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07/18/2019 09:07:25 AM

Fee: \$92.00

**AFTER RECORDING, RETURN TO:**

Klamath Irrigation District  
6640 KID Lane  
Klamath Falls OR 97603

**AGREEMENT RESCINDING AGREEMENT FOR RELEASE  
OF WATER AND DRAINAGE RIGHTS**

This Agreement is made effective June 13, 2019 by and between the Klamath Irrigation District ("KID") an Oregon municipal corporation, and David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee.

**RECITALS:**

- A. KID is an Oregon municipal corporation and operating pursuant to Oregon Revised Statute Chapter 545.
- B. David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee own land within KID, which can be served with irrigation water from facilities operated and maintained by KID.
- C. In January, 1994 pursuant to an Agreement for Release of Water and Drainage Rights recorded on February 2, 1994, recording instrument number M94-3750, David P. Henzel owner(s) of the land, entered into an Agreement with KID exempting certain land in Klamath County, Oregon, more particularly described as follows:

See Attached "Exhibit A"

from the charges of KID for operation and maintenance of KID maintained facilities. In addition, the landowners released, waived, and assigned to KID any rights the real property had to the receipt of irrigation water and other services from KID.

- D. David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee now desire to receive the delivery of irrigation water from KID and other services provided by KID and has paid to KID the sum of **\$6185.83** representing payment in full of all operation and maintenance charges, late fees, interest, recording and admin charge that would have been paid by the owners of the subject real property to KID from 2018 to 2019.
- E. KID is willing to enter into this Agreement rescinding the Agreement for Release of Water and Drainage Rights and acknowledges receipt of said payment.

Therefore, the parties agree as follows:

**AGREEMENT:**

1. The Agreement for Release of Water and Drainage Rights recorded February 2, 1994, recording instrument number M94-3750 of the deed records of Klamath County, Oregon, is hereby rescinded.
2. KID acknowledges payment in full of all charges and interest pertaining to the years 2018 through 2019 due and payable from the subject land, which is also described as Klamath County Assessor Tax lot: 3909-2300-01700.
3. The parties acknowledge that KID filed Claims in the Klamath River Adjudication for water rights for irrigation of the land served by KID. Some Contestants to KID's claim in the Adjudication may assert that the land subject to this Agreement is not entitled to receive irrigation water because it released its right to receive irrigation water from KID. KID agrees that to the extent allowed by law, in the event challenge to the delivery of irrigation water to the subject land is made, KID will exercise all authority it has to transfer irrigation water from other land exempted from assessments to the subject land on a temporary and, then when possible, permanent basis to fully serve the irrigation needs to the subject land. However, David P. Henzel, Revocable Trust, Kimberly Brooke Smith, Trustee acknowledge that KID cannot and does not warrant delivery of irrigation water or the ultimate issuance of a Water Right Certificate by the State of Oregon for irrigation water for the subject land. David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee agrees to cooperate with KID in executing any documents that may be reasonably needed to perfect a water right for the subject land.
4. David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee hereby recognize, ratify, grant and confirm the existence of all existing rights of KID and the United States 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 and/or KID as now constructed and located upon or affecting landowners' said property and agrees that KID and the United States each now own, have, hold, and shall continue to own, have, and hold a prescriptive right, right of way, easement, and servitude for all percolation, seepage, leakage, overflow, flooding, and any failure or lack of drainage that may now exist or that has at any time heretofore occurred or resulted from any irrigation or drainage facility now constructed or in existence on or near any part of the subject property.
5. David P. Henzel Revocable Trust, Kimberly Brooke Smith, Trustee hereby absolve, waive, and release both KID and the United States from any all claims of liability for any damages or injury to person or property that may have heretofore occurred or that may be occurring in connection with the ownership, operation, and maintenance of the Klamath Reclamation Project.


**IN WITNESS WHEREOF**, the parties have hereunto set their hand effective as of the date first set forth above.

KLAMATH IRRIGATION DISTRICT

Kimberly Brooke Smith, Trustee

**IN WITNESS WHEREOF**, the parties have hereunto set their hand effective as of the date first set forth above.

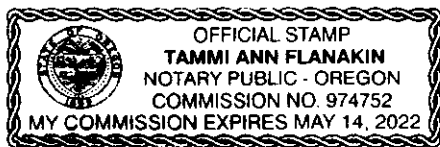
KLAMATH IRRIGATION DISTRICT

By:   
Its President

Kimberly B. Smith, Trustee  
David P Henzel Revocable Trust

[illegible]

This instrument was acknowledged before me on this 11<sup>th</sup> day of July, 2019, by, as President, of Klamath Irrigation District.



Jammi Ann Hanaker  
Notary Public for Oregon  
My Commission Expires: 5-14-2022

STATE OF OREGON )  
County of Washington ) ss.  
~~County of Klamath~~ )

This instrument was acknowledged before me on this 6<sup>th</sup> day of July, 2019, by Kimberly B. Smith, Trustee of the David P. Henzel Revocable Trust.



Notary Public for Oregon  
My Commission Expires: Feb 26, 2021