

SUBCHAPTER C: ALLOCATION AND DISTRIBUTION OF WATERS

§§303.21 - 303.23

Effective October 26, 2006

§303.21. Amistad/Falcon Reservoirs Accounts.

(a) For the purpose of establishing accounts in Amistad and Falcon Reservoirs, the two reservoirs are considered to constitute a single storage system. Accounts in the Lower and Middle Rio Grande are based upon a water right's annual authorization in acre-feet. Water rights for irrigation and mining purposes are considered as having irrigation priority rights and therefore are included in the irrigation accounting system.

(b) When there is adequate water to do so, the watermaster shall maintain the following accounts:

(1) a reserve of 225,000 acre-feet of water for domestic, municipal, and industrial uses;

(2) an operating reserve of 75,000 acre-feet;

(3) the accounts for irrigation uses and all other uses.

(c) The operating reserve is necessary to cover losses of water charged to the United States. These losses are the result of seepage, evaporation, and conveyance; emergency requirements; and adjustments of amounts in storage as may be necessary by finalization of provisional computations by the International Boundary and Water Commission.

(d) Water-in-transit accounts are not eligible for an allocation under §303.22 of this title (relating to Allocations to Accounts) and are regulated under Subchapter I of this chapter (relating to Rio Grande Bed and Banks Permits for Water-in-Transit) and Subchapter J of this chapter (relating to Administration of Rio Grande Bed and Banks Permits for Water-in-Transit).

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§303.22. Allocations to Accounts.

(a) Allocations to Middle and Lower Rio Grande accounts, which do not include water-in-transit accounts, shall be based on water in the usable storage of Falcon and Amistad Reservoirs minus the water-in-transit held in storage at Falcon and Amistad Reservoirs. Such storage shall be computed as the total storage in Amistad and Falcon Reservoirs as reported by the International Boundary and Water Commission on the last Saturday of each month, less the water-in-transit and the amount of water in dead storage, which is water behind the dams that cannot be released due to hydrologic restrictions. To determine the amount of water to be allocated to the various accounts, computations shall be made in the following sequence:

(1) from the amount of water in usable storage, deduct 225,000 acre-feet to re-establish the reserve for municipal, domestic, and industrial uses;

(2) from the remaining storage, deduct the total end-of-month account balances for all Lower and Middle Rio Grande irrigation and mining allottees;

(3) from the remaining storage, deduct 75,000 acre-feet for the operating reserve;

(4) from the remaining storage, deduct the total amount of water held in storage from water-in-transit.

(b) The water available for allotment after the deductions under subsection (a) of this section, shall be divided into Class A and Class B. Class A rights include all Class A water rights in the Lower and Middle Rio Grande Basins, as defined in §303.2(24)(A) of this title (relating to Definitions); Class B rights include all Class B water rights in the Lower and Middle Rio Grande Basins, as defined in §303.2(24)(B) of this title. Class A allottees shall receive 1.7 times as much water as that allotted to Class B allottees.

(c) Allottees who do not put any of the water in their account to beneficial use within two consecutive calendar years shall have that account reduced to zero. No subsequent allocations will be made until the allottee advises the watermaster that water is expected to be used.

(d) At no time shall the watermaster allow an allottee to accumulate in storage more than 1.41 times the annual authorized right in acre-feet.

(e) No allocation will be made to a water right holder when the water right or a portion of the right does not identify a specific place or places of use. Only that portion of a water right which authorizes a specific place of use will receive an allocation based upon the number of acre-feet recognized to be used on that tract.

(f) If the amount of usable water is insufficient to carry out all the steps specified in subsections (a) and (b) of this section, the computations will be made in the specified sequence, with the following adjustments.

(1) If the watermaster determines there is insufficient water for allocation under subsection (b) of this section or other valid reasons for not allocating the available water, the unallocated storage after subsection (a)(3) of this section will be held for the next allocation period. In general, water will be allocated under subsection (b) of this section when there is at least 50,000 acre-feet available for that purpose.

(2) The watermaster may not allocate water to Class A and Class B water rights users until the operating reserve is at or above 75,000 acre-feet.

(3) If the balance available for the operating reserve is less than 75,000 acre-feet, but greater than zero acre-feet, then that amount will be the amount allocated to the operating reserve. If the operating reserve is less than zero acre-feet, the watermaster will deduct from the Class A, Class B, and water-in-transit accounts, via negative allocations, the amount necessary to provide 48,000 acre-feet for the operating reserve account. A negative allocation will be made on a pro rata basis, from all Class A, Class B, and water-in-transit accounts containing water at the time, based on the amount of water in such accounts. The watermaster will keep accurate records of the negative allocations affecting each Class A, Class B, and water-in-transit account. When the operating reserve has been restored to 48,000 acre-feet, negative allocations will cease. When the operating reserve has been restored to 75,000 acre-feet, and sufficient water is available, all accounts (excluding water-in-transit accounts) from which water has been deducted will be restored to the amount of water in each account prior to the negative allocation period and any new allotments will be made in accordance with subsections (a) and (b) of this section.

(g) For each month of a proration period, the total amount of water authorized to be used for that calendar year by each of the four water rights listed in the following table will be incrementally reduced or restored in the following manner. When the United States' share of storage in the Amistad-Falcon system is less than 50% of its total storage capacity, each 1.0% drop or rise in reservoir storage will reduce or increase the unprorated annual authorization by a corresponding amount listed under proration reduction in the following table. Once the prorated annual authorization has been reached, no further reductions will be made. During any month in which proration has been in effect, any allocation for the listed water rights will be based on the reduced unprorated annual amount. When conditions are such that it appears that the initiation of a proration period is imminent, the watermaster shall, at least two months in advance, advise the four affected water right holders of the anticipated proration.

Certificate of Adjudication	Annual Authorization (Acre-feet) - Unprorated	Annual Authorization (Acre-feet) - Prorated	Proration Reduction (Acre-feet)
23-802	33,948.85	20,000.00	1,162.40
23-837	4,375.00	3,656.00	59.90
23-850	3,750.00	2,000.00	145.80
23-851	2,522.50	1,642.00	73.40

(h) The watermaster may take any actions appropriate to prevent the waste of water or to alleviate emergencies.

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§303.23. Distribution of Available Waters--Upper Rio Grande and All Rio Grande Tributaries.

(a) Distribution of waters in the Upper Rio Grande and all Rio Grande tributaries shall be based upon the amount of water authorized per annum and the priority date of the water right. Water

rights holders in the Upper Rio Grande and all Rio Grande tributaries are entitled to waters flowing in these watercourses excluding water-in-transit, which can be beneficially used and which are used in accordance with §303.11 of this title (relating to Records of Diversions--General) and §303.13 of this title (relating to Records--Upper Rio Grande and All Rio Grande Tributaries). All waters excluding water-in-transit which cannot be so used shall be available to the Lower and Middle Rio Grande system.

(b) Total certifications issued in a year shall be limited to the water rights holder's annual authorization.

(c) In periods of shortage, on the watermaster's initiative or when requested by a water rights holder on the same tributary or on the Upper Rio Grande, the watermaster may impose limitations of the time, rate, and/or quantity of water diverted.

(d) Distribution of available waters from the Rio Grande above Amistad and all Rio Grande tributaries shall not be eligible for distribution or use to water-in-transit accounts.

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