

2009-004702

Klamath County, Oregon



00063669200900047020100108

After recording return to:
Klamath Irrigation District
6640 KID Lane
Klamath Falls, OR 97603

04/03/2009 10:13:22 AM

Fee: \$66.00

IRRIGATION CONTRACT
FOR
CHANGE OR ALTERATION

WHEREAS, Nelson Family Trust

hereinafter called Landowner, whether one or more, own the following described real property in Klamath County, Oregon, to wit:

Real property situated in Sec. 34, Twp. 39 S., R. 11 1/2 E.W.M. SE NW + SW NE

Lot(s) _____ in Block _____ of _____

_____ Addition, according to the official plat thereof, being more particularly described in the instrument recorded in Vol. _____ at page _____ of Klamath County, Oregon, Deed Records and being Assessor's Account No.

39-11-V-00200; and Landowners wish KLAMATH IRRIGATION DISTRICT, hereinafter called K.I.D., to consent and agree to the following change or alteration affecting the Klamath Project, to wit:

SEE PAGE 5 AND Exhibit A FOR Complete Description of change or ALTERATION.

which said change or alteration, as the case may be, Landowners deem will improve and benefit their said property and enhance the value thereof but which will also directly affect K.I.D.'s operation of the United States of America's Klamath Project; and

WHEREAS, K.I.D. is willing to consent and agree to Landowners' said request only if Landowners recognize, ratify, grant and confirm all of the existing rights, rights-of-way, servitudes and easements of K.I.D. and of the United States of America, operated and maintained by K.I.D. affecting Landowners' said property and absolve, waive and release K.I.D. from any and all claims or liability for any damages or injuries to person or property which may have heretofore occurred or which may now be occurring in connection with the ownership, operation or maintenance of the Klamath Project and to assume full responsibility for and to indemnify and hold K.I.D. harmless from any or all matters which may hereafter

occur or result from or be attributable to, in whole or in part, directly or indirectly, from that which is herein requested by the Landowners.

NOW THEREFORE, Landowners, jointly and severally agree on behalf of themselves and on behalf of each of their respective heirs, devisees, grantees, transferees, successors and assigns to and with K.I.D. for its benefit and for the benefit of its successors, grantees, transferees and assigns as follows:

(1) The Landowners recognize, ratify, grant and confirm the existence of all existing rights of K.I.D. affecting Landowners' property, including, without limitation by this recital, all rights-of-way, easements and servitudes for all irrigation and drainage facilities of the United States or K.I.D. as constructed and located upon or affecting Landowners' said property and agree that K.I.D. now owns, has and holds a prescriptive right, right-of-way, easement and servitude for all percolation and seepage which now exists or which at any time heretofore has occurred or resulted from any irrigation or drainage facility, operated and maintained by K.I.D., and shall grant a further and additional right, right-of-way, easement and servitude for any new, additional or aggravated percolation or seepage which may result from the alteration requested by the Landowners.

(2) Landowners give, grant and convey unto K.I.D. the right, right-of-way, easement and servitude to enter upon the Landowners' said property and premises to maintain District and United States' facilities.

(3) Landowners must obtain a revocable permit authorizing what is requested from the United States and must thereafter comply with all terms, or new permit hereafter required by the United States.

(4) All plans, construction and locations must be approved by K.I.D., but the Landowners shall be solely responsible for the condition and safety of the same and shall hold both K.I.D. and its successors and assigns wholly harmless from all claims, liabilities or damages resulting, occurring or attributable directly or indirectly to what has been requested by Landowners.

(5) All costs and expenses incurred in the performance of the Agreement shall be paid by the Landowners except those costs expressly authorized by the Board of Directors of K.I.D. to be paid by K.I.D. or some other source of payment.

(6) Landowners shall be solely responsible for and shall pay for or reimburse all future costs of cleaning, maintenance, repair, replacement, change, substitution, improvement, enlargement, construction or removal which may thereafter be necessary or desirable in connection with that which is requested by Landowners. If Landowners shall fail to do any such work, K.I.D. may, at its option, perform the same or cause it to be done and Landowners shall forthwith pay or reimburse K.I.D. for all expenses and costs incurred in connection with the same.

(7) It is expressly understood and agreed that if the matters requested by the Landowners shall thereafter cause any damage or risk of damage or loss to the Landowners or any other party, K.I.D. may require the Landowners, at Landowners' sole expense, to restore the conditions which existed prior to the performance of this Agreement or any part thereof.

(8) The Agreement is subject to all applicable laws, regulations, rules, directives, notices or orders now or hereafter established by K.I.D., the United States or any other governmental body, agency or official having proper jurisdiction or authority and Landowners agree to observe and comply with the same.

(9) The Landowners' agreements shall be covenant running with Landowners' said land and each and every part and parcel thereof in perpetuity, forever binding the same for the use and benefit of K.I.D. and its successors, grantees, transferees and assigns.

(10) The Landowners shall covenant and warrant that they are the sole owners of all right, title, estate and interest in the premises and property and have good right to execute the Agreement and to bind said premises and property as therein agreed.

(11) An executed copy of the Agreement shall be recorded in Deed Records of Klamath County Oregon, at Landowners' expense.

(12) The Agreement shall take effect only upon the approval of same by the Board of Directors Klamath Irrigation District.

Landowners do hereby acknowledge that they have read all of the foregoing instrument and consent and agree to each of the terms, conditions and agreements above set forth and do hereby acknowledge receipt of a copy of this Agreement.

Landowners hereby covenant and warrant that the undersigned are the sole owners of all right title, estate and interests in the above-described premises and property and have good right to execute this Agreement and to bind said premises and property as herein agreed.

WITNESS their hands this 11 day of Feb, 2009.

Virginia Bauer
Landowners

2-11-09

STATE OF OREGON)
County of Klamath) ss

On this _____ day of _____, 20____, personally appeared

and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

(SEAL)

Dee A. Roche
Notary Public for Oregon
My Commission Expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SACRAMENTO

On 2/11/2009, before me, BOBBI L. LEWIS NOTARY PUBLIC
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared VIRGINIA BAUER
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~
subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in
~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on this instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Bobbi L. Lewis

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: IRRIGATION CONTRACT FOR CHANGE OR ALTERATION

Document Date: 2/11/2009 Number of Pages 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: VIRGINIA BAUER

- ☒ Individual
☐ Corporate Officer -Title(s) _____
☐ Partner- ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of Thumb Here

Signer is Representing: SELF

Landowners do hereby acknowledge that they have read all of the foregoing Instrument and consent and agree to each of the terms, conditions and agreements above set forth and do hereby acknowledge receipt of a copy of this Agreement.

Landowners hereby covenant and warrant that the undersigned are the sole owners of all right, title, estate and interests in the above-described premises and property and have good right to execute this Agreement and to bind said premises and property as herein agreed.

WITNESS their hands this 10th day of February 2009.

K. Mark Nelson
Angiel K. Nelson

Landowners

STATE OF OREGON)
County of Klamath) ss

On this _____ day of _____, 20____, personally appeared

and acknowledged the foregoing Instrument to be their voluntary act and deed.

BEFORE ME:

(SEAL)

See attached loose cert.

Notary Public for Oregon
My Commission Expires: _____

Landowners do hereby acknowledge that they have read all of the foregoing Instrument and consent and agree to each of the terms, conditions and agreements above set forth and do hereby acknowledge receipt of a copy of this Agreement.

Landowners hereby covenant and warrant that the undersigned are the sole owners of all right, title, estate and interests in the above-described premises and property and have good right to execute this Agreement and to bind said premises and property as herein agreed.

WITNESS their hands this _____ day of _____, 20____.

Landowners

STATE OF OREGON)
County of Klamath) ss

On this _____ day of _____, 20____, personally appeared

and acknowledged the foregoing Instrument to be their voluntary act and deed.

BEFORE ME:

(SEAL)

Notary Public for Oregon
My Commission Expires: _____

State of California)

County of Sacramento)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 10 February 2009 before me, Jennifer Miller, Notary Public,
(here insert name and title of the officer)

personally appeared Kenneth Mark Nelson and Abigail
Ryan Nelson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document

titled/for the purpose of Irrigation Contract

for Change or Alteration

containing 5 pages, and dated 10 February 2009

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-Fact
☐ Corporate Officer(s)

Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☒ Trustee(s)
☐ Other:

representing:

Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☒ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # 37 Entry # 647

Notary contact: 916-798-1534

Other

☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)

☐

Landowners do hereby acknowledge that they have read all of the foregoing Instrument and consent and agree to each of the terms, conditions and agreements above set forth and do hereby acknowledge receipt of a copy of this Agreement.

Landowners hereby covenant and warrant that the undersigned are the sole owners of all right, title, estate and interests in the above-described premises and property and have good right to execute this Agreement and to bind said premises and property as herein agreed.

WITNESS their hands this 19 day of February, 2009.

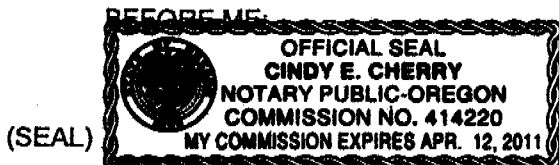
Kennedy Land Co. LLC
by William D. Kennedy Landowners

STATE OF OREGON)
) ss
County of Klamath)

On this 19th day of February, 2009, personally appeared

William D. Kennedy for Kennedy Land Co LLC

and acknowledged the foregoing Instrument to be their voluntary act and deed.



Cindy E. Cherry
Notary Public for Oregon
My Commission Expires: 4-12-2011

Landowners do hereby acknowledge that they have read all of the foregoing Instrument and consent and agree to each of the terms, conditions and agreements above set forth and do hereby acknowledge receipt of a copy of this Agreement.

Landowners hereby covenant and warrant that the undersigned are the sole owners of all right, title, estate and interests in the above-described premises and property and have good right to execute this Agreement and to bind said premises and property as herein agreed.

WITNESS their hands this 5th day of March, 2009.

Jolene M. Smith

Landowners

STATE OF OREGON)
) ss
County of Klamath)

On this 5th day of March, 2009, personally appeared

Jolene M. Smith

and acknowledged the foregoing Instrument to be their voluntary act and deed.



Cindy E. Cherry
Notary Public for Oregon
My Commission Expires: 4-12-2011

I hereby recommend approval of the foregoing Agreement.

David A. Solem
Manager - KLAMATH IRRIGATION DISTRICT

Date 3-12-09

The foregoing Instrument having been read and considered by the Board of Directors of Klamath Irrigation District at a meeting of said Board of Directors and it having been duly moved, seconded and voted that Klamath Irrigation District approve and agree to the same.

CHANGE OR ALTERATION AGREEMENT -- PAGE 3

Now, Therefore, Klamath Irrigation District does hereby duly execute this Agreement.

(SEAL)

KLAMATH IRRIGATION DISTRICT

By Edward T. Bair
Its Vice President

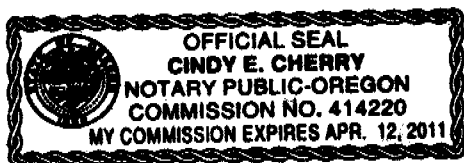
By David A. Solem
Its Secretary

STATE OF OREGON)
) ss
County of Klamath)

On this 12th day of March, 2009, personally appeared
Edward T. Bair and David A. Solem
Who, being duly sworn did each say that Bair is the
Vice President and Solem is the
Secretary of Klamath Irrigation District and that the Seal affixed to this
Instrument is the Official Seal of said Klamath Irrigation District and that said Instrument was signed on
behalf of Klamath Irrigation District by authority of its Board of Directors and each of them acknowledged
said Instrument to be the voluntary act and deed of Klamath Irrigation District.

BEFORE ME:
(SEAL)

Cindy E. Cherry
Notary Public for Oregon
My commission Expires: 4-12-11



Change or alteration

#1 - K.I.D. maintained 30 inch x 20 foot cmp crossing. K.I.D. to replace existing damaged culvert with a 36 inch x 20 foot piece. Landowner wants a 40 foot crossing, so land owner will provide another 36 inch x 20 foot piece of pipe and band. Landowner will be responsible for operation, maintenance, and replacement of the extra 20 feet of pipe and band. Landowner wants the existing crossing moved downstream approximately 200 feet in the # 21 drain so the discharge of the crossing is near the intersection of the # 21 and #21-A drain.

#2 - Place a 42 inch x 40 foot cmp crossing in the # 21 drain located just downstream from the intersection of the #21 and #21-A drain.

#3 - Place a 7 foot high x 5 foot wide x 42 inch check structure and 20 feet of 42 inch cmp in the # 21 drain to regulate water elevation in the # 21 drain for a pumping station. Landowner will remove all check boards from the check structure when not operating the pumping station, and will use boards in the check structure to elevate the water level in the drain to the minimum elevation required to operate the pumping station.

#4 - Existing non-permitted private 24 inch cmp crossing in the #21-A drain will be removed.

Land owner will provide signatures, on the alteration agreement from other affected land owners listed below.

- | | |
|---------------------------------------|---|
| 1. Kennedy Land Co. LLC | 39-11 1/2-3400-00300 |
| 2. Jolene Smith | 39-11 1/2-3400-00700 & 00800 |
| 3. Bauer Ken R. and Virginia Trustees | 39-11 1/2-3300-00100, 00500, 00600, 00700 |

