



Kittitas Reclamation District

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POLICY

FOR DIVISIONS OF PROPERTY WITH KRD IRRIGABLE ACREAGE

A) Applicability and Definitions. This policy applies to any division of a Kittitas County tax parcel containing Kittitas Reclamation District ("KRD") assessed irrigable acreage that creates one (1) or more new tax parcel(s) or changes or adjusts the boundaries of one (1) or more tax parcel(s), through a plat, subdivision, boundary line adjustment, or any other division authorized by Kittitas County Code (hereinafter referred to as a "Division"). KRD must be notified of all Divisions and all Divisions will be reviewed and approved by KRD on a case-by-case basis.

1. "Ditch Rider" means the KRD personnel assigned to the Diversion who takes water orders and distributes water from the KRD canal or lateral.
2. "Diversion" means a designated point where KRD diverts, measures, and distributes water from its canals and laterals to a Water Distribution System owned by a third party(ies).
3. "Division" means any division of a Kittitas County tax parcel containing KRD assessed irrigable acreage within it that creates one (1) or more new tax parcel(s) or changes or adjusts the boundaries of one (1) or more tax parcel(s) through a plat, subdivision, boundary line adjustment, or any other division authorized by Kittitas County Code.
4. "Division Fee" means the fee charged by KRD to review and approve a Division. As of the enactment of this Policy, the Division Fee is \$120.00 for each lot in the Division. The KRD Board of Directors ("KRD Board") may, by resolution, increase the Division Fee in the future. A Boundary Line Adjustment (hereinafter referred to as a "BLA") will result in a Division Fee being due for each lot which has a boundary line adjusted as a result of the BLA.
5. "Irrigable Acreage" means the classification assigned by the United States Bureau of Reclamation ("USBR") to acreage, which is based on soil type. Only acres classified as Classification 1, 2, and 3 are entitled to receive irrigation water from KRD.
6. "Landowner" means the owner of Irrigable Acreage according to the Kittitas County Assessor's office.
7. "Right-of-way" means the area under the KRD canal or lateral or the real property upon which the KRD canal or lateral is located.

8. “Water Distribution System” means the system within the parcels created by the Division for the delivery of irrigation water from the Diversion to the individual parcels.
9. “Water Master” means the person appointed in the Water Distribution Plan who orders irrigation water and distributes it from the Diversion through the Water Distribution System to the individual parcels.

B) Requirements.

1. The Landowner shall provide written irrigation easements from the KRD diversion to each parcel created by the Division and provide a written description of the Water Distribution System, including covenants, if any. KRD has a form Declaration of Protective Covenants, Conditions and Restrictions Establishing a Water Distribution Plan (hereinafter the “Water Distribution Plan”), which should be used by each Landowner who divides land with Irrigable Acreage. The Water Distribution Plan is attached hereto as Exhibit A. KRD administration staff and KRD management are authorized to amend, modify, or alter the Water Distribution Plan as they deem appropriate. The completed Water Distribution Plan shall be recorded with the Kittitas County Auditor’s office by KRD and the Landowner is responsible for payment of the requisite recording fees in advance.
2. At the time of the first transfer of ownership after a Division, an approved existing or new Diversion may be required to be installed by KRD at the Landowner’s sole cost and expense. If the existing private delivery system does not comply with KRD related policies, landowners may be required to make additional improvements. All Diversions shall be constructed pursuant to the KRD Diversion & Distribution Policy. The Diversion structure design and contractor must be approved by KRD. Diversion structures, after construction, shall become property of KRD and KRD will be responsible for the normal maintenance of the Diversion structure.
3. Installation and maintenance of the Water Distribution System attached to the Diversion are the responsibility of the Landowner. All modifications to an existing Diversion or the creation of a new Diversion require the approval of KRD before they are undertaken. Modification to a Diversion cannot impact the functionality of the Diversion.
4. There will be a per-lot Division Fee payable to KRD at the time of the Division. E.g., A Division dividing a parcel into two lots requires two Division Fees; into 3 lots requires three Division Fees; etc. KRD will not assign assessed acres to a lot without payment of that fee. KRD will not deliver irrigation water to any lot created in a Division for which the Division Fees are unpaid.
5. All Divisions may be subject to having a Water Master assigned. The requirement for the establishment of a Water Master shall be stated on the face of the plat. If so required, the Landowner must provide for the appointment of a Water Master, who shall be the only person responsible for ordering water for the parcels served by the Diversion and Water Distribution System. The Water

- Master will be responsible for keeping water use records for each parcel. KRD will only be responsible for keeping records of the total water ordered at the KRD Diversion. The Water Master may also be involved with the Maintenance of the Division's Water Distribution System. Formal agreements on the duties of the Water master are the responsibility of the Landowner and the various new Landowners. Each Landowner MUST sign an **Authorization to Order Water** form annually to allow the Water Master to order their water allotment.
6. The face of any long plat, short plat, or survey which divides a parcel(s) containing Irrigable Acreage must state:
- (i) "KRD operations and maintenance roads are for KRD Use Only. Residential and Recreational use is prohibited."
 - (ii) "KRD is only responsible for delivery of water to the highest feasible point in each 160-acre unit or to a designated Diversion. KRD is not responsible for water delivery loss (seepage, evaporation, etc.) below the designated Diversion from the KRD system."
 - (iii) "Full payment of annual KRD assessment is required regardless of the use or non-use of water by the owner. Failure to pay the annual assessment will result in KRD withholding water until the assessment, interest, and all costs and fees are paid."
 - (iv) The long plat, short plat, or survey must show the amount of irrigable acreage of each parcel within the division and contain the statement: "KRD water may only be applied to acreage designated as irrigable by KRD."
 - (v) All Divisions may be subject to piping or fencing of KRD rights-of-way for public safety at the Landowner's sole cost and expense.
 - (vi) KRD's Ditch Rider will only deliver water to the original parcel at the Division's assigned Diversion. KRD's water delivery responsibility ends at that Diversion. It is the responsibility of the Landowner(s) to ensure that each parcel can receive water. Any problems that arise with the Water Distribution System will be the responsibility of the Landowner.
 - (vii) KRD is within a federal reclamation project with limitations on how many irrigable acres a Landowner may have as set forth in the Reclamation Reform Act. Landowners subject to those Reclamation Reform Act limitations will be required to submit their Reclamation Certification forms each year prior to receiving irrigation water from KRD.
 - (viii) The required easements and/or Water Distribution Plan must provide that future maintenance and repair of the Water Distribution System is to be completed at the Landowner's sole cost and expense.

D) Additional General Guidelines Notes

1. All Divisions are presented to the KRD Board for approval. Each Division will be reviewed by the KRD Board on a case-by-case basis. The Landowner must provide a draft Water Distribution Plan using the form provided by KRD, which shall include a map, water distribution plan, easements, and covenants, if any. The Landowner should allow at least eight (8) weeks from the time of application until the KRD Board approves the Division at an upcoming regular meeting of the KRD Board, which occur on the first (1st) Tuesday of each month.
2. The Landowner proposing the Division is responsible for meeting the requirements of the General Guidelines and the payment of all the fees and expenses. Division Fees are \$120 per each proposed parcel described in the Division, including the remainder of the original parcel.
3. Licenses are required when a KRD right-of-way is used for any reason. A Crossing License is needed for driveways, utilities (power, phone, cable TV, natural gas) and pipelines which cross the KRD canal, lateral, or other right-of-way. General Crossing Licenses are issued pursuant to the KRD Crossing License policy. Utility Crossing Licenses are issued by the U.S. Bureau of Reclamation. A Diversion License is needed for the construction of a new Diversion or modification of an existing Diversion to serve the Division. Diversion Licenses are subject to KRD's Diversion Policy which must be followed in order to install a new Diversion or modify an existing Diversion. Any license that involves construction of a bridge is required to comply with KRD's Bridge Policy.
4. Water may be withheld from all lots within a Division if all of the General Guidelines have not been satisfactorily addressed, included, but not limited to, the payment of Division Fees, establishment of easements and a Water Distribution Plan, construction of a Water Distribution System, public safety issues, protection of KRD facilities, licenses, water quality issues and the appointment of a Water Master.

(hereinafter the “Property”); and

B. WHEREAS, Landowner intends to develop the Property into lots, as depicted on Exhibit A attached hereto and incorporated herein by reference; and

C. WHEREAS, the purpose of this Declaration is to establish an irrigation water distribution plan on the property so that upon creation of the lots identified on Exhibit A it is clear how irrigation water from the KRD will be distributed and the terms and conditions of the use of the KRD irrigation water are established;

NOW, THEREFORE,

Landowner declares that all of the Property shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, reservations, charges and liens. These restrictions, covenants, conditions, reservations, charges, and liens shall run with the Property and shall be binding upon all persons or entities now having or hereafter acquiring any right, title, or interest in and to the Property, or any part thereof, and shall be binding upon their respective heirs, successors, and assigns, and shall inure to the benefit of each individual and/or entity having or hereafter acquiring any right, title, or interest in and to the Property, or any part thereof, and their heirs, successors, and assigns.

I. DEFINITIONS

1.1 The words “Property” and “Development”, shall mean and refer to all the real property legally described in Recital A.

1.2 The word(s) “Lot(s)” shall mean a defined lot as set forth on Exhibit A.

1.3 The word “Lot Owner” shall mean any person or entity that holds fee title or a vendee’s interest under a real estate contract of any Lot. The word “Lot Owner” shall also be construed to include any person or entity who has, or claims to have, a legal or equitable interest in a Lot, including lien and easement holders and tenants or other persons with a possessory right to occupy a lot, including but not limited to tenants, individuals and/or entities not holding fee title or a vendee’s interest under a real estate contract, or any subtenants.

1.4 The phrase “KRD” shall mean the Kittitas Reclamation District and its successors and assigns.

II. PROPERTY SUBJECT TO DECLARATION

2.1 The easements, restrictions, covenants, conditions, reservations charges and liens shall run with the Property legally described in Paragraph 1.1 and shall be binding on all of the Lot Owners, their successors and assigns, these covenants, conditions, reservations and restrictions are intended to burden and benefit the Property legally described in Paragraph 1.1.

III. IRRIGATION WATER

3.1. KRD Water. Water for irrigation is supplied to the Lots subject to the terms and conditions of an amendatory contract between the United States of America and the Kittitas Reclamation District, dated January 20, 1949, and recorded in Book 82 of Deeds, Page 69, under Kittitas County Auditor’s File No. 208267, as thereafter amended (hereinafter referred to as the “Contract”). KRD water can only be applied to property that is designated as irrigable by the KRD.

For the purpose of determining which portions of the Lots are irrigable, the regulations and maps maintained by the KRD shall be determinative. Not all portions of Lots are irrigable and irrigation water may not be applied to any Property that is not designated as irrigable by the KRD.

3.1.1 Assessed Acres. **[REVISE FOR EACH EXHIBIT A]**

Lot ____ has ____ KRD assessed acres; and
Lot ____ has ____ KRD assessed acres.

3.1.2 Each Lot which has the right to receive KRD irrigation water receives the KRD water by a way of [underground pipeline / open ditch]. All Lots shall provide for the separate metering of irrigation water to their respective Lot. Irrigation shall be applied by [sprinkler / drip irrigation system / flood irrigation]. Each Lot and Lot Owner is obligated to pay a KRD assessment, as set by the KRD, directly to the KRD for that water. The amount of water delivered to a Lot is controlled by the Kittitas Reclamation District. **[REVISE FOR EACH SITUATION]**

3.1.3 Regardless of whether or not a Lot Owner uses irrigation water supplied by the KRD, any and all water assessments, charges and liens levied by the KRD against any Lot shall nevertheless be paid in full by the Lot Owner directly to the KRD. All Lot Owners are required to fully comply with all rules, regulations and policies adopted by the Kittitas Reclamation District and the United States Bureau of Reclamation and the Reclamation Reform Act of 1992, as hereafter amended.

3.1.4 KRD is only responsible for delivery of water to the designated diversion for the Lots as depicted on Exhibit A. KRD is not responsible for water delivery loss (seepage, evaporation) or use by others) downstream of the designated diversion or metering point.

3.1.5 Water Master. The KRD requires the designation of a water master. The initial Water Master is _____, the Owner of Lot _____. In the event _____ resigns or is no longer able to perform the duties of Water Master, the Water Master shall be chosen by majority vote of the Lot Owners. The water master shall be responsible for taking water orders from benefited parcels, communicating those water orders to the KRD, distributing the water to the Lots and arranging for necessary maintenance of the irrigation delivery system. The costs incurred by the water master shall be considered maintenance costs and paid pro rata by the Lots. Disputes which must be resolved or decisions which must be made relative to the delivery of KRD water shall be decided by majority vote of the Lots at any meeting called by the water master. Benefited Lot Owners may vote on any matter requiring a vote in person or by written proxy.

3.1.6 Maintenance of Irrigation System. In the event it is necessary to repair, maintain, enlarge, or replace the existing irrigation distribution system described on Exhibit A, the owners of the benefited parcels shall each contribute an amount determined by multiplying the cost of said repair, maintenance, enlargement or replacement, including any and all costs associated with electrical charges, hookup fees, etc. associated with the irrigation system pump, if any, by a fraction, the numerator of which is 1 and the denominator of which is the number of Lots described on Exhibit A; Provided however the costs associated with the repair, replacement, maintenance and operation of the irrigation system on each lot are the sole responsibility of the respective lot owner. The irrigation system at each lot begins at the riser on each lot installed by Landowner.

IV. TERM OF COVENANT

The conditions, covenants and restrictions set forth in this Declaration shall run with and bind the Property for twenty-five (25) years from the date this Declaration is recorded, after which said covenants shall be automatically extended in perpetuity until terminated by any instrument terminating these covenants which has been signed by all of the Lot Owners of record at the time of the termination and by KRD.

V. ENFORCEMENT

5.1 If there is a violation of any of the conditions of these covenants, conditions or restrictions as herein set forth or as hereinafter amended, KRD, any Lot Owner or owner of benefited property, joining with other Lot Owners or individually, shall have the right to proceed at law or in equity to collect damages or to compel compliance with the terms and conditions of these covenants, conditions and restrictions or to prevent the violation or anticipated violation or breach of any covenant, conditions, or restriction contained herein. The prevailing party in such litigation shall also be entitled to reasonable attorney fees and costs incurred in such litigation against the non-prevailing party. In the event any suit brought by any Lot Owner or owner of benefited property to enforce the terms and conditions of these covenants, conditions, and restrictions results in a monetary judgment against a Lot Owner, said judgment shall become a lien against that person or entity's Lot in addition to becoming the personal obligation of that Lot Owner. Said lien shall be foreclosed in the manner as provided by Washington State law. In addition to having the lien, the holder of a judgment against any Lot Owner for any monetary damages awarded as a result of a violation of these restrictive covenants, conditions and restrictions shall have the option of proceeding personally against the owner of a Lot or the option of foreclosing the lien in the Lot Owner's property. In the action foreclosing the lien, the same shall include a reasonable sum for attorney fees and all costs and expenses reasonably incurred in preparation for and in prosecution of such action in addition to taxable costs, all as permitted by law. Venue for such proceedings shall be in Kittitas County, Washington. Failure by a Lot Owner to enforce any restriction, condition or covenant of this Declaration shall in no event be deemed a waiver of the right of that Lot Owner or Lot Owners to enforce any restriction, condition, or covenant of this Declaration in the future. If any portion of this Declaration is and/or becomes unenforceable, the remainder of said Declaration shall be unchanged and in full force and effect.

5.2 If any term, covenant or condition of these Covenants or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of these Covenants or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of these Covenants shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned being the Landowner herein has hereunto set their hand and seal as of the _____ day of _____, 20____.

LANDOWNER:

KITTITAS RECLAMATION DISTRICT:

STATE OF WASHINGTON)
)
County of _____) ss.

I certify that I know or have satisfactory evidence that _____ and _____, are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 20 ____.

Printed Name: _____
Notary Public in and for the State of Washington.
My appointment expires: _____

EXHIBIT A

The Water Distribution System consists of:

- A. Describe in detail the future irrigation system, if improvements are required to get water to a given Lot. (If no improvements are required, describe the existing system.)

- B. It is *strongly* recommended that each Lot be provided a method to measure individual water usage. KRD will only account for water delivered at the KRD head gate, not at each Lot.

Will individual Lot measuring devices be provided? **Yes**___**No**___

- C. Attach a map of the water distribution system from KRD's point of delivery (diversion) to each lot.

Map attached? **Yes**___**No**___