

SUBCHAPTER F : CONTRACTUAL SALES
§§303.51-303.55

§303.51. General Policy.

Verified owners of water rights in the Middle and Lower Rio Grande with the right to call on releases from the Amistad-Falcon system may contract for the sale of all or part of their annual authorized amount of use to other water rights holders or their agents in the Middle and Lower Rio Grande as long as all of the contractual sales rules are complied with. The resale of purchased water is prohibited. The use of contract sale water by buyer will not go to the perfection of seller's appropriative right. All existing contracts shall be filed with the executive director in accordance with this section.

§303.52. General Filing Requirements.

(a) If the sale of water is for a purpose of use other than that authorized in the seller's water right, then the supplier must file an application to amend that right and have the right amended before any sale may be approved.

(b) If the use of water under the contract involves a change in the place of use, diversion point or diversion rate, an amendment to sellers or buyers water right is not required. Seller or buyer shall file a copy of the executed contract with the executive director for approval. Water diverted pursuant to this section shall be diverted from a diversion point and used on a tract of land identified in commission records in accordance with §303.53(b) of this title (relating to Documents Needed to File).

(c) The seller must be a verified owner of a water right. If the commission does not have adequate ownership records of the seller, then no sale may be approved by the executive director.

(d) All contracts must be filed with and approved by the executive director as complying with all the sections relating to contractual sales. No deliveries of sold water will be made by the watermaster until all requirements are met.

(e) The executive director will file the original approved contracts in the seller's permanent water right record and will send a copy of approved contracts to the watermaster.

(f) No contract approval is required for sales of water by a district when the district's distribution facilities are used to deliver the water to the buyer for purposes authorized by the district's water right.

(g) Seller can not use and/or sell in excess of his water right's annual authorized amount of use in any calendar year.

§303.53. Documents Needed to File.

(a) A contract of sale of water to be filed with the executive director in accordance with §303.52(d) of this title (relating to General Filing Requirements) shall indicate all of the following:

- (1) the specific certificate of adjudication or other water right under which the water is being sold;
- (2) the specific certificate of adjudication or other water right under which the bought water is to be used;
- (3) the name and address of the seller and buyer;
- (4) the total quantity of water being purchased in acre-feet;

- (5) the purpose of use for which the water is to be used;
- (6) the cost of water to the buyer per acre-foot;
- (7) the diversion point to which the buyer is requesting deliveries to be made;
- (8) the effective date and termination date of the contract (contract period can not exceed one year) the acreage to be irrigated, if applicable; and
- (9) the contract executed by all verified owners of the water right from which water is purchased.

(b) The contract will be accompanied by an aerial photograph or United States Geological Survey topographic map with the location of diversion points and areas to be irrigated described thereon.

(c) The executive director may require any additional information needed to approve the contract, including any agreements with diverters if the buyer is not pumping from his own diversion point and deeds of any tracts to be irrigated.

§303.54. Responsibilities of Buyer and Seller.

- (a) Both buyer and seller must comply with all Texas Water Commission rules and watermaster orders.
- (b) The buyer must obtain a certification from the watermaster before pumping.
- (c) The buyer and seller are solely responsible as to the resolution of conflict regarding the terms and conditions of a water contract sale.
- (d) The seller is responsible for reporting all sales of water on the yearly surface water use reports. The buyer must also report his use of purchased water separately from his water right on his yearly surface water use report.

§303.55. Accounting for Contract Sale Water.

- (a) The watermaster will transfer the full amount of water, or portion thereof, specified in an approved contract from the seller's to the buyer's account upon contract approval.
- (b) Upon transfer of contract sale water to buyer's account, subsequent use of water by buyer will be deducted from the contract water balance until the contract water balance equals zero or until the contract expiration date.
- (c) Any contract water balance remaining in buyer's account at the contract expiration date will be deducted from buyer's account and will be available for allocation to the system reserves and accounts according to §303.22 of this title (relating to Allocations to Accounts).
- (d) Buyer may not sell any water via contract as long as his bought water balance is greater than zero.
- (e) At no time will buyer's or seller's irrigation storage account exceed 1.41 times the water right holder's recognized amount in acre-feet.