

APPENDIX B

Purgatoire River Water Conservancy District Operating Criteria, Amended and Restated February 2008



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION

Great Plains Region

P.O. Box 36900

Billings, Montana 59107-6900



FEB 15 2008

GP-3100
WTR-4.00

Dr. Jeris A. Danielson, P.E.
General Manager
Purgatoire River Water Conservancy District
430 East Main
Trinidad, Colorado 81082

Subject: Operating Criteria, Contract No. 7-07-70-W0095 (Contract) (original No. 14-06-70-6279) Purgatoire River Conservancy District (District), Trinidad Project, Colorado

Dear Mr. Danielson,

On February 10, 1967, the Bureau of Reclamation and the District entered into the subject Contract which incorporated the "Operating Criteria" in Exhibit B of the Contract. The "Operating Criteria" set forth in detail the criteria governing the District's administration of the District water supply in conformity with the general principles and provisions contained in the "Operating Principles" for Trinidad Dam and Reservoir Project.

Part F, titled "Review and Amendment", of the "Operating Criteria" states that the "Operating Criteria" needs to be reviewed by the District and Reclamation at least once every 10 years to ensure that the criteria obtain the optimum beneficial use of water as conditions change, operating experience is gained, and more technical data becomes available.

Pursuant to this article, the enclosed "Operating Criteria" have been reviewed by both parties and by signing below will supersede and replace the existing "Operating Criteria" and will thereby be incorporated into the Contract as Exhibit B. The enclosed "Operating Criteria" clarifies the water usage for the City of Trinidad and the State of Colorado, Department of Natural Resources, Division of Parks and Outdoor Recreation.

If you are in agreement with the enclosed "Operating Criteria" please countersign and have the letter attested where indicated below. Please return the letter in the enclosed envelope along with a resolution from the Board approving the "Operating Criteria". If you have any questions please call Jaci Gould at 970-962-4338 or Malcolm Wilson at 970-962-4362.

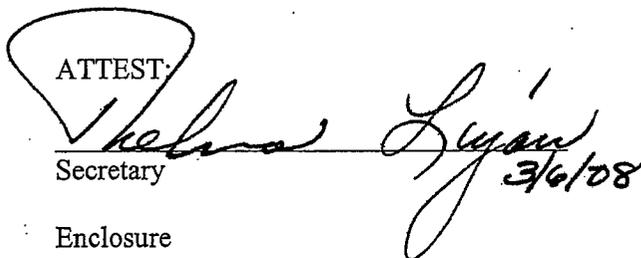
Sincerely,

Donald E. Moorman

For Michael J. Ryan
Regional Director

Purgatoire River Conservancy District concurs with the attached "Operating Criteria" and as such the "Operating Criteria" supersedes and replaces the existing "Operating Criteria" in Exhibit B of Contract No. 7-07-70-W0095.

 3/6/08
Purgatoire River Conservancy District
President

ATTEST:
 3/6/08
Secretary
Enclosure

RESOLUTION

WHEREAS, the Purgatoire River Water Conservancy District and the Bureau of Reclamation have entered into the subject Contract which incorporated the "Operating Criteria" in Exhibit B of the Contract. The "Operating Criteria" set forth in detail the criteria governing the District's administration of the District water supply in conformity with the general principles and provision contained in the "Operating Principles" for Trinidad Dam and Reservoir Project.

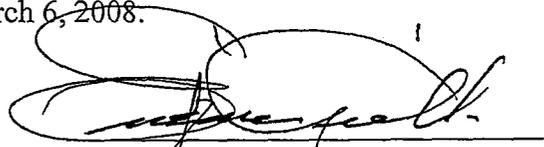
WHEREAS, Part F, titled "Review and Amendment", of the "Operating Criteria" states that the "Operating Criteria" needs to be reviewed by the District and Reclamation at least once every 10 years to ensure that the criteria obtain the optimum beneficial use of water as conditions change, operating experience is gained, and more technical data becomes available.

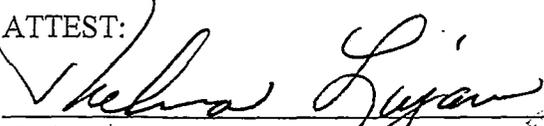
NOW, THEREFORE, BE IT RESOLVED:

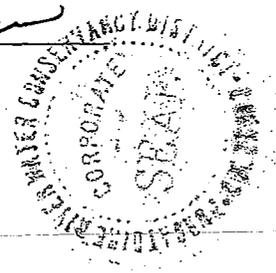
The enclosed "Operating Criteria" have been reviewed by both parties and by signing the enclosed " Operating Criteria" will supersede and replace the existing "Operating Criteria" which clarifies the water usage for the City of Trinidad and the State of Colorado, Department of Natural Resources, Division of Parks and Outdoor Recreation.

The District authorizes its Chairman of the board to sign this resolution.

Approved in Trinidad, Colorado on March 6, 2008.


Eugene Aiello, Chairman

ATTEST:

Thelma Lujan, Secretary



PURGATOIRE RIVER WATER CONSERVANCY DISTRICT
OPERATING CRITERIA

AMENDED AND RESTATED FEBRUARY 2008

These Operating Criteria set forth in detail the criteria governing the **District's** administration of the **District** water supply in conformity with the general principles and provisions contained in the "Operating Principles - Trinidad Dam and Reservoir Project." The **District** shall be responsible for administering the delivery of the **District water supply** for municipal and industrial uses, and the irrigation of the **District irrigable area** in accordance with these Operating Criteria and the above-mentioned **general Operating Principles**.

Agreements, satisfactory to the Secretary of the Interior, shall be entered into between the **District** and the ditch companies and other owners of affected water rights to insure that these criteria and the operation described herein shall be adopted. In order that the repayment ability of the **District** will not be impaired, such agreements shall include provision for differential water charges within the **District irrigable area** reflecting payment capacities by land classes and variation in benefits accruing to each ditch system.

The details of the Operating Criteria are contained in the following five parts:

- Part A - "Definitions"
- Part B - "Allocations"
- Part C - "Operations"
- Part D - "Evaporation and Seepage"
- Part E - "Exercise of Water Right."

Provisions for review and amendment of these Operating Criteria are contained in the following part: Part F - "Review and Amendment."

Part A - Definitions

The definition of terms as used in the "Operating Principles - Trinidad Dam and Reservoir Project" applies in these criteria in addition to the following definitions as used herein:

1. "General Operating Principles" means the current Operating Principles - Trinidad Dam and Reservoir Project.
2. "Model Space Reservation" means the 6,000 acre-feet of space reserved within the **irrigation capacity** of Trinidad Reservoir for storing water, as available, for the use of the Model Land & Irrigation Company, the City of Trinidad, and **State Parks**.

3. **“Model Account”** means the quantity of water in storage within the **Model space reservation** which will be used exclusively for diversion to Model lands, and for municipal and industrial use by the City of Trinidad and State Parks.

4. **“Municipal and Industrial Use”** (sometimes referred to as **“M&I Use”**) means all municipal uses, such as, but not by way of limitation, domestic, commercial, manufacturing, industrial, agricultural, watering of parks and lawns and gardens, fire protection, generation of electric power and power generally, recreation, fish and wildlife propagation, sewage treatment, street sprinkling, maintenance of adequate storage reserves, maintenance of the **permanent fishery pool**, evaporation replacement, other replacement, augmentation for all beneficial uses, and exchange.

5. **“Project Account”** means the quantity of water in storage within the **irrigation capacity** of Trinidad Reservoir, other than that in the **Model account**.

6. **“Trinidad Delayed Return Flow Account”** means water stored in any space reserved for storage by the City of Trinidad and dedicated for delayed return flows that the City of Trinidad is obligated to release. The **Trinidad delayed return flow account** may be used and may carry over storage from year to year but may not be used so as to impair the **District water supply** in subsequent years as stated in the contract between the City of Trinidad and the **District** dated April 20, 1966 and as interpreted and agreed to in the stipulation entered into in Case No. 86CW39, District Court, Water Division No. 2, State of Colorado.

7. **“Trinidad Storage Account”** means water stored in any space reserved for storage by the City of Trinidad, including storage available to the City of Trinidad pursuant to the provisions of an agreement dated April 20, 1966 between the City of Trinidad and the **District**. The **Trinidad storage account** may carry over storage from year to year and may be used to store transmountain water, but may not be used so as to impair the **District** water supply in subsequent years as stated in the contract between Trinidad and the District dated April 20, 1966 and as interpreted and agreed to in the stipulations between Trinidad and the District, entered into in Case No. 86CW39, District Court, Water Division No. 2, State of Colorado.

8. **“Transferred Model Right”** means the Model storage right of 1908 which has been transferred from its original site and owner to Trinidad Reservoir and the District and made part of the **District storage right**.

9. **“State Parks”** means the State of Colorado, Department of Natural Resources, Division of Parks and Outdoor Recreation.

10. **“State Parks Account”** means water stored in any space reserved or leased for storage by **State Parks** and dedicated for delayed return flows that **State Parks** is obligated to release and for carry-over of **State Parks’** portion of consumable water credits from the change of the water rights of the Model Land & Irrigation Company

and for replacement of evaporation and seepage from the **permanent fishery pool**. The **State Parks account** may not be used so as to impair the **District water supply** in subsequent years.

Part B – Allocations

As set forth in Article IV of the **General Operating Principles**, an allocation will be made to provide each acre of the **District irrigable area** an equitable share of the **District water supply**, provided such allocation will not exceed the irrigation requirement at the farm headgate. The following details shall apply to the allocation:

1. In advance of the **irrigation season** the **District** shall determine the reasonable minimum **District water supply** expected to be available for allocation for the following **irrigation season**. This determination shall be based on the water currently in storage, plus the reasonable minimum **reservoir inflow** and stream gains below Trinidad Dam which are forecasted to be available to the **District** during the **irrigation season**, less the **reservoir** evaporation chargeable to the **irrigation capacity** and less that quantity reserved for the Model Land & Irrigation Company as provided for in Part B.1(a) below and less that quantity in storage in the **Trinidad storage account**, and less any remaining water stored in the **Trinidad delayed return flow account**, and less that quantity in storage in the **State Parks account**.

(a) In advance of the **irrigation season** the **District** shall reserve for the use of the Model Land & Irrigation Company (including the water conveyed and allocated to the City of Trinidad pursuant to an agreement between the City of Trinidad and the Model Land & Irrigation Company sometimes known as the "Separation Agreement" recorded at Instrument No. 200000649212 in the real estate records of Las Animas County hereinafter "the Trinidad Model Account Water" and the water in the Model Account changed for use by State Parks in Case No. 03CW108 hereinafter the "State Parks Model Account Water") a maximum of 1,200 acre-feet of that water presently in storage credited to the **Model account** and that which will be credited during the following **irrigation season** to the **Model account** in the manner hereafter set forth in "Part C - Operations."

2. In advance of the **irrigation season**, the **District** shall make the initial allotment based on the reasonable minimum **District water supply** expected to be available for allocation as determined in Part B.1 above.

3. The allotment shall be expressed as the total volume of water in acre-feet available at the river for the lands lying under each of the ditch systems so as to provide, with an allowance for the canal and lateral losses of the individual ditch systems, each acre of the **District irrigable area** an equitable share at the farm headgate except as set forth in Part B.5(e) below.

4. For each acre of the **District irrigable area** which is to be withdrawn from irrigation pursuant to a change of water right, an amount of water shall be allocated on the same basis as other irrigable area within the **District**, except the Hoehne Ditch.
5. The initial allotment shall be made in the following manner:
 - (a) That part of the expected reasonable minimum **District water supply** that consists of stream gains below Trinidad Dam, which are divertible to the **District irrigable area** and **reservoir inflow** available for irrigation and **M&I use** shall be equitably allocated as part of the initial allotment to each acre of the **District irrigable area**.
 - (b) The water presently in storage credited to the **Model account** and the reasonable minimum expected to be credited to the **Model account** during the following **irrigation season**, exclusive of that reserved under Part B.1(a) above, shall be allocated as part of the initial allotment to the acreage of the Model Land & Irrigation Company, but limited to the extent that such allotment plus the allocation made under Part B.5.(a) above, will not exceed irrigation requirements.
 - (c) The water presently in storage credited to the **Project account** and the reasonable minimum expected to be credited to the **Project account** during the following **irrigation season**, other than water in **Trinidad storage account**, the **Trinidad delayed return flow account**, and **State Parks account** from previous seasons, shall be allocated as part of the initial allotment to each acre of the **District irrigable area** other than those of the Model Land & Irrigation Company so that each acre receives an allotment equivalent to that of the acreage of the Model Land & Irrigation Company.
 - (d) The **Project account**, other than that in **Trinidad storage account**, the **Trinidad delayed return flow account**, and **State Parks account** from previous seasons, not allocated under Part B.5(c) above shall be equitably allocated as part of the initial allotment to each acre of the **District irrigable area**.
 - (e) If the **Project account** is insufficient to furnish an allotment equivalent to that allocated from the **Model account** as in Part B.5(b) above, then the initial allotment to the acreage of the Model Land & Irrigation Company will exceed the initial allotment to the other acres of the **District irrigable area**.
6. If, as the **irrigation season** advances, more water than expected becomes available as the **District water supply**, an additional allotment will be added to the existing allotment according to the provisions in Part B.5 above.
7. Water allocated under Parts B.5 and B.6 from the **District water supply** to acreage historically irrigated by water rights owned or controlled by the City of Trinidad (not including the 500 acre-feet of Model Storage Account water conveyed to

the City of Trinidad pursuant to paragraph 2(c) of the Separation Agreement and up to 1,200 acre feet of "Emergency Drought Water" pursuant to paragraph 8(b) of the Separation Agreement) shall be made available for use by the City of Trinidad or its designees only when the ditch company which historically delivered water to acreage historically irrigated is calling for its allocation, and as follows:

(a) For each acre-foot of water allocated to the John Flood Ditch and Model Ditch and **removed from irrigation** by the City of Trinidad:

1) 0.65 acre-feet (65%) may be transferred to the **Trinidad storage account** in Trinidad Reservoir for immediate application or storage and subsequent application.

2) 0.25 acre-feet (25%) shall be delivered to the John Flood Ditch river headgate (the same as the Model Ditch headgate) and returned to or left in the Purgatoire River to maintain the historic return flow patterns to the Purgatoire River during the **irrigation season**.

3) 0.10 acre-feet (10%) shall be retained in a separate account in the **Trinidad delayed return flow account** for later release, at constant flow unless there is a determination by the **Colorado State Engineer** to release water at some other rate for efficiency of use to maintain **non-irrigation season** delayed return flow patterns to the Purgatoire River.

(b) Water allocated to acreage other than that **removed from irrigation** shall be released or made available for direct diversion and use by assignees and lessees of the City of Trinidad for irrigation of **District irrigable acreage** in accordance with these criteria and the operating principles.

8. State Parks may only request use of the State Parks Model Account Water with timely notice to the Model Land & Irrigation Company and the District. Water allocated under Parts B.5 and B.6 from the District water supply to acreage historically irrigated by the Model Land & Irrigation Company and now owned or controlled by **State Parks** shall be made available for use by **State Parks** or its designees only when the Model Land & Irrigation Company is calling for its allocation, and as follows:

(a) For each acre-foot of water allocated to the Model Ditch at the farm headgate and **removed from irrigation** by **State Parks**:

1) 0.65 acre-feet (65%) may be transferred to the **permanent fishery pool capacity** or **State Parks Account** for immediate storage.

2) 0.25 acre-feet (25%) shall be delivered to the Model Ditch river headgate and returned to or left in the Purgatoire River to

maintain the historic return flow patterns to the Purgatoire River during the **irrigation season**.

3) 0.10 acre-feet (10%) shall be retained in a separate sub-account within the **State Parks account** for later release, at constant flow unless there is a determination by the office of the **Colorado State Engineer** to release water at some other rate for efficiency of use, to maintain **non-irrigation season** delayed return flow patterns to the Purgatoire River.

9. Any part of an allotment that remains unused at the end of the **irrigation season** shall revert to the account from which it was allocated, except for that water in the **Trinidad storage account** and the **Trinidad delayed return flow account** as set forth in Parts A.6 and A.7 which has been made available for use by the City of Trinidad or its designees as specified in Part B.7 above, and except for that water in the **State Parks account** as set forth in Part A.10 which has been made available for use by **State Parks** as specified in Part B.8 above.

10. Each ditch will be responsible for administering and maintaining records of District allocations to the owners of lands or water rights under that ditch so as to assure proper scheduling and delivery of each user's allotment.

11. Any future increase in transportation efficiencies derived from improved facilities shall accrue to the benefit of those responsible for the improvement of facilities to the extent such water will still be used beneficially and in accordance with the **Operating Principles**.

12. Nothing herein shall be construed to prevent rental of part or all of an allocation from one portion of the **District irrigable area** to another.

Part C – Operations

The water stored in the **irrigation capacity** will be credited to two accounts, the **Model account** and the **Project account**. The **Trinidad storage account**, the **Trinidad delayed return flow account**, and the **State Parks account** will be sub-accounts of the **Project account**. The following criteria apply to the operation of these two accounts.

1. General Provisions

(a) Water credited to the **Model account** shall be stored only in the **Model space reservation**. Water shall be stored in the **Model space reservation** under the **transferred Model right** in the manner set forth in Parts C.2(a) and C.2(b) below.

(b) Water credited to the **Trinidad storage account** and the **Trinidad delayed return flow account** shall be stored in the manner set forth in Part B.7(a). The City of Trinidad may also store transmountain water or other storage water rights which the City of Trinidad may lawfully deliver to Trinidad Reservoir for its use in the **Trinidad storage account**.

(c) Water credited to the **State Parks account** shall be stored in the manner set forth in Part B.8(a). **State Parks** may also store transmountain water or other storage water rights, which **State Parks** may lawfully deliver to Trinidad Reservoir for its use in the **State Parks account** or the **permanent fishery pool capacity**.

(d) Water credited to the **Project account** may be stored in any of the **irrigation capacity** not occupied by the **Model account** so long as such storage does not interfere with the crediting of water to the **Model account**.

(e) The cumulative total of water credited to the **Model account** shall be limited to 6,000 acre-feet in any one year period beginning at the end of the **irrigation season** and the maximum quantity in the **Model account**, including holdover storage, shall be limited to 6,000 acre-feet at any time.

(f) That quantity reserved for the use of the Model Land & Irrigation Company (including the Trinidad Model Account Water and the State Parks Model Account Water) under Part B.1(a) shall be retained in the **Model account** until the **Project account** is determined empty by the **District**, at which time it will become available for the use by the Model Land & Irrigation Company, the City of Trinidad, and **State Parks** within the **District**. Such water may be used by the City of Trinidad and **State Parks** for **M&I uses**, but it may not be transferred to the **Trinidad storage account** or the **permanent fishery pool**; if not used, such water will be retained in the **Model account**. Such water may be used by the City of Trinidad and **State Parks** for only one use and may not be successively used nor the return flow therefrom reused.

2. Manner of Crediting

(a) Storing during the non-irrigation season

1) **Reservoir inflow** stored under the **transferred Model right** during the **non-irrigation season** will be credited one-third to the **Model account**, and two-thirds to the **Project account** until the limitations defined in Part C.1(e) above are reached, after which all **reservoir inflow** storable under the **transferred Model right** will be credited to the **Project account**.

2) All **reservoir inflow** storable in the **unused sediment capacity** during the **non-irrigation season** shall be stored and credited to the **Project account**.

(b) Storing during the irrigation season

1) Of the first 300 cubic feet per second of **reservoir inflow**, that portion not required for the current actual irrigation requirements shall be stored and credited to the **Project account**.

2) During the **irrigation season**, inflow to the **reservoir** in excess of a daily mean of 300 cubic feet per second of time or current actual irrigation requirements, whichever is greater, shall be stored in the **Model account** until filled; thereafter, such excess shall be stored in the **Project account** until filled, at which time any excess may be utilized under Model direct-flow rights and John Flood rights up to a total of 323.63 cubic feet per second.

3) All **reservoir inflow** storable in the **unused sediment capacity** during the **irrigation season** shall be stored and credited to the **Project account**.

3. Manner of Release When the **reservoir inflow** and stream gains below Trinidad Dam which are divertible to the **District irrigable area** are insufficient to meet **District** irrigation requirements, releases will be made from the **irrigation capacity** within allotments to augment the available direct-flow supplies. These releases will be made as part of the allocated **District water supply** from the two accounts and three sub-accounts as follows:

(a) Such releases for land, other than lands of the Model Land & Irrigation Company, shall be charged to the **Project account**.

(b) When the **Model account** is over 1,200 acre-feet such releases attributable to lands of the Model Land & Irrigation Company shall be charged to the **Model account**.

(c) When the **Model account** is 1,200 acre-feet or less such releases attributable to lands of the Model Land & Irrigation Company shall be charged to the **Project account**.

(d) The 1,200 acre-feet maximum reserved for the use of the Model Land & Irrigation Company (including the Trinidad Model Account Water and the State Parks Model Account Water) under Part B.1(a) shall be released or made available at the request of the Model water users, the City of Trinidad, or **State Parks** after the **Project account** is determined empty by the **District**.

- (e) Releases from the **Trinidad storage account** shall be made upon the request of the City of Trinidad.
- (f) Releases from the **Trinidad delayed return flow account** shall be made as set forth in Part B.7(a)3 above.
- (g) Releases from the **State Parks account** shall be made as set forth in Part B.8(a)3 above.

4. The daily deliveries of the **District water supply** will largely be governed by the requests by the ditches, the City of Trinidad, or **State Parks** to receive water remaining in their allotments for their irrigation or **M&I uses**. However, the District shall reserve the right to maintain a schedule of diversions when necessary to reduce transportation losses and to facilitate irrigation practices.

Part D - Evaporation and Seepage Losses

As provided in the **Operating Principles**, the evaporation and seepage losses to water stored in the **irrigation capacity** or the **permanent fishery pool capacity** shall be determined using the most recent data available by the **Colorado State Engineer** and the **District** with the cooperation of the **operating agency**. The following criteria are necessary to accomplish the accounting of water stored in the **reservoir**.

1. Evaporation Losses

- (a) The evaporation loss to be charged against the **irrigation capacity** shall be determined as the evaporation from the water surface area that would occur if the water stored under the **District storage right** for irrigation and **M&I uses** were the only water stored in Trinidad Reservoir.
- (b) The evaporation loss to be charged against the **permanent fishery pool** shall be determined as the increase in evaporation occurring as a result of the increase in **reservoir** water surface area occasioned by the addition of the **permanent fishery pool** to water stored within the **irrigation capacity**.

2. **Seepage Losses** The proportion of the **reservoir** seepage loss resulting from water stored in the **irrigation capacity** or the **permanent fishery pool capacity** shall be the proportion of water stored in that capacity to the total water stored in the **reservoir**.

- (a) The proportion of **reservoir** seepage loss resulting from water stored in the **irrigation capacity** shall be charged against the **District water supply**.
- (b) The proportion of **reservoir** seepage loss resulting from the **permanent fishery pool** shall be charged against the **District water supply** to the extent it

is divertible in a manner consistent with the Operating Criteria for irrigation or stock water use, except that if there is no **District water supply** available such **reservoir seepage** will be replaced by **reservoir inflow**.

1) If the **reservoir inflow** is insufficient for making such replacement, the deficit will be charged against a future **District water supply**.

(c) The proportion of **reservoir seepage** loss resulting from the **permanent fishery pool** not divertible in a manner consistent with the operating criteria for irrigation or stock water use shall be charged against the **permanent fishery pool**.

Part E - Exercise of Water Rights

As provided in Article IV of the **Operating Principles**, the **District** may not exercise any of the direct flow water rights when the **irrigation capacity** is determined to be empty by the District. When the **irrigation capacity** is determined to be empty, the **reservoir inflow** and stream gains below Trinidad Dam which are divertible to the **District irrigable area** may be diverted by the water right owners exercising their rights in priority and the Model Land & Irrigation Company, the City of Trinidad, and **State Parks** may use the quantity of water reserved under Part B.1(a), provided no diversion be made in excess of the irrigation requirement for any portion of the **District irrigable area**. These Operating Criteria do not otherwise apply when the water right owners are exercising their rights in priority. Whenever **reservoir inflow** and stream gains below Trinidad Dam which are divertible to the **District irrigable area** should thereafter exceed such requirements, the **District** shall resume exercise of the direct flow water rights and shall store the excess under the **District storage right**.

The following details shall apply in determining when the **irrigation capacity** is empty.

1. The **District** shall declare in writing to the **Colorado State Engineer**, **State Parks**, the **operating agency**, and the **District** water users, the date, ten days in advance, on which the **irrigation capacity** will be considered empty and diversion by priority appropriation begin. Such data shall be based on the date the **irrigation capacity**, less that quantity reserved to the Model Land & Irrigation Company, the **Trinidad storage account**, the **Trinidad delayed return flow account**, and the **State Parks account**, would be drawn down to less than one day's run of water if used to fully satisfy the current irrigation requirement of the **District irrigable area**.

2. The manner in which the ditches request delivery of their allotment shall not affect the declared date.

3. The declared date may be adjusted to compensate for changing water supply conditions. Notice of such adjustment shall be given by the **District** to the parties listed in Part E.1 above by whatever means the **District** shall find most likely to convey such notice to said parties in relation to the circumstances of such adjustment.

4. The date the **irrigation capacity** is determined to be empty shall also be the date the **Project account** is considered empty and the **District water supply** considered consumed.

Part F - Review and Amendment

These operating criteria may be subject to review by the **District** and the Bureau of Reclamation once each year during the development period of the Trinidad Dam and Reservoir Project, and subject to at least one review every 10 years thereafter. The object of such reviews will be amending these criteria to obtain the optimum beneficial use of water as conditions change, operating experience is gained, and more technical data become available.

