place except for the purpose of exercising a right to vote as a landowner. Questions or requests for assistance by the Board of Election are to be communicated to the Secretary-Manager or his designee by telephonic means or by conversation held outside the polling place.

3.11 The Secretary-Manager or his designee shall prepare additional instructions and reference materials regarding the management of ballots and conduct of elections for use by District staff and the Board of Election, said information being consistent with the appropriate provisions of Chapter 87.03 RCW and this Resolution.

3.12 The Board of Directors shall meet on the first Monday following the election date to canvass the election returns as set forth by RCW 87.03.105 and to report the result of the election and issue a certificate of election as set forth by RCW 87.03.110.
4.0 Terms of Directors

4.1 Terms for Directors begin on the first Tuesday in January following his or her election and are for a period of 3 years or until a successor is elected as set forth by RCW 87.03.080.

4.2 Directors commencing a new term shall take and subscribe an official oath of office at the first meeting of the Board of Directors following the beginning of their term as set forth by RCW 87.03.082.

4.3 The District provides a blanket bond for all Directors. The premium for said bond is at the expense of the District.

5.0 Filling Vacant Director Positions

Director positions that become vacant shall be filled by appointment by the Adams County Board of Commissioners and the appointee shall serve and stand for election all as set forth by RCW 87.03.081.

BE IT FURTHER RESOLVED that Resolution 2007-10, 2001-02 and 2000-05 is superseded by this Resolution.

DULY ADOPTED in Open Meeting this 3rd day of January, 2018.

[Signatures]

Attest: ________________________________

Secretary: ________________________________
DISTRICT ELECTION INSTRUCTIONS

Note: These instructions are supplemental to Resolution 2019-16 (supersedes Resolution 2018-04, 2007-10, 2001-02 and 2000-05), Policy and Procedures for District Elections, in the event of discrepancies between these instructions and that Resolution, the Resolution shall control.

Qualifications to become a Director

1. Must be 18 years of age, a U.S. citizen and resident of the State of Washington.

2. Must hold title to or evidence of title to land within the District, in the Director Division he/she wishes to represent.

3. If a potential candidate does not live in the Director Division itself, and he/she owns land in more than one Director Division, he/she can represent the Director Division nearest his or her actual residence.

Petitions of Nomination

1. At every October board meeting the open filing period for a Director position is announced. A news release announcing the open filing period for a Director position is sent to local news outlets following the October board meeting.

2. Petitions will be provided by the District after the announcement of the filing period.

3. Must be returned before 4:30 p.m. on the first Monday in November.

4. Must be signed by at least 10 qualified electors in the Director division.

5. If only one qualified petition of nomination is filed by the deadline, no election is necessary. The one qualified candidate shall be declared to be elected as Director at the next Board of Director’s meeting. The Secretary shall immediately make and deliver a Certificate of Election.

6. If two or more qualified candidates file petitions, they are to be kept together in a file labeled as “Election – Director Division ____ (Year)”.

7. The names of the candidates are to be printed on the ballot in chronological order in which their respective Petitions of Nomination were filed with the District. Ballots shall contain a space for writing in the name of an undeclared candidate.

Elections

1. Director Division elections are to be held on the second Tuesday of December. Special elections will be held as established by the Board of Directors.

2. Blank ballots shall be secured in a box secured by two locks. The keys shall be held by the Assistant Manager of Administration and Executive Secretary.

3. The District provides ballots. Votes cast on any other form will not be valid.
4. The ballot needs to include a space for write-in candidates.

5. There will be separate “Ballot Boxes” for election day ballots and absentee ballots. “Ballot Boxes” will have two locks securing each “Ballot Box”. Keys for the “Election Day Ballot Box” will be held by the Assistant Manager of Administration and Executive Secretary. Keys for the “Absentee Ballot Box” will be held by the Board President and Executive Secretary.

6. The Board of Directors will designate the polling place. The polling place for a single Director Division election shall be held within that Division. If an election is to be held for more than one Director Division or a District-wide election, the principal business office may be designated by the Board of Directors as the polling place for all Director Divisions. The election officials appointed by the Board of Directors may serve more than one Director Division.

7. An Election Board, consisting of 1 inspector and 2 judges, should be appointed more than 15 days prior to the election. The members of the Election Board must be electors in the Director division for which the election is taking place, except when the Board of Directors has designated a single polling place for more than one Director Division (see RCW 87.03.085) or for a District-wide election.

8. Fifteen days prior to the election Notice of Election needs to be posted in 3 public places in each election precinct. This notice of election needs to list the time and place of the election. The notice also needs to be posted in the office of the Board (main office). The person who does the posting needs to sign an Affidavit of Posting to be filed in the election file. The Notice of Election is also to state that any qualified voter who certifies that he cannot conveniently be present at the proper election precinct on the day of the election may vote by absentee ballot, and that a ballot and form of certificate of qualifications will be furnished to him or her on written request being made of the District’s Secretary.

9. A news release is to be issued listing the names of the candidates or the ballot measure, date of the election, location of polling place(s), voting hours and instructions for absentee voting. The news release is to be issued to newspapers known to be in general circulation within the District area and may be issued to radio and television media known to be broadcasting within the District area.

10. On election day the polls are to be opened from 1:00 p.m. to 8:00 p.m. The American Flag is to be displayed outside the polling place.

11. The judges need to sign the oaths as judges in each of the poll books and tally books (inside front cover). The inspector will sign as witness. The inspector needs to sign the oath as inspector of the Election in each of the poll books and tally books. One of the judges will sign as witness.

12. Voter qualifications are the same as director qualifications. (See RCW 87.03.045) More particularly:
   - Where land is community property both the husband and wife may vote if otherwise qualified.
   - A trustee for another party may vote, beneficiaries of a trust may not vote.
   - An executor, executrix or personal representative of an estate may not vote, the heirs of an estate may vote if they are otherwise qualified.
• Partners in ownership, or tenants in common, are each entitled to vote based on each partner's percentage of owned acreage.
• For corporations, an authorized agent may vote on behalf of the corporation (a written authorization must be presented to the election officers).
• A contract seller and purchaser may vote.
• A manager of an LLC (Limited Liability Company) may vote on behalf of the LLC.

13. Provide the inspector with the following:
• A list of qualified voters.
• All remaining unused ballots.
• An Inspector's Poll Book.
• A Voter's Signature Poll Book.
• Two (2) Tally Books.
• A large "Ballots Questioned" envelope.
• A larger "ELECTION RETURNS" envelope.

The inspector is to have charge of the list of eligible voters, one of the judges is to handle the "Voter's Signature Poll Book", the other judge will write the name of the elector in the "Inspector's Poll Book" and deliver ballots to qualified voters.

14. Before the polls are open, the judge, in the presence of those assembled at the polling place, shall open, exhibit, close and lock the ballot box (making sure it is empty). The ballot box shall remain locked until the polls are closed. The ballot box is not to be removed from the polling place or from the view of bystanders until all ballots are counted.

15. After the ballot box has been secured, voting can begin.

16. Once voting begins neither the Secretary-Manager nor any other employee or Director of the District may enter the polling place except in the purpose of exercising the right to vote as a landowner. Questions or requests for assistance by the Board of Election are to be communicated to the Secretary-Manager or his designee by telephonic means or by conversation held outside the polling place.

17. The Election Board is not to leave the premises during the conduct of the election.

18. Anyone desiring to vote shall give their name to the Inspector who will then check the voter list to see if that person is a qualified elector. The inspector shall then repeat the elector's name, director division, and the number of votes (1 or 2) the elector is to receive, to the judges.

If the prospective voter is not named on the list of qualified voters, the inspector should inquire of the Secretary-Manager or his designee if the person desiring to vote is a qualified elector. The inspector is not to deny any person desiring to vote, the right to cast a ballot. If a vote is questioned, the questioned ballot shall be sealed in a separate envelope labelled, on the front and back, "Questioned Ballot". The name of the voter and the reasons why the voter believes they are a qualified elector are to be written on the outside of that "Questioned Ballot" envelope and placed in the ballot box.

19. Each qualified elector is entitled to one vote for the first ten acres or fraction thereof and one vote for anything over ten acres. If husband and wife jointly own over ten acres, both have
two votes; if they jointly own less than ten acres, both have one vote. In no case will an elector have more than 2 votes, including being the representative of an LLC.

20. The qualified voter is to sign the “Voter’s Signature Poll Book”. If the voter is allowed two (2) votes they are to sign twice.

21. The second judge then delivers the proper number of ballots to the elector and the judges are to record the ballot number in their respective poll books.

22. No more than one person shall be allowed inside the poll booth at a time, and should not be allowed to occupy a booth longer than necessary to prepare their ballot(s). At no time is a person allowed to occupy a booth longer than 5 minutes.

23. A new ballot will replace any ballot that has been accidentally damaged or spoiled by a voter when the damaged ballot is returned to the inspector.

24. If a qualified voter declares to the judges of election that they are unable to read, or that because of blindness or other physical disability is unable to mark their ballot (or if the judges of election observe such inability) they shall, upon request, receive the assistance of one or two election officers in the marking of the ballot. Such officer or officers shall certify on the outside of the ballot envelope, that the ballot was marked with their assistance. The election officer shall give no information regarding the assistance given. No elector may divulge to any person within the polling place the name of any candidate for whom they intend to vote or to ask, or receive assistance, of anyone within the polling place in the preparation of their ballot, except as stated previously.

25. The qualified voter shall mark their ballot, tear off the number, fold the ballot so as to hide all identifying marks and place the ballot in the ballot box. The voter shall hand the number(s) to the inspector. The inspector will then inform the judges that “Number(s) ___ has voted” and this information shall be noted in each of the poll books.

26. Absentee ballots are to be received at the main office until 8:00 p.m. Absentee ballots can only be received at the polling location in a “Return Envelope”.

27. The poll shall be closed promptly at 8:00 p.m. and only those qualified voters inside the polling place at that time shall be allowed to vote.

28. As soon as the polls are closed, and prior to the counting of the ballots, the election board shall publicly destroy all unused ballots.

29. As soon as balloting is completed the inspector shall open the ballot box and begin counting the votes.

30. Any questioned ballots are to remain sealed in the envelopes and delivered to the Secretary-Manager or his designee in a large envelope marked “Ballots Questioned”. District staff is to investigate the claim of each qualified voter and prepare a recommendation to accept or not accept each questioned ballot for the Board of Directors.

31. The ballots are to be taken out, one by one, by the inspector who will open them and read aloud the names of each person marked and the office for which every person is voted. Each judge shall write down in their “Tally Book” each office to be filled and the names of
each person voted for such office and shall keep the number of votes by tallies as they are read aloud by the inspector. The counting shall continue in public without adjournment until all votes have been counted, and in no case shall the ballot box be removed from the election room until the counting of ballots is completed.

32. As soon as all the votes are read off and counted, two certificates shall be completed, stating the number of votes each candidate has received. The number is to be written in figures and in word at full length. One of these certificates, attached to the "Inspector's Poll Book" and a "Tally Book" are to be retained by the inspector and preserved for at least six (6) months. The ballots are to be sealed in an envelope and kept together with the "Voter's Signature Poll Book" and a "Tally Book" and then sealed in a large envelope endorsed "ELECTION RETURNS". The "ELECTION RETURNS" envelope is then delivered with the "Ballots Questioned" envelope, the second certificate, and other election supplies to the Secretary of the East Columbia Basin Irrigation District or their representative.

**Absentee Voting**

1. Much of the voting will be done by absentee ballot. Voters must request in writing, prior to noon of the election date, an "Absentee Voter's Application".

2. Candidates may distribute Absentee Voter's Application forms to voters. Candidates may **not** distribute absentee ballots.

3. When the proper form has been submitted, send the appropriate number of ballots, ballot envelopes (one for each ballot), "Absentee Voting Instructions", "Qualifications to Vote" "Certificate of Qualifications", also an "Instrument of Authority" or "Spousal Voter Authorization“, if applicable, and one "Return Envelope".

4. Make a record of the requests, the date the voting material is mailed, and the date it is received back. They must be postmarked no later than midnight on the date of the election and received by the Secretary within 5 days of the date of election.

5. As the absentee ballots come in, make sure the voter is a qualified elector and the "Certificate of Qualifications" has been signed by both the voter and a witness. **Do not open** the ballot envelope. This will be done at the Canvass Meeting.

6. Questioned ballots are to be marked with a "Questioned Ballot" label, on the front and back, of the Ballot Envelope. An identifying number is to be written on the "Questioned Ballot" label. The identifying number and why the ballot is being questioned is to be kept on a separate list.

7. At noon of Election Day all unused ballots shall be given to the Election Board. Absentee ballots will no longer be given out after noon of Election Day.

**Canvass Meeting**

1. Five days following the election, a Canvass Meeting is to be scheduled, to tally the absentee ballots. If that day falls on a weekend or holiday the Canvass Meeting will be held the following day.

2. The absentee ballots are to be counted in the same manner as the regular ballots.
3. The Board of Directors is to review the findings and recommendations of District staff for all questioned ballots and decide the validity of the qualifications of the voter casting each questioned ballot. Any questioned ballot that is declared to be a valid ballot is to be counted with the absentee ballots. Question ballots are typically as follows:
   - Missing “Certificate of Qualifications” or “Instrument of Authority”.
   - No witness signature on “Certificate of Qualifications” or “Instrument of Authority”.
   - Land is located outside of East District boundaries.
   - Votes in another Director Division, for Director elections.
   - Not a legal resident of Washington State.
Please note that ballots with ballot number still attached is not considered a “Questioned Ballot”.
4. A “Certificate of Election Results” of the regular and absentee ballots is to be prepared.

5. Place the absentee ballots in an envelope. Seal and mark the envelope “ABSENTEE BALLOTS” and place with the regular election materials returned by the election board.

6. The Secretary of the Board of Directors must, as soon as the result is declared, enter in the records of the Board a “Certificate of Election Results”, which must show:
   - The whole number of votes cast in the District.
   - The name of the candidate voted for or the proposition voted for.
   - The office to fill which each person was voted for or the proposition that was being voted on.
   - The number of votes given in each division to each candidate and/or the number of votes given in each division for and against any proposition voted upon.

The Board of Directors must declare elected the candidate or proposition having the highest number of votes given for each office. The Secretary must immediately make and deliver to such person a Certificate of Election signed by him and authenticated by the seal of the District.
ABSSENTEE VOTER’S APPLICATION

I/We, ________________________________, (solely, husband & wife, LLC, Inc., Trust, Partnership, (circle one) hereby state as a qualified elector of the EAST COLUMBIA BASIN IRRIGATION DISTRICT, and cannot conveniently be present to cast a ballot at the polling place in the election being held on __________, ____, request an absentee ballot as provided by law.

Ballot to be mailed to the following:  

Name(s) 

Address 

Please give description of land: 

- An absentee ballot(s) will be furnished to any person who, prior to the date of the election, makes a written request to the District Secretary stating that they are a qualified elector.
- Time is needed for mailing, processing and sending ballot(s) to applicant. After receiving ballot(s) and having voted the ballot(s) must be delivered to the District office prior to the close of the polls on election day; or be postmarked no later than midnight of election day and received by the Secretary within five (5) days of that date. Mail application to: East Columbia Basin Irrigation District  
  PO Box E, Othello, WA 99344

ABSSENTEE VOTER’S APPLICATION

I/We, ________________________________, (solely, husband & wife, LLC, Inc., Trust, Partnership, (circle one) hereby state as a qualified elector of the EAST COLUMBIA BASIN IRRIGATION DISTRICT, and cannot conveniently be present to cast a ballot at the polling place in the election being held on __________, ____, request an absentee ballot as provided by law.

Ballot to be mailed to the following:  

Name(s) 

Address 

Please give description of land: 

- An absentee ballot(s) will be furnished to any person who, prior to the date of the election, makes a written request to the District Secretary stating that they are a qualified elector.
- Time is needed for mailing, processing and sending ballot(s) to applicant. After receiving ballot(s) and having voted the ballot(s) must be delivered to the District office prior to the close of the polls on election day; or be postmarked no later than midnight of election day and received by the Secretary within five (5) days of that date. Mail application to: East Columbia Basin Irrigation District  
  PO Box E, Othello, WA 99344
ABSENTEE BALLOT VOTING INSTRUCTIONS

You have been provided the following:

- Absentee Ballot Voting Instructions.
- "Qualifications to Vote".
- Ballot(s) with number(s) attached.
- "Ballot Envelope"(s).
- "Certificate of Qualifications".
- If applicable, an "Instrument of Authority" or "Spousal Voter Authorization".
- "Return Envelope".

TO VOTE, proceed as follows:

1. In such location that no other person can see how you vote, separate the number from the ballot and set aside, mark your ballot in the appropriate manner, then insert one ballot (without the number) inside each of the provided "Ballot Envelope"(s) and seal.

2. In the presence of the witness (who can be your husband or wife), complete every part of the "Certificate of Qualification" and sign it. The witness will then sign and provide their address.

3. In the provided "Return Envelope" insert the following:
   - The sealed "Ballot Envelope"(s).
   - The separated ballot number(s).
   - The completed "Certificate of Qualifications".
   - If applicable, the completed "Instrument of Authority" or "Spousal Voter Authorization".

4. Return your sealed "Return Envelope" to the District’s main office as described below:
   - Delivered to the District’s main office at 55 N 8th Avenue in Othello by 8:00 p.m. on the Election Day; or
   - Mailed and postmarked no later than midnight, of the Election Day, to the District Secretary, PO Box E, Othello, WA 99344 (must be received by the District Secretary within five (5) days of the Election Day).
A petition by qualified District landowners has been filed and accepted by the East Columbia Basin Irrigation District (ECBID) Board to determine whether landowners of the ECBID would like to increase the number of Directors on the District’s Board of Directors from five (5) currently, to seven (7). If this measure is passed the District would be re-divided into seven (7) new Director Divisions. New Directors would be determined by election in December, 2018. Landowners can vote on this measure by absentee ballot or at the East Columbia Basin Irrigation District’s main office polling location on the day of the Election. Polls will be open on February 8, 2018 from 1:00 p.m. to 8:00 p.m.

If you would like to vote by absentee ballot, please return the enclosed “Absentee Voter’s Application”. After receipt, the District will send ballots that must be completed and returned or postmarked, by February 8, 2018. Please contact the District’s main office at (509) 488-9671, if you have any questions.

Current Director Division boundaries are as follows and depicted on the back of this page:

- Division 1: This Director Division includes the part of the East District located in Grant County north of Wheeler Road.
- Division 2: This Director Division includes the Grant County portion of the District bounded on the north by Wheeler Road, on the east and south by the Grant/Adams County line, and on the west by the East District boundary.
- Division 3: This Director Division is all of the East District located in Lincoln County and that part of the East District located in Adams County North of Providence Road.
- Division 4: This Director Division is totally in Adams County and is bounded on the north by the Grant/Adams County line, on the south by the Franklin/Adams County line and on the west by the East District boundary. The east boundary of this Director Division follows Booker Road from the Grant/Adams County line to Cunningham Road, then follows Cunningham Road to the east for three miles to the range line separating Ranges 30 and 31 East (Fox Road and its extension) which it follows to the Franklin/Adams County line.
- Division 5: All of the East District located in Franklin County and that part of the East District located in Adams County, bounded on the north by the Grant/Adams County line and on the east by the East District boundary. The west boundary of this Director Division follows Booker Road from the Grant/Adams County line to Cunningham Road, then follows Cunningham Road to the east for three miles to the range line separating Ranges 30 and 31 East (Fox Road and its extension) which it follows to the Franklin/Adams County line.
East Columbia Basin Irrigation District (ECBID) Director Divisions
EAST COLUMBIA BASIN IRRIGATION DISTRICT
UPCOMING EVENT & INFORMATION

ECBID irrigation water is pumped from Lake Roosevelt, at Grand Coulee Dam, to Banks Lake, before it travels by gravity for distribution to our landowners. The cost of power for pumping, and the operation and maintenance costs of the John W. Keys III Pump-Generating Plant, establishes our Diversion Rate expense, paid to Reclamation which is applied to each acre-feet we divert for our use. The nearly 70 year old Keys Plant is in the midst of a large modernization effort which has great impact on our costs. Due to our reliability needs we are investing in its upgrade and repair. This massive effort began 5 years ago and will continue for another 10 years. The result is over an 18% increase to the Diversion Rate. This is likely to result in a larger percentage assessment increase in 2020 than the typical 2-3% we’ve been able to maintain recently.

WATER CONSERVATION PROJECTS
The District received a WaterSMART Grant this year to continue our conservation and system upgrade efforts. The District has replaced 103,000 feet of open canals (19 miles) since 2015 saving approximately 4,200 acre-feet annually. Seventeen automated gates have been installed saving another 2,100 acre-feet annually. The District received over $2.4M in grants for these projects and invested $1.9M in District funds to complete the projects.

Development of Odessa Groundwater Replacement (OGWRP) facilities is continuing with efforts from the East District, Ecology’s Office of the Columbia River (OCR), Bureau of Reclamation, and the new delivery system landowners who will receive the water. The Program will replace groundwater diversion with CBP irrigation water for over 87,000 acres.

The legislators; Sen. Warnick, Sen. Schoesler, Rep. Dent, and Rep. Dye have, through OCR, pushed to contribute over $100M in grants for the groundwater replacement program.

Land reclassifications; CBP Inclusions; Applications for CBP water; can be obtained by emailing Odelia at odelindl@ecbid.org

Amendment to the Renewal Master Water Service Contract negotiations continue with the Bureau of Reclamation. The amendment would allow for 70,000 acres of groundwater replacement water plus additional conserved water contracts and some limited excess water availability.

In conjunction with WA State Department of Wildlife, USBR and the WA Department of Ecology, the District is providing water for investigation of rehydrating the Artesian and Black Lakes located near Road “M” and “10” NE in Grant County. This pilot project is attempting to provide open water habitat for wildlife North of the East District’s Broken Rock Siphon.
BOARD OF DIRECTORS

Class 11 - Donna Michelsen, Pres
Class 12 - Bob Rater
Class 13 - Connie Erickson
Class 14 - Virginia Weidenmier, VP
Class 15 - Bob Tatem

BOARD MEETINGS: 10 AM
1st Wednesday of each month

DIVISION ELECTION: December
Sections D: 1st Monday in May
Sections E: 1st Monday in May

AFTER HOURS EMERGENCY CONTACT NUMBERS:
Benny Bakkela (Othello) 509-488-9675
Rick Augaitis (Moses Lake) 509-765-5151
Hatch Water (Moses Lake) 509-765-662
Geordie Hiles (Othello) 509-488-9533
John McCrum 509-765-5000
Cathy Simpson 509-488-9653

EAST COLUMBIA BASIN IRRIGATION DISTRICT
PO BOX E
OTHELLO, WA 99344

WATER ORDERS
Othello 509-488-9675
Moses Lake 509-765-5151

Water orders must be received no later than 3:30 PM for the following day delivery.

Last Saturday Delivery
August 31, 2019

End of Season-ELC Shut-down
October 23, 2019

CELEBRATING 50 YEARS

We invite you to join the District Directors and staff for food and drinks to celebrate the landowners taking over the day-to-day operations & maintenance of the delivery system from USBR.

BLUE HERON PARK along I-90 in Moses Lake
Friday, September 6th, 3:00—7:00 PM

Please RSVP by August 23rd to:
Jennifer at jhubbard@ecbid.org or Dannielle at dwalraf@ecbid.org
(MAIN OFFICE will CLOSE @ 1:00 PM on 9/6)
APPENDIX C – Foster Case – Elections Guidance
102 Wn.2d 395, FOSTER v. IRRIGATION DISTRICT

CITE: 102 Wn.2d 395, 687 P.2d 841

FOSTER v. IRRIGATION DISTRICT

CAUSE NUMBER: 50097-5

FILE DATE: August 30, 1984


[1] Waters and Watercourses - Water Rights - Nature - Transfer of Land. A water right together with its corresponding obligation is an interest in real property which is appurtenant to the land which it benefits and passes with a conveyance of that land.

[2] Waters and Watercourses - Irrigation Districts - Assessments - Nonirrigated Land. An owner of land within an irrigation district cannot escape a minimum operation and maintenance charge under 43 U.S.C. 492 based on the land having become unirrigable if the land had been rendered unirrigable by the action of the landowner's predecessor in interest.

[3] Elections - Constitutional Law - Right To Vote - Special Purpose District - Unequal Voting Rights. The constitutional right of each qualified citizen to have one vote does not apply to the election of representatives in a special purpose district if the district does not possess general governmental powers and the powers it does possess have a disproportionate impact on definable classes of persons within its boundaries.

[4] Elections - Constitutional Law - Right To Vote - Special Purpose District - Statutory Limitation - Validity. Under Const. art. 1, 19, which grants citizens the right to free and equal elections, a court will strictly scrutinize statutory voting limitations applicable to special purpose districts to ensure that all constitutionally qualified citizens who are significantly affected by district decisions are permitted to vote in district elections.

[5] Elections - Waters and Watercourses - Irrigation Districts - Voting Restrictions - Validity. RCW 87.03.045 and .050 violate the constitutional guaranty of free and equal suffrage (Const. art. 1, 19) insofar as they permit owners of land platted or subdivided into residential or business lots not used for agricultural purposes to be excluded from irrigation district elections.

NAMES OF CONCURRING OR DISSENTING JUDGES: Andersen, J., did not participate in the disposition of this case.

NATURE OF ACTION: Owners of residential land within an irrigation district sought a declaration that their land was not subject to irrigation assessments. Pursuant to RCW 87.03.045 and .050, the plaintiffs had been denied the right to vote in irrigation district elections.

Superior Court: The Superior Court for Benton County, No. 81-2-00220-7, Fred R. Staples, J., on May 13, 1982, granted a summary judgment in favor of the irrigation district.

Supreme Court: Holding that a contract for water rights entered into by the plaintiffs' predecessor in interest was binding on the plaintiffs but that the denial of the plaintiffs' right to vote in district elections violated Const. art. 1, 19, the court REVERSES the judgment and GRANTS judgment
requiring the district to return to the plaintiffs the assessments paid during the period they were not permitted to vote in district elections.

COUNSEL:  MICHAEL L. EVERETT and FRANK W. JENNY, for appellants.

CHARLES C. FLOWER, PATRICK ANDREOTTI, and FLOWER & ANDREOTTI, for respondent.

AUTHOR OF MAJORITY OPINION: Utter, J. -
MAJORITY OPINION: Two issues are raised by this appeal from the trial court's grant of defendant/ respondent's motion for summary judgment. First, is a 1915 contract for water rights entered into by appellants' and respondent's predecessors in interest binding on them today? Second, does RCW 87.03.045 and RCW 87.03.050, relating to a voting scheme for the irrigation district, violate Const. art. 1, 19 by infringing on the right of suffrage? We conclude that the 1915 contract is binding on these parties and that RCW 87.03.045 and .050 unconstitutionally infringe upon appellants' right to vote under Const. art. 1, 19.

The facts are basically undisputed. In 1915, appellants' predecessor, R. E. Wise, contracted with the United States government, on behalf of his "heirs, executors, administrators and assigns" for water rights for a 23.8-acre tract he owned in Benton County. The contract was made pursuant to the federal Reclamation Act "and acts amendatory thereof." He agreed to pay annual installments of $52 per acre of irrigable land for construction costs and additional operation and maintenance charges as prescribed by the act.

In 1945, the Sunnyside Valley Irrigation District (SVID) purchased the Sunnyside Canal and its appurtenant works from the United States and assumed its contractual obligations. SEE GENERALLY CARUTHERS v. SUNNYSIDE VLY. IRRIG. DIST., 29 Wn.2d 530, 188 P.2d 136 (1947). It is now successor to the United States with regard to the 1915 Wise contract. Under its agreement with the United States, SVID assumed the obligation to operate and maintain all Reclamation Act irrigation works which extend from the Yakima River to delivery boxes (weirs) within the district. There is one weir available for every 40 acres of irrigable land within the district.

Pursuant to its authority under RCW 87.03.240, SVID assesses landowners within the district for this service based on the availability of irrigation water to each acre multiplied by the number of acres owned plus administration costs. Parcels which are 1 acre or less are assessed a minimum charge based on the "benefit of water available." A weir was located appurtenant to Wise's property.

In 1972, Wise's farmland was subdivided and sold as residential lots. The plat for the subdivision failed to provide for irrigation water rights of way or pipelines to the lots from the weir (which was later required by RCW 58.17.310); consequently, the lots do not have access to the water. Nevertheless they have been, and continue to be, assessed for irrigation.

Appellants purchased property from within that subdivision and petitioned the board of directors of SVID for exclusion of their property from the district. This request has been denied. Appellants are not eligible to vote for members of the board because in 1966 the district adopted a resolution pursuant to RCW 87.03.045 and .050 which provides that holders of title to land platted or subdivided into residential or business lots not being used for agricultural purposes cannot vote in SVID elections.
On August 28, 1981, appellants brought this action to declare RCW 87.03.045 and .050 unconstitutional on the basis they violate due process, equal protection and the right to suffrage and to enjoin SVID from further assessing their property or holding elections without their participation. Cross motions for summary judgment were filed. The trial court granted summary judgment for SVID and denied appellants' motion. Appellants appealed to the Court of Appeals which certified the case to this court.

I

Appellants first challenge the SVID's authority to assess them under RCW 87.03.240. However, we need only reach this issue if we find that appellants are not bound by the terms of the 1915 contract.

The proviso to RCW 87.03.240 states that:

"nothing herein shall be construed to affect or impair the obligation of any existing contract providing for a water supply to lands so assessed, unless the right under such contract shall first have been acquired by said district . . .

Appellants' predecessor, Wise, entered into his contract for irrigation water with the United States in 1915. The proviso to RCW 87.03.240 was first enacted in 1917. If the Wise contract is still binding on appellants it falls within the proviso and is controlling in this case.

The 1915 contract provides, in pertinent part:

"1. I, R.E. Wise, in pursuance of the provisions of the Reclamation Act approved June 17, 1902 (32 Stat., 388), and acts amending thereof, and supplementary thereto, especially the act approved August 9, 1912 (37 Stat., 265) and the act approved August 13, 1914 (Public No. 170) known as the Reclamation Extension Act, all hereinafter called the Reclamation Law, and the rules and regulations established thereunder, do hereby apply on behalf of myself, MY HEIRS, EXECUTORS, ADMINISTRATORS AND ASSIGNS, for a water right for the irrigation of and to be appurtenant to 23.8 acres of irrigable land . . .

2. The measure of the water right for said land is that quantity of water which shall be beneficially used for the irrigation thereof . . .

3. I agree: (a) to pay the annual installments of the construction charge fixed by the Secretary of the Interior in public notice issued in connection with the unit above described on [the] 29th day of February, 1912, at $52.00 per acre of irrigable land, and IN ADDITION THERETO THE ANNUAL CHARGES FOR OPERATION AND MAINTENANCE AS PRESCRIBED BY THE RECLAMATION EXTENSION ACT . . . (b) that the construction charge, and EACH AND ALL OF SAID ANNUAL CHARGES FOR OPERATION AND MAINTENANCE WITH ACCRUED PENALTIES SHALL BE AND THE SAME ARE HEREBY MADE A LIEN UPON THE TRACT OF LAND ABOVE DESCRIBED and all water rights now or hereafter appurtenant or belonging thereto and all improvements now existing or hereafter made thereon . . .

(Italics ours.)

[1] Appellants first contend that the Wise agreement is not a covenant which runs with the land and is not binding on them because privity is lacking in this case. Under Washington law, a water right is considered real property which is appurtenant to and passes with a conveyance of the land
which receives its beneficial use. SEE ICKES v. FOX, 300 U.S. 82, 94, 95, 81 L. Ed. 525, 57 S. Ct. 412 (1937); DRAKE v. SMITH, 54 Wn.2d 57, 337 P.2d 1059 (1959); CARUTHERS v. SUNNYSIDE VLY. IRRIG. DIST., SUPRA; TEDFORD v. WENATCHEE RECLAMATION DIST., 127 Wash. 495, 499, 221 P. 328 (1923); GEDDIS v. PARRISH, 1 Wash. 587, 21 P. 314 (1889).

In both CARUTHERS and TEDFORD, the court considered claims by successors in interest to contracts which conferred specific water rights and imposed obligations upon their predecessors in interest. In each case the court found the contract provisions binding on the successors in interest. CARUTHERS best illustrates the principles applicable here. There, the SVID attempted to charge landowners in excess of the amount they had contracted to pay for water under their original agreements with the United States. SVID had assumed the obligations of the United States when it purchased the irrigation district and the court held that, in assuming these obligations, the SVID had agreed to be bound by the preexisting contracts. It also held that the water rights under the original contract ran with and bound the land.

Under CARUTHERS, the SVID is bound by the 1915 contract between the United States and Wise and must provide water to the weir appurtenant to appellants' property continually. It would be anomalous, indeed, for us to hold that only the benefit of the original contract is applicable to appellants. The SVID is bound by the original contract terms and the appellants are as well.

The cases cited by appellants are distinguishable. In MODEL WATER & LIGHT CO. v. DICKSON, 174 Wash. 164, 24 P.2d 422, 28 P.2d 1119 (1933), the court refused to bind personally a successor to a similar contract where the contract language did not specifically state that the successors were bound to pay assessments. Rather, the court held that the contract operated to impose a lien on the land itself for payment of assessments, but did not bind the successors personally. In contrast, the 1915 Wise contract specifically provided that successors were bound to pay the assessments required under the Reclamation Act. The intention of the original parties to the instant contract and the adequacy of notice to their successors is not at issue here.

A result similar to that in MODEL WATER & LIGHT CO. was reached in FAUGHT v. PLATTE VLY. PUB. POWER & IRRIG. DIST., 155 Neb. 141, 51 N.W.2d 253 (1952), where the court relied, in part, upon the doctrine that "a contract will not be construed as imposing a perpetual obligation when to do so would be adverse to public interests", in holding that a contract giving plaintiff's predecessor access to water was not binding. FAUGHT, at 150. Yet, the main ground upon which the FAUGHT court reached its conclusion, that the district sought retroactively to insert binding provisions into the original contract, is clearly distinguishable here.

The 1915 Wise contract specifically incorporated into its terms the provisions of the 1914 Reclamation Act, 43 U.S.C. 492, which provides, in part:

" In addition to the construction charge, every water right applicant, entryman or landowner under or upon a reclamation project shall also pay, WHENEVER WATER SERVICE IS AVAILABLE FOR THE IRRIGATION OF HIS LAND, an operation and maintenance charge based upon the total cost of operation and maintenance of the project, or each separate unit thereof, and such charge shall be made for each acre-foot of water delivered; BUT EACH ACRE OF IRRIGABLE LAND, WHETHER IRRIGATED OR NOT, SHALL BE CHARGED WITH A
MINIMUM OPERATION AND MAINTENANCE CHARGE BASED UPON THE CHARGE FOR DELIVERY OF NOT LESS THAN ONE ACRE-FOOT OF WATER.

(Italics ours.)

Respondent maintains that the act gives it authority to assess appellants' property regardless of whether it is benefited by the water provided. Appellants, on the other hand, argue that the measure of the assessment that can be imposed upon each acre of land is subject to the actual benefit received. Alternatively they argue that their land is no longer "irrigable" within the meaning of the statute and they should be excused from performance of the contract.

Appellants' position that the act contains an implied condition that the irrigation provided must benefit the land is without support. The specific wording of the act permits a minimum maintenance charge regardless of whether the land is actually irrigated. It has been held that land need not be specifically benefited to be subject to maintenance and operation assessments under this statute. NAMPA & MERIDIAN IRRIG. DIST. v. BOND, 268 U.S. 50, 54, 69 L. Ed. 843, 45 S. Ct. 383 (1925).

There is, however, an express condition within the statute which may no longer be satisfied here. The statute requires that each acre of land subject to a maintenance charge be "irrigable." Irrigable lands have been defined as "lands which by reason of their level, relative to irrigation works, can have water carried over them therefrom by gravity and which, having regard to the character of the soil and of the climate, will be rendered more productive by means of irrigation properly applied in the growing of crops adapted to the locality."

CABELL v. FEDERAL LAND BANK, 173 Or. 11, 23, 144 P.2d 297, 302 (1943); ACCORD, Klamath Irrig. Dist. v. CARLSON, 176 Or. 336, 157 P.2d 514, 517 (1945); SEE ALSO BIDDICK v. LARAMIE VLY. MUN. IRRIG. DIST., 76 Wyo. 67, 299 P.2d 1059, 1064 (1956) (irrigable land means land which is suitable for irrigation and for which irrigation water is available).

In both FAUGHT v. PLATTE VLY. PUB. POWER & IRRIG. DIST., SUPRA, and CABELL v. FEDERAL LAND BANK, SUPRA, contracts for irrigation waters were rescinded when the land became unirrigable. In FAUGHT the groundwater rose and rendered irrigation unnecessary. In CABELL, the land became flooded, largely due to seepage from the irrigation system, and was unfit for irrigation.

Respondent distinguishes both FAUGHT and CABELL on grounds that there, the change in the land's suitability for irrigation was not the fault of the promisor to the contract. In this case, plaintiffs' predecessor chose to subdivide the land.

[2] The doctrine of frustration of performance due to the cessation of a material condition only operates to excuse performance where it is not the fault of a party to the contract. In RE SEC, 142 F.2d 411 (3d Cir. 1944), AFF'D SUB NOM. OTIS & CO. v. SEC, 323 U.S. 624, 89 L. Ed. 511, 65 S. Ct. 483 (1945); BRENNER v. LITTLE RED SCH. HOUSE, LTD., 302 N.C. 207, 274 S.E.2d 206 (1981); 17A C.J.S. CONTRACTS 464, at 622 (1963). Here, there is no dispute that Wise was responsible for subdividing the previously irrigable land into residential property. We do not believe that their predecessor's action should be disregarded and the doctrine applied to circumstances as they are now.
II

Appellants challenge the constitutionality of the district's voting scheme, and of the enabling statute, RCW 87.03.045. They maintain that the scheme violates the equal protection clause of U.S. Const. amend. 14, Const. art. 1, 12, and Const. art. 1, 19, by denying them the right to vote in district elections.

RCW 87.03.045 provides, in pertinent part:

"A person eighteen years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to land in the district or proposed district shall be entitled to vote therein, except that any such person shall only be entitled to vote in a district comprising two hundred thousand or more acres, or in any other district to which this exception is made applicable as hereinafter provided, if he holds title or evidence of title to land other than land platted or subdivided into residence or business lots and not being used for agricultural or horticultural purposes, in which event, in a district comprising two hundred thousand or more acres, he shall be entitled to one vote for the first 10 acres of said land or fraction thereof and one additional vote for all of said land over ten acres.

Lands platted or subdivided into residence or business lots shall not be considered as being used for agricultural or horticultural purposes unless (1) used exclusively for such purposes (2) by the holder of title or evidence of title who shall reside thereon and (3) cultivate said lands as a farmer, gardener, or horticulturist.

RCW 87.03.050 permits districts containing less than 200,000 acres of land to make the restriction of voting rights provided by RCW 87.03.045 applicable to their district. In 1966, SVID passed a resolution adopting RCW 87.03.045.

Under the statute only those landowners whose property is used for agricultural or horticultural purposes may vote, no single landowner can have in excess of two votes (one vote for 1 to 10 acres and an additional vote for all remaining property). Appellants fall within the exception to the statute and are not permitted to cast even a fractional vote for SVID board members.

The right to vote is fundamental under both the United States and Washington Constitutions. REYNOLDS v. SIMS, 377 U.S. 533, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964); MALIM v. BENTHIEH, 114 Wash. 533, 196 P. 7 (1921). The Washington Constitution, unlike the federal constitution, specifically confers upon its citizens the right to "free and equal" elections. Const. art. 1, 19. Because we find that the Washington Constitution goes further to safeguard this right than does the federal constitution, we base our decision here upon the Washington Constitution.

Const. art. 1, 19 provides: "All Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." The Washington Constitution defines qualified electors as:

"All persons of the age of eighteen years or over who are citizens of the United States and who have lived in the state, county, and precinct thirty days immediately preceding the election at which they offer to vote, except those disqualified by Article VI, section 3 of this Constitution, shall be entitled to vote at all elections.

Const. art. 6, 1 (amend. 63).
All idiots, insane persons, and persons convicted of infamous crime unless restored to their civil rights are excluded from the elective franchise.

Const. art. 6, 3. «1»

«1» Originally, the franchise included males 21 years or over and excluded Indians not taxed. Const. art. 6, 1. In 1896, the constitution was amended to require further that all electors be able to read and speak English. Const. art. 6, 1 (amend. 2). In 1910, the franchise was expanded to include women. Const. art. 6, 1 (amend. 5). Finally, in 1974, the minimum voting age was reduced to 18 years or over and both the exclusion of "Indians not taxed" and the requirement that electors be able to read and speak English were deleted.

The meaning of the guaranty to "free and equal" elections can be ascertained, in some measure, by looking to the records of the constitutional convention, and the few cases which have discussed Const. art. 1, 19.

The guaranty that "all Elections shall be free and equal" was adopted from the Oregon Constitution, which was, in turn, adopted from the Indiana Constitution. JOURNAL OF THE WASHINGTON STATE CONSTITUTIONAL CONVENTION, 1889, at 508 n.31 (B. Rosenow ed. 1962). The framers of the Washington Constitution added to this phrase the additional guaranty that "no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." At the convention, there were two motions to replace the word "equal" with an alternative word. Mr. Dyer moved to substitute "open" for "equal." Mr. Reed moved to substitute "impartial" for "equal." Mr. Lindsley moved to strike the entire section. Each of these motions failed. At least one delegate, Mr. Moore, believed that "equal" meant the same thing as "free." JOURNAL, SUPRA at 508.

The earliest case to consider Const. art. 1, 19 was MALIM v. BENTHIEN, SUPRA. There the issue was whether the diking and drainage act of 1913, Rem. Code 4107, unconstitutionally denied persons living outside a water district, but subject to district assessments, the right to vote. The court determined that the only difference between those persons entitled to vote and those not so entitled was that the former group lived within the district's boundaries while the latter lived outside. This distinction lacked sufficient merit to deprive those outside the district of the right to an equal vote under the privileges and immunities clause of Const. art. 1, 12 and Const. art. 1, 19. CF. KING CY. WATER DIST. 54 v. KING CY. BOUNDARY REVIEW BD., 87 Wn.2d 536, 547, 554 P.2d 1060 (1976) (where a voting scheme limiting the right to vote in general municipal elections to city residents under Const. art. 1, 12 was found constitutional, although the municipality managed a water district affecting those outside city boundaries, because adequate safeguards existed to protect those outside the city and "city residents [were] substantially affected by all city actions, not just its management of the water system").

Const. art. 1, 19 was next considered in STATE v. WILSON, 137 Wash. 125, 241 P. 970, 43 A.L.R. 1263 (1925), which involved a criminal action for libel. Defendants, there, had signed a recall petition against a public official containing serious accusations which the trial court found untrue and malicious. They claimed they were immune from prosecution under Const. art. 1, 19. The court responded by setting forth those activities NOT PROTECTED by the provision.
"The provisions of 19, Article I of the constitution, that all elections shall be free and equal, etc., cannot prevent the application of criminal laws to the violation of criminal statutes. THE PROVISION DOES NOT MEAN THAT VOTERS MAY GO TO THE POLLS AT ANY TIME AND VOTE ON ANY QUESTION THEY SEE FIT, but only at the stated times provided by the statutes relating to elections. Neither does it mean that voters, in the free exercise of the right of suffrage, may vote as many times upon any one question or candidacy as they see fit; although a literal construction of the language of 19 might lead to that. IT DOES NOT MEAN THAT ELECTIONS AND VOTERS MAY NOT BE REGULATED AND PROPERLY CONTROLLED. It does not mean that voters may not be prosecuted for violation of any provision of the election laws which they may have violated either before or after such elections. It does not mean that the ordinary penal laws are set aside in favor of the recall laws or the free exercise of the suffrage. Nor, in our opinion, does it mean that voters are given CARTE BLANC the privilege of making any allegations or statements concerning any officer sought to be recalled regardless of the truth or probable truth thereof, and wholly out of malice on the part of the malicious persons as to such officers.

(Italics ours.) WILSON, at 132-33.

One of the latest cases to apply Const. art. 1, 19 is CARSTENS v. PUD 1, 8 Wn.2d 136, 111 P.2d 583, CERT. DENIED, 314 U.S. 667 (1941). There, the Lincoln County public utility district sought to take, by eminent domain, property owned by a private utility company. Plaintiffs owned property in Spokane and Grant Counties which defendant sought to condemn. They claimed, in part, that permitting the district to condemn transmission lines in Spokane and Grant Counties violated Const. art. 1, 19 because persons in those counties were not able to vote on this issue. The court rejected this contention on grounds that persons in those counties had no property or other real interest in the existing service. "The minute losses which the individual customers might suffer as a result of the removal of the property from the tax rolls would probably be counteracted by savings realized in power rates." CARSTENS, at 152. ACCORD, ORCHARD GROVE WATER ASS'N v. KING CY. BOUNDARY REVIEW BD., 24 Wn. App. 116, 120, 600 P.2d 616 (1979) (Const. art. 1, 19 "is violated only when the property rights of persons are affected in more than an incidental way by a municipal corporation in which they have no right to vote").

This history offers several principles applicable here. The right of all constitutionally qualified citizens to vote is fundamental to our representative form of government. In most instances any legislative act which qualifies this right must, under federal law, be based upon a compelling state interest and the state must demonstrate that no less restrictive measures are available to achieve this interest. REYNOLDS v. SIMS, 377 U.S. 533, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964). The language of Const. art. 1, 19 is not to be interpreted literally: "elections and voters may . . . be regulated and property controlled"; in certain limited situations, the right to vote on an issue or for a representative may be confined to those persons directly affected by the issue or representative body. STATE v. WILSON, SUPRA at 132-33.

[3] The United States Supreme Court has departed from the strict 1-person, 1-vote rule of REYNOLDS v. SIMS, SUPRA, where the election of representatives in special purpose municipal districts is concerned. SEE SALYER LAND CO. v. TULARE LK. BASIN WATER STORAGE DIST., 410 U.S. 719, 35 L. Ed. 2d 659, 93 S. Ct. 1224 (1973); BALL v. JAMES, 451 U.S. 355, 68 L. Ed. 2d 150, 101 S. Ct. 1811 (1981). This is due to the limited governmental powers possessed
and exercised by these districts and the disproportionate impact such districts frequently have upon a definable class living within their boundaries.

The supremacy clause, U.S. Const. art. 6, SEE ALSO Const. art. 1, 2, requires that we satisfy the Supreme Court's test for departure from the strict rule of REYNOLDS v. SIMS, SUPRA. It is useful, therefore, to set forth the federal analysis to calm any fears that we might be subverting the federal guaranty under the guise of interpreting our own constitution, rather than going beyond the confines of the federal constitution on state constitutional grounds.

In SALLYER and BALL, the Supreme Court set forth the test for determining when statutes governing the election of representatives in special purpose municipal districts are exempt from the strict scrutiny to which the regulation of voting rights is normally subjected. In each case, the Court looked to whether the type of authority exercised by the limited purpose district was governmental in nature. Factors considered were the district's ability to impose taxes, enact laws governing the conduct of citizens or "administer such normal functions of government as the maintenance of streets, the operation of schools, or sanitation, health, or welfare services." BALL, at 366. Once the Court was satisfied that the district's authority was limited to facilitating a nongovernmental purpose, it inquired only whether the voting scheme at issue was reasonable.

In SALLYER, the Court upheld a statute which gave greater influence in water district elections to those voters most affected by the district's operations. Specifically, the statute permitted only landowners to vote in general district elections and apportioned these votes according to the assessed valuation of the land. The cost of the district's projects were assessed against the land according to the benefits received. The Court reasoned that, because the district exercised little governmental authority, the requirements of REYNOLDS v. SIMS, SUPRA, were inapplicable. It then found the Legislature's apportionment scheme reasonable because the burden of assessments generally impacted landowners unequally, according to the size of their land holdings.

In BALL, the Court considered the nongovernmental activities of the water district and the primary purpose originally served by the district's organization. Once it had characterized the district's primary purpose the Court looked to the persons most significantly impacted by this purpose. The Court held that the federal constitution would permit a franchise limited to those most affected. It then found reasonable and upheld a voting scheme which limited the right to vote in water district elections to landowners and apportioned voting power according to the number of acres owned.

[4, 5] We find the BALL Court's analysis inconsistent with Const. art. 1, 19 as interpreted by MALIM and CARSTENS. The BALL Court's narrow focus upon the original irrigation purpose of the district caused it to recognize only the interests of landowners. Yet the district also generated and supplied electricity to approximately 240,000 consumers and derived 98 percent of its total operating revenue from this activity. Thus, nonlandowners, too, were significantly affected by the district's policies. The cost of the district's "primary function" of providing irrigation water for agriculture was borne by many who had no voice whatever in district policy. BALL, at 381-85 (White, J., dissenting).

While it is consistent with Const. art. 1, 19 to permit limited electoral qualifications in special purpose districts where their activities are largely nongovernmental in nature, and where the issue being voted upon disproportionately affects a definable class, STATE v. WILSON, SUPRA, it
demands that those constitutionally qualified electors who are significantly affected by district decisions be given an opportunity to vote for the representative of their choice in district elections. MALIM v. BENTHIEN, SUPRA. Whether the right to vote is in fact so apportioned is subject to strict judicial scrutiny.

We find that SVID does not possess the general governmental powers which require imposition of the 1-person, 1-vote rule of REYNOLDS v. SIMS, SUPRA. Although the district has broad authority to develop and maintain a system for delivery of irrigation water and generation of electricity, RCW 87.03.015, it is not empowered to impose ad valorem property or sales taxes, enact laws governing the conduct of citizens or administer the normal functions of government.

While the record before us is inadequate to permit a determination of the district's actual impact upon its residents, we note that its statutory authority is broad and its potential impact is great. Appellant residential landowners living within the Wise subdivision are directly and significantly affected by the district's operation. The district's voting scheme has denied them their right to vote in violation of Const. art. 1, 19 and Const. art. 6, 1 (amend. 63). Accordingly, the district must hereinafter permit those citizens living within the Wise residential subdivision to vote in district elections. It must also repay appellants the moneys assessed on their property for the period during which they were denied this right.

Can the district constitutionally accord greater weight to votes cast by some members of the class directly affected by district operations than it does to other members of this class? We find the federal rationale for upholding such voting schemes consistent with Const. art. 1, 19. Such schemes are based upon the allocation of burden upon residents within the district. Those residents receiving more of the burden are entitled to a greater say in the district's operation. SEE, E.G., SALLYER LAND CO. v. TULARE LK. BASIN WATER STORAGE DIST., SUPRA. The allocation reflected in the legislative scheme here is inadequate, however, under Const. art. 1, 19, because it does not account for a class of persons significantly affected by the district's operations. It gives them no voice. Once the Legislature has determined the district's relative impact upon definable classes within its boundaries, it may apportion votes according to this impact.

We hold, therefore, that RCW 87.03.045 violates the Washington constitutional guaranty of free and equal suffrage. The judgment is reversed in part and respondent is ordered to remit to appellants all assessments taken while they were denied the right to vote in district elections.


APPENDIX D – Naches-Selah Irrigation District (NSID) Election Materials
TIMELINE FOR ASSESSMENTS
AND
BOARD OF EQUALIZATION

By Statute, several deadlines need to be met. In addition to that, the Treasurer has deadlines that they require and the Assessor, together with the Planning Department, complicate the process.

Requirements by Statute:
1. On or before the first Tuesday in November, the assessment roll must be completed by the Secretary, delivered to the Board and cause the Board of Equalization to be published. (RCW 87.03.250)
   A. Notice of Board of Equalization must be published in a newspaper that services each county that the District serves. (Yakima Herald Republic). (RCW 87.03.250)
   B. Meeting shall not be less than 20 nor more than 30 days from the first date of publication. (RCW 87.03.250)
   C. Assessment roll must remain in office for any one to inspect. (RCW 87.03.250)
2. Board of Equalization set to hear objections to assessments and determine if such assessments may become equalized or adjusted. The Board may continue in session up to 10 days to hear any objections as necessary. (RCW 87.03.255)
3. Assessment roll must be turned into County Treasurer by January 15.

Requirements by Treasurer:
1. Treasurer’s Office will issue a memo mid-November notifying what format the assessment roll is to be submitted to them.
2. Treasurer’s Office will give deadline for test assessment roll. Usually 1½ weeks into December. They will let you know of any inactive parcels in your roll. This is known as parcels that “fall out.”
3. The memo will give the due date for the final assessment roll. Usually it is the day before our Board Meeting for some reason.
4. The Resolution Certifying the Assessment Roll is signed by the Board at the December Board Meeting. Any changes that affect a minimum delivery or a dollar amount change requires a new Resolution. May have to work with Treasurer’s Office to accept Resolution a day late or get Board to come in & sign updated Resolution.

Challenges by Planning and Assessor’s Offices:
1. The Planning Dept. will process every segregation/SSE/BLA/merge that it possibly can up through the last working day in December.
2. The Assessor’s Office then has to process all of those changes because they take effect in the next fiscal year, i.e. January.
3. Any of these changes that affect NSID parcels have to be updated in the assessment roll prior to the final submission to the Treasurer’s Office. Trying to contact an owner for information on processing can be challenging.

Last Updated 06/27/2018
4. The Resolution Certifying the Assessment Roll is signed by the Board at the December Board Meeting. Any changes that affect a minimum delivery or a dollar amount change requires a new Resolution.

Working Timeline in Office
Note: Starting in September, check the Assessor Site for District Segregations frequently. Start weekly at first, going to daily in December. These need to be kept current.

Board of Equalization is always 9:30 am at the December Board Meeting. In September-October, start checking with Directors to be certain that they be attending. After these Notices are published, it’s not fun posting revisions.

1. Budget year runs October – September. Start working with District Manager in August on budget and potential assessment rates.
   A. Try to get on September agenda if possible.

2. Ideally, Board will approve budget September. The budget needs to be approved before the assessment rate will be set. Sometimes, budget is not approved until October.

3. Get the Newsletter out prior to deadline for Board of Equalization notice. It can be printed in the Newsletter. (Usually try to get out in late September – October).

4. As soon as assessment roll has been set, run the preliminary assessment roll for the October Board Meeting or as soon thereafter as possible.
   A. It officially has to be set at the November Board Meeting. Always 9:30 am at December Board Meeting.

5. Post Notice of Board of Equalization in Yakima Herald Republic in November not later than 20 days before the Board Meeting and not sooner than 30 days. Usually post around the 15th of month.
   A. Send to the Yakima Herald Legal Notices. Has to be submitted at least 2 business days prior to publication.
   B. Be sure to request an Affidavit of Publication.
   C. Post a copy of the notice on the office bulletin board.

5. When ready in November, send test assessment roll to Treasurer’s Office. Usually, the sooner the better in case any issues need to be resolved.

6. Prepare Resolution for Certification of Assessment Roll for signatures at December Board Meeting.

7. In January when Treasurer advises all changes have been made by Assessor’s Office, run clean assessment roll, submit with Resolution by deadline.

Last Updated 06/27/2018
APPENDIX E – South Columbia Basin Irrigation District (SCBID) Materials
2018

ELECTION TIME LINE

1. At the September board meeting, review which directors are up for election (Lyall and Alford in 2018). Distribute petitions to the directors seeking reelection. Remind them that petitions must be submitted by the first Monday in November (November 5). [Karin]

2. In early October, send blank petitions to the appropriate Watermaster location, and put blank petitions at the front counter. [Karin]

3. The first Monday in November (November 5) collect the petitions. The petition must have 10 validated signatures, but it would be prudent to obtain more than 10. Verify signatures [Kathy]. If there are no other candidates, issue a Certificate of Election at the November 15 board meeting. [Karin]

4. Immediately after the November 15 board meeting, advertise the board of equalization in the Franklin County Graphic (official county newspaper) and the Tri-City Herald (Karin gives this form to Kathy to publish). Ads must begin running at least 20 but not more than 30 days before the December 13 board meeting (20 days would be November 23). [Kathy] If there will be no election proceed to #19.

5. If there are two candidates, proceed with the election. Provide each candidate with a list of landowners in his director division. [Kathy]

6. Election will be held on the second Tuesday in December (December 11).

7. Order ballots. [Kellie]

8. Prior to the November 15 board meeting, recruit three to five precinct residents to serve as an election board. [Kellie]

9. At the November 15 board meeting designate the polling place, appoint the election board (above), present the assessment roll, set the date for the board of equalization (usually runs concurrently with the December meeting, depending on the date [board meeting will be December 13]), and set the canvassing board meeting date on the first Monday after the election (December 17).

10. Advertise the election for three weeks prior to the December 11 election (begin November 20). [Kathy]

11. Send out an absentee voter application to anyone requesting one. Once the application is returned, verify and send out an absentee voter packet. Verify which ballot to send according to the acres owned. [Kellie]

12. Post the Notice of Election 15 days prior to the election (November 26). [Kellie]

13. Print the voter's pre-list and two poll books for each director division. [Kellie]

14. Hold the election board meeting one week prior to the election (December 4).

15. Hold the canvassing meeting the first Monday after the election (December 17).

16. Prepare the statement of results. [Karin]

17. Prepare the Declaration of Election. [Karin]

18. Process payment vouchers for the election board. [Kellie]

19. Prepare an Oath of Office to present to the new or reelected director at the January meeting (January 10). [Karin]

20. Put the bond in place for the new or reelected director (January 1). [Kathy]
APPENDIX F – Sunnyside Valley Irrigation District (SVID)
Election Materials
SECTION 3: AUTHORITY OF DISTRICT

A. Sunnyside Valley Irrigation District has been organized and is operating under the laws of the State of Washington pertaining to the organization and operation of irrigation districts, Title 87 R.C.W. and other pertinent State and Federal statutes. The District and its Board of Directors is given the authority and power, as set forth in said statutes, to adopt Bylaws, Rules, and Regulations for the government and management of the District and its water supply and distribution system.

B. The District is a government entity and is not privately owned or operated for profit but is operated by the landowners of the District for their mutual benefit. Consistent therewith, it is necessary and desirable that certain Bylaws, Rules, and Regulations be adopted, and it is for the best interest of all landowners that these be observed and enforced in order to make possible the most efficient and economical water service.

C. These Bylaws, Rule, and Regulations shall take effect forthwith upon adoption and they shall be printed thereafter in convenient form so as to be available for the inspection and for distribution to those landowners requesting same. A copy shall be on file at the District office.

SECTION 4: DISTRICT OFFICE

The headquarters of the District and principal place of business shall be in the City of Sunnyside, Yakima County, state of Washington. The office shall be located at the corner of 11th and Blaine Avenue, mailing address P.O. Box 239, Sunnyside. Washington 98944, until further ordered by the Board of Directors.

SECTION 5: VOTING RIGHTS OF LANDOWNERS

A. ELIGIBILITY

A person eighteen years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to assessable land in the District shall be entitled to vote therein, and to be recognized as an elector.

B. VOTING RIGHTS

Each ownership shall have two votes for each five acres of assessable land or fraction thereof.

C. COMMUNITY PROPERTY QUALIFICATIONS
Where the title or evidence of title to land is held as community property, the accumulated votes shall be split equally between husband and wife.

D. CORPORATION VOTING

E. At any election, one officer, or agent of any corporation owning land in the District, duly authorized thereto in writing, may cast the appropriate number of votes on behalf of said corporation. When so voting he shall file with the election officers such written instrument of authority, and such officer or agent shall be deemed an elector. Standard forms for the Corporate Instrument of Authority are available at the District office.

F. ELECTORS OWNING LAND IN MORE THAN ONE DIRECTOR DIVISION

An elector holding title to, or evidence of title to land in more than one director division shall be considered an elector of the director division nearest his place of residence.

G. COMMON AGREEMENTS

H. The ballots cast for each ownership of land held jointly may be allocated by a Common Agreement between electors. Except for community property ownership, in the absence of the submission of the Common Agreement to the Secretary of the District or the election board, the first elector to appear on Election Day shall be recognized as the elector having authority to cast the ballots for the ownership for which there is more than one interest.

SECTION 6: ELECTIONS

A. TERMS OF OFFICE

B. The District shall have five directors. Each director’s term of office shall be for three years, commencing on the first Tuesday of January following his election. Each director must qualify as an elector (see Section 3 of these Bylaws) of the director division for which he files for office.

C. CANDIDATES AND NOMINATING PETITION

D. Each candidate for election to the position of director must be nominated by a petition signed by at least ten qualified electors of the director division for which the candidate is filing. The Nominating Petition must be filed with the District Secretary no later than five o’clock p.m. on the first Monday in November. The election shall be held on the second Tuesday of each December; provided, however, that if only one candidate is nominated for a director position, no election shall be held for that director division but said candidate shall be declared elected to the Board of Directors.
E. ELECTION NOTICES

F. The Secretary of the District shall cause notices to be posted fifteen (15) days before any
election in three (3) public places in the director division, and also in the District office.
The notice shall include the time of the election and the location of the polling place.

G. ELECTION OFFICIALS

The Board shall appoint one inspector and two judges for each director division from the
electors thereof, who shall constitute a board of election and the election for such director
division.

H. DIRECTOR DIVISIONS

The District shall be divided into five director divisions, the boundaries of each being
described as follows:

DIVISION No. 1: From Sunnyside Dam to Pipeline Road north of Gap Road.

DIVISION No. 2: From Pipeline Road to the Sunnyside-Mabton Highway north of Gap
Road and east from the Yakima River to the Sunnyside-Mabton Highway south of Gap
Road and north of Green Valley Road.

DIVISION No. 3: From the Sunnyside-Mabton Highway to the Wilson Highway north of
the Yakima River.

DIVISION No. 4: From the Wilson Highway to Hinzerling Road north of the Old Inland
Empire Highway and from Hinzerling Road to the end of the District north of the Yakima
River.

DIVISION No. 5: From the Yakima River to the northeast to Sunnyside-Mabton
Highway south of Green Valley Road, from the Wilson Highway to Hinzerling Road
south of Old Inland Empire Highway north of the Yakima River, and all District lands
south of the Yakima River.

I. VOTING

Voting shall be by ballot. Ballots shall be of uniform size and quality, provided by the
District, and for the election of directors, shall contain only names of the candidates who
have filed with the Secretary of the District a Petition of Nomination. Ballots shall
contain space for sticker voting and for writing in the name of an undeclared candidate.
DIRECTOR ELECTION DIVISION NO. 4

Date

ABSENTEE VOTER'S APPLICATION

To: Secretary, Sunnyside Valley Irrigation District

From: ____________________________

Name

______________________________

Address

Subject: Request for Absentee Ballots

I cannot conveniently be present at my election precinct on the day of the director election and request an absentee ballot.

______________________________

Signature
ABSENTEE VOTING INSTRUCTIONS

An absentee ballot will be furnished to any person who prior to the date of election makes a written request to the District Secretary, stating that he is a qualified elector.

After voting, the ballot must be sealed in an unmarked envelope and delivered to the District’s office prior to the close of the polls on election day; or be sealed in an unmarked envelope, then placed in another envelope along with the Certification of Qualification and mailed to the District Secretary, postmarked no later than midnight of election day and received by the Secretary within five days of that date.

The sealed envelope containing the ballot must be accompanied by a certificate of qualifications stating the name of voter, age, citizenship, residence, that he holds title or evidence of title to lands within the District which, under RCW 87.01.045 entitles him to vote in the election, and that he cannot conveniently be present to cast his ballot at the polling place in the election precinct on election day. (Do not include certificate of qualification in unmarked envelope with ballot, but it must accompany the unmarked envelope in which the ballot is placed.)

Statements in the certificate of qualifications shall be certified as correct by the voter by affixing his signature thereto in the presence of a witness who is acquainted with the voter, and the voter shall enclose and seal his ballot in the unmarked envelope in the presence of this witness but without disclosing his vote. The witness, by affixing his signature to the certificate of qualification, shall certify that he is acquainted with the voter, that the voter enclosed and sealed his ballot in the unmarked envelope without disclosing his vote and affixed his signature to the certificate of qualification in the presence of the witness.

Where land is community property both the husband and wife may vote if otherwise qualified, however both husband and wife must make written requests for absentee ballots.

Envelope #1

Put only the marked ballot in this envelope and seal. Then place this envelope in envelope #2 along with the Certification of Qualification.

Envelope #2

Sunnyside Valley Irrigation District
Address
City, State, Zip
EXAMPLE

SUNNYSIDE VALLEY IRRIGATION DISTRICT

AFFIDAVIT OF POSTING NOTICE OF ELECTION AND
NOTICE OF CANVASS

DIRECTOR ELECTION DISTRICT NO. 4 – DECEMBER 14, 2004

STATE OF WASHINGTON )
COUNTY OF YAKIMA ) ss.

Ken Ott, duly appointed, qualified and acting as the District Water Master of the Sunnyside Valley Irrigation District, being first duly sworn, on oath deposes and says:

That, on the 1 day of December, 2004, he duly posted notices of election, a true copy of which is affixed hereto, in three public posting places within the Irrigation District at the following locations:

1. Grandview City Hall
2. Benton County Maintenance Facility
3. Prosser City Hall

That he also posted a Notice of Election on the bulletin board of the office of said District in Sunnyside, Yakima County, Washington, on the same day, to-wit:

__________________, __, 2004.

District Water Master

Subscribed and sworn to before me this ___ day of ____________, 2004

_________________
NOTARY PUBLIC in and for the State of Washington residing at ____________
CERTIFICATE OF ELECTION

STATE OF WASHINGTON )
COUNTY OF ____________ ) ss.

THIS IS TO CERTIFY that, being duly elected by the qualified electors of the
Sunnyside Valley Irrigation District, on December ____ , 20__, you were, on the ___ day
of December, 20__, by the Board of Directors of the said District, found and determined
to be elected to the office of DIRECTOR of the said District, for a term of 3 years,
commencing on the 1st day of January, 20__.

IN WITNESS WHEREOF, I have hereto set my hand and
affixed the official seal of the Sunnyside Valley Irrigation
District this ____ day of December, 20__.

____________________________________
Secretary
Sunnyside Valley Irrigation District
Example

DIRECTOR ELECTION DIVISION NO. 4
ELECTOR PRE-QUALIFICATION FORM

______________________________
Name

______________________________
Address

______________________________
City, State, Zip

___  ___  I am a United States Citizen.
yes  no

___  ___  I am a resident of the State of Washington.
yes  no

___  ___  I am at least 18 years old.
yes  no

OWNERSHIP STATUS

___  Corporation – Requires Instrument of Authority

___  Community Property – Voting on behalf of a spouse requires a Common Agreement

___  Sole and Separate Property

___  Partnership – Voting on behalf of entire ownership requires a Common Agreement.

___  Other __________________

specify
DIRECTOR ELECTION DIVISION NO. 4

Date

ABSENTEE VOTER’S APPLICATION

To: Secretary, Sunnyside Valley Irrigation District

From: ____________________________
       Name ____________________________
       Address ____________________________

Subject: Request for Absentee Ballots

I cannot conveniently be present at my election precinct on the day of the director election and request an absentee ballot.

______________________________________________
Signature
EXAMPLE

CERTIFICATION OF QUALIFICATION
TO VOTE BY ABSENTEE BALLOT

STATE OF WASHINGTON )
COUNTY OF __________ )

I, ____________________________ , do hereby certify that, I am over the age of 18 years, a citizen of the United States and a resident of the State of Washington, living at ____________________________, ________________, hold title or evidence of title to the following described land ____________________________

__________________________
within Sunnyside Valley Irrigation District No. 4 which, under RCW 87.03.045, entitles me to vote in the election, and that it is not convenient to be present to cast my ballot at the polling place in the election precinct on election day; therefore I am casting my vote by absentee ballot.

Dated this ____________ day of ____________, 2004.

__________________________
Signature of landowner voting by absentee ballot

CERTIFICATE OF WITNESS

STATE OF WASHINGTON )
COUNTY OF __________ )

I, ____________________________ , do hereby certify that I am acquainted with the above voter, that he/she enclosed and sealed his/her ballot in the unmarked envelope without disclosing their vote and affixed their signature to the certificate of qualification in my presence.

Dated this ______ day of ____________, 2004.

__________________________
Signature of Witness
ABSENTEE VOTING INSTRUCTIONS

An absentee ballot will be furnished to any person who prior to the date of election makes a written request to the District Secretary, stating that he is a qualified elector.

After voting, the ballot must be sealed in an unmarked envelope and delivered to the District’s office prior to the close of the polls on election day; or be sealed in an unmarked envelope, then placed in another envelope along with the Certification of Qualification and mailed to the District Secretary, postmarked no later than midnight of election day and received by the Secretary within five days of that date.

The sealed envelope containing the ballot must be accompanied by a certificate of qualifications stating the name of voter, age, citizenship, residence, that he holds title or evidence of title to lands within the District which, under RCW 87.01.045 entitles him to vote in the election, and that he cannot conveniently be present to cast his ballot at the polling place in the election precinct on election day. (Do not include certificate of qualification in unmarked envelope with ballot, but it must accompany the unmarked envelope in which the ballot is placed.)

Statements in the certificate of qualifications shall be certified as correct by the voter by affixing his signature thereto in the presence of a witness who is acquainted with the voter, and the voter shall enclose and seal his ballot in the unmarked envelope in the presence of this witness but without disclosing his vote. The witness, by affixing his signature to the certificate of qualification, shall certify that he is acquainted with the voter, that the voter enclosed and sealed his ballot in the unmarked envelope without disclosing his vote and affixed his signature to the certificate of qualification in the presence of the witness.

Where land is community property both the husband and wife may vote if otherwise qualified, however both husband and wife must make written requests for absentee ballots.

<table>
<thead>
<tr>
<th>Envelope #1</th>
<th>Envelope #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Put only the marked ballot in this envelope and seal. Then place this envelope in envelope #2 along with the Certification of Qualification.</td>
<td>Sunnyside Valley Irrigation District Address City, State, Zip</td>
</tr>
</tbody>
</table>
EXAMPLE

SUNNYSIDE VALLEY IRRIGATION DISTRICT

AFFIDAVIT OF POSTING NOTICE OF ELECTION
AND
NOTICE OF CANVASS

DIRECTOR ELECTION DISTRICT NO. 4 – DECEMBER 14, 2004

STATE OF WASHINGTON )
                    ) ss.
COUNTY OF YAKIMA   )

Ken Ott, duly appointed, qualified and acting as the District Water Master of the Sunnyside Valley Irrigation District, being first duly sworn, on oath deposes and says:

That, on the 1 day of December, 2004, he duly posted notices of election, a true copy of which is affixed hereto, in three public posting places within the Irrigation District at the following locations:

1. Grandview City Hall
2. Benton County Maintenance Facility
3. Prosser City Hall

That he also posted a Notice of Election on the bulletin board of the office of said District in Sunnyside, Yakima County, Washington, on the same day, to-wit:

___________, __, 2004.

________________________________
District Water Master

Subscribed and sworn to before me this ___ day of __________, 2004

________________________________
NOTARY PUBLIC in and for the State of Washington residing at __________
CERTIFICATE OF ELECTION

STATE OF WASHINGTON )
COUNTY OF __________ ) ss.

THIS IS TO CERTIFY that, being duly elected by the qualified electors of the Sunnyside Valley Irrigation District, on December ___, 20__, you were, on the ___ day of December, 20___, by the Board of Directors of the said District, found and determined to be elected to the office of DIRECTOR of the said District, for a term of 3 years, commencing on the 1st day of January, 20__.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the Sunnyside Valley Irrigation District this ___ day of December, 20__.

__________________________
Secretary
Sunnyside Valley Irrigation District
DIRECTOR ELECTION DIVISION NO. 4
ELECTOR PRE-QUALIFICATION FORM

______________________________
Name

______________________________
Address

______________________________
City, State, Zip

____  ____ I am a United States Citizen.
yes   no

____  ____ I am a resident of the State of Washington.
yes   no

____  ____ I am at least 18 years old.
yes   no

OWNERSHIP STATUS

____ Corporation – Requires Instrument of Authority

____ Community Property – Voting on behalf of a spouse requires a Common Agreement

____ Sole and Separate Property

____ Partnership – Voting on behalf of entire ownership requires a Common Agreement.

____ Other __________________________
   specify
DIRECTOR ELECTION DIVISION NO. 4

Date

ABSENTEE VOTER’S APPLICATION

To: Secretary, Sunnyside Valley Irrigation District

From: ___________________________

Name

______________________________

Address

Subject: Request for Absentee Ballots

I cannot conveniently be present at my election precinct on the day of the director election and request an absentee ballot.

______________________________

Signature
EXAMPLE

CERTIFICATION OF QUALIFICATION
TO VOTE BY ABSENTEE BALLOT

STATE OF WASHINGTON )
) COUNTY OF _________ )

I, ____________________________, do hereby certify that, I am over the age of 18 years, a citizen of the United States and a resident of the State of Washington, living at ______________________, __________________________, hold title or evidence of title to the following described land ____________________________ within Sunnyside Valley Irrigation District No. 4 which, under RCW 87.03.045, entitles me to vote in the election, and that it is not convenient to be present to cast my ballot at the polling place in the election precinct on election day; therefore I am casting my vote by absentee ballot.

Dated this ____________ day of ____________, 2004.

Signature of landowner voting by absentee ballot

CERTIFICATE OF WITNESS

STATE OF WASHINGTON )
) COUNTY OF _________ )

I, ____________________________, do hereby certify that I am acquainted with the above voter, that he/she enclosed and sealed his/her ballot in the unmarked envelope without disclosing their vote and affixed their signature to the certificate of qualification in my presence.

Dated this ______ day of ____________, 2004.

Signature of Witness
ABSENTEE VOTING INSTRUCTIONS

An absentee ballot will be furnished to any person who prior to the date of election makes a written request to the District Secretary, stating that he is a qualified elector.

After voting, the ballot must be sealed in an unmarked envelope and delivered to the District’s office prior to the close of the polls on election day; or be sealed in an unmarked envelope, then placed in another envelope along with the Certification of Qualification and mailed to the District Secretary, postmarked no later than midnight of election day and received by the Secretary within five days of that date.

The sealed envelope containing the ballot must be accompanied by a certificate of qualifications stating the name of voter, age, citizenship, residence, that he holds title or evidence of title to lands within the District which, under RCW 87.01.045 entitles him to vote in the election, and that he cannot conveniently be present to cast his ballot at the polling place in the election precinct on election day. (Do not include certificate of qualification in unmarked envelope with ballot, but it must accompany the unmarked envelope in which the ballot is placed.)

Statements in the certificate of qualifications shall be certified as correct by the voter by affixing his signature thereto in the presence of a witness who is acquainted with the voter, and the voter shall enclose and seal his ballot in the unmarked envelope in the presence of this witness but without disclosing his vote. The witness, by affixing his signature to the certificate of qualification, shall certify that he is acquainted with the voter, that the voter enclosed and sealed his ballot in the unmarked envelope without disclosing his vote and affixed his signature to the certificate of qualification in the presence of the witness.

Where land is community property both the husband and wife may vote if otherwise qualified, however both husband and wife must make written requests for absentee ballots.

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<th>Envelope #1</th>
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<tr>
<td>Put only the marked ballot in this envelope and seal. Then place this envelope in envelope #2 along with the Certification of Qualification.</td>
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<table>
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<tr>
<th>Envelope #2</th>
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<tr>
<td>Sunnyside Valley Irrigation District Address City, State, Zip</td>
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</table>
EXAMPLE
SUNNYSIDE VALLEY IRRIGATION DISTRICT

AFFIDAVIT OF POSTING NOTICE OF ELECTION
AND
NOTICE OF CANVASS

DIRECTOR ELECTION DISTRICT NO. 4 – DECEMBER 14, 2004

STATE OF WASHINGTON )
) ss.
COUNTY OF YAKIMA )

Ken Ott, duly appointed, qualified and acting as the District Water Master of the Sunnyside Valley Irrigation District, being first duly sworn, on oath deposes and says:

That, on the 1 day of December, 2004, he duly posted notices of election, a true copy of which is affixed hereto, in three public posting places within the Irrigation District at the following locations:

1. Grandview City Hall
2. Benton County Maintenance Facility
3. Prosser City Hall

That he also posted a Notice of Election on the bulletin board of the office of said District in Sunnyside, Yakima County, Washington, on the same day, to-wit:

___________, __, 2004.

________________________________________
District Water Master

Subscribed and sworn to before me this ___ day of ____________, 2004

________________________________________
NOTARY PUBLIC in and for the State of Washington
residing at ______________
CERTIFICATE OF ELECTION

STATE OF WASHINGTON )
                     ) ss.
COUNTY OF _________ )

THIS IS TO CERTIFY that, being duly elected by the qualified electors of the Sunnyside Valley Irrigation District, on December ___, 20__, you were, on the ___ day of December, 20___, by the Board of Directors of the said District, found and determined to be elected to the office of DIRECTOR of the said District, for a term of 3 years, commencing on the 1st day of January, 20__.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the Sunnyside Valley Irrigation District this ___ day of December, 20__.

______________________________________________________________
Secretary
Sunnyside Valley Irrigation District
EXAMPLE

POLL BOOK
DIRECTOR DIVISION NO. 4

ELECTION OF DIRECTOR OF
SUNNYSIDE VALLEY IRRIGATION DISTRICT

December 14, 2004

(This copy to be filled in and returned to office)
STATE OF WASHINGTON )
COUNTY OF___________) SS

I, ________________________, do swear that I am the duly appointed Inspector of Director Division No. 4; that I will attend the ensuing ELECTION OF DIRECTOR OF THE SUNNYSIDE VALLEY IRRIGATION DISTRICT during the continuance thereof, as an Inspector, and that I will not receive any ticket or vote from any person other than such as I shall firmly believe to be, according to the provisions of the laws of this state, entitled to vote at such election, without requiring such evidence of the right to vote as is directed by law; nor will I vexatiously delay, or refuse to receive any vote from any person whom I shall believe to be entitled to vote as aforesaid; but I will in all things, truly, impartially and faithfully perform any duty therein to the best of my judgement and ability; and that I am not, directly or indirectly interested in any bet or wager on the results of this election.

__________________________________
INSPECTOR

Subscribed and sworn to before me this _______ day of December 2004.

__________________________________
JUDGE
STATE OF WASHINGTON 
COUNTY OF ________

We, ___________________________ and ___________________________, do swear that we are the duly appointed Judges of Director Division IV; that we will duly attend the ensuing ELECTION OF DIRECTOR OF THE SUNNYSIDE VALLEY IRRIGATION DISTRICT, during the continuance thereof, and faithfully assist the Inspector in carrying on the same; that we will not give our consent that any vote or ticket shall be received from any person other than as we firmly believe to be, according to the law of this state, entitled to vote at such election; and that we will make a true and perfect return of the said election, and will in all things truly, impartially and faithfully perform our duty respecting the same to the best of our judgement and abilities; and that we are not, directly or indirectly interested in any bet or wager on the results of this election.

_________________________
JUDGE

_________________________
JUDGE

Subscribed and sworn to before me this _____ day of December, 2004.

_________________________
INSPECTOR
I, the undersigned, hereby certify that I have title or evidence of title to land within the Sunnyside Valley Irrigation District, and am qualified to vote at the election for Director Division No. 4 in said district on December 14, 2004.

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Sunnyside Valley Irrigation District

TALLY
Director Election
December 14, 2004
Director Division 4

<table>
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<tr>
<th>Candidate: Michael Hogue</th>
<th>Candidate: Roy Clifford</th>
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CERTIFICATE

SUMMARY OF VOTES CAST AT THE ELECTION OF DIRECTOR DIVISION NO. 4 OF SUNNYSIDE VALLEY IRRIGATION DISTRICT

DECEMBER 14, 2004

<table>
<thead>
<tr>
<th>NAMES OF CANDIDATES VOTED ON FOR THREE YEAR TERM</th>
<th>NUMBER OF VOTES RECEIVED (to be written both in words and figures)</th>
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We, the undersigned officers of Director Division No. 4, of the ELECTION OF DIRECTOR DIVISION NO. 4 OF SUNNYSIDE VALLEY IRRIGATION DISTRICT, held Tuesday, December 14, 2004, in ________________, in said district, do hereby certify that the foregoing is true and correct return of the said election in said division, showing the number of votes cast for said candidates, and the name of the persons voting at said election.

WITNESS our hands this ________ day of December ____, 2004.

__________________________
INSPECTOR

__________________________
JUDGE

__________________________
JUDGE
SUNNYSIDE VALLEY IRRIGATION DISTRICT

INSTRUCTIONS TO ELECTION BOARD

1. **POLLS:** The polls must be opened at 1:00 p.m. and be kept open until 8:00 p.m., at which time they must be closed (87.03.090).

2. **APPOINTMENTS:** If the Board of Directors fails to appoint a board of election, or the members appointed are not present at the opening of the polls, the electors of the precinct present at that hour may appoint the board or any member thereof (87.03.085).

3. **OATHS TO BE TAKEN:** Before opening the polls each member of the Election Board must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath.

4. **ORGANIZATION:** The inspector is chairman of the Election Board.

5. **VOTING:** Voting may commence as soon as the polls are opened, and shall continue during all the time the polls remain open (87.03.090).

6. **BALLOTS:** Ballots shall be allocated based on size of ownership interest. Each ownership will be entitled to two votes per five acres or fraction thereof.

7. **INDIVIDUAL:** An elector owning property as his/her sole and separate property shall be entitled to cast two votes for each five acres of ownership or fraction thereof.

8. **HUSBAND AND WIFE:** When an ownership is held as community property, each spouse shall be entitled to cast half of the votes. Either spouse may vote on behalf of both spouses by submitting a common agreement.

9. **PARTNERSHIPS:** The owners will provide a common agreement indicating who shall cast the votes. In the event no common agreement is submitted, the election board will ask the first elector to appear on election day if he as the authority to cast all the ballots for that ownership.

10. **CORPORATION:** An agent of a corporation organized under the laws of the State of Washington owning land in the District may cast votes according to ownership size on behalf of the corporation by filing with the election board his/her instrument of authority. In the absence of the instrument, the agent may vote on a challenged ballot and provide the instrument of authority to the District no later than the meeting to canvass the returns.

11. **WHERE TO VOTE:** An elector shall be considered an elector in the Director Division in which he owns land. If he owns land in two or more Director Divisions he shall be considered an elector in the one closest to his place of residence. A corporation's representative shall vote in the Director Division where the corporate ownership is held. If land is owned in two or more Director Divisions, the representative shall vote in the Director Division closest to the corporation headquarter’s mail deposit.

12. **COUNTING VOTES:** As soon as the polls are closed, the judges shall open the ballot box and commence counting the votes; in no case shall the ballot box be removed from the room in which the election is held until all the ballots have been counted. The counting of ballots shall be public (87.03.095).
13. **RECORDING COUNT:** The ballots shall be taken out, one by one, by the inspector or one of the judges, who shall open them and read aloud the name of the candidate and the number of votes contained thereon. The number of votes shall be kept by tallies as they are read aloud by one of the inspectors or the judge. The counting of votes shall be continued without adjournment until all have been counted.

14. **RETURNS:** As soon as all the votes are read off and counted, certificates shall be drawn stating the number of votes each candidate received, which number shall be written in figures and in words at full length. Each certificate shall be signed by the judges and inspector (87.03.100).

15. **RETURNS - HOW DISPOSED OF:** One of said certificates shall be retained by the inspector and preserved by her or him at least six months. The ballots, together with another of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and endorsed “Election returns of (naming precinct)”, and be directed to the Secretary of the Board of Directors, and shall be immediately delivered by the inspector to said Secretary, and the ballots shall be kept unopened for at least six month, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he or she may appear on the day appointed for the Board of Directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

16. **NO REJECTION FOR WANT OF FORM:** No list, tally paper or certificate returned from any election board shall be set aside or rejected for want of form if it can be satisfactorily understood.

17. **MEETING TO CANVAS RETURNS:** The Board of Directors must meet at its usual place of meeting on the first Monday after election to canvass the returns. The Canvass Board shall review the challenged ballots and add those of them approved to the election returns.

18. **POLL BOOK:** The poll book must be signed by each voter.

19. **VOTING PROCEDURES:**

   a. The landowner will announce his name and the election board will check to see if he is in the precinct list.

   b. The landowner will be asked to read the voter qualifications and the statement at the top of the Poll Book signature sheet.

   c. The elector will be asked if the ownership is community property. If so, the votes will be split equally between the spouses.

   d. The landowner will be asked to sign the Poll Book and a check mark will be made by his name in the Precinct List.

   e. If the landowner is voting on behalf of an ownership of community property, he will be given ballots for one-half (1/2) of the ownership allocation. The landowner may cast all of the votes for the ownership if he has a signed common agreement.
f. If the landowner is voting on behalf of a multiple ownership and no common agreement is on file, he may cast all of the votes for the ownership.

g. Any person who appears to vote and whose name does not appear on the Precinct List shall be questioned by the Election Board. If the Election Board believes there is a reasonable chance the person is a qualified elector, he will be issued a Challenged Ballot packet and permitted to vote. The voter will place his ballot (s) in a blank envelope. The blank envelope will be placed in another envelope, together with a Certificate of Qualification to vote. This packet will be set aside and reviewed by the Canvass Board. If the Canvass Board accepts the voter eligibility, the ballot (s) will be counted and added to the returns.

h. If the Election Board is in need of additional supplies or have questions, an SVID employee will be ready to assist you.
VOTERS' COMMON AGREEMENT

The undersigned agree that for the following ownership,

________________________________________________________________________

having a total assessable acreage of _______ acres and an allocation of _______ votes, the votes shall be allocated as follows:

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<th>Elector</th>
<th>Votes</th>
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Date: ___________________________  Signed: ___________________________

________________________________________________________________________

Witnessed:

________________________________________________________________________

N:\WORD\OFFICE\theresa\Templates for Director Elections\Voters Common Agreement.doc
QUALIFICATIONS TO VOTE

The Irrigation District has compiled and maintains a set of ownership records in card file form or listed form. The ownership file has been supplied to aid the election board in determining the qualifications of voters. For various reasons, mainly the lapse of time involved, there may be a few cases where a person desiring to vote will be qualified because of a recent purchase of property from the persons whose names appear in the district ownership files. Members of the election board should use the ownership files as a general reference and determine from the statements of the individual whether in questionable cases, they should be allowed to vote. (Note #2)

1. Any person eighteen years old, being a citizen of the United States and a resident of the State of Washington and who holds evidence of title to land in the District shall be entitled to vote.
2. A person desiring to vote and otherwise qualified, but whose name does not appear in the election file as an eligible voter, shall fill out and sign the "Oath of Eligibility to Vote", which is to be witnessed by the Inspector and Judge of the election board. Such person may then be allowed to vote in the usual manner.
3. An agent of a corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his instrument of authority.
4. Where land is community property both husband wife may vote if otherwise qualified.
INSTRUMENT OF AUTHORITY

____________________________________, a domestic corporation

Corporation

of the State of Washington hereby certifies that it is eligible to vote in the

__________________________ election. Upon authority duly given,

Director Election District No. 4

said corporation hereby authorizes and appoints ____________________________ voting individual

to vote as their representative.

____________________________________

Corporation

__________________________

President

Witness:

____________________________________

Secretary
SUNNYSIDE VALLEY IRRIGATION DISTRICT

NOTICE OF DIRECTOR ELECTION

An election will be held on Tuesday, the 14th day of December, 2004, for the purpose of electing one qualified person to serve as Director of the Sunnyside Valley Irrigation District Director Division No. 4 for a three (3) year term commencing January 1, 2005. Director Division No. 4 includes those District lands from Euclid Road east to the end of the District north of the Yakima River.

The polling place for the election is the Benton County Public Works Maintenance Facility, 14303 North Hinzlerling Rd., Prosser, Washington. The polls will be open at 1:00 p.m. and will close at 8:00 p.m., Pacific Standard Time on election day.

Michael Hogue and Roy Clifford are candidates for the position. For further information contact James Trull, at the Sunnyside Valley Irrigation District office.

Only those persons who hold title or evidence of title to lands within District No. 4, who are at least eighteen years of age, citizens of the United States, and residents of the State of Washington may vote.

An agent of a domestic corporation, owning land in District No. 4, duly authorized in writing, may vote on behalf of the corporation by filing with the election officer his instrument of authority. A person with community property may vote on behalf of his or her spouse by submitting a common agreement. These forms may be obtained at the district office.

Voting may be in person at the polls or by absentee ballot. Absentee ballots will be furnished to any qualified elector who submits a written request prior to the date of election on application forms supplied by the district office.

Absentee ballots will be received at the district’s office, 120 S. 11th St, Sunnyside, Washington, until 4:30 p.m. on election day or, if by mail, postmarked not later than midnight on election day and received by the district’s secretary within five (5) days of that date.

Qualified absentee ballots will be counted and tallied by the district’s Board of Directors commencing at 1:30 p.m. on December 20, 2004, pursuant to the provision of RCW 87.03.105.

The regular returns of the election will be canvassed by the Board of Directors at the district office on December 20, 2004, commencing at 1:30 p.m. and the board will immediately thereafter canvass the returns of the absentee votes. Any interested person may appear before the Canvassing Board and be heard concerning errors, if any made in the counting of the regular returns and the absentee ballots.

Dated this 23rd day of November 2004, by order of the Board of Directors of the Sunnyside Valley Irrigation District.

    [Signature]

Secretary

Publish December 1, 2004 and December 8, 2004
APPENDIX G – Yakima Tieton Irrigation District (YTID) Materials
YAKIMA-TIETON IRRIGATION DISTRICT

ELECTION REGULATIONS

ARTICLE I. - WATERUSERS

Section 1.1 - Voting Rights. The voting rights of waterusers are set forth in RCW 87.03, et seq. To the extent that the election regulations hereinafter set forth are inconsistent with the provisions of RCW 87.03, the provisions of RCW 87.03 shall prevail and these regulations shall be interpreted in a manner that is consistent with RCW 87.03.

Section 1.2 - Qualifications of Electors. In order to be entitled to vote in the elections of the Yakima-Tieton Irrigation District, one must be:

(a) A person eighteen years of age; and

(b) A citizen of the United States; and

(c) A resident of the State of Washington, who holds title or evidence of title to assessable land in the District.

Section 1.3 - Voting Rights of Entities. As set forth in the Revised Code of Washington 87.03.051, a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington owning land in the district shall be recognized as an elector.
Section 1.4 - Instrument of Authority for Entities. An agent of an entity, who is duly authorized in writing, may vote on behalf of the entity by filing with the election officers his or her instrument of authority. "Entity" shall be defined as a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington.

Section 1.5 - Voting Rights for Land in Which There is More Than One Ownership Interest. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the District at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots with respect to that parcel of land for which there is more than one ownership interest.

Section 1.6 - Voting Rights Where Land Is Community Property. In the case of land held by a husband and wife as community property the accumulated votes may be divided equally between husband and wife.

Section 1.7 - "Ownership" and Number of Votes. "Ownership" is defined as the aggregate of all assessable acres owned by an elector, individually or jointly, within the District. No one ownership may accumulate more than forty-nine percent (49%) of the votes in the District. Since assessments in the District are on the basis of shares, there shall be allocated to each elector two (2) votes for each five (5) shares or fraction thereof.
Section 1.8 - Where to Vote. An elector who lives in the District shall vote in the precinct in which he resides, all others shall vote in the precinct nearest their residence.

ARTICLE II. BALLOTS AND VOTING PROCEDURES

Section 2.1 - Ballots in All Elections. Voting in the Yakima-Tieton Irrigation District shall be by ballot and the ballot shall be of uniform size and quality, provided by the District. In addition, ballots shall contain a space for sticker voting or for writing in the name of an undeclared candidate. To be received and counted a ballot must be on the official form. Ballots shall be issued by the election board according to the number of votes an elector is entitled to cast. (See attached Form A - Official Ballot).

Section 2.2 - Absentee Voting.

(a) Certification of Inconvenience. Any qualified District elector who certifies that he or she cannot conveniently be present to cast a ballot at the proper election precinct on the day of a District election, shall be entitled to vote by absentee ballot in that election as provided herein. (See attached Form B - Request for Absentee Ballot).

(b) Notice of Election, and Ballot and Certificate to Be Furnished. The notice of election shall conform to the requirements for election notices provided herein, and shall also specify that any qualified District elector who certifies that he or she cannot conveniently be present at the proper election precinct on the day of the election
may vote by absentee ballot, and that a ballot and form of certificate of qualifications will be furnished upon written request made to the District's secretary. *(See attached Form C - Notice of Election and Notice of Canvass).*

The ballot and a form of certificate of qualifications shall be furnished by the District's secretary to anyone who before the date of the election makes a written request for such ballot and certificate, stating that he or she is a qualified District elector. *(See attached Form B - Request for Absentee Ballot).*

The ballot and certificate may also be furnished to qualified District electors in any way that is found to be convenient regardless of whether a request was made.

(c) **Absentee ballot and certificate of qualifications.**

(1) The regular form of District ballot shall be used by absentee voters.

(2) Upon receipt of the absentee ballots, the voter shall mark the ballot in accordance with the instructions contained on the ballot. In the presence of a witness who is acquainted with the absentee voter, the absentee voter shall fold the ballot, place it in the smaller unmarked envelope, and seal this smaller unmarked envelope. The voter shall not disclose his/her vote to the witness. The absentee voter should then complete the certificate of absentee voter and sign his/her name as he/she is registered in the presence
of this same witness. The witness shall then sign the Certificate of Witness printed below the Certificate of Absentee Voter. The absentee voter should then enclose the Certificate of Absentee Voter and the Certificate of Witness and the smaller, unmarked envelope containing the ballot in the larger envelope. The Certificate of Absentee Voter and Certificate of Witness may be printed on the larger envelope which contains the smaller, unmarked envelope. If the ballot is to be mailed, the necessary postage must be placed upon the envelope and it must be deposited in the post office or in a mail box provided for the deposit of mail so that it will be postmarked no later than midnight on the election day and received by the secretary of the District within five (5) days of the election day. Ballots postmarked later than midnight of the election day or received by the secretary more than five (5) days from the election day shall not be counted. The ballot may be delivered to the headquarters of the District at 470 Camp Four Road, Camp Four and Naches Heights Roads, Yakima County, Washington. Absentee ballots delivered to the District's headquarters must be received prior to the close of polls on the day of the election. On election day, the headquarters of the District
shall remain open for business until the close of polls for the purpose of receiving absentee ballots. \(\textit{See attached Form D - Instructions for Absentee Voter}.\)

(3) The Certificate of Absentee Voter shall certify the name of the absentee voter, that he/she is 18 years old or older, that he/she is a citizen of the United States and a resident of the State of Washington, and that he/she holds title or evidence of title to assessable lands within the Yakima-Tieton Irrigation District which, under RCW 87.03, as amended, entitles him/her to vote in the election, and that he/she cannot conveniently be present to cast his/her ballot at his or her proper election precinct on the election day. \(\textit{See attached Form E - Certificate of Absentee Voter/ Certificate of Witness}.\)

(4) The Certificate of Witness shall certify that the witness is acquainted with the voter and that the voter enclosed and sealed his/her ballot in the smaller envelope and signed the Certificate of Absentee ballot in the witness's presence, without disclosing the vote of the absentee voter. \(\textit{See attached Form E - Certificate of Absentee Voter/ Certificate of Witness}.\)

(d) \textbf{Canvassing of Absentee Ballots}. 

6
(1) Absentee ballots shall be kept, unopened, by the District's secretary until the time for receipt of absentee ballots expires. The secretary shall deliver the unopened absentee ballots to the Board of Directors as early as practicable on the following day. The Board of Directors shall determine whether the voters submitting the absentee ballots were qualified to vote. Votes of qualified voters shall be counted and tallied. The Board shall make, record and certify the results of their findings and count. The Board shall deliver the ballots, certificates of qualifications, and its certificate to the District's secretary.

(2) After the regular returns of the election precincts are canvassed, the Board of Directors shall canvass the returns of the absentee votes and declare the result in substantially the same manner as for regular votes.

Section 3.1 - Challenging Votes.

(a) **Right to challenge.** Any person's right to vote at a District election may be challenged at the polls and that person may be required then and there to establish his right to vote. (*See attached Form F - Oath of Eligibility to Vote*).

(b) **Who may challenge.** Any person offering to vote may be challenged as
unqualified by the appropriate District election officials, or by any
qualified elector, and it shall be the duty of the election officials to
challenge any person offering to vote whom they know or suspect
to be an unqualified voter. (See attached Form G - Voter Challenges).

(c) **Procedure upon challenge.** Whenever any person presenting himself as
qualified elector has had his or her right to vote challenged and the
officers conducting the election at the polling place have refused to accept
that person's vote because of the challenge, or for any other reason, a
ballot shall be voted by the challenged person. The challenged person
shall fold, enclose, and seal the ballot in a smaller, unmarked envelope
without disclosing his or her vote. The unmarked envelope containing
the ballot shall then be placed in a larger envelope. The name, address
and telephone number of the challenged voter shall then be written
on the larger envelope. The envelopes containing the challenged ballots
shall be kept segregated from all other ballots and at the close of the
election shall be transmitted to the Board of Directors of the District.
The Board of Directors of the District shall, upon the challenger's request,
at the time the vote is canvassed, consider each challenge and decide
whether or not the ballot in each case should be accepted or rejected;
provided that should the challenger fail to make a request, the challenged
ballot shall be accepted as valid and counted. The decision of the Board of the Board of Directors shall be final.

(d) **Challenges to absentee ballots.** The vote of any absentee voter may be challenged for any cause when it is canvassed by the Board of Directors and the Board shall have the power to accept or reject the ballot.

ARTICLE III. ORGANIZING YAKIMA-TIFTON

IRRIGATION DISTRICT ELECTIONS

**Section 3.1 - Notice of Election.** Fifteen (15) days before any election is held in the District, the secretary of the Board of Directors shall cause notices to be posted in three (3) public places in each election precinct, of the time and place of holding of the election, in English and Spanish as required by law, and shall also post a general notice of the election in the office of the Board of Directors specifying the polling places of each precinct. The place of posting the general notice shall be established and kept at some fixed place to be determined by the Board. *(See attached Form C - Notice of Election and Notice of Canvass; and attached Form H - Affidavit of Posting Notice of Election and Notice of Canvass).*

**Section 3.2 - Election of Officers and Place of Election.** Prior to the time for posting notices of the election, the Board of Directors shall appoint for each precinct, from the electors of that precinct, one inspector and two judges, who shall Constitute
the board of election for that precinct. If the Board does not appoint a board of election, or the members appointed do not appear at the opening of the polls, then the electors of the precinct who are present at the polling place may appoint the board of election or supply someone to take the place of an absent member of the election board. The Board of Directors must, in its order appointing the board of election, designate the place within each precinct where the election must be held. The Board of Directors in its discretion may designate one polling place within the District to serve more than one election precinct. The Board of Directors may designate the principal business office of the District as a polling place to serve one or more election precincts. If the Board of Directors does designate a single polling place for more than one election precinct, then the election officials appointed by the Board of Directors may serve more than one election precinct and the election officials may be electors of any of the election precincts for which they are the election board.

**Section 3.3 - Inspector and Clerks.**

(a) The inspector is the chairperson of the election board, and may:

(1) Give all the oaths required in the progress of an election; and

(2) Appoint judges and clerks, if, during the course of the election, any judge or clerk fails to act.

(b) Before opening the polls, the Board of Election of a precinct may appoint two (2) persons to act as clerks of the election, if necessary.
Section 3.4 - Oaths. Before opening the polls, each member of the board of
election and each clerk must take and subscribe an oath to faithfully perform the duties
imposed on them by law. Any elector of the precinct can give and certify the oath. Any
member of the board of election, or any clerk of the board, may give and certify oaths
required to be given during the progress of an election. (Oath of Board of Election
provided by Yakima County Auditor).

Section 3.5 - Voting Hours. The polls must be opened at one o'clock (1:00) p.m.
on the afternoon of the election, and be kept open until eight o'clock (8:00) p.m., when
the polls must be closed.

Section 3.6 - Voting and Counting Votes. Voting may begin as soon as the polls
are open and continue until the polls close. Once the polls are closed, the judges shall
open the ballot box and begin counting the votes. The ballot box shall never be
removed from the room in which the election is held until all the ballots have been
counted. The counting of ballots shall always be public. The ballots shall be taken out,
one by one, by the inspector or one of the judges, who shall open them and read out the
names of each person voted for and the office that he or she seeks.

Section 3.7 - Record of Ballots. Each clerk shall write down every office to be
filled, and the name of each person voted for that office, and each clerk shall keep the
number of votes by tallies, as they are read out loud by the inspector or judge. The
counting of votes shall continue without stopping until all of the ballots have been counted. *(Tally List provided by Yakima County Auditor).*

**Section 3.8 - Certification of Returns.** As soon as all the votes are read and counted, a certificate shall be attached to the papers which contain the poll list and tallies. The certificate shall state the number of votes (in figures and words at full length) each candidate received, and indicate the office sought by each inspector. One of the certificates, with the poll list and the tally paper that it is attached to, shall be kept by the inspector for at least six (6) months. *(Poll List and Certificates provided by Yakima County Auditor).*

**Section 3.9 - Preservation for Recount.** The ballots and certificates, with the poll list and tally paper attached to it, shall be sealed in an envelope or box by the inspector, in the presence of the judges and clerks, and endorsed "Election returns of [naming the precinct] precinct." The inspector shall then immediately personally deliver the sealed envelope or box to the secretary of the Board of Directors. The ballots shall be kept unopened for at least six (6) months. If any person is of the opinion that the vote of any precinct has not been counted correctly, that person may appear on the day appointed for the Board of Directors to open and canvass the returns and demand a recount of the vote of the precinct that he or she claims was counted incorrectly.

**Section 3.10 - Canvass.** The Board of Directors must meet at its usual place of meeting on the first Monday after each election, to canvass the returns. At the time of
the meeting, if the returns from each precinct in the District in which the polls were opened have been received, the Board of Directors must then and there begin to examine and count the returns of votes cast to determine their authenticity. If all the returns have not been received, then the canvass must be postponed from day to day until all the returns have been received, or until six (6) postponements have been made. The canvass must be made in public by opening the returns and estimating the vote of the District for each person voted for, and declaring the result of the vote. No list, tally paper or certificate returned from an election shall be set aside or rejected because it is not in the proper form, if it can be satisfactorily understood.

Section 3.11 - Statement of Result of Election. The secretary of the Board of Directors of the District must, as soon as the result is declared, enter in the records of the Board of Directors a statement of the result. The statement must show:

(a) The total number of votes cast in the District;

(b) The names of the people voted for;

(c) The office to fill that each person was voted for;

(d) The number of votes given in each precinct to each person voted for; and

(e) The number of votes given in each precinct for and against any proposition voted on.

(See attached Form I - Statement of Result of Election).
Section 3.12 - Certificate of Election. The Board of Directors must declare elected the person that has the highest number of votes given for each office. The secretary must immediately make out, and deliver to the person elected, a Certificate of Election to be signed by the secretary and authenticated by the Seal of the District. (See attached Form J - Certificate of Election).

ARTICLE IV. ELECTION OF DIRECTORS

Section 4.1 - Qualifications of Directors. A majority of the Directors shall be residents of Yakima County and all shall be electors of the District. If more than one elector residing outside Yakima County is voted for as Director, then only the one that gets the highest number of votes will be considered in determining the election results. No Director shall be qualified to take or keep office unless he holds title or evidence of title to land within the District.

Section 4.2 - Declaration of Candidacy or Petition of Nomination. When Election Not Required.

(a) Ballots for election of Directors shall contain only the names of the candidates who have filed with the secretary of the District a declaration in writing of their candidacy, or a petition of nomination, not later than five o'clock (5:00) p.m. on the first Monday in November. A person filing a declaration of candidacy or petition of
nomination shall indicate thereon the position for which he/she is a candidate. (See attached Form K - Declaration of Candidacy and Petition of Nomination).

(b) In any election for Directors where the number of votes that may be received has no bearing on the length of the term to be served, the candidates for the position of Directors, instead of filing a declaration of candidacy, shall file with the Secretary of the District a petition of nomination signed by at least ten (10) qualified electors of the District not later than five o'clock (5:00) p.m. on the first Monday in November. After the final date for filing petitions of nomination, if it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and at the next meeting of the Board of Directors they shall declare that candidate elected as Director. The Secretary shall immediately make and deliver to that person a certificate of election signed by the secretary and bearing the Seal of the District. The procedure described in this paragraph (b) does not apply to any other District elections.

Section 4.3 - Date of Election, Term of Directors. An election of Directors in the District shall be held on the second Tuesday of December of each year, and the term of each Director shall be three (3) years from the first Tuesday of January following his election. Should the District desire to increase the number of its Directors to seven (7) the Board of Directors, acting on its own initiative or the written petition of at least twenty (20) electors of the District, shall submit the question to the electors of the
District at a regular or special District Election. If the electors by a majority of the votes cast favor an increase in the number of Directors, then two additional Directors shall be elected at the next annual District Election. The person receiving the most votes shall serve for a three (3) year term and the next highest, a two (2) year term.

The number of Directors may be decreased in the same manner as that provided for increasing Directors, provided, that the number of Directors shall be no less than three (3).

**Section 4.4 - How Vacancies Are Filled.**

(a) A vacancy in the office of Director shall be filled by appointment by the Board of County Commissioners of Yakima County. At the next annual election occurring thirty (30) days or more after the date of the appointment, a successor shall be elected who shall take office on the first Tuesday in January following and shall serve for the rest of the unexpired term.

(b) A Director who is appointed to fill a vacancy occurring after the end of a Director's term shall serve until his successor is elected and qualified. At the next election of Directors occurring thirty (30) days or more after the appointment, a successor shall be elected who shall take office on the first Tuesday in January next and serve for the term for which he/she was elected.

(c) Failure on the part of the District to hold an annual election to select officers, or to provide District officers, shall not dissolve the District or diminish its
powers so long as later officers for the District are appointed or elected and they qualify and exercise the powers and duties of their offices.

Section 4.5 - Officer's Oaths and Bonds. Each Director shall take and sign an official oath for the faithful discharge of the duties of his/her office, and shall execute a bond to the District for One Thousand Dollars ($1,000.00) conditioned on the faithful discharge of his/her duties. The bond shall be approved by the Judge of the Superior Court of Yakima County, and the oath and bond shall be recorded in the Office of the County Clerk of Yakima County and filed with the secretary of the Board of Directors. The secretary shall also take and subscribe a written oath of office and execute a bond of not less than One Thousand Dollars ($1,000.00) to be fixed by the Directors, which shall be approved and filed the same way as with Directors. All such bonds shall be secured at the cost of the District. (See attached Form L - Oath of Office).

ARTICLE V. BOND AND CONTRACT ELECTIONS

Section 5.1 - Elections for Bonds and Contracts. Elections for bonds and elections concerning contracts with the United States are held, determined and declared in all respects as nearly as practicable in conformity with the provisions of law governing the elections of District officers and as provided in RCW 87.03.200.
<table>
<thead>
<tr>
<th>Timing</th>
<th>Event to Occur</th>
<th>Revised Code of Washington §§</th>
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<tbody>
<tr>
<td>1st Monday in November.</td>
<td>Last day to file Declaration or Petition by Candidate.</td>
<td>RCW 87.03.075</td>
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<tr>
<td>Day after last day for candidate filing.</td>
<td>Prepare Notice and Ballot, if needed.</td>
<td>RCW 87.03.075</td>
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<tr>
<td>Regular Board Meeting in November.</td>
<td>Board declares candidate elected if no need for election, or designates precincts and polling places, inspectors and judges, and prescribes ballot and absentee forms.</td>
<td>RCW 87.03.085</td>
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<td>20 days before election (Ballots must be available the day notice first posted.)</td>
<td>Prepare ballots</td>
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<td>15 days before election.</td>
<td>Post notice.</td>
<td>RCW 87.03.085</td>
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<td>2nd Tuesday in December.</td>
<td>Election.</td>
<td>RCW 87.03.080</td>
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<td>5 days after election.</td>
<td>Last day to receive absentees.</td>
<td>RCW 87.03.033</td>
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<tr>
<td>1st Monday after election.</td>
<td>Board counts absenteees and canvasses returns.</td>
<td>RCW 87.03.105</td>
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<td>Secretary enters statement of result and makes out and delivers Certificate of Election.</td>
<td>RCW 87.03.110</td>
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<tr>
<td>1st Tuesday in January.</td>
<td>Directors take and subscribe oaths and execute bonds pursuant to RCW.</td>
<td>RCW 87.03.082</td>
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<td>6 months after election.</td>
<td>Ballots kept by the Secretary of</td>
<td>RCW 87.03.100</td>
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the Board of Directors in accordance with RCW.

**ELECTION FORMS**

<table>
<thead>
<tr>
<th>NO.</th>
<th>FORM NAME</th>
<th>TITLE / DESCRIPTION</th>
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<tbody>
<tr>
<td>1.</td>
<td>Form A</td>
<td>Official Ballot</td>
</tr>
<tr>
<td>2.</td>
<td>Form B</td>
<td>Request for Absentee Ballot</td>
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<tr>
<td>3.</td>
<td>Form C</td>
<td>Notice of Election and Notice of Canvass (in English and Spanish)</td>
</tr>
<tr>
<td>4.</td>
<td>Form D</td>
<td>Instructions for Absentee Voter</td>
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<tr>
<td>5.</td>
<td>Form E</td>
<td>Certificate of Absentee Voter/ Certificate of Witness</td>
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<td>6.</td>
<td>Form F</td>
<td>Oath of Eligibility to vote</td>
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<td>7.</td>
<td>Form G</td>
<td>Voter Challenges</td>
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<td>8.</td>
<td>Form H</td>
<td>Affidavit of Posting Notice of Election and Notice of Canvass</td>
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<td>9.</td>
<td>Form I</td>
<td>Statement of Result of Election</td>
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<td>10.</td>
<td>Form J</td>
<td>Certificate of Election</td>
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<tr>
<td>11.</td>
<td>Form K</td>
<td>Declaration of Candidacy and Petition of Nomination</td>
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<td>12.</td>
<td>Form L</td>
<td>Oath of Office</td>
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<tr>
<td>13.</td>
<td>Provided by Yakima County Auditor</td>
<td>Oath of Board of Election</td>
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<td>14.</td>
<td>Provided by Yakima County Auditor</td>
<td>Tally List</td>
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15. Provided by Yakima County Auditor

Poll List and Certificate
OFFICIAL BALLOT
Yakima-Tieton Irrigation District
December 8, 2015
BALOTA OFICIAL
Distrito de Riego Yakima-Tieton
El 8 de diciembre de 2015

Mark a cross (X) in the □ at the right of the name of the person for whom you desire to vote.

El votante pondrá una X en el cuadro □ que se encuentra al lado derecho del nombre de la persona para quien quisiera votar.

FOR DIRECTOR – THREE (3) YEAR TERM
Vote for Two

POR DIRECTOR – UN PERIODO DE TRES (3) AÑOS
Vote por Dos

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FOR DIRECTOR – TWO (2) YEAR TERM
Vote for One

POR DIRECTOR – UN PERIODO DE DOS (2) AÑOS
Vote por Uno

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UPDATED 2015 – FORM "A"
REQUEST FOR ABSENTEE BALLOT

The undersigned certifies that he/she is a qualified elector of the Yakima-Tieton Irrigation District, and further certifies that he/she cannot conveniently be present to cast a ballot at the proper election precinct on the day of the District's election on December 8, 2015, and requests that he/she be furnished an Absentee Ballot and form of Certificate of Qualifications.

DATED this _____ day of ____________________, 2015.

__________________________________________
(print name)

__________________________________________
(signature)

Send Ballot to:

__________________________________________
(print address)
NOTICE OF ELECTION
AND
NOTICE OF CANVASS

YAKIMA-TIETON IRRIGATION DISTRICT

NOTICE IS HEREBY GIVEN that the regular election for the Board of Directors of the Yakima-Tieton District will be held on December 8, 2015, for the following purposes:

To elect two qualified persons to serve as Directors of the District for a three-year term and one qualified person to serve as Director of the District for a two-year term, commencing from the first Tuesday in January, 2016.

Voting precincts for said election and the polling place for said election shall be as follows:

PRECINCT NO. 1:

All that portion of the District lying north of Cowiche Hill, more particularly described as lying north of a line crossing the District as follows:

Beginning at the western boundary of the project on the north line of Section 15, Township 13 North, Range 17, E.W.M., and extending easterly along the north lines of intervening sections to the easterly boundary of the project on the north line of Section 16, Township 13 North, Range 18, E.W.M.

Polling Place: District Headquarters, 470 Camp 4 Road, Yakima County, Washington.

PRECINCT NO. 2:

All that portion of the District lying south of Cowiche Hill, more particularly described as lying south of that line crossing the District, which is described above.

Polling Place: District Headquarters, 470 Camp 4 Road, Yakima County, Washington.

The polls for said election will be open at 1:00 p.m. and close at 8:00 p.m. Pacific Standard Time on said election day.
Any qualified District elector who certifies that he cannot conveniently be present at his proper election precinct on the day of election may vote by absentee ballot. A ballot and form of certificate of qualifications will be furnished to such persons on written request to the District's secretary prior to the date of the election.

NOTICE IS FURTHER GIVEN that absentee ballots will be received at the District Headquarters, 470 Camp 4 Road, Yakima, Washington 98908, until 8:00 p.m. on election day, or if mailed, postmarked not later than midnight on election day, and received by the District's secretary within five (5) days of that date (12:00 Midnight Sunday, December 13, 2015).

The qualified absentee ballots will be counted and tallied by the District's Board of Directors commencing at 12:00 Noon on Monday, December 14, 2015.

The regular returns of said election will be canvassed at the above said office of the District by the Board of Directors on Monday, December 14, 2015, commencing at 12:00 Noon, and that said Board will immediately thereafter canvass the returns of the absentee votes. Any interested person may appear before the Canvassing Board and be heard concerning errors, if any, made in the counting of regular returns and absentee ballots.

DONE this 12th day of November, 2015, by Order of the Board of Directors of the Yakima-Tieton Irrigation District.

By ___________________________
RICHARD DIEKER, Secretary
Yakima-Tieton Irrigation District
NOTICIA DE ELECCION
Y
NOTICIA DE PEDIR VOTOS

EL DISTRITO DE RIEGO YAKIMA-TIETON

AVISO - Se realizara la eleccion regular de la Mesa Directiva del Distrito de Riego Yakima-Tieton el 8 de diciembre de 2015. Los propositos de dicha eleccion son:

Elegir dos personas calificadas para servir como Directores de Distrito por un periodo de tres anos, comenzando el primer martes de enero de 2015.

Los distritos electorales para dicha eleccion y los lugares para votar seran los siguientes:

DISTRITO ELECTORAL NO. 1:

Toda aquella porcion del Distrito yacente al norte de Cowiche Hill, mejor descrito como yacente al norte de una linea que cruza el distrito de la manera siguiente:

Empezando con el limite occidental del proyecto en la linea norte de la seccion 15, Township 13 Norte, Range 17, E.W.M., y extendiendose hacia el Este siguiendo las lineas del Norte que intervienen las secciones al limite oriental del proyecto a través de la linea del Norte de la seccion 16, Township 13 Norte, Range 18, E.W.M.

Lugar para Votar: La oficina de Distrito, 470 Camp 4 Road, Yakima County, Washington.

DISTRITO ELECTORAL NO. 2:

Toda aquella porcion del Distrito yacente al sur de Cowiche Hill, Mejor descrito como yacente al sur de la linea que cruza el distrito Como descrito arriba.

Lugar para Votar: La oficina de Distrito, 470 Camp 4 Road, Yakima County, Washington.

Los Lugares para votar para dicha eleccion estaran abiertos a la una (1:00) y cerraran a las ocho (8:00) de la tarde el dia de la eleccion.
Cualquier elector legítimo del Distrito que certifique motivo válido por no poder presentarse para votar en su distrito electoral el día de la elección, podrá votar por balota de absent. Una balota y la forma de certificado de calificante se le proporcionara a cualquier personal que haga peticion escrita al Secretario de Distrito con anterioridad al día de la elección.

SE AVISA QUE las balotas de absent estaran recibidas en la oficina de Distrito, 470 Camp 4 Road, Yakima, Washington 98908, hasta las ocho (8:00) de la tarde el día de la eleccion, o si por correo, mandadas antes de medianoche el día de la eleccion, y recibidas por el Secretario del Distrito entre cinco (5) días de dicha fecha, (12:00 el medianoche, domingo, 13 de diciembre de 2015).

Las balotas de absent calificadas se contarán por La Mesa Directiva del Distrito comenzando el mediodía (12:00) el día lunes, el 14 de diciembre.

Los resultados regulares de dicha elección serán pedidos en la oficina del Distrito por La Mesa Directiva lunes, el 14 de diciembre de 2015, empezando en el mediodía, y que dicha Mesa Directiva pedirá inmediatamente los resultado de las balotas de absent. Cualquier personal interesada podrá presentarse a La Mesa Directiva que pide votas y expresar errores, si los hay, hecho cuando se escrutan las balotas regulares y las balotas de absent.

Hecho este día 12 de noviembre de 2015, por orden del la Mesa Directiva del Distrito de Riego Yakima-Tieton.

Por ____________________________
RICHARD DIEKER, Secretario
El Distrito de Riego Yakima-Tieton
OATH OF ELIGIBILITY TO VOTE

For the purpose of establishing my eligibility to vote in the Regular/ Special election in the Yakima-Tieton Irrigation District being held on December 8, 2015, I do hereby solemnly swear (or affirm) as follows:

1. That I am eighteen years of age or older.

2. That I am a citizen of the United States of America.

3. That I hold title or evidence of title to assessable land which lies within said District and that I am a resident of the State of Washington and that I am otherwise qualified to vote in the election precinct at said election.

4. That my legal residence is __________________________
______________ County, Washington.

5. That the legal description of the land owned by me is:
____________________________
____________________________

(A voter otherwise qualified shall not be disqualified because of the absence or inaccuracy of the description).

DATED this ____ day of __________________________, 2015.

SIGNED:
____________________________
Name
____________________________
Address

SUBSCRIBED AND SWORN TO before me this ____ day of _________________, 2015.

____________________________
Inspector of Election Board

____________________________
Judge of Election Board

DATE: __________________________ SIGNED: __________________________

(signature of witness)

UPDATED 2015 - FORM "F"
INSTRUCTIONS FOR ABSENTEE BALLOT

Upon receipt of this ballot you will proceed to mark the same in accordance with the instructions contained on the ballot. In the presence of a witness who is acquainted with you, you will then fold, enclose and seal the ballot(s) (only) in the smaller unmarked envelope without disclosing your vote.

You will then complete the Certificate of Absentee Voter and sign your name as you are registered in the presence of the same witness. The witness will then sign the Certificate of Witness printed below the Certificate of Absentee Voter.

You will then enclose the Certificate of Absentee Voter and Certificate of Witness and the smaller unmarked envelope containing the ballot in the larger envelope. If the ballot is to be mailed, please place the necessary postage upon the envelope and deposit the same in the post office or in a mail box provided for the deposit of mail so that it will be postmarked not later than midnight on the election day and received by the secretary of the District within five (5) days of the election day. If the ballot is not mailed, it must be delivered to the Yakima-Tieton Irrigation District Headquarters at 470 Camp 4 Road, Yakima, Washington 98908 prior to the close of polls on the day of election.

Richard Dieker, Secretary
Yakima-Tieton Irrigation District
CERTIFICATE OF ABSENTEE VOTER

The undersigned hereby certifies that his/her name is:

________________________________________________________________________

he/she is eighteen (18) years or older, a citizen of the United States and a resident of the
State of Washington, and that he/she holds title or evidence of title to assessable land
within the Yakima-Tieton Irrigation District which, under RCW 87.03, entitles him/her
to vote in this election, and that he/she cannot conveniently be present to cast a ballot at
the proper election precinct on election day.

DATE: ___________________________ SIGNED: ___________________________

(signature of voter)

CERTIFICATE OF WITNESS

The undersigned hereby certifies that he/she is acquainted with the above-
named voter and that the voter enclosed and sealed his/her ballot in the unmarked
envelope and signed the above certificate in his/ her presence, without disclosing his/
her vote.

DATE: ___________________________ SIGNED: ___________________________

(signature of witness)
YAKIMA-TIETON IRRIGATION DISTRICT
ELECTION ON DECEMBER 8, 2015
VOTER CHALLENGES

TO:  YAKIMA-TIETON IRRIGATION DISTRICT BOARD OF DIRECTORS

The undersigned certifies under penalty of perjury that he/she is a qualified elector in this Yakima-Tieton Irrigation District election, and that to his/her personal knowledge and belief, and for the reasons set forth below, the following persons are not entitled to vote in said election:

<table>
<thead>
<tr>
<th>Name of Challenged Elector</th>
<th>Reason Why Challenged Elector Should be Disqualified</th>
<th>Address of Challenged Elector</th>
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Further the undersigned requests that at the time the vote of the above-referenced election is canvassed as provided by law, the Board consider each of the above challenges and decide whether or not the ballot in each case shall be accepted or rejected.

DATED this ____ day of ______________________, 2015.

Inspector/Judge/Qualified Elector (cross out nonapplicable term)

Address:

UPDATED 2015 - FORM "G"
YAKIMA-TIETON IRRIGATION DISTRICT

AFFIDAVIT OF POSTING NOTICE OF ELECTION AND NOTICE OF CANVASS

DISTRICT DIRECTOR ELECTION – DECEMBER 8, 2015

STATE OF WASHINGTON
County of Yakima

RICHARD DIEKER, duly appointed, qualified and acting on behalf of the Secretary of the Yakima-Tieton Irrigation District, being first duly sworn, on oath deposes and says:

That, on November 23, 2015 he duly posted seven copies of the Notice of Election and Notice of Canvass, a true copy which is affixed hereto, at the following designated places:

PRECINCT NO. 1:
2. One copy of said Notice of Election and Notice of Canvass at Highland High School, Cowiche, Washington.
3. One copy of said Notice of Election and Notice of Canvass at Tieton Middle School, Tieton, Washington.
4. One copy of said Notice of Election and Notice of Canvass on the bulletin board at the office of the Board of Directors at the Headquarters of the Yakima-Tieton Irrigation District, 470 Camp 4 Road, Yakima County, Washington.

PRECINCT NO. 2:
5. One copy of said Notice of Election and Notice of Canvass at West Valley High School, 9800 Zier Road, Yakima County Washington.
6. One copy of said Notice of Election and Notice of Canvass at West Valley Junior High School, 7505 Zier Road, Yakima County Washington.
7. One copy of said Notice of Election and Notice of Canvass at Apple Valley Elementary School, 7 N. 88th Avenue, Yakima County Washington.

______________________________________________
Signed

Subscribed and sworn to before me this ______ day of ___________________________ 2015.

UPDATED 2016 - FORM "H"
Notary Public in and for the State of Washington, residing at ______________.
YAKIMA-TIETON IRRIGATION DISTRICT
STATEMENT OF RESULT OF ELECTION
HELD ON DECEMBER 8, 2015

(1) Total votes cast in District:

(2) Results of Election of Directors:

**Director for three (3) year term:**

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Votes in Precinct No. 1</th>
<th>Votes in Precinct No. 2</th>
<th>Total Votes</th>
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**Director for two (2) year term:**

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<th>Candidate</th>
<th>Votes in Precinct No. 1</th>
<th>Votes in Precinct No. 2</th>
<th>Total Votes</th>
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UPDATED 2015 - FORM "I"
CERTIFICATE OF ELECTION

STATE OF WASHINGTON

County of Yakima

THIS IS TO CERTIFY that, being duly elected by the qualified electors of the Yakima-Tieton Irrigation District, on December 8, 2015, ___________________________ was on the 14th day of December, 2015, by the Board of Directors of the said District, found and determined to be elected to the office of DIRECTOR of the said District, for a term of ______ years, commencing on the 5th day of January, 2016.

IN WITNESS WHEREOF I have hereto set my Hand and affixed the official seal of the Yakima-Tieton Irrigation District this ______ Day of December, 2015.

_________________________________
Secretary, Yakima-Tieton Irrigation District
DECLARATION OF CANDIDACY AND PETITION
OF NOMINATION FOR DIRECTOR OF THE
YAKIMA-TIETON IRRIGATION DISTRICT

I, __________________________, declare upon my honor that I am an elector of the Yakima-Tieton Irrigation District, residing at ______________________, County of ____________, State of Washington, and that I am legally qualified to assume office if I am elected; that I hereby declare myself for nomination to the office of Director for a term of _____ years beginning January 5, 2016. The election is to be held on December 8, 2015, and I hereby request that my name be printed upon the official ballots as provided by law. (RCW 87.03.075).

____________________________
Signature of Candidate

We, the undersigned, are qualified electors of the Yakima-Tieton Irrigation District by reason of being 18 years of age, being a citizen of the United States and a resident of the State of Washington, and holding title or evidence of title to assessable land within the District.

We, therefore, present this petition of nomination of __________________________ for the position of Director of the Yakima-Tieton Irrigation District for a term of _____ years beginning January 5, 2016.

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<th>Name</th>
<th>SIGNATURES</th>
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UPDATED 2015 - FORM "K"
OATH OF OFFICE

STATE OF WASHINGTON    )
                         ) ss.
County of Yakima         )

I, ____________________________, do solemnly swear that I am a Citizen of the United States and of the State of Washington; that I will support the Constitution and Laws of the United States and the Constitution and Laws of the State of Washington, and will to the best of my judgment, skill, and ability, truly, faithfully, diligently and impartially perform the duties of the office of Director in and for the Yakima-Tieton Irrigation District, Yakima County, Washington, as such duties are prescribed by law, so help me God.

__________________________
Signature

Subscribed and sworn to before me this _____ day of ______________, 2015.

__________________________

__________________________

UPDATED 2015 - FORM "L"
AUTHORITY TO CAST VOTES FOR
CORPORATION OR OTHER ENTITY

_________________________________________, a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington, hereby certifies that it owns _________ acres of land within the boundaries of the Yakima-Tieton Irrigation District, Yakima County, Washington, and upon authority duly given, hereby authorizes and appoints ________

__________________________________________ (name),

__________________________________________ (address), Washington, to vote and cast entity ballots in the Yakima-Tieton Irrigation District election of December 8, 2015.

Name:__________________________________________

By:__________________________________________

Position:__________________________________________

Witness:__________________________________________


Excerpt of RCW 87.03.051 Qualifications of voters and directors — Districts of less than two hundred thousand acres.

"...A corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington owning land in the district shall be recognized as an elector. As used in this section, "entity" means a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington. "Ownership" shall mean the aggregate of all assessable acres owned by an elector, individually or jointly, within one district. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. No one ownership may accumulate more than forty-nine percent of the votes in one district. If assessments are on the basis of shares instead of acres, an elector shall be entitled to two votes for each five shares or fraction thereof. The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors or when land is held as community property. The accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest. ... An agent of an entity owning land in the district, duly authorized in writing, may vote on behalf of the entity by filing with the election officers his or her instrument of authority. ..."
AUTHORITY TO CAST VOTES FOR SPOUSE

I, ______________________________________ (Printed Name),
do hereby grant to my spouse,

________________________________________ (Printed Name),

authority to cast my vote in the Yakima-Tieton Irrigation District election of
December 8, 2015.

Signed: ________________________________

Date: _________________________________

Excerpt of RCW 87.03.051 Qualifications of voters and directors — Districts of less than two hundred thousand acres.
“...The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors or when land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest. ...”
APPENDIX H – Lake Chelan Reclamation District (LCRD)
Materials
Voting By Shares

When an Irrigation District is No Longer Primarily Agricultural

When is an irrigation district no longer providing primarily agricultural services? The legislature decided this question when they wrote RCW 87.03.071. In this case, the legislature decided that when more than 50% of the ownerships of land are less than five acres in size, that each ownership should be entitled to two votes regardless of size. When this occurs, a district is more of an urban service provider than an agricultural service provider and agriculture should no longer maintain its weighted edge in the governing of the irrigation district.

When a Single Ownership Has Too Much Weight

When does one ownership have too many votes relative to the weighted voting system? The legislature decided this question when they wrote RCW 87.03.051. “No one ownership may accumulate more than forty-nine percent of the votes in one district.”

Further Analysis of Assessable Lands

The Board of Directors in 1993 had a primary concern that assessable lands could out vote the assessed lands that were actually receiving the services. In researching the 14,324 total acres, only 2,197 of those acres are owned by landowners who do not otherwise receive another service from the District for those parcels. In other words, our current customers own more than 84% of the lands within the District boundary. The worry that assessable lands by non-customers could out vote assessed lands by customers appears to be unfounded.

Suggested Alternatives

Management’s job is to provide the Board of Directors with research and legal alternatives for policy decisions. It remains the Board of Director’s job to determine what is in the best interest of the District and what is most fair. The following alternatives are legal options that the Board of Directors can consider for the next election:

Alternative 1: Return voting to two votes for every five acres or fraction thereof.

This alternative protects the legislative intent. It does not weigh the relative risk of a larger domestic or sewer customer as compared to a single homeowner, but the legislature did not appear to address this distinction anyway.

Alternative 2: Make minor adjustments to the definition of shares

This alternative could be done but drastic changes to the definition of shares would risk compromising the legislative intent. It is problematic to provide a numerical justification for the relative size of the shares. This is because the relative risk is hard to quantify and purely assessable lands pay nothing into the systems.

Alternative 3: No change

One advantage of the current definitions is that they were created by persons who are no longer on the Board. No current Board members participated in creating the existing system.
Voting By Shares

Legislative Intent

In 1966, the Washington State Legislature passed voting regulations (RCW 87.03.045) in irrigation districts that provided for one man, one vote procedures. The legislature stipulated however that any landowner who's land was not for agricultural or horticultural purposes or who's total ownership was less than five acres was not eligible to vote.

In 1984, in the Court Case Foster vs. Sunnyside Valley Irrigation District, the Washington State Supreme Court declared that RCW 87.03.045 was unconstitutional. The court did not feel that the designation of the land as being for agricultural or horticultural purposes was reason enough to deny those lands the fundamental right to vote.

In 1985, the Washington State Legislature passed RCW 87.03.051, revising the voting regulations. Weighted voting allows those lands in agriculture to maintain a competitive edge in the governing of irrigation districts. Voting rights were allocated as follows: "Two votes for every five acres of assessable land or fraction thereof. No one ownership may accumulate more than forty-nine percent of the votes in one district. If assessments are on the basis of shares instead of acres, an elector shall be entitled to two votes for each five shares or fraction thereof."

In 1991, the Kennewick Irrigation District (KID) was challenged on their voting procedures. KID policy denied the right to vote to lands that were within the District boundary but that were outside of the irrigable area and not assessed. The argument made on behalf of those lands was that decisions made by the Board of Directors impacted the land values of all lands within the District boundary. If this was conceded to be true, then all lands within the boundary should be entitled to vote.

In 1992, the Attorney General's Office (AGO) provided an opinion that all lands within a district boundary are assessable due to the enumerated powers of irrigation districts. Irrigation districts also have general obligation bond authority which would encumber all assessable lands down to the "last faithful acre". The fact that all lands are assessable and that Board decisions impact every acre of land within the boundary makes it clear that all lands within the boundary are entitled to vote under RCW 87.03.051.

District Response

In 1993, the Lake Chelan Reclamation District (LCRD) Board of Directors was considering how to respond to the AGO opinion for KID. They were concerned that the District boundary includes a total of 14,324 assessable acres of which only 6,736 acres are assessed. On the surface it appeared that assessable lands could "out vote" assessed lands. The Board of Directors wanted to investigate the option of voting by shares as one way of putting the number of assessable acres on a more even basis to lands that were actually assessed. Our legal council indicated that we could change our voting to a "shares" basis, but that we needed to be very cautious in defining shares so as to not change the legislative intent. As the LCRD Board defined shares they started out with one share being equal to one assessable acre within the District boundary. They felt strongly that lands being assessed ought to receive another share for each unit of benefit of irrigation rights to add to the raw acreage shares.

Landowners who are billed for domestic water and sewer services should similarly receive more shares than the raw lands that are only assessable. The Board discussed setting the number of shares for domestic and sewer equal to the same number of units of benefits for irrigation on the basis of equal income to the District. They decided against that definition because they felt it would change the legislative intent of providing agriculture an edge in governing irrigation districts. They opted instead to put more emphasis on the risk of the lands and gave one share for each equivalent residential unit of domestic water or sewer. This definition would at least weigh the relative risk of a domestic water and/or sewer household as compared with a large industrial or commercial user of the same services. The Board surmised that when all the shares for each ownership were added together by these definitions, that a reflection of the overall risk of the ownership to District decisions would be portrayed fairly and the legislative intent would be protected.
ELECTION PROCEDURES

WORKING TIMELINE IN THE OFFICE

1. SEPTEMBER – during the whole month, prepare the next year’s “Master Ownership Database” with all parcel changes, ownership changes, water purchases or relinquishments, and any other actions that have changed a parcel, an assessment or who is responsible for said assessment. This Database is updated and kept in Excel spreadsheet form and GIS. The two MUST balance equally. This database is sorted by parcel number and reflects all land ownerships within the district boundary, all assessed lands and all water and sewer customers. Actions that would initiate a change in District records are obtained from the County Assessor/Treasurer's Office.

2. OCTOBER – on the first of the month, advertise for Board of Director positions with expiring terms and run the ad for the whole month in the local newspaper, post at multiple public places, publish on the website, and by mailing out a district newsletter. The deadline for turning in the “Declarations of Candidacy and Petition of Nomination” will be noted as the first Monday of November at 5 p.m.

3. NOVEMBER – on the first Monday, determine the number of candidates who have submitted valid “Declarations of Candidacy Petition of Nomination” forms.
   - If more candidates turn in petitions than expiring terms available, then advertise for an election to take place the second Tuesday of December from 1 p.m. until 8 p.m. This must be done at least 16 days prior to the election. Said advertisement will be ran in the Lake Chelan Mirror, posted at the District Office, at the Library and at the Post Office. It will also be posted to the website and mailed out in a district newsletter.
   - If eligible candidates are equal to the expiring terms, then no election will be necessary, and the candidate(s) will be sworn into office in the January BOD meeting.
   - If less candidates than expiring terms available, then the District goes through an appointment process with Chelan County Commissioners.

PRE-ELECTION PROCEDURES

1. Ballots shall contain the names of those candidates who have filed their “Declarations of Candidacy and Petition of Nomination”. The names shall be listed in the order that the petitions were received. Ballots shall contain space for writing in the name of an undeclared candidate. Ballot shall contain the statement “Two Positions Open, Vote for One Person for Each Position”. In a year, where there is only one position open, the ballot will simply say “Vote for One”.

2. Declarations of Candidacy and Petition of Nomination forms shall designate the position being applied for and the term length. In years where there are different length of terms, the ballots shall separate the candidates into the positions for which they have applied, and the verbiage used above shall be duplicated.

3. The Board of Directors of the Lake Chelan Reclamation District will appoint ONE neutral district patron as an Inspector, TWO neutral district patrons for Judges and a minimum of ONE District employee as the Clerk to run the election.

ABSENTEE BALLOT PROCEDURES

a. A letter addressed to the Secretary requesting the absentee ballots must be signed by the person making the request. It must indicate the lands they own in which they are asking to vote.
b. District staff shall provide ballots which include an unmarked inner envelope and a Certification of Qualifications. If the ballots are for lands owned by an entity then an Instrument of Authority shall also be included.

c. Persons voting absentee shall mark ballots and place them in the sealed, unmarked inner envelope. The Certificate of Qualifications must be signed by the person casting the ballots, together with a witness who is acquainted with the voter, that in his presence the voter’s signature was affixed and the ballots enclosed in the inner envelope.

d. The Certificate of Qualifications, unmarked inner envelope and Instrument of Authority (hereafter absentee packet) must be (1) returned by hand, delivered to the District Office, prior to the close of the polls on the day of election, or (2) can be mailed to the District Secretary and postmarked no later than midnight on the day of the election. Mailed absentee packets must be received by the Secretary within five days of the day of the election.

e. Staff shall receive the absentee packet collectively and shall then date and time stamp the inner envelope, sign receipt thereof on the outside and staple all instruments together before setting the ballots aside in the absentee ballot box. The inner envelope shall remain sealed and unopened. The outer envelope, if mailed shall also be stapled to the packet to attest to the date the ballot was postmarked. It is assumed that five days lands upon the Sunday following the election and that Sunday’s mail does not come to the District post office box until 10 a.m. Monday morning at which time, the time for ballots to be received is closed.

f. The Secretary will deliver the absentee votes to the Board as early as practical on the following day (Monday following the election, after 10 a.m.). The Board shall determine at once whether the voters submitting the absentee ballots are qualified to vote. The Board shall then count and tally those votes determined to be qualified.

g. The Board shall make, record and certify the absentee count and promptly thereafter deliver the ballots, Certificates of Qualifications and its Absentee Ballot Certificate to the Secretary.

**DAY OF ELECTION PROCEDURES**

To help in conducting the election, the following should be the order of business:

1. The Secretary will administer and sign the Oath of Office for the Inspector.

2. The Inspector will administer and sign the Oath of Office for the Judges and the Clerks.

3. When the polls open at 1:00 p.m., one of the Judges will administer the Registry of Voters to be signed by each elector.

4. By signing Registry of Voters, an elector is stating they are at least 18 years of age, a citizen of the United States, a resident of the State of Washington, and hold title or evidence of title to land within the Lake Chelan Reclamation District. Alternatively, the agent of any entity owning land in the District, duly authorized in writing, may vote on behalf of the entity by filing with the Board of Election his or her Instrument of Authority.

5. The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors or when land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the Secretary of the District at least 24 hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest.

10/24/2019
6. All voter eligibility is determined by the Master Ownership Database kept by the District. Any questions that arise during the election can be verified/discounted by consulting the county ownership database. Determination is made by inspector.

7. If there is any doubt that a person is qualified to vote, the Judge or Inspector may administer an Oath of Eligibility to Vote. If the person refused to sign the oath, votes so cast shall be placed in a separate ballot box marked for disputed votes.

8. Disputed votes shall be accounted for in the following procedure: If the Inspector questions the validity of any person or entity as a qualified elector, or the total of his or her shares so claimed, the disputed votes shall be cast and placed by the voter in an unmarked envelope. The Inspector shall attach a sheet of paper to the envelope stating who the elector is, the reason to question the votes and the number of votes cast. All like-protested votes shall be kept in a separate ballot box and shall remain unopened until after the Board of Directors canvasses the regular and absentee votes.

9. The other Judge will receive the Instrument of Authority if required, calculate the total shares and assign the number of votes to be cast.

10. The Inspector will issue the ballots and keep a tally of the total number of ballots issued.

11. The ballots shall be placed in the sealed ballot box, not to be opened until after the polls close at 8:00 p.m. the day of the election.

12. At the close of the polls at 8:00 p.m., the Inspector and judges shall open the ballots and read the results aloud. Clerks shall work with each inspector and judge to tally the results as they are read. The Inspector, judges and clerks shall work together to verify that the number of ballots counted matches the number issued and that the total votes cast matches the number of ballots marked with zero, one or two votes. If they do not agree, another count should be made with the tally sheets kept. The ballot box for disputed votes shall only be opened to the extent that the number of votes cast as indicated on the externally attached sheets is accounted for in the ballot count.

13. The Inspector’s Certification shall include the whole number of votes cast in the District, the name and number of votes cast for each person and shall be signed by the Inspector, the judges and the clerks.

14. Upon completion of the count, the Inspector shall make and keep under his or her control a copy of tally sheets, the voter’s registry and the Inspector’s Certification which shall be retained for at least six months.

15. The original of the registry, tally sheets and the Inspector’s Certification shall be sealed in envelopes, placed in the locked ballot box with the ballots and delivered to the Secretary with the disputed votes ballot box where they are to be kept unopened until canvassed by the Board of Directors.

16. The Secretary shall be present at the close of the election until the ballot boxes are delivered for safekeeping. The Secretary shall post a copy of the Inspector’s Certificate for public inspection upon receipt.

POST ELECTION CANVASS OF VOTES (First Monday following the election)

1. The Board shall “canvass” the regular returns by opening the returns, reviewing the Inspector’s Certificate and asking if there is any person who believes the votes were not counted correctly. If none are opposed, the Board shall then declare the results as valid. Likewise, the board shall canvass the absentee votes just counted and ask if any person believes the votes were not counted correctly. If none are opposed, the absentee votes shall also be declared as valid.
2. The Board shall then deal with the disputed votes if any. If the number of disputed votes is less than the difference between the winning and losing candidate, no action will be taken on the disputed votes. If the number of disputed votes is more than the difference between the winning and losing candidate, then the Board of Directors shall make a determination as to validity of the qualified elector. Once the validity of the votes is determined, the Board shall then count the number of preliminarily valid votes and compare again the additional votes to the difference between the winning and losing candidate. If the number of preliminarily validated votes is less than the difference between the winning and losing candidate, no action will be taken on the validated votes. If the number of preliminarily validated votes is more than the difference between the winning and losing votes, then the Board of Directors shall open and count the validated votes and shall canvass the preliminarily validated votes just counted by asking if any person believes the votes were not counted correctly. If none are opposed, the preliminarily validated votes shall also be declared as officially valid. Thereupon the statement of the combined results of the regular returns, the absentee votes and the validated votes shall be declared, entering into the records the whole number of votes cast in the District, the name and number of votes cast for each person. The person receiving the highest number of votes for each office shall be declared elected. The Secretary must immediately make out and deliver to such person a Certificate of Election signed by the Secretary and authenticated by the seal of the District.

3. The Board shall then reseal the regular returns, the absentee votes, the officially validated votes and the disputed votes so denied and deliver them to the Secretary where they are to be kept and shall remain unopened for a period of six months.