

AFTER RECORDING, RETURN TO:
Klamath Irrigation District
6640 KID Lane
Klamath Falls OR 97603

2024-004356
Klamath County, Oregon



05/31/2024 11:25:43 AM

Fee: \$97.00

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

This Agreement is made effective May 28, 2024, by and between the Klamath Irrigation District ("KID") an Oregon municipal corporation, and Ryan & Jahzlene Wilcox.

RECITALS:

- A. KID is an Oregon municipal corporation and operating pursuant to Oregon Revised Statute Chapter 545.
- B. Ryan & Jahzlene Wilcox own land within KID, which can be served with irrigation water from facilities operated and maintained by KID.
- C. In 2009, pursuant to an Agreement for Release of Water and Drainage Rights recorded on December 18, 2009, recording instrument number 2009-015845, Lee Wilcox owner(s) of the land, entered into an Agreement with KID exempting certain land in Klamath County, Oregon, more particularly described as follows:

THE NORTH ½ OF LOT 15 IN HENLEY

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. Ryan & Jahzlene Wilcox 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 **\$1351.37** representing payment in full of all operation and maintenance charges and interest that would have been paid by the owners of the subject real property to KID from 2010 to 2024.
- 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 December 18, 2009, recording instrument number 2009-015845 of the deed records of Klamath County, Oregon, is hereby rescinded.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 2010 through 2024 due and payable from the subject land, which is also described as Klamath County Assessor Tax lot: R-3909-025A0-00300.
- 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, Ryan & Jahzlene Wilcox 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. Ryan & Jahzlene Wilcox agree that they will cooperate with KID in executing any documents that may be reasonably needed to perfect a water right for the subject land.

A. Pursuant to the terms of and conditions of an Amendatory Contract between the United States of America and the Klamath Irrigation District, dated November 29, 1954, KID operates and maintains certain head gates, canals, laterals, pumps, and other improvements owned by the United States used to provide irrigation water to certain lands located between Upper Klamath Lake in Klamath County, Oregon, and the Oregon-California border. ORS 545.271 provides that an irrigation district may provide for and furnish water for lands not included within the district and for lands within the district, but not subject to assessment by the district.

B. The parties mutually agree the existing covenant as follows:

1. **Diversion of Delivery of Water.** Subject to the terms and conditions of this Contract, KID agrees that it will divert and deliver irrigation water during the annual irrigation season established by KID's Board of Director's to Landowner's head gate or other point of diversion
2. **Quantity of Water.** The water delivered hereunder shall be limited to the quantity that may be used beneficially upon the land without waste and shall be limited to not more than 3.5-acre feet of water for each acre irrigated during the irrigation season.
3. **Rules and Regulations.** This Contract shall be subject to all Bylaws, rules, regulations, notices, and orders established by KID's Board of Directors now existing and as hereafter amended, and Landowner shall strictly comply with all such regulations.
4. **Delivery and Use of Water.** KID shall have full control over all ditches, gates, pumps, and other structures required to deliver the water hereunder. When water is desired, Landowner shall give KID notice of the amount requested and the date the water is needed, as provided by KID's rules. The water shall be delivered by KID to the Landowner at the point of delivery determined by KID and shall be received by the Landowner and conveyed at the Landowner's expense to Landowner's land. At any time, KID may require that Landowner install a measuring device at the point of delivery meeting the standards and criteria established by KID, and Landowner shall comply with all direction provided by KID with respect to the maintenance of the measuring device, the recording, and reporting of the amount of water delivered to Landowner. The water so delivered shall be used exclusively upon the land shown on **THE NORTH ½ OF LOT 15 IN HENLEY** and shall not be permitted to collect or run upon other land or be wasted in any manner.
5. **Water and Seepage Water.** Subject to the provisions of Article 28 of the Amendatory Contract between KID and the United States described above, KID reserves the right to collect all waste and seepage water coming from the land shown on **THE NORTH ½ OF LOT 15 IN HENLEY**. Landowner releases KID, the United States, and the officers, agents, and employees of KID and the United States, from every claim for damage, direct or indirect, arising because of the presence of waste or seepage water on all land owned by Landowner.
6. **Shortage of Water.** Because of drought, inaccuracy in distribution, limitations of the delivery facilities, regulation of water by the State of Oregon, the taking of water by the United States, or for other cause, there may occur at times a shortage in the quantity of water available for delivery by KID. In no event whatsoever, including events arising from the negligence of KID, its officers, employees, agents, and contractors, shall any liability accrue against KID, the United States, and their officers, agents, employees, and contractors, for any damage, direct or indirect, arising from the failure of Landowner to receive irrigation water from KID. The delivery of water under this

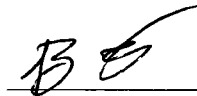
Contract is and shall be subordinate to the delivery of water by KID to other water users. In the event of shortage of available water supply for any cause, KID reserves the right at any time to cease delivery of water to Landowner, to reduce the amount of water to be delivered, to temporarily interrupt delivery, or to postpone the time of delivery. If KID determines that water will not be available, then it shall provide notice to the Landowner. Further, if during the irrigation season KID determines that it is appropriate to terminate water delivery to Landowner, it shall promptly provide notice to Landowner. In the event that KID determines that it will not be able to deliver any water to Landowner during the irrigation season, then any charges paid by Landowner for that irrigation season will be carried forward and applied to charges dues and payable for the following irrigation season.

7. **Payment for Water Delivery.** The owner shall be assessed at the rate of annual per acre minimum according to Oregon Revised Statute (ORS) 545.
8. **Indemnity.** Landowner shall indemnify, defend, and hold KID, its officers, employees, and directors, harmless from any and all claims of liability and damage resulting from the diversion and use of water by Landowner and the use of the facilities operated and maintained by KID under its Contract with the United States, including the rights of way and facilities owned by the United States.
9. **Records.** Landowner shall furnish to KID a record of all crops raised, including agricultural and livestock products, on the land shown on **THE NORTH ½ OF LOT 15 IN HENLEY** on or before **October 1st** of each calendar year during which water is delivered under this Contract.
4. Ryan & Jahzlene Wilcox 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 agree 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. Ryan & Jahzlene Wilcox 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

By:


Its President

Wilcox Ryan & Jahzlene
7818 Hwy 39
Klamath Falls, OR 97603


Ryan Wilcox

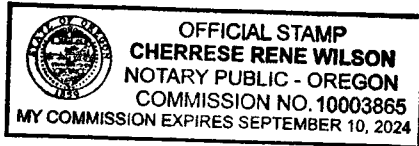

Jahzlene Wilcox

STATE OF OREGON)

) ss.

County of Klamath)

This instrument was acknowledged before me on this 24 day of May, 2024, by Ryan Wilcox.



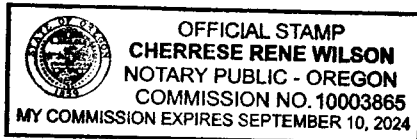
Cherrese Rene Wilson
Notary Public for Oregon
My Commission Expires: 9/10/2024

STATE OF OREGON)

) ss.

County of Klamath)

This instrument was acknowledged before me on this 28 day of May, 2024, by Jahzlene Wilcox.



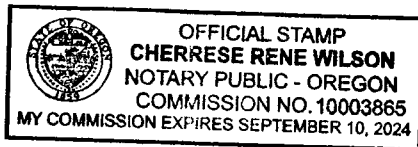
Cherrese Rene Wilson
Notary Public for Oregon
My Commission Expires: 9/10/2024

STATE OF OREGON)

) ss.

County of Klamath)

This instrument was acknowledged before me on this 28 day of May, 2024, by Rodney Cheyne, as President, of Klamath Irrigation District.



Cherrese Rene Wilson
Notary Public for Oregon
My Commission Expires: 9/10/2024