

PATHFINDER IRRIGATION DISTRICT

District Policy Concerning Center Pivot Irrigation Systems

Adopted Date: October 6, 1998
Effective Date: October 6, 1998
Modified Date: June 3, 2003
Modified Date: May 4, 2004
Modified Date: September 4, 2013
Modified Date: October 7, 2014

INTRODUCTION

The purpose of this policy is to provide information to landowners using or contemplating the use of a center pivot system to irrigate their lands, concerning District policy and guidelines for the operation and use of center pivots within District boundaries. This policy will provide direction to individuals as they design, install and operate their center pivot systems to insure minimal interference with the District's operation and maintenance of its canals, laterals, pipelines, and drains, and their associated facilities and access roads.

1. Center Pivots that would cross District right-of-way.

1.1. Permission to cross District right-of-ways may be granted on an individual basis using a recorded agreement outlining conditions for granting. The District may grant permission based upon the extent of interference with District operation and maintenance, access, safety and liability considerations. The cost of any recorded agreement will be paid by landowner. Permission can be revoked by a vote of the Board of Directors for failure to comply with the law, the terms of the agreement, or District policy. Such agreement shall remain in effect until revoked by the Board of Directors as provided herein. Landowners who have previously

entered into agreements for a term of five (5) years will be notified that they are not required to renew.

1.2 Clear-span crossings.

1.2.1. Crossings used to allow center pivots to pass over District facilities must span the full width of the facility at the top of the bank on each side. No center span supports are allowed.

1.2.2. Crossings must be of sufficient length, width, strength and clearance over the high water to minimize interference with District operation and maintenance.

1.2.3. Crossings must be made of non-combustible materials, no culverts will be permitted.

1.2.4. The landowner shall construct, install and maintain crossings at landowner's cost.

1.2.5 The landowner is responsible to remove and replace crossings at his expense upon notice by the District. The District will provide a minimum of 48-hours notice, unless an emergency situation exists. The District will charge the landowner for its costs incurred in the removal of any and all crossings.

1.2.6. The District is not responsible for damages to crossings or center pivot equipment, as a result of its access or operation and maintenance activities.

1.2.7. If the District ditches, structures and facilities are damaged as a result of the pivot or crossings, the landowner will reimburse the District for its costs.

2. Center pivots that do not cross District right-of-way.

2.1. The center pivot must be located as to not interfere with the District's operation and maintenance of its facilities and associated right-of-ways, either on land or overhead.

2.2. The center pivot and end-gun must be operated to not apply water to District facilities and access roads.

3. Additional requirements for all center pivot systems.¹

3.1. The owner of any center pivot system that applies water to the District's access roadway, either by crossing over the roadway, or by the application of water from the end of the pivot or end-gun will be required to reimburse the District for its cost to gravel and rock the affected area. If an owner wishes to gravel and repair the affected area themselves they can do so as long as it is done to the satisfaction of the District. The landowner will reimburse the District for any costs it incurs for additional maintenance as a result of the landowners operation and maintenance of the center pivot.

3.2. The owner of any center pivot irrigation system that applies water to the District's right-of-way, including the banks of any canal or lateral will be responsible to control the grass and weed growth on both banks in the affected area through the use of safe and approved herbicides. Failure to

do so may result in the District through Board action revoking the owners' permission to cross the right-of-way.

- 3.3. The District may require the landowner to provide equivalent and reasonable access if the landowners operation of the center pivot interferes with access to District facilities.
- 3.4. In the event the operation of a pivot system significantly interferes with the District's access, operations and maintenance of any of the District's open facilities (e.g. an open lateral) then the District, in its discretion, may require the landowner to either reimburse the District for the cost of relocating any such facility or the cost of removing the open facility and installing an underground pipeline.
- 3.5. If the District is going to deliver water into a pit/structure for pumping into a center pivot;
 - 3.5.1. The center pivot pit/structure must be located as to not interfere with the District's operations, facilities and associated right-of-ways.
 - 3.5.2. The pit/structure should be of adequate size and capacity to not interfere with District operation and facilities.
 - 3.5.3. The pit/structure must have an automatic overflow installed of sufficient size as to not backup or overflow water into the District's facilities.
 - 3.5.4. The use of the pit/structure cannot interfere with the measuring device and its accuracy. If the measuring device

needs to be altered, or a new one installed to insured proper accuracy, the landowner will be responsible for the costs.

- 3.6. The landowner is responsible for any and all claims that may result from the application of herbicides, pesticides, fertilizers or any other chemicals applied using the center pivot and will indemnify and hold the District harmless from any such claims.
- 3.7. The landowner is responsible for any and all claims for damage to any person or property caused by the operation of the pivot on the District lateral, access road or right-of-way and will indemnify and hold the District harmless from any such claims.
- 3.8. All previous policies, rules and regulations regarding center pivot crossings of District canals, laterals, rights-of-way and related facilities are hereby rescinded.

3.8.1. Written agreements regarding pivot crossings executed prior to the effective date of this policy shall remain in full force and effect except as modified by law or later agreement of the parties.

4. Exception for crossing of District operated and maintained drains.²

- 4.1. In lieu of crossings complying with Sections 1.2.1 through 1.2.3 of this Policy, the District on a case by case basis may permit culverts to be installed in drains to accommodate pivot crossings.

4.1.1. If the use of culverts to cross a drain is authorized by the Board of Directors, the District will approve the diameter of

the culverts. The landowner will be responsible to keep the culverts in good operating condition and clear of obstructions that would impede flow through the culvert. The landowner will be responsible for damages to the drain and any person or property that result from landowner's failure to keep the culvert open and clear from obstructions, and will indemnify and hold the District harmless from any claims arising from such obstructions.

5. Violations of District Policy Concerning Center Pivot Irrigation Systems³

5.1. For any violation of the District Policy Concerning Center Pivot Irrigation Systems set forth in paragraphs 1, 2, 3, and 4 hereinabove, the District Management shall issue a written warning and the Landowner shall have three days from the date of the written warning in which to cease and correct any violation of the District Policy Concerning Center Pivot Irrigation Systems. Landowner as used in this Policy shall include the Landowner, his/her tenant, agent, or employee or anyone acting on behalf of the Landowner.

5.2. For any subsequent violation, or violation which is not cured within the time allotted in the written notice, the District Board may impose or elect any one or all of the following sanctions it deems appropriate considering the duration, severity, cooperation or lack thereof by the Landowner, and any other factor the Board deems relevant:

5.2.1. Revocation of any crossing permit in effect.

- 5.2.2. Referring the matter to the County Attorney for prosecution under Neb. Rev. Stat. §46-263, which it makes it a crime to permit or interfere with the proper delivery of water to other persons having a right thereto (this is a Class III Misdemeanor, punishable by fine, imprisonment, or both upon conviction) or any other violation of State law.
- 5.2.3. Deduction from Landowner's water entitlement or allotment of all amounts of irrigation water wasted or delivered in excess of Landowner's entitlement, as a result of Landowner's operations in violation of this policy.
- 5.2.4. Instruct the District Attorney to commence proceedings in the District Court seeking injunctive relief to stop further violations, money damages to compensate the District for lost time, expense and other injury, court costs and attorney's fees, and such other relief as may be appropriate.

This Policy is subject to changes and additions at the discretion of the Board of Directors.

¹ Modified October 7, 2014 by Board of Directors.

² Modified June 3, 2003 by Board of Directors.

³ Modified September 4, 2013 by Board of Directors.