

TRANSLATED FROM THE OFFICIAL
RUSSIAN VERSION

Approved by the Prime Minister of the
Kyrgyz Republic on Aug. 13, 1997

RESOLUTION
On Water Users' Associations in Rural Areas.

1. General provisions.

1. Water Users' Associations in the rural areas are voluntary associations of farmers and farmers' groups having the role of joint operation of the irrigation and drainage networks, of water resources management and of executing hydraulic, reclamation, water conservation and other activities. The creation of water users' associations is justified by the need of the farmers and farmers' groups to exercise their right to the use of water as well as by the need of efficiently concentrating their efforts and means for joint actions aimed at the optimum utilization of water resources on irrigated, flood protected and reclaimed lands.
2. The activity of Water Users' Associations is governed by the Constitution of the Kyrgyz Republic, the Laws of the Kyrgyz Republic, the Decrees of the President of the Kyrgyz Republic, the Resolutions of the Government of the Kyrgyz Republic, the Decisions of executive power bodies as well as by the present Resolution.
3. Water Users' Associations are empowered to act on behalf of its members, i.e. farmers and farmers' groups, in their relations with water management, environmental, agro-industrial institutions, organizations and enterprises as well as to organizations of the local state administration, to conclude contracts for water supply, construction, repair, technical utilization of the irrigation network as well as other contracts and transactions, allowed by the existing legislation.
4. Water Users' Associations are legal entities, having their seal with the name of the association in Kyrgyz and in Russian.
5. Water Users' Associations can be established as specialized associations, performing functions related to water, or as multi-purpose associations, dealing with the implementation of multi-purpose tasks, related to the production of agricultural products, the processing, sale, commercialization or other joint activities of farmer groups. The by-laws of multi-purpose associations must reflect their functions, rights and duties in water related activities, in accordance with the provisions of the present Resolution.

II. Procedures of creating Water Users' Associations.

6. Water Users' Associations can be created only on a voluntary basis. Any interference of

government and other bodies into the activities of the associations is prohibited, except for cases provided by the existing legislation.

7. The decision of creating an association is taken at a general meeting of the founders, responsible representatives of farmers and farmers' groups. If the majority of the participants of the general meeting agrees to create the association, commercial and other institutions, enterprises, rural unions and individual water users can also become founders with equal rights of the association, if they sign the document of creation of the association prepared by the general meeting.

8. After the decision of creating an association, the general meeting of the founders elects a board and its chairman (toraga), approves the by-laws of the association, the size of an authorized capital as well as amount of the contribution of each founder for the current year and the salaries of the association's permanent staff. Each of these decisions is taken by the majority of votes of the participants to the general meeting and will be reflected in the protocol of the general meeting.

9. The chairman of the board, elected by the general meeting of founders, organizes the preparation of the required founding documents and their approval, the registration of the association as a legal entity as well as with the National Committee for Statistics, with the tax authorities and other state organizations in accordance with the legislation of the Kyrgyz Republic for the creation of new legal entities.

10. Water Users' Associations operate as independent legal entities starting from the date of their registration. They have the right to conclude contracts starting with the date of opening an account in a banking institution and to use the total amount of the authorized capital in this account. Consequent activities of the associations will be based on democratic principles, taking into account the interests of all members and of the state and are regulated by the by-laws which will be prepared on the basis of the present Resolution.

11. It is recommended to create associations within the hydro-geographical boundaries of a river basin or water source, regardless of administrative divisions.

Associations may have contractual relations for the delivery of water from the hydraulic facilities it owns to non-member owners of irrigated land plots or to enterprises.

III. Functions of Water Users' Associations.

12. In accordance with the objectives and tasks, included in the present Resolution and in its own by-laws, water users' associations are involved in a voluntary cooperation of its members to achieve the following:

- operation of irrigation, drainage and discharge networks as well as ponds, reservoirs, wells, pumping stations, sprinkler installations, outlet structures and other hydraulic structures;
- maintenance of special buildings, constructions, bridges, power lines, roads and other elements of the infrastructure which are linked to the water management

system;

- water intake from the source and distribution of the water among the members of the association, in accordance with the provisions of the licence for water use, in case of intake of water from natural sources, or with the terms of the contract, in cases where water is provided by enterprises holding the licence for water use;
- construction, rehabilitation, maintenance, cleaning and other activities aimed at maintaining the associations' network in proper condition, at developing this network and at improving the status of irrigated and reclaimed lands;
- organizing the most efficient use of water resources, taking into account the needs of all farms and farmer groups which are members of the associations;
- implementation of measures aimed at preventing and mitigating the adverse effect of excess water on land and on economic and natural facilities;
- implementation of measures aimed at preventing and mitigating the effects of water pollution on natural and economic facilities;
- statistical accounting on the use and protection of water and on the use of irrigated and reclaimed lands;
- organizing the improvement of the professional skills of the associations' members in the area of irrigated farming, the introduction of advanced methods of irrigating agricultural crops, water-saving and environmental protection technologies and in other activities related to water use.

IV. Transfer of the Property of Water Users' Associations.

13. Water Users' Associations have the right to own irrigation infrastructure (canals, hydraulic structures, water collection and drainage networks, pumping stations, wells and other infrastructure) belonging to the former collective farms and state farms as well as to water management institutions.

The transfer of water rights and of ownership of irrigation infrastructure will be implemented, at no cost, according to the following procedures:

- from former collective farms, converted into associations of farmers and farmers' groups - on the basis of an agreement between the water users' association and these organizations;
- from former collective farms, converted into farms and farmers' groups who did not form a community - on the basis of an agreement between the farmers or farmers' groups and the water users' association;
- from village committees, who have taken over the irrigation infrastructure of the

former state farms, the transfer is done directly at the moment of the creation of the association.

V. Production, financial and economic activities of Water Users' Associations.

14. Water users' associations:

- organize the inventory and record of irrigated and reclaimed lands of farmers and farmers' groups, members of the association, the records and certification of irrigation networks, rural water supply systems, land resources and water management structures;
- prepare, independently or on a contractual basis with water management authorities, economic plans of the association's water use, water allocation and scheduling between farmers and farmers' groups;
- are beneficiaries of the licences for water use, in conformity with the existing regulations;
- conclude contracts with water management authorities for water delivery and restitution;
- prepare each year a list and estimation of the volume of work and of the costs of construction, maintenance, repair, cleaning and other activities of the irrigation network and organizes their execution by their own means, by outside organizations or enterprises on a contractual basis or by hiring outside persons on the basis of a temporary labor agreement;
- organize the technical maintenance of the irrigation network, the hydraulic structures using their own means or by the water management authorities, on a contractual basis;
- plan and execute actions for improving the technical condition of their irrigation network, in order to prevent adverse effects of water on the productivity of the irrigated and reclaimed lands of farmers and farmers' groups and to avoid the depletion of local irrigation and water supply sources;
- organize, using the own means or by attracting water management institutions, the recording and monitoring of the water quantities received, the distribution of the water among the farmers and farmers' groups, the evacuation of water from the low-lying areas and the water delivered to other water users, and installs, for this purpose, water metering devices;

- systematically prepare the reports on the national and operational utilization of water resources and of irrigated and reclaimed land, in accordance with the existing regulations;
- systematically interact on behalf of the water users with the local water management authorities on water issues, related to the compliance to the mutual obligations, included in the contracts for water delivery or for technical servicing of an irrigation network, on the operative adjustment of water delivery, on the settlement of water disputes, on the prevention of violations of the legislation and on other issues;
- systematically interact with the local state administration, with the environmental, land management and other interested institutions on issues dealing with water and land;
- negotiate and sign contracts, agreements and transactions with state, commercial and other organizations and persons;
- organize activities at the expense of the association, and obtain credits and investment funds for the improvement of existing arable land or the development of new irrigated land in accordance with the development objectives of the farmers and farmers' groups, members of the association;
- act as a client of design, scientific research, construction and other types of activities, related to the technical rehabilitation of the irrigation network and the introduction of improved technologies for irrigation and water-saving in agricultural production;
- protect the interests of the members of the association and assist them methodologically and technically in the implementation of water management related actions;
- perform other activities, provided for by the associations' by-laws and permitted by the existing legislation.

15, Farmers and farmers' groups, members of a water users' association, retain full financial and economic independence and are responsible only for obligations prescribed by the association's by-laws. In turn, water users' associations are not responsible for obligations not dealing with water, contracted by farmers or farmers' groups, members of the association.

16. The Water Users' Association exercise, as necessary, the right of operational management and economic control over the associations' property, consisting of irrigation infrastructure, machinery, devices, equipment and other material values, voluntarily transferred by farmers or farmers' groups or acquired at the expense of the associations' funds and intended for joint implementation of water management activities.

17. The financial resources of the Associations are mainly formed by contributions of every member (annual mandatory fees, in the amount approved by the general meeting of the members, consistent with the budget) as well as by credits from banks, investments, income from production, commercial activities and other income from water management activities, provided for in the by-laws.

The water users' associations exercise the right to independently allocate these resources for the purposes indicated in its by-laws, including remuneration of personnel, contractual payments, property acquisition, payment of works and services, etc.

VI. Rights and duties of farmers and farmer groups.

18. The owner of the right to use an irrigated land plot is also the owner of the right to use water taking into account the quantitative limitations due to the availability of water resources in the sources, the established consumption norms and the technical capacity of the irrigation system.

In case of transfer of the land use rights to other owners, regardless of the type of transfer (integration in cooperatives, inheritance or sale of the land use right for an irrigated plot) the water use right is also transferred to the new owner of the land-use right.

19. Owners of irrigated land plots, having independent water intakes from a natural water source (river, spring, well, etc) have an individual right to use the water. This right is exercised by obtaining a license for the water use, in conformity with the existing regulations.

Owners of irrigated land plots located within the boundaries of an irrigation system with more than one water user, exercise their water rights by forming water users' associations or by establishing contractual relations with the owners of the irrigation systems.

20. All farmers, farmers' groups and other water users located within the boundaries of an irrigation system, have equal rights to water use and exercising the right of one water user should not prejudice the right of another water user. The volumes and time frame for the delivery of water to the members of the water users' associations are established and controlled by the water users' associations themselves. Owners of irrigated land plots who are not members of the association, exercise their right by signing a contract for independent water delivery with the association.

21. Every member of the water users' associations is obliged to make annual payments to the association, in order to ensure the operational capability of the irrigation, collection and drainage network within the association as well as for the water delivery services to the association. Those refusing to pay lose their right to water use.

22. Owners of irrigated land plots who do not irrigate their plots for two successive years lose their right to use the irrigated land plots.

23. If a water user introduces water-saving technologies or reduces water losses in the system, the right for the amount of saved water can be transferred or sold by the user to other users who need the water. Other cases of transfer or sale of the water rights are not permitted.

Sales or transfers of water rights for the saved amount of water are not allowed without the concurrence of the authorities who have determined the initial amount of water which the user is entitled, prior to the implementation of the water-saving actions.

24. In irrigation systems with a reduced capacity of delivering water, the switch from a cropping pattern to another cropping pattern, with bigger water requirements, does not entitle the water user to a greater amount of water.

25. The right of water use may be temporarily limited in cases of drought, when the available quantity of water does not cover the needs of all the users.

VII. Rights and duties of water users' associations.

26. The chairman (toraga) of the board and the other board members have the following rights, within the limits of power specified in the by-laws:

- to act of behalf of the farmers, farmers' groups and other members of the association, to protect their interests in settling water relations with any organization, including courts of laws and other water users and to participate in the settling of water disputes.
- to check the volume of water supplied at the outlets of the state (interfarm) network and to demand compliance with the terms of the contract and the water distribution schedule;
- to agree to changes in the water delivered to the association's irrigation network in cases of water shortages and other unforeseen situation;
- to check the compliance with the water scheduling by the farmers and farmers' groups which are members of the association and to settle water disputes between them as an arbitrator;
- to prevent and reveal cases of violation of the water and land legislation by members of the association, to make claims to the parties responsible for eliminating the consequences of such violations and to identify the damages due to the injured parties;
- to file suits against state, commercial and other organizations, enterprises and institutions in case of violation of the water legislation or of the terms of contracts and agreements and to claim taking corrective measures, in conformity with the prevailing legislation;
- to collect the information required for planning and implementing water management actions from the water management authorities and from the members of the association;
- to stop the delivery of water or to apply other sanctions, provided for by a decision

of the general meeting of the members, against the members of the association who violate the water legislation, the by-laws and the instructions of the chairman or of the hydrotechnicians of the association;

- to accept construction, repairs and other works, executed within the framework of contracts and agreements, on the irrigation network of the association.

27. Water users' associations are obliged to:

- ensure compliance by its members to water, land and water protection legislation, norms and regulations, to the limits of water utilization, to the terms of contracts and agreements concluded with the water management agencies and with other organizations, enterprises and institutions in the area of water resources;
- to ensure rational utilization of irrigated and reclaimed lands, preventing salinization, waterlogging, depletion of fertility and of other qualitative indicators;
- to prepare in time the water allocation plans of the association, to reach a consensus on these plans and to approve them according to the prevailing regulations;
- to keep records, in compliance with prevailing regulations, on the utilization of water and of irrigated and reclaimed land;
- to ensure payment for water delivery services to the association and to implement its distribution to the members of the association;
- to organize state and operational accounting on the utilization of water and of irrigated and reclaimed land;
- to ensure the collection of fees from all members of the association for payment of water delivery services to the association and for the maintenance of its own irrigation network, including the appurtenant structures;
- to prepare the timely water scheduling plans between the members of the association and to ensure their implementation as well as their operational correction in case of unforeseen conditions of water use;
- to ensure the mitigation of the adverse effects of water on land and on natural and economic facilities;
- to prevent cases of unauthorized execution of any type of work in the inter farm system and on the farm irrigation network by members of the association;
- to ensure measures of reducing water losses and prevention of excessive, unplanned evacuation of water from the network of the association;

- to ensure the safety and the maintenance in good working condition of the irrigation network and of the appurtenant constructions and structures.

VIII. Structure of Water Users' Associations.

28. The basic form of ensuring the powers of the farmers and farmer' groups and other members of the association is the general meeting of the members which:

- approves the by-laws, rules and regulations of the association;
- elects the board of the association and its chairman (toraga), agrees upon the persons to be appointed as hydrotechnicians and other specialists;
- prepares proposals on the principles of the associations activities, its reorganization and legislation;
- approves the inclusion of new members;
- annually discusses the association's budget, the report of the activities of the association's board and of its chairman and, if necessary, reelects the board;
- approves the amount of the authorized funds and the amounts of the annual contribution of the association's members;
- approves decisions related to the mortgaging, sale or leasing of the association's property;
- approves decisions related to obtaining credits and other decisions related to the property and to the financial or legal interests of the farmers and farmers' groups which are members of the association.

29. General meeting of the members are called not less than twice a year. Decisions of the members' general meeting, related to the internal activity of the association are approved on the basis of an open ballot by a simple majority of votes and are final. They can be appealed against only in legal courts. Water users' associations are headed by a chairman of the board, elected by a majority of not less than 2/3 of the votes of the participants at the general meeting of the members for a period of not less than three years.

30. The chairman of the board:

- bears the responsibility for all activities of an association;
- manages the property and financial resources of the association, represents it without requiring a power of attorney in relations with other legal entities and persons, concludes contracts, agreements and transactions on behalf of the association;

- appoints and fires workers to the association's permanent staff, within the number and functions approved by the general meeting of the members;
- signs financial, accounting, contractual and other documents;
- issues instructions on the implementation of the water management action plans which are mandatory for execution by all members of the association and monitors their execution;
- performs other actions as a head of an independent legal entity, provided for by the existing legislation.

31. The practical execution of water management actions is laid upon the hydrotechnicians. The number and selection of the hydrotechnicians will be approved by the general meeting of the members, at the proposal of the chairman of the board.

Hydrotechnicians must be persons, selected among the members of the association or hired by contract (labor agreement) for a given period, having the required level of qualification to perform the following tasks:

- preparation of water use plans, water allocation and scheduling among the members of the association;
- preparation of water delivery contracts and execution of other water management actions;
- determination of the volumes and costs of construction, repair, cleaning and other works in the irrigation network, organization of the execution of these works by farmers and farmers' groups themselves or by external organizations or enterprises;
- water intake and distribution among the members of the association;
- primary records of water intake, delivery and distribution of water;
- constant cooperation with the water management, environmental and other administrations in the area of water relations;
- monitoring the utilization of water by the association's members;
- settlement of water disputes between the members of the association and prevention of violation of the water legislation by its members;
- providing methodological and technical assistance to the members of the association regarding the implementation of water distribution plans, actions to increase fertility and to improve the reclamation conditions of the land, and to promote the introduction of irrigated farming.

IX. Records, accounting and auditing.

32. Water users' associations will keep operational, accounting and statistical records and accounts for all production and other activities in accordance with the existing regulations for legal entities.

33. Water users' associations will keep records and accounts for the utilization of water, irrigated and reclaimed lands in accordance with the provisions of the existing water, land, environmental protection and other legislation and regulations for legal entities and for water and land users.

X. Reorganization and liquidation of water users' associations.

34. Water users' associations may be reorganized and liquidated by a decision of the general meeting of the members or on grounds provided for by the legislation of the Kyrgyz Republic.