

KITTITAS RECLAMATION DISTRICT RESOLUTION NO. 2010-002

WHEREAS, the Kittitas Reclamation District previously adopted Article 13 for the purpose of establishing a policy for land reclassification and surrender of water entitlement transfers within the Kittitas Reclamation District; and

WHEREAS, The KRD has determined that Article 13 must be revised to comply with current laws;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Directors of the Kittitas Reclamation District that the following revised policy shall be adopted in place of the existing Article 13:

Section 1: General.

This policy is intended by the Kittitas Reclamation District (KRD) to apply to individuals and entities who apply to have land designated as irrigable and thus eligible to receive KRD irrigation water or surrender their land's KRD water entitlement (collectively referred to as "inclusion and exclusion"). All applications for inclusion or exclusion of land will follow the requirements set forth in the United States Bureau of Reclamation's (USBR) **Revised Guidelines for Processing Requests for Inclusions, Exclusions, Water Transfers, and Related Actions**. (Attached as Exhibit 2) All applications for inclusion and exclusion will be commenced by completing the application form attached as Exhibit 1 (hereinafter "Application").

The KRD will, as applications are received, maintain a list of landowners that want to surrender their water entitlement (Surrender Pool) and those landowners that want to have their lands reclassified as irrigable (Reclassification Pool).

The KRD will determine how often the reclassifications are submitted. No water entitlement transfers will be submitted and completed unless there are a sufficient number of acres contained in the Surrender Pool to equal the number of acres seeking reclassification. Surrenders and Reclassifications will be considered on an irrigable acre basis. Until the surrender and reclassification are fully completed the lands from which the entitlement is to be surrendered shall remain fully liable for and pay the construction and O & M charges attributable to the irrigable acres on the land.

Section 2: Surrender Lands.

An applicant wishing to surrender a water entitlement shall notify the KRD in writing by completing the application form attached as Exhibit 1. At the time of filing an application to surrender a KRD water entitlement, all due but unpaid assessments shall be fully paid. An application will not be further processed until such time as there are an equal number of acres seeking reclassification in the reclassification pool.

As part of the surrender process all legal landowners and any party having an interest in the property will be required to sign a Declaration of Surrender of Water Entitlement in a form prepared by the KRD which will be recorded with the Kittitas County Auditor at the completion of the surrender process. All recording and/or other fees, including but not limited to document preparation, title commitment and recording fees associated with the Declaration of Surrender of Water Entitlement are the responsibility of and shall be paid by the applicant. **The document will reflect that the property from which the water entitlement is being surrendered will, after completion of the surrender and transfer, not be entitled to receive KRD water unless applicable USBR or KRD rules allow water to be applied to the property. Unless the property has a right to receive water from another source, the land must be fallowed, meaning left uncultivated and not used to produce crops, and not irrigated with or have water applied to it from the KRD, including KRD return flows from other lands, unless and until it becomes eligible to be irrigated under applicable USBR and/or KRD rules or regulations.**

Prior to completion of the water right surrender, the Construction Debt must be paid on the land being excluded and, in the event the applicant owns other property eligible to receive District water, **the Construction Debt on all such other property within the KRD must be paid as well** in accordance with the Reclamation Reform Act. Payment of such Construction Debt is the ultimate responsibility of the applicant seeking to surrender the entitlement. Any allocation of responsibility for such payment between the applicant seeking to surrender and the applicant seeking to reclassify is between such parties and the District has no responsibility in any negotiations and will not participate in any negotiations. In the event the KRD determines there are modifications to its delivery system necessary to complete and implement the surrender of water entitlement, then the KRD shall perform those modifications and the landowner shall pay the cost of those modifications. After completion of the surrender and reclassification, the lands from which the entitlement is surrendered shall no longer be liable for O & M assessments.

Section 3: Reclassification of Lands.

An applicant wishing to reclassify their lands within the KRD as irrigable will notify the District in writing and fill out the application set forth on Exhibit 1. The Reclassification application will not be processed unless there is sufficient acreage in the Surrender Pool to satisfy the requested reclassification. All lands requesting reclassification must be within the existing District boundaries, unless the existing boundaries are modified as allowed by law, and capable of having water delivered to the property by the existing KRD irrigation water delivery system. Any improvements needed to service the reclassified property must be approved by the District and will be paid for by the applicant.

The applicant will be required to supply the District with all of the documentation, proof of current legal ownership and maps required by the KRD along with a legal description of the property and the names and addresses of all the purported owners and parties

having an interest in the property. All required documents are to be submitted to the KRD prior to the processing of the application being processed.

Upon completion of the reclassification, the property will be mapped and an account will be set up for the newly reclassified acreage. The owner of the land reclassified shall sign a Declaration of Covenant which will be irrevocable in a form provided by the District. The Declaration of Covenant shall, among other things, bind the land, in perpetuity, to any and all contracts existing between the KRD and the USBR and shall obligate the owner of the land to pay all dues and assessments. **The annual assessment rate will be the maximum amount assessed by KRD for any acreage within the district.**

Lands within a plat may be eligible for water entitlement transfers only if all of the designated irrigable acres in the entire plat participate in the proposed transfer; provided, however, that each parcel under separate ownership shall file a separate Application and each Application shall pay fees to the KRD as provided for herein.

Section 4: Criteria and Fees.

4.1 Process: An Application for inclusion or exclusion must be submitted to the KRD along with a nonrefundable review fee of \$100.00 to be paid at the time the Application is submitted to the KRD. The KRD will conduct a preliminary review of the Application to determine if the Application is complete, whether additional information is needed and whether the criteria set forth in Section 4.2 support the ultimate approval of the Application. The preliminary review by the KRD will be conducted applying the criteria set forth in Section 4.2. If the KRD concludes, after the preliminary review, the Application should be rejected the Applicant will be notified. If the KRD preliminarily accepts the Application, then the Application will go to the reclassification pool or the surrender pool. The \$100.00 review fee will be credited against the processing fee charged by the KRD as set forth in Section 4.3.

4.2 Criteria. In approving or denying an application:

4.2.1 The KRD will not approve the designation of land as irrigable or the exclusion of acreage and surrender of a water entitlement unless and until the USBR approves of the inclusion and/or exclusion; and

4.2.2 The KRD will not approve any inclusion or exclusion of acreage unless and until all fees owed the USBR and the KRD to process the inclusion or exclusion have been paid in full; and

4.2.3 The KRD will not approve nor process any inclusion or exclusion which impairs, hinders or otherwise interferes with the KRD's operation and maintenance of its irrigation delivery and maintenance system. The KRD intends to make this determination on a case by case basis considering the following factors:

4.2.3.1 The location of the property sought to be reclassified and included; and

4.2.3.2 The location of the property sought to be surrendered; and

4.2.3.3 The KRD maintenance concerns associated with each property.

4.2.4 The KRD will not approve an inclusion or exclusion which, in the sole opinion of the KRD, does or could result in the use of KRD water in violation of USBR Rules, including the Reclamation Reform Act as hereinafter amended, or in violation of the contract KRD has with the USBR.

The KRD reserves the right, to be exercised in the KRD's sole discretion, to determine these factors and ultimately approve or deny the application for inclusion or exclusion.

4.3 Fees.

In addition to any and all fees charged by the USBR, the applicant shall pay to the KRD an application fee in the amount of \$480.00, including the \$100.00 fee paid pursuant to 4.1. In addition, the applicant will reimburse the KRD for legal fees incurred by the KRD in processing the application and all costs associated with recording documents with the Kittitas County Auditor. In the event an applicant begins an application and then later withdraws the application or elects not to complete the application, no fees paid will be reimbursed and the applicant will pay all outstanding fees. Fees charged by the USBR will be paid to the KRD and transmitted to the USBR with the Application. If the USBR fee can be spread over multiple owners involved in the same Application, the USBR fees will be collected from the Applicants on a prorated basis with the proration based on the number of irrigable acres each Applicant owns. **All costs incurred during the reclassification process are the sole responsibility of the applicant and must be paid prior to completion of the transfer.**

EXHIBIT 1

**KITTITAS RECLAMATION DISTRICT
APPLICATION TO DESIGNATE LAND AS IRRIGABLE AND TO
SURRENDER LAND FOR KR D WATER ENTITLEMENT FROM THE
DISTRICT**

DATE: _____	Inclusion_____ Exclusion_____
FOR KR D USE ONLY	Acres_____

- 1. Name, mailing address and day phone of land owners(s) of record:**
Landowner(s) signature(s) required on application form.

Name: _____

Mailing Address: _____

City/State/Zip: _____

Daytime Phone: _____

Email Address: _____

- 2. Name, mailing address and day phone of authorized agent** (if different from land owner of record):
If an authorized agent is indicated, then the authorized agent's signature is required for application submittal.

Agent Name: _____

Mailing Address: _____

City/State/Zip: _____

Daytime Phone: _____

Email Address: _____

- 3. Street address of property:**

Address: _____

City/State/Zip: _____

- 4. Legal description of property:**

5. Tax parcel number(s): _____

6. Property size: _____

7. Number of Irrigable Acres: _____

8. **Narrative project description:** Describe what you want to do and include the following information in your description and include every element of the proposal in the description (be specific and attach additional sheets as necessary):

8.1 A preliminary commitment for title insurance;

8.2 Maps showing the lands, waters, and facilities affected by the proposal (U.S. Geological Survey 7.5 minute quadrangle maps are suggested) as compared to the Lands approved for irrigation within the original (statutory and contractual) district Boundary and/or the most recent legally approved district boundary change.

8.3 Recent aerial photographs with the affected lands and the district boundary identified.

8.4 Project Description:

9. Description of current land uses and general vegetative cover types on affected lands. Descriptions are required of excluded lands, included lands, and any lands that are affected by changes in place of water use.

10. This application is hereby made for permit(s) to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above-described location to inspect the proposed and/or completed work.

All correspondence and notices will be mailed to the Land Owner of Record and copies sent to the authorized agent.

Signature of Authorized Agent:
(REQUIRED if indicated on application)

Date:

X _____

Signature of Land Owner of Record:
(REQUIRED for application submittal)

Date:

X _____
