

Return to:

Steven H. Sackmann
Sackmann Law Office
P. O. Box 409 - 455 E. Hemlock, Suite A
Othello, Washington 99344

**FIRST RESTATED
IRRIGATION WATER AGREEMENT
Tracts 1, 2 and 3**

Auditor file number of document to be released or assigned
(if applicable) 1275086

1. Additional references on page 2 of document

Grantor(s)

1. Fode Land Company, LLC, a Washington Limited Liability Company

Grantee(s)

1. Ron L. Fode and Robin M. Fode, husband and wife

Legal Description (lot, block, plat or section, township, range)

1. Section 3, Township 19 North, Range 29 E.W.M., Grant County (Fode Land)
2. Tract 1: The Northwest Quarter of Section 2, Township 19 North, Range 29 E.W.M., Grant County (Fode)
3. Tract 2: The Southwest Quarter of Section 2, Township 19 North, Range 29 E.W.M., Grant County (Fode)
4. Tract 3: That portion of Section 1, Township 19 North, Range 29 E.W.M., Grant County (Fode)

Additional legal description on page 2 of document

Assessor's property tax parcel or account number

1. 18-0149-000 (Fode Land)
2. 18-0145-000 (Fode)
3. 18-0147-000 (Fode)
4. 18-0143-001 (Fode)

EXHIBITS
TO
FIRST RESTATED IRRIGATION WATER AGREEMENT

Exhibit "A"	Fode Land Company, LLC	Legal Description of property owned
	Ron L. and Robin M. Fode	Legal Description of property owned
Exhibit "B"	Map of Irrigable Acres	
Exhibit "C"	Certificate of Water Right No. G3-22345C	
Exhibit "D"	Fode Land Company, LLC First Phase Continuation Acres Interruptible Water Service Contract	
Exhibit "E"	Ron L. and Robin M. Fode First Phase Continuation Acres Interruptible Water Service Contract	
Exhibit "F"	Irrigable Acres of: Randy L. and Michele P. Kiesz Sparks-Schmidt	
Exhibit "G"	PUD Power Costs	

THIS FIRST RESTATED IRRIGATION WATER AGREEMENT, made and entered into this ____ day of _____, 2016, by and between FODE LAND COMPANY, LLC, a Washington Limited Liability Company, hereinafter referred to as "FODE LAND," and RON L. FODE and ROBIN M. FODE, husband and wife, hereinafter referred to as "RON and ROBIN," and all collectively referred to as "PROPERTY OWNERS."

WHEREAS, FODE LAND and RON AND ROBIN heretofore entered into an Irrigation Water Agreement dated August 18, 2010, and recorded August 19, 2010, under Auditor's File No. 1275086, records of Grant County, Washington, and

WHEREAS, RON AND ROBIN are now selling at auction property benefited by the Irrigation Water Agreement, and

WHEREAS, this First Restated Irrigation Water Agreement is between PROPERTY OWNERS whose land has in the past and may in the future utilize the shared irrigation water distribution system, and

WHEREAS, this First Restated Irrigation Water Agreement is intended to and shall forthwith replace the Irrigation Water Agreement dated August 18, 2010, entirely, and

WHEREAS all PROPERTY OWNERS have in the past and may in the future utilize a shared irrigation water distribution system to irrigate their properties from irrigation wells and from Bureau of Reclamation canals pursuant to Irrigation Water Contracts with the East Columbia Basin Irrigation District, and

WHEREAS, all PROPERTY OWNERS desire to agree as to how they will pay for irrigation water and electric power utilized to irrigate their properties and how they will share the costs of repair, maintenance, operation and replacement of the shared irrigation water distribution system and irrigation wells, which benefit their respective properties,

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, all PROPERTY OWNERS agree as follows:

1. **FIRST RESTATED IRRIGATION WATER AGREEMENT:** This First Restated Irrigation Water Agreement completely replaces the Irrigation Water Agreement dated August 18, 2010, and recorded August 19, 2010, under Auditor's File No. 1275086, records of Grant County, Washington.

2. **PROPERTY:** As of the date of execution of this Agreement, each PROPERTY OWNER owns the property described upon attached Exhibit "A."

3. **WATER RIGHTS:** As of the date of execution of this Agreement, each property owned by PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property have in the past and may in the future utilize the following water rights:

a. Roy B. and Patty G. Fode (FODE LAND) Certificate of Water Right No. G3-22345C, attached as Exhibit "C," authorizing withdrawal of 1,616 acre feet per year from February 1 to November 30 each year for the irrigation of 647 acres; 2 acre feet per year continuously from Well No. 1 located at the center of Section 3 and Well No. 2 located 330 feet South from the Northwest Quarter of Section 3. Pursuant to Certificate of Change of Ground Water Certificate No. G3-22345C, the place of use was changed to 320 acres within the West Half of Section 2 and 327 acres within the East Half of Section 3, all within Township 19 North, Range 29 E.W.M., Grant County, Washington.

b. FODE LAND currently irrigates all of Section 3 property with Bureau of Reclamation water pursuant to First Phase Continuation Acres Interruptible Water Service Contract, attached as Exhibit "D," originally approved October 8, 1982, and renewed August 12, 2015. FODE LAND utilizes the shared irrigation water distribution system and provides irrigation water from its Two (2) wells.

c. RON AND ROBIN currently irrigate Tract 1 with well water utilizing the shared irrigation water distribution system and two (2) wells in Section 3, pursuant to Ground Water Certificate No. G3-22345C, attached as Exhibit "C."

d. RON AND ROBIN currently irrigate Tract 2 utilizing the shared irrigation water distribution system pursuant to First Phase Continuation Acres Interruptible Water Service Contract, attached as Exhibit "E."

e. RON AND ROBIN have in the past and may in the future irrigate Tract 3 with well water utilizing the shared irrigation water distribution system and Two (2) wells in Section 3 and excess water.

f. **KIESZ and SPARKS-SCHMIDT LEASED PROPERTY:** RON and ROBIN have in the past and they or other LESSEES of Kiesz and Sparks-Schmidt may in the future irrigate property leased from Kiesz and Sparks-Schmidt, described on attached Exhibit "F", with well water utilizing the shared irrigation water distribution system, Two (2) wells in Section 3 and excess water.

4. **SHARED IRRIGATION SYSTEM AND WELLS:** PROPERTY OWNERS now use a common turnout to receive Bureau of Reclamation irrigation water located approximately 600 feet west of the southeast corner of Section 33, Township 20 North, Range 29 E.W.M., at or about the Northwest Corner of Section 3, Township 19 North, Range 29 E.W.M., Grant County Washington. In addition, they use Two (2) irrigation wells located as follows:

Well Number 1: Center of Section 3, Township 19 North, Range 29 E.W.M., Grant County, Washington.

Well Number 2: 330 Feet South from the Northwest Corner of Section 3, Township 19 North, Range 29 E.W.M., Grant County, Washington.

PROPERTY OWNERS jointly use buried irrigation lines commencing at the turnout at or about the Northwest Corner of Section 3, Township 19 North, Range 29 E.W.M., Grant County, Washington, which traverses the Northwest Quarter of Section 3

and then runs East from the center of Section 3 along the Southern boundary of the Northeast Quarter of Section 3: thence continuing East to the East boundary of Section 2, Township 19 North, Range 29 E.W.M., Grant County, Washington. PROPERTY OWNERS utilize a buried pipe line connecting Well Number 2 to Well Number 1.

5. **REPAIRS, MAINTENANCE AND REPLACEMENT OF SHARED DISTRIBUTION SYSTEM:** All PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property shall establish a reserve and shall pay their pro-rata share of costs of repairs, maintenance and replacement to the shared irrigation water distribution system, which consists of buried and above-ground pipe, pumps and panels, utilized to deliver irrigation water to their property line. A per acre charge shall be established each year, as hereafter defined, to establish a reserve and pay actual costs incurred, allocated in accordance with irrigated acres or properties farmed in any year identified on attached Exhibit "B" or revised Exhibit "B" if additional property is irrigated. PROPERTY OWNERS or LESSEES of Kiesz and Sparks-Schmidt property shall pay 100% of the costs to repair maintain and replace buried and above-ground pipe, pumps and pivots located on their properties which improvements are not shared. The per acre cost for crop year 2016, as hereafter defined, to establish the reserve and pay current costs of repairs, maintenance and replacement of the shared distribution system for 2016 is Fifteen Dollars (\$15.00) per allocated acre.

6. **REPAIRS, MAINTENANCE AND REPLACEMENT OF IRRIGATION WELLS:** Only PROPERTY OWNERS whose property is not served by contracts with the Bureau of Reclamation and/or East Columbia Basin Irrigation District to receive Bureau water, shall pay for costs to repair irrigation wells, pumps and panels located on Section 3. Fode Land Company, LLC's 570 irrigated acres and RON L. and ROBIN M. FODE'S Tract 2 134 irrigable acres shall not be required to pay for repairs, maintenance and replacement to the irrigation wells Costs for the reserve and actual costs of repairs, maintenance and replacement to the irrigation wells shall be allocated to properties

Tract 1 and Tract 3, owned by RON and ROBIN FODE and to LESSEES of Kiesz and Sparks-Schmidt properties, in accordance with acreages set forth on attached Exhibit "B". The per acre allocated cost to establish reserves and pay costs of repair, maintenance and replacement to the pumps and wells for crop year 2016 is Twenty-five and no/100 Dollars (\$25.00) per allocated acre.

7. **ANNUAL COSTS OF BUREAU OF RECLAMATION WATER:** PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property whose property receives Bureau of Reclamation water and has a base allotment shall pay 100% of the base allotment as allocated by the East Columbia Basin Irrigation District for any irrigation water delivered to their farm property. In addition, each PROPERTY OWNER shall pay actual costs charged by the East Columbia Basin Irrigation District for any excess water ordered and/or delivered to any PROPERTY OWNER who utilizes excess water as allocated by the water master.

8. **ANNUAL COSTS OF POWER:** PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property utilizing shared water distribution system shall pay estimated power costs incurred each year as determined by the water master, including any anticipated percentage increase in power costs determined by actual meter readings and power costs incurred for the previous year.

PROPERTY OWNERS whose property is served by a Bureau of Reclamation or East Columbia Basin Irrigation District Contract shall pay the following per acre power costs as identified on attached Exhibit "G" (Fode Land Section 3 (570 irrigable acres) and Ron and Robin Fode, Tract 2 (134 irrigable acres)).

- i. Canal Pump Station Meter - $\$25,702.46 \div 705 = 36.46$ per acre

PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property power charges shall pay the following per acre power costs as identified on attached Exhibit "G" (Ron and Robin Fode, Tract 1 (146 acres), Ron and Robin Fode, Tract 3 (135 acres), Kiesz property (415 acres) and Sparks-Schmidt property (65 acres):

Circle 21 Meter	\$ 656.85
North Well Meter	\$19,105.10
Middle Well Meter	\$41,119.95
Mini Roy Meter	\$ 442.89
Circle 14 Meter	\$ 1,167.50
Kiesz Well #22 Meter	<u>\$ 3,985.48</u>
TOTAL:	\$66,477.77
+ 3% power increase	<u>\$ 1,994.33</u>
TOTAL:	\$68,472.10

\$68,472.10 ÷ 760 = \$90.09 per acre

9. **CALCULATION OF 2016 ALLOCATED WATER CHARGES:** PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property shall pay the following calculated amounts for irrigation water delivered and utilized in crop year 2016.

Fode Land, Section 3 (570 irrigable acres):

	Irrigable Per Acre
Allocated Power	\$ 36.47
Base Allotment Charge	\$ 59.70
Shared water system distribution maintenance	\$ 15.00
Watermaster Management Fee	<u>\$ 10.00</u>
TOTAL:	\$121.17

Ron and Robin Fode, Tract 2 (134 irrigable acres):

	Per Acre
Allocated Power	\$ 36.47
Base Allotment Charge	\$ 73.72
Shared Water System Distribution Maintenance	\$ 15.00
Watermaster Management Fee	<u>\$ 10.00</u>
TOTAL:	\$135.19

Ron and Robin Fode, Tract 1 (146 irrigable acres):

	Per Acre
Allocated Power	\$ 90.09
Shared Water System Distribution Maintenance	\$ 15.00
Watermaster Management Fee	\$ 10.00
Shared Well Maintenance and Reserve	<u>\$ 45.00</u>
TOTAL:	\$160.09

Ron and Robin Fode, Tract 3 (135 irrigable acres):

	Per Acre
Allocated Power	\$ 90.09
Shared Water System Distribution Maintenance	\$ 15.00
Watermaster Management Fee	\$ 10.00
Shared Well Maintenance and Reserve	<u>\$ 45.00</u>
TOTAL:	\$160.09

Kiesz and Sparks-Schmidt Property (480 acres):

	Per Acre
Allocated Power	\$ 90.09
Shared Water System Distribution Maintenance	\$ 15.00
Watermaster Management Fee	\$ 10.00
Shared Well Maintenance and Reserve	<u>\$ 45.00</u>
TOTAL:	\$160.09

10. **METHOD OF PAYMENT:** PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property utilizing well water shall pay each year's annual water charges as follows:

PROPERTY OWNERS whose property is served with Bureau of Reclamation and/or East Columbia Irrigation District Contracts shall pay the water allotment direct to East Columbia Irrigation District on or before the water delivery date each year.

All PROPERTY OWNERS and LESSEES of Kiesz and Sparks-Schmidt property shall pay all other current year water charges as determined and allocated by the Watermaster, including charges for reserves and charges for power repairs, maintenance and replacement of the shared irrigation water distribution system and

charges for well maintenance, repair and replacement and management fees on or before the 1st day of March each year.

These payments shall be made payable to a non-profit cooperation or limited liability company to be established. Funds shall be deposited by the Watermaster into two separate accounts. One account will be used to maintain a reserve and pay for all repairs, maintenance and or replacement of the shared irrigation distribution system. A second account shall be used to maintain a reserve and pay costs of repair, maintenance and replacement of the two irrigation wells, pumps and panels.

Watermaster and a representative chosen by all PROPERTY OWNERS shall be signatories on the account. Watermaster shall be authorized to pay all electric power bills and management fees from funds as they are received. In addition, Watermaster shall be entitled to pay all costs of repair, maintenance and replacement not in excess of Ten Thousand (\$10,000.00) each without a second signature. Watermaster shall not be required to deliver water to any user until the year's current water fee is paid.

11. ***OTHER USERS:*** The shared irrigation water distribution system has in the past and may in the future be utilized to irrigate adjoining properties owned by Randy L. Kiesz and Michele P. Kiesz, husband and wife, and/or Sparks-Schmidt. The properties owned by Kiesz and Sparks-Schmidt are described on Exhibit "F." In the discretion of the Watermaster, the shared irrigation water distribution system may continue to be used to irrigate these adjoining properties provided that the adjoining property owner and/or tenant leasing these properties pays its appropriate pro-rata share of power and costs for water delivered to the properties. Neither Kiesz nor Sparks-Schmidt shall acquire any water right by reason of delivery of irrigation water to their properties. Water shall not be supplied to additional property without the consent of all PROPERTY OWNERS.

12. **USE OF SYSTEM:** Each PROPERTY OWNER shall comply with all terms and conditions of Ground Water Certificate No. G3-22345C together with any amendments or changes to the Certificate and each PROPERTY OWNER shall comply with all terms and conditions of any contract with the East Columbia Basin Irrigation District which provides water to any benefited property.

13. **CONTROL OF SYSTEM:** After the effective date of this Agreement, a Watermaster shall represent all PROPERTY OWNERS and shall manage and control the delivery system. All orders for water shall be timely placed through the Watermaster, who shall be responsible for overseeing all repairs, maintenance and replacement to the shared irrigation system. The Watermaster shall also be responsible for billing all PROPERTY OWNERS for electricity charges and for any excess water charges. Base allotment charges will be billed directly to PROPERTY OWNERS who have contracts with the East Columbia Basin Irrigation District.

14. **WATERMASTER:**

a. **Designation of First Watermaster.** RON FODE of 4943 Road "N" NW, Moses Lake, Washington, 98837 (509) 750-9033, is hereby designated as the Watermaster and shall serve in that capacity until he resigns, dies, becomes incapacitated, or is replaced set forth below.

b. **Successor Watermaster.** If the Watermaster resigns, becomes incapacitated or is unable to serve, then the owners of property described on attached Exhibit "A" shall elect an individual to perform the duties of Watermaster by majority vote of irrigable acres.

c. **Powers and Duties of Watermaster.** The Watermaster shall have the power and it shall be his or her duty to take all actions reasonably necessary to fulfill the powers of this Agreement, including but not limited to:

i. Establishing watering schedules for all PROPERTY OWNERS receiving water;

ii. Making decisions regarding the normal day-to-day operation, maintenance and repair of the system;

iii. Shutting off and/or locking out deliveries to individual PROPERTY OWNERS who breach the provisions of this Agreement until such breach is cured and any payments required are paid in full;

iv. Shutting off and/or locking out deliveries to individual PROPERTY OWNERS who violate a watering schedule established by the Watermaster;

v. Shutting off and/or locking out deliveries to PROPERTY OWNERS which have not paid any assessment due under this Agreement until said assessment is paid in full;

vi. Make decisions regarding emergency repair and restoration of the system, the cost of which is not in excess of Ten Thousand Dollars (\$10,000.00). Repairs in excess of Ten Thousand Dollars (\$10,000.00) will be determined by majority vote of PROPERTY OWNERS who will share in the allocated costs of such repair;

vii. Enter upon any PROPERTY OWNER'S property at any time as is reasonably necessary for the performance of his or her duties, with or without prior notice to or approval of the PROPERTY OWNER;

viii. Turn pumps on and off and operate pivots to deliver water to PROPERTY OWNERS in accordance with their requests;

ix. Watermaster may purchase and install water meters and/or AgSense Remote Management System on PROPERTY OWNER'S pumps and/or pivots. Watermaster shall assess each PROPERTY OWNER actual costs incurred for any such installation.

d. *Qualified Immunity of Watermaster from Liability.* The Watermaster shall not be liable for any damages caused to any PROPERTY OWNER so long as the Watermaster acts in good faith.

15. **IRRIGATION SCHEDULE:** The current distribution system will not allow irrigation by all PROPERTY OWNERS at the same time. All PROPERTY OWNERS acknowledge potatoes and other high income crops shall be entitled to a first priority for water delivery. The Watermaster shall be responsible for developing an irrigation schedule to accommodate the water system.

16. **COOPERATION:** All PROPERTY OWNERS shall cooperate in the use of the shared irrigation water distribution system. All PROPERTY OWNERS shall adhere to the irrigation schedule developed by the Watermaster. All PROPERTY OWNERS shall only irrigate on scheduled irrigation days.

17. **EASEMENTS:** Each PROPERTY OWNER served by the shared irrigation water distribution system is entitled to benefit from all written easements and right-of-ways across other PROPERTY OWNER'S property for the purpose of repairing, replacing and maintaining the shared irrigation water distribution system. Each PROPERTY OWNER grants to every other PROPERTY OWNER an easement and right-of-way providing access to the shared irrigation water distribution system whether or not a written easement is recorded.

18. **BENEFIT:** This First Restated Irrigation Water Agreement is for the benefit of and appurtenant to each PROPERTY OWNER'S property in Sections 1, 2 and 3, Township 19 North, Range 29 E.W.M., Grant County, Washington.

19. **BUREAU WATER CONTRACTS:** PROPERTY OWNERS may seek delivery of Bureau of Reclamation water to their respective properties in the future which will no longer require the use of well water. Such PROPERTY OWNERS may continue to use the shared irrigation water distribution system if feasible provided they pay their allocated share of costs to repair, maintain and operate the shared irrigation water distribution system. They shall not be required to pay the costs of well water provided they do not receive well water.

20. **WATER RIGHTS UNAFFECTED; AGREEMENT BINDING BETWEEN THE PARTIES:** This Agreement does not modify or affect ownership of Water Certificate No. G3-22345C owned by Roy B. Fode (FODE LAND) who retains full ownership of the Water Certificate right and retains all rights to sell, convey and/or abandon the rights set forth in the Certificate at any time, PROVIDED, HOWEVER, that Tract 1 shall retain its allocated share of the certificated right. All other properties, including Tract 3 shall not acquire any rights to the Certificate. This First Restated Irrigation Water Agreement is only intended to provide fair and equitable division of costs if well water and/or Bureau of Reclamation water is delivered to any PROPERTY OWNER'S property.

21. **TERMINATION AGREEMENT:** The respective rights of each PROPERTY OWNER shall continue until the owners of any property which are subject hereto have executed and filed a written statement of termination. Upon termination, the PROPERTY OWNER shall discontinue the future use of the shared irrigation water distribution system but any easement and right-of-way heretofore or hereafter granted shall remain in full force and effect and may be used by other PROPERTY OWNERS. Upon termination, any PROPERTY OWNER who terminates shall have no further obligation to pay the assessments for the continued repair, maintenance and operation of the shared irrigation water distribution system.

22. **AMENDMENT OF AGREEMENT:** PROPERTY OWNERS may amend this First Restated Irrigation Water Agreement to assure equitable distribution of share costs and responsibilities by a written agreement signed and acknowledged by the owners of Seventy-five Percent (75%) of the properties allocated irrigable acres as set forth on attached Exhibit "B."

23. **PERSONAL WARRANTY OF REPRESENTATIVE AUTHORITY:** Each person signing this First Restated Irrigation Water Agreement in a representative capacity, individually and personally promises, covenants, represents and warrants that

he or she has full authority to bind his or her principle to the terms of the First Restated Irrigation Water Agreement, and hereby promises to hold the other parties hereto harmless from any claim or allegation that said person lacked such authority.

24. **SUCCESSORS IN INTEREST:** This First Restated Irrigation Water Agreement shall be binding upon the heirs, assigns and successors in interest of the parties hereto including any future owner of any of the property benefited by this First Restated Irrigation Water Agreement.

25. **MEDIATION/ARBITRATION OF DISPUTES:** Any and all disputes arising out of this Agreement shall be submitted to a single mediator, who shall, if the mediation is not successful, then act as arbitrator. The parties hereby expressly waive their right to seek relief in any court for breach of this Agreement or for other disputes arising out of or related to this Agreement.

a. **Procedure for Selecting Mediator/Arbitrator:** When any party determines that an impasse has been reached, that party shall notify the other parties in writing that they are declaring an impasse, and suggest Three (3) persons as mediators for the impasse. The other parties shall respond to the declaration of impasse within Thirty (30) days by selecting any One (1) of the proposed mediators, or by rejecting all Three (3) proposed mediators, and suggesting Three (3) alternate mediators. If the latter, the party declaring the impasse shall have Fifteen (15) days in which to respond to the alternates by either selecting One (1) of the alternates, or rejecting all Three (3) mediators. If the latter, the parties, or any of them, shall request that Washington Arbitration & Mediation Service (WAMS), or WAMS successor, pursuant to WAMS' (or its successor's) Rules of Arbitration. If WAMS has no successor, or the parties cannot agree on the identity of the successor to WAMS, then the parties, or any of them, shall submit the dispute to American Arbitration Association for arbitration in accordance with the American Arbitration Association's rules of arbitration.

b. **Mediation:** The mediator agreed to by the parties, or appointed by WAMS or its successor, shall schedule and hold mediation within Thirty (30) days of agreement or appointment. If that mediation is unsuccessful, the mediator shall then become an arbitrator with all the powers of an arbitrator as set forth in RCW Ch. 7.04 and shall make a final and binding determination of the issues in dispute.

c. **Fees and Costs of Mediator/Arbitrator:** The fees and costs of the mediator/arbitrator shall be paid equally by the parties as the mediation process occurs. However, if the mediation is not successful, the mediator/arbitrator may, if he or she deems it just and equitable, award to the prevailing party or parties the fees and costs paid to the mediator.

d. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

e. The arbitrator shall have authority to award, as he or she deems just and equitable, all or any portion of, or no attorney's fees and costs to the prevailing party or parties in amounts the arbitrator deems just and equitable.

26. **NOTICES:** Any notice required by this Agreement shall be deemed delivered Five (5) days after being deposited with sufficient postage in the U.S. mail to the parties at the following addresses:

Grantor: Fode Land Company, LLC
6603 Partridge Drive Northeast
Moses Lake, Washington 98837

Grantee: Ron L. and Robin M. Fode
4943 Road "N" NW
Moses Lake, Washington 98837

27. **VENUE:** The venue of any action brought to enforce the terms of this Agreement shall be in Grant County, Washington.

28. **ATTORNEY FEES:** The prevailing party in any arbitration proceeding or litigation brought to enforce the terms and conditions of this Agreement shall be entitled to costs and reasonable attorney fees.

29. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement of the parties and supercedes and replaces any and all prior or contemporaneous agreements or undertakings, written or oral, express or implied, between the parties concerning the subject matter of this Agreement.

30. **SCRUTINY:** This Agreement has been submitted to the scrutiny of all parties and their respective legal counsel and shall be given a fair and reasonable interpretation in accordance with the words hereof without consideration or weight being given to its being drafted by or for one of the parties. If, in the fact one of the parties has not submitted this Agreement to the scrutiny of their legal counsel, such party stipulates that, despite having had the opportunity to do so, they waived the same and elected to proceed without the benefit of such legal review.

///End of Body of Document

THIS FIRST RESTATED IRRIGATION WATER AGREEMENT made and entered into this ____ day of _____ 2016.

FODE LAND COMPANY, LLC, a Washington Limited Liability Company,

By: ROY B. FODE
Title: Member

By: PATTY G. FODE
Title: Member

RON L. FODE

ROBIN M. FODE

STATE OF WASHINGTON)
) ss. LIMITED LIABILITY COMPANY
COUNTY OF _____) ACKNOWLEDGMENT

THIS IS TO CERTIFY that on this ____ day of _____, 2016, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared ROY B. FODE, to me known to be a member of FODE LAND COMPANY, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

(Print Name) _____
Notary Public in and for the State
of Washington, Residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss. LIMITED LIABILITY COMPANY
COUNTY OF _____) ACKNOWLEDGMENT

THIS IS TO CERTIFY that on this ____ day of _____, 2016, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared PATTY G. FODE, to me known to be a member of FODE LAND COMPANY, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

(Print Name) _____
Notary Public in and for the State
of Washington, Residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss. Individual Acknowledgment
COUNTY OF _____)

On this day, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared RON L. FODE to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this ____ day of _____,
2016.

(Print Name) _____
Notary Public in and for the State
of Washington, Residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss. Individual Acknowledgment
COUNTY OF _____)

On this day, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ROBIN M. FODE to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this ____ day of _____,
2016.

(Print Name) _____
Notary Public in and for the State
of Washington, Residing at _____
My commission expires: _____

EXHIBIT "A"

LEGAL DESCRIPTIONS

FODE LAND COMPANY

All of Section 3, Township 19 North, Range 29 E.W.M., records of Grant County, Washington.
(Parcel No.: 18-0149-000)

RON L. and ROBIN M. FODE

TRACT 1:

The Northwest Quarter of Section 2, Township 19 North, Range 29 E.W.M., records of Grant County, Washington.
(Parcel No.: 18-0145-000)

TRACT 2:

The Southwest Quarter of Section 2, Township 19 North, Range 29 E.W.M., records of Grant County, Washington.

TOGETHER WITH a 15 foot water pipeline easement from the intersections of Roads "6" and "O" NE which is the Northwesterly corner of the Northwest Quarter to center of Section 3, Township 19 North, Range 29 E.W.M., and then runs directly East from the center of said Section 3, Township 19 North, Range 29 E.W.M., until the pipeline adjoins the Western border of Section 2, Township 19 North, Range 29 E.W.M., records of Grant County, Washington, recorded June 15, 2005, under Auditor's File No. 1171034.
(Parcel No.: 18-0147-000)

TRACT 3:

The most Westerly 200 acres of the following described land lying in Section 1, Township 19 North, Range 29 E.W.M., except that portion of the North Half of Section 1 lying Northerly of the following described line:

Beginning at a point on the East line of said Section 1, a distance of 800 feet South of the East Quarter corner; thence Northwesterly on a straight line to a point on the West line of said Section 1, a distance of 400 feet North of the West Quarter corner and the terminus of said line.

AND EXCEPTING further that portion of the South Half of Section 1, lying Northerly of the following described line:

Beginning at a point on the East line of said Section 1, a distance of 800 feet South of the East Quarter corner; thence Northwesterly on a straight line to a point on the West line of said Section 1, a distance of 400 feet North of the West Quarter corner and the terminus of said line.
(Parcel No.: 18-0143-001)

EXHIBIT "B"

MAP OF IRRIGABLE ACRES

See attached One (1 Page)

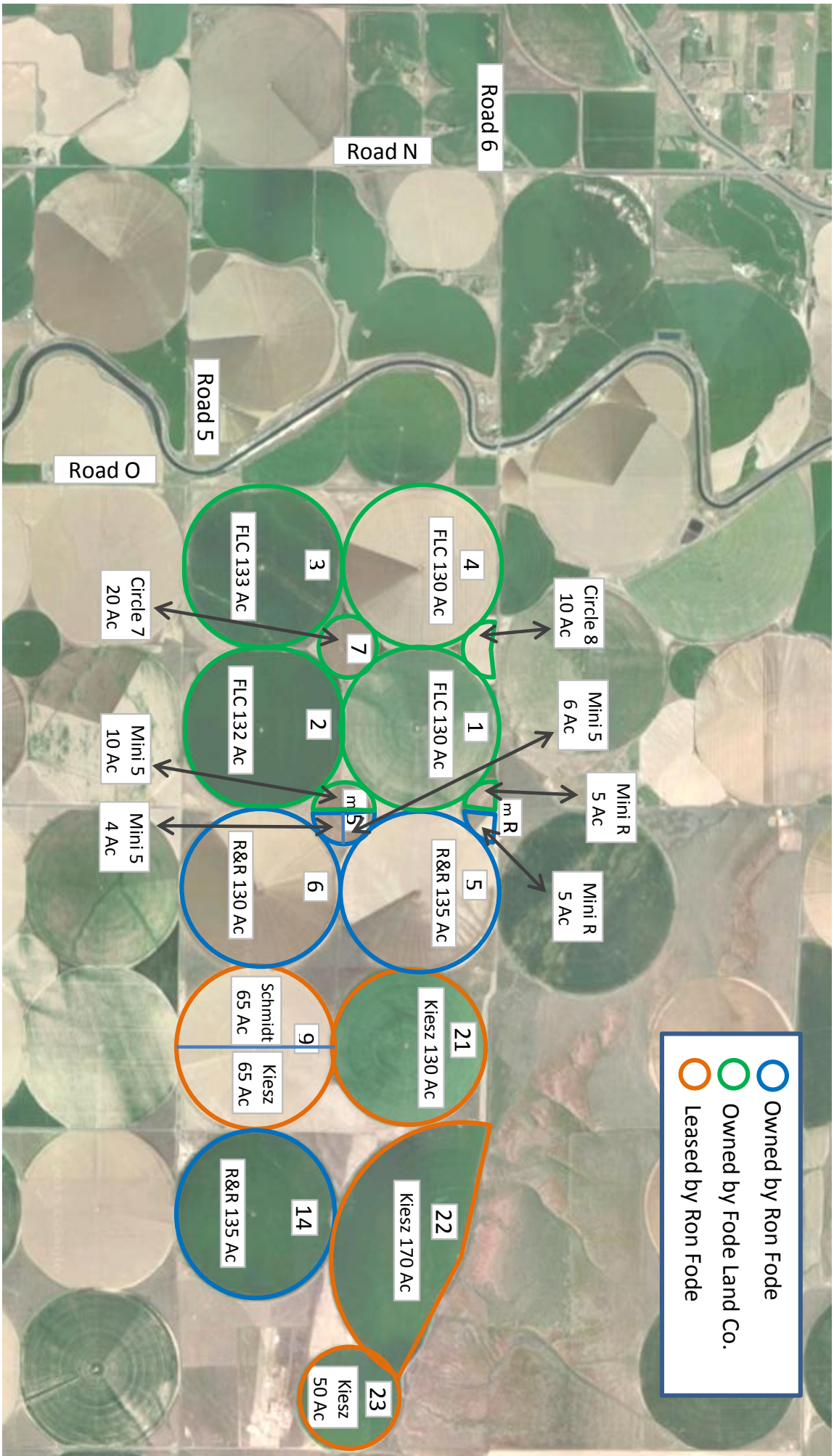


EXHIBIT "C"
CERTIFICATE OF WATER RIGHT
NO. G3-22345C

See attached Three (3 Pages)

As of 12-20-2000

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CERTIFICATE OF WATER RIGHT

- Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)
- Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

PRIORITY DATE	APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
January 9, 1974	G3-22345	G3-22345P	G3-22345C

NAME			
ROY FODE			
ADDRESS (STREET)	(CITY)	(STATE)	(ZIP CODE)
Route 2, Box 74	Moses Lake	Washington	98837

This is to certify that the herein named applicant has made proof to the satisfaction of the Department of Ecology of a right to the use of the public waters of the State of Washington as herein defined, and under and specifically subject to the provisions contained in the Permit issued by the Department of Ecology, and that said right to the use of said waters has been perfected in accordance with the laws of the State of Washington, and is hereby confirmed by the Department of Ecology and entered of record as shown.

PUBLIC WATER TO BE APPROPRIATED

SOURCE
two (2) wells
TRIBUTARY OF (IF SURFACE WATERS)

MAXIMUM CUBIC FEET PER SECOND	MAXIMUM GALLONS PER MINUTE	MAXIMUM ACRE-FEET PER YEAR
	5000	1617

QUANTITY, TYPE OF USE, PERIOD OF USE
1615 acre feet per year, from February 1 to November 30, each year, for the irrigation of 647 acres; 2 acre feet per year, continuously, for domestic supply.

LOCATION OF DIVERSION/WITHDRAWAL

APPROXIMATE LOCATION OF DIVERSION-WITHDRAWAL
Well #1) center of Sec. 3; Well #2) 330 feet south from the N $\frac{1}{4}$ corner of Sec. 3

LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION)	SECTION	TOWNSHIP N.	RANGE, (E. OR W.) W.M.	W.R.I.A.	COUNTY
N $\frac{1}{2}$. 3	19	29E.	41	Grant

RECORDED PLATTED PROPERTY

LOT	BLOCK	OF (GIVE NAME OF PLAT OR ADDITION)

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

Sec. 3, T. 19 N., R. 29 E.W.M.

PROVISIONS

This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.

Certificate holder shall maintain an access port as described in Ground Water Bulletin No. 1.

The amount of water granted under this certificate is a maximum limit that shall not be exceeded, and the certificate holder shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and place of use specified in the certificate.

A suitable measuring device approved by the Department of Ecology shall be maintained in accordance with WAC 508-64-020 through WAC 508-64-040.

The final certificate of water right issues for that quantity of water that can be produced from two wells only.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.020.

This certificate of water right is specifically subject to relinquishment for nonuse of water as provided in RCW 90.14.180.

Given under my hand and the seal of this office at Spokane Washington, this 5th day of July 19 79

WILBUR G. HALLAUER, Director
Department of Ecology

ENGINEERING DATA

OK.....

by *John L. Arnquist*
JOHN L. ARNQUIST, Regional Manager

FOR COUNTY USE ONLY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CERTIFICATE OF CHANGE OF GROUND WATER CERTIFICATE NO. G3-22345C

In accordance with the provisions of Chapter 263, Laws of Washington for 1945, and the regulations of the Department of Ecology.

THIS IS TO CERTIFY That Roy Fode of Moses Lake, Washington, has complied with all of the requirements of the Revised Code of Washington 90.4-.100 and the regulations of the Department of Ecology, and is hereby granted the right to change the place of use of waters granted under Ground Water Certificate No. G3-22345C.

That Ground Water Certificate No. G3-22345C grants the right to withdraw 5000 gallons per minute, 1615 acre feet per year of water for the irrigation of 647 acres, 2 acre feet per year, continuously, for domestic supply.

That the place of use is within Sec. 3, T. 19 N., R. 29 E.W.M., Grant County, Washington.

That they are hereby authorized to change the place of use to 320 acres within the W $\frac{1}{2}$ of Sec. 2; and 327 acres within the E $\frac{1}{2}$ of Sec. 3; ALL WITHIN T. 19 N., R. 29 E.W.M., Grant County, Washington.

GIVEN UNDER MY HAND AND SEAL of this office at Spokane, Washington this 19th day of December, 1985.

ANDREA BEATTY RINKER, Director
Department of Ecology

by John L. Arnquist
JOHN L. ARNQUIST, Regional Manager

RECORDED:

VOL. 1-3, PP. 446

CERTS. OF CHANGE

EXHIBIT "D"

**FIRST PHASE CONTINUATION
ACRES INTERRUPTIBLE WATER SERVICE CONTRACT**

FODE LAND COMPANY

See attached Twelve (12 Pages)



Renewal I90/39
Approved 10/8/1982

Return to:
East Columbia Basin Irrigation District
P.O. Box E, Othello, WA 99344

EAST COLUMBIA BASIN IRRIGATION DISTRICT
Columbia Basin Project, Washington

**FIRST PHASE CONTINUATION ACRES
INTERRUPTIBLE WATER SERVICE CONTRACT
(EAST COLUMBIA BASIN IRRIGATION DISTRICT)
COLUMBIA BASIN PROJECT, WASHINGTON**

Fode Land Company, LLC
Section 3, T 19N, R 29EWM
APN: 18-0149-000

THIS CONTRACT, Made this 12th day of August, 2015, between the EAST COLUMBIA BASIN IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Washington, hereinafter called the District, and Fode Land Company, LLC hereinafter called the Purchaser,

WITNESSETH, That:

EXPLANATORY RECITALS

2. WHEREAS, the following preliminary statements are made in explanation:

(a) The United States has entered into a repayment contract with the District dated October 9, 1945 (Contract and Symbol No. 11r-1442 which was last amended and supplemented on December 18, 1968), relating in part to the water supply for the irrigation of lands in the District, operation and maintenance of facilities, and repayment of the construction obligation; and

(b) The United States and the District have also entered into a Master Water Service Contract dated August 27, 1976 (Contract No. 14-06-100-9165), and Supplement No. 1 dated October 8, 1982; and

(c) Pursuant to Article 10 of Supplement No. 1, the District is authorized to enter into contracts with District water users for First Phase Continuation Water; and

(d) The landowner is the holder of irrigable land identified as First Phase Continuation Acres, as evidenced by land classification and drainage determinations, in the vicinity of an existing Project irrigation facility within the operation of the District; and

(e) The United States has determined that First Phase Continuation Water is available for use on the First Phase Continuation Acres described herein without adversely affecting or having a significant detrimental impact on Existing Acres, fish and wildlife interests or the environment in general.

NOW THEREFORE, it is agreed as follows:

DEFINITIONS

3. The following terms, for purposes of this contract, shall have the following respective meanings:

"First Phase Continuation Water" shall mean water made available under this contract pursuant to Supplement No. 1.

"First Phase Continuation Acres" shall mean those lands for which water is made available under this contract pursuant to Supplement No. 1.

TERM OF CONTRACT

4. This contract becomes effective on the date first above written and covers the making available of First Phase Continuation Water to the lands described herein. This contract shall run for a period of 20 years, unless terminated earlier as otherwise provided herein, and with the consent of the District may be renewed at the end of such period for additional 10-year periods.

CONDITIONS OF WATER DELIVERY

5. (a) The District has heretofore entered into a repayment contract with the United States, dated December 18, 1968, which, together with the August 27, 1976 Master Water Service Contract and Supplement No. 1, dated October 8, 1982 and the terms of this contract, govern the furnishing of water and the Landowner's obligations hereunder.

(b) The Landowner may, after making advance annual payment therefore in accordance with Article 6 hereof, divert, when available, water from the _____ E.L. Canal at Mile 25 for the



irrigation of 546.0 acres of land, identified as First Phase Continuation Acres, which are shown on the map attached hereto and more particularly described as follows:

That land in Section 3, Township 19 North, Range 29 EWM, Grant County, Washington, as shown crosshatched on the Exhibit "A" attached hereto and incorporated herein by reference.

The Landowner shall receive said water at the above point of diversion and the Landowner shall be wholly responsible for the cost and expense thereof, and for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder shall be measured by means of a measuring device satisfactory to the District and the United States. Such devices shall be furnished, installed, and maintained by and at the expense of the Landowner, but subject to the control of the United States or the District who may at all times have access to them over any land of the Landowner. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Landowner.

(c) Water purchased hereunder is made available on an interruptible basis pending the inclusion of the Landowner's lands into an irrigation block or local improvement district service area. Such water may not be available for the irrigation of Landowner's lands during periods of water shortage or peak periods of use by other Project lands within irrigation blocks. The District will make the determination of availability of water and will control its use and delivery under this contract.

(d) The Landowner, without cost or expense to the District or the United States, shall acquire all necessary rights-of-way and construct all necessary facilities to furnish water to the Landowner's land. The Landowner will be required to obtain a permit from the District and, if required, from the United States for all construction on Project rights-of-way. All plans for proposed construction, including measuring facilities, shall be approved in advance by the District and, if required, by the United States.

(e) It is anticipated that in the future the lands of the Landowner will be included into either irrigation blocks or local improvement district service areas. In the event water does become available to the Landowner's lands by such inclusion through irrigation delivery facilities constructed by either the United States or the District, the Landowner will take delivery of water therefrom for all of the Landowner's lands in such block or service area, which will then be subject to assessment on the same basis as other irrigable lands in such block or service area, and this contract shall be terminated as of January 1 of the year such water first will become available for a full irrigation season.

(f) In the event water becomes available to the Landowner's lands as provided in Article 5(e) hereof, the Landowner shall convey to the United States at the appraised price all of the Landowner's facilities on Project rights-of-way which may be required as determined by the United States, as part of the irrigation facilities to be constructed. The Landowner shall further be notified of his facilities on the rights-of-way that are not required for these irrigation facilities to be constructed, and the Landowner may be required to remove or adapt the same to accommodate Project or District irrigation facilities. The Landowner shall bear all costs occasioned by his failure to remove or adapt the facilities within the time limit specified. The Landowner agrees that in any settlement in connection with acquisition or utilization of land or rights-of-way under 5(e) for the construction of irrigation facilities across lands covered by this contract, either by the United States



or the District, no enhancement in land value because of the availability of water will be allowed.

PAYMENT FOR WATER

6. (a) The Landowner will pay to the District a nonrefundable annual minimum sum equal to the per acre charges determined in accordance with Article 6(b) multiplied by the number of acres irrigated hereunder immediately upon being notified of the execution of this contract by the District. Minimum annual payments thereafter shall be paid to the District in advance of delivery of water under this contract and, in any event, on or before April 30 of each year. Utilization of water prior to payment thereof shall, in addition to interest, subject the Landowner to a penalty of 5 percent (5%) of the annual minimum sum.

(b) The minimum annual per acre charge for the lands to be irrigated under this contract irrespective of whether the Landowner utilizes the full water allotment provided hereunder will consist of the following:

1. A charge of \$9.00 per acre based on a water service rate of \$3 per acre-foot of water, provided such charge will be adjusted to reflect changes in the rate per acre-foot as provided in Article 10(a) of the Master Water Service Contract;
2. A construction charge of \$2.63 per acre;
3. A per acre operation and maintenance charge equal to 75 percent of average per acre O&M assessment of platted lands (i.e., farm units and water delivery units within irrigation blocks) of the District for the then current year.
4. Such additional charge as the District may make for its own purposes.

(c) Payment of the above minimum annual charge as the same may be adjusted will entitle the Landowner to water in the amount of 3.0 acre-feet per acre for the lands described in Article 5(b) hereof. Water in addition to 3.0 acre-feet per acre, when available, may be purchased in minimum quantities of 25 acre-feet and the per-acre foot charge therefore shall be the total of the following:

1. \$3 per acre-foot of water provided such charge will be adjusted to reflect changes in the rate as provided in Article 10(a) of the Master Water Service Contract;
2. An amount equal to 130 percent (130%) of one-third of the per acre charge established in Articles 6(b)(3) and 6(b)(4).

(d) In the event the Landowner is unable to utilize any First Phase Continuation Water provided for in the year this contract is entered into, any charges so paid shall be credited against the charges to be paid by the Landowner for the following year. In the event that the Landowner utilizes less than 50 percent (50%) of the minimum quantity of water provided for hereunder during the year the contract is entered into, the charges for that year shall be prorated based upon the amount of water actually utilized and any credit to which the Landowner is entitled to shall be applied against the charges to be paid under this contract for the following year. In no event shall the provisions of this paragraph extend the payment of charges, or the prorating thereof, beyond



the year following the year that the contract is entered into.

(e) Payment in advance of any delivery of water is a condition precedent to the delivery thereof. The District reserves the right to refuse delivery of water unless and until any charges owing to the District are paid including charges owing to the District for work performed by the District on behalf of the Landowner. The District further reserves the right to specify the method of irrigation to be used on the subject lands.

(f) The District and the Landowner hereby agree that the charges for the delivery of water hereunder may be assessed, collected and enforced in the manner provided in RCW 87.03.445 for the collection and enforcement of rates, tolls and charges. All charges imposed by this contract, upon compliance with the applicable procedural provisions of said RCW 87.03.445 shall at once become and constitute an assessment upon and against the lands for which they are levied, with the same force and effect and the same manner of enforcement and with the same rate of interest from date of delinquency in case of nonpayment as other District assessments. Said assessment procedure shall be in addition to any measures available to the District, including the right of contract termination as provided for in this contract.

WASTE, SEEPAGE, AND RETURN-FLOW WATERS

7. (a) The Landowner assumes responsibility, during the life of this contract, for disposal of wastewater in connection with irrigation farming of the said land so as not to damage Project facilities or other properties and also for any necessary drainage of the said land. Failure of the landowner to properly dispose of wastewater shall be grounds for the termination of this contract in accordance with Article 10 hereof.

(b) Neither the United States nor the District abandons or relinquishes any waste, seepage, or return-flow water resulting from the water being made available to the Landowner under this contract, and all such waters are reserved and retained as a source of water supply for the Project.

WATER MANAGEMENT AND CONSERVATION

8. The Landowner shall develop and carry out any water management and conservation program that may be required by the District.

DISCLAIMER

9. It is understood and agreed between the parties that no provision for the delivery of water under this contract will be construed to bind the United States or the District to make such water available on a continuing basis to the Landowner or be the basis of a permanent water right; that the United States and the District assume no responsibility for any permanent, continuing delivery of such water, and that neither they nor their officers, agents or employees shall have any liability for or on account of:

(a) The control, carriage, handling, use, disposal, or distribution of such water diverted



from Project delivery facilities then being operated and maintained or utilized by the United States or the District;

(b) Damage claims of any nature whatsoever, including, but not limited to, property loss or damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water:

(c) Any damage, whether direct or indirect, arising out of or in any manner caused by seepage, absence of drainage, or shortage or absence of said water, whether such shortage or absence be on account of inspections, repairs, improvements, new construction, changes in operation, drought, hostile diversion, supplying other irrigated lands, prior or superior claims, or any other causes.

TERMINATION

10. In the event of any failure by the Landowner to comply with all the terms and requirements of this contract or any regulations issued in connection therewith, or if the use or attempted use of water furnished hereunder is in any way unreasonably wasteful or harmful to the Project as determined by the District or the United States, or if water is used for any purpose other than irrigation of the above-described land, the District or the United States may terminate this contract, after giving reasonable notice and opportunity to comply therewith. Either the Landowner or the District may terminate this contract by written notice to the other at the end of any irrigation season but not later than November 30 of any year, provided, however, that the Landowner may not terminate this contract unless all charges owing to the District have been paid. In addition, this contract will terminate as provided under Article 5(e) hereof at any time the Landowner's land is included into a new Columbia Basin Project irrigation block, or is added to an existing Columbia Basin Project irrigation block.

COVENANTS

11. All terms, conditions, covenants and agreements herein made including the rules and regulations attached hereto and made a part hereof by reference shall be deemed to be covenants running with the land and shall be binding on the Landowner and his heirs, administrators, executors, assigns, and successors.

REPORTS AND RECORDS

12. The Landowner shall develop and maintain annual records of reasonable estimates of land use and crop production on lands receiving Project water hereunder. Reports thereon shall be furnished to the United States in such form and on such date or dates as may be required by the United States.

OFFICIALS NOT TO BENEFIT

13. (a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom. This restriction shall



not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) No official of the District shall receive any benefit that may arise by reason of this contract other than as a landowner within the project and in the same manner as other landowners within the project.

EXCESS LANDS

14. Project water made available under the terms of this agreement shall only be delivered by the District in compliance with the excess land provisions of Reclamation Law as they now exist or may hereafter be amended. Under no conditions will recordable contracts be executed for the sale of excess lands or be accepted as a condition for delivery of water from the Project to First Phase Continuation Acres served under the terms of this agreement.

RULES AND REGULATIONS

15. The United States or the District may make rules and regulations, not inconsistent with the provisions of this contract, and the Landowner shall observe the same. Attached hereto and hereby made a part of this contract are rules and regulations entitled, "Rules and Regulations for Water Service Contracts for First Phase Continuation Acres, East Columbia Basin Irrigation District." Said Rules and regulations shall be duly complied with by the Landowner. The District reserves the right to hereafter formulate and adopt such supplemental rules and regulations as it may deem necessary or advisable for the distribution and management of First Phase Continuation Water and such supplemental rules and regulations shall be adhered to by the Landowner, his heirs, administrators, executors, assigns and successors.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.



(SEAL)

EAST COLUMBIA BASIN IRRIGATION DISTRICT

[Signature]

President of the Board

ATTEST:

[Signature]

District Secretary

[Signature]
[Signature]

Fode Land Company, LLC

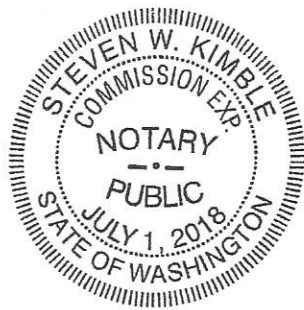


STATE OF WASHINGTON)
County of)

On this 12th day of August, 2015 Personally appeared before me Boe Clausen, to me known to be the President of the Board of Directors of the East Columbia Basin Irrigation District, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



Steven W. Kimble
Notary Public in and for the
State of Washington
Residing at: Warden
Commission expires: 7/1/2018

STATE OF Washington)
County of Grant)

I certify that I know or have satisfactory evidence that Roy Fode is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Manager of **Fode Land Company, LLC** to be the free and voluntary act of such part for the uses and purposes mentioned in the instrument.

Dated: 07/07/2015



Silvia Ramos
Notary Public in and for the
State of Washington
Residing at Grant County
Commission Expires: 09/29/2018



**RULES AND REGULATIONS FOR WATER SERVICE CONTRACTS
FOR FIRST PHASE CONTINUATION ACRES
EAST COLUMBIA BASIN IRRIGATION DISTRICT**

The following Rules and Regulations and the District wide Rules and Regulations annually adopted by the Board of Directors of the East Columbia Basin Irrigation District which are incorporated herein by reference shall be a part of this water service contract granted by the East Columbia Basin Irrigation District for the irrigation of First Phase Continuation Acres and the terms and conditions thereof, where applicable as determined by the District, shall be fully complied with by the Landowner.

I.

Construction of Irrigation Facilities to Serve Landowner's Lands

1. Landowner shall obtain a District permit approving of the plans for the construction of irrigation facilities, including but not limited to the diversion facilities, water measuring device and the pumping plant. Construction shall be subject to the approval of the District and shall be at Landowner's expense. The diversion facilities and the water measuring device shall be under the District's exclusive control.
2. The Landowner shall furnish to the District construction plans. The plans shall include a lockable headgate, which shall be under the control of the District, water measuring device and pumping plant. The plans shall show in detail the location of the proposed diversion facilities, water measuring device, pumping plant, the power meter(s), and the size and length of the pipelines, together with any such other information as may be required by the District Manager. Landowner shall furnish to the District a map showing the location of the distribution system, including dimensions of circle sprinkled areas and other areas and the acreage to be irrigated, and the point of water diversion from the Landowner's pipeline or other conveyance facility to each of said areas. If the size of a Landowner's proposed diversion, in the event of an operation failure, could adversely affect the District's operation, the District may require the Landowner to install an automatic alarm system.
3. An approved water flow meter shall be installed by the Landowner at the location designated by the District Manager and shall be of the type and size required by the District. The meter shall be for the purpose of determining the amount of water used by the Landowner and shall be read and recorded by the District at such times as deemed necessary by the District. All water diverted from the District's facility must be measured. In the event the water flow meter becomes inoperative, the District Manager shall estimate the amount of water diverted under this contract for the irrigation of any lands served from the headgate, and such estimate and the resulting cost of water so estimated to have been diverted shall be binding upon and shall be paid for by the Landowner as in this contract provided.
4. The Landowner shall secure or convey a valid nonexclusive, perpetual easement(s) over the land on which the diversion facilities, water measuring device, pumping plant, power meter and distribution system and other required facilities are to be installed and constructed. Said easement(s) shall include the District's right of vehicular ingress and egress over, along and across the lands described in the easement(s) for purposes of conducting operation and maintenance activities, for the purpose of determining whether the terms and conditions of this contract are being kept and performed, and for other uses and purposes relative to this contract. The area of said easement shall be that required by the District, which shall include any necessary ingress and egress thereto. The District's title to said easements shall be subject to District approval and any title costs incurred in determining the validity of the District's title shall be paid for by the Landowner.



II.
Miscellaneous Provisions

1. The District, in the event it becomes necessary to enforce the terms and conditions of this contract, in its sole and uncontrolled discretion, may shut off the water to enforce the terms of this contract by locking the diversion facility.
2. The Landowner shall pay annually the cost of the minimum quantity of water and shall pay for such additional water utilized, all as provided for in this contract. In the event more than one area of land is being irrigated from a single diversion facility, additional quantities of water utilized over the minimum quantity shall be prorated among the two or more separate areas of land entitled to receive water and payment therefore shall be as in this contract provided.
3. Water will not be diverted from the District's facility by the Landowner at such time, during the year that the District, in its sole and uncontrolled discretion in considering the best interests of all water users of the District, determines that water should not be made available from its facilities.
4. Unless the written consent of the District is obtained, Landowner shall not irrigate, nor cause or permit any land to be irrigated from the Landowner's irrigation facilities, any land other than that described in this contract, nor shall any water from the District's facility be utilized for any purpose other than agricultural irrigation of land in parcels comprising not less than forty (40) irrigable acres.
5. In the case of a common pipeline constructed from the point of diversion of water from the District's facility to serve the lands of the Landowner, or any land to be served therefrom under any other water service contract entered into by the District with any third party or parties, and in the event the Landowner, or any third party utilizing said common pipeline, or any of them, or their lessees, heirs, assigns or successors, fails to pay to the District any amounts due under this contract, or any amendment or modification thereof, or fails to perform any other term or condition of this contract, the District may, at its sole and uncontrolled discretion and without liability to any person, shut off the water at the point of diversion from the District's facility until such default has been corrected, or the District may take any other enforcement action herein provided. The fact that one or more persons has complied with all contract requirements shall not derogate from this provision.
6. Because of the demand for the District's available water, no water service contracts shall be granted for the irrigation of lands other than by sprinkler irrigation. Variations from this condition will be permitted only if specifically authorized by the Board of Directors of the District.
7. The District shall not be liable for the construction, breaking, leakage, repair or maintenance of any pipeline, including any common pipeline serving Landowner's lands and/or lands of any third party, nor for the securing and retention by the Landowner and/or any third party of any easement or right-of-way required for the delivery of water to the Landowner's lands or to the lands of any third party which may be served by any common pipeline. The District shall not be responsible for any damage, loss, cost or expense, occasioned to the Landowner or any other person, from the construction, breaking, leaking, seepage, or operation of any of the irrigation facilities, including pipelines, of the Landowner and the Landowner shall hold the District harmless from any such loss, cost or expense.
8. To enable the District to comply with the excess lands provisions of the District's Repayment Contract dated December 18, 1968, with the United States of America, all land ownerships of the Landowner, or any of them, or any transfer thereof, must be recorded with the Auditor of the county in which the land is located. In the event a Landowner, or any of them, or any third party, being served from the District's facility becomes the owner of excess lands, by operation of law or otherwise, and in the event the lands are being supplied with irrigation water by a common pipeline in conjunction with other Landowners, the



District shall refuse to deliver water to the common pipeline from its facilities for the excess Landowner unless and until the excess status of any Landowner or third party shall have been resolved.

9. Violation or default of any of the terms and conditions herein contained shall entitle the District to terminate this water service contract. Further, in the event a Landowner utilizes water made available hereunder in a manner that is unreasonably wasteful or harmful to the District facilities or downstream water users, (including the return of irrigation wastewater to District facilities containing undue or harmful amounts of silt and debris), or in the event the irrigation of the Landowner's lands occasions damage, by seepage or otherwise, to District facilities, the District may terminate this contract.
10. In the event the Landowner sells or conveys the land covered by this contract, such sale or conveyance shall constitute an assignment of this contract by the Landowner and the terms and conditions hereof shall be binding upon the Landowner's grantees or successors. In the event a grantee or successor is not entitled to receive irrigation water from the District for any reason whatsoever, including the excess land provisions of federal reclamation law, the District shall have the right to terminate this contract. In the event any person acquires title, including a purchaser's interest from the Landowner of all or a portion of the lands covered by this contract, the District may, at its option, terminate this contract and require the then Landowner or Landowners to enter into a new contract or contracts with the District.
11. The term "Landowner" referred to herein in the singular shall include any and all persons herein named, whether one or more, and each shall be individually and jointly bound to the terms and conditions of this contract.
12. In addition to the termination provisions provided for in this contract, the District shall have all rights and remedies provided by law for the recovery of moneys owing and for damages occasioned by any default or breach of covenant on the part of the Landowner.



Township 19 North Range 29 E.W.M.

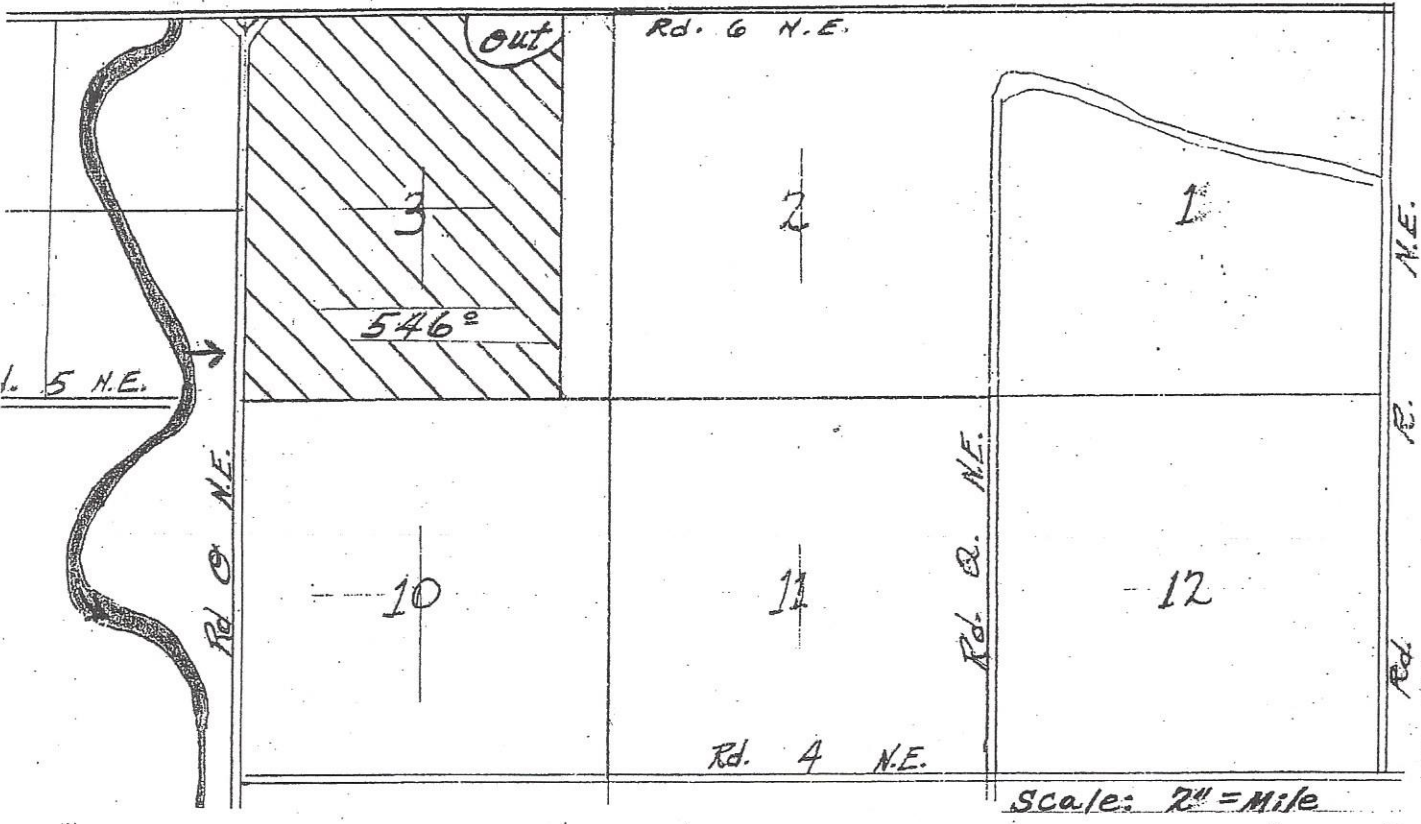


Exhibit "A"



EXHIBIT "E"

**FIRST PHASE CONTINUATION
ACRES INTERRUPTIBLE WATER SERVICE CONTRACT**

RON L. and ROBIN M. FODE

See attached Twelve (12 Pages)



Renewal I90/40
Approved 10/8/1982

Return to:
East Columbia Basin Irrigation District
P.O. Box E, Othello, WA 99344

EAST COLUMBIA BASIN IRRIGATION DISTRICT
Columbia Basin Project, Washington

FIRST PHASE CONTINUATION ACRES
INTERRUPTIBLE WATER SERVICE CONTRACT
(EAST COLUMBIA BASIN IRRIGATION DISTRICT)
COLUMBIA BASIN PROJECT, WASHINGTON

Ronald L. & Robin M. Fode
SW ¼ Section 2, T 19N, R 29EWM
APN: 18-0147-000

THIS CONTRACT, Made this 7th day of October, 2015, between the **EAST COLUMBIA BASIN IRRIGATION DISTRICT**, an irrigation district organized and existing under the laws of the State of Washington, hereinafter called the District, and **Ronald L. & Robin M. Fode** hereinafter called the Purchaser,

WITNESSETH, That:

EXPLANATORY RECITALS

2. WHEREAS, the following preliminary statements are made in explanation:

(a) The United States has entered into a repayment contract with the District dated October 9, 1945 (Contract and Symbol No. 11r-1442 which was last amended and supplemented on December 18, 1968), relating in part to the water supply for the irrigation of lands in the District, operation and maintenance of facilities, and repayment of the construction obligation; and

(b) The United States and the District have also entered into a Master Water Service Contract dated August 27, 1976 (Contract No. 14-06-100-9165), and Supplement No. 1 dated October 8, 1982; and

(c) Pursuant to Article 10 of Supplement No. 1, the District is authorized to enter into contracts with District water users for First Phase Continuation Water; and

(d) The landowner is the holder of irrigable land identified as First Phase Continuation Acres, as evidenced by land classification and drainage determinations, in the vicinity of an existing Project irrigation facility within the operation of the District; and

(e) The United States has determined that First Phase Continuation Water is available for use on the First Phase Continuation Acres described herein without adversely affecting or having a significant detrimental impact on Existing Acres, fish and wildlife interests or the environment in general.

NOW THEREFORE, it is agreed as follows:

DEFINITIONS

3. The following terms, for purposes of this contract, shall have the following respective meanings:

"First Phase Continuation Water" shall mean water made available under this contract pursuant to Supplement No. 1.

"First Phase Continuation Acres" shall mean those lands for which water is made available under this contract pursuant to Supplement No. 1.

TERM OF CONTRACT

4. This contract becomes effective on the date first above written and covers the making available of First Phase Continuation Water to the lands described herein. This contract shall run for a period of 20 years, unless terminated earlier as otherwise provided herein, and with the consent of the District may be renewed at the end of such period for additional 10-year periods.

CONDITIONS OF WATER DELIVERY

5. (a) The District has heretofore entered into a repayment contract with the United States, dated December 18, 1968, which, together with the August 27, 1976 Master Water Service Contract and Supplement No. 1, dated October 8, 1982 and the terms of this contract, govern the furnishing of water and the Landowner's obligations hereunder.

(b) The Landowner may, after making advance annual payment therefor in accordance with Article 6 hereof, divert, when available, water from the East Low Canal at Mile 25.0 for the irrigation of 159.0 acres of land, identified as First Phase Continuation Acres, which are shown on

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the map attached hereto and more particularly described as follows:

That land in the SW ¼ of Section 2, Township 19 North, Range 29EWM, lying North and East of the East Low Canal, Grant County, Washington, as shown crosshatched on Exhibit "A", which is incorporated herein by reference.

The Landowner shall receive said water at the above point of diversion and the Landowner shall be wholly responsible for the cost and expense thereof, and for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder shall be measured by means of a measuring device satisfactory to the District and the United States. Such devices shall be furnished, installed, and maintained by and at the expense of the Landowner, but subject to the control of the United States or the District who may at all times have access to them over any land of the Landowner. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Landowner.

(c) Water purchased hereunder is made available on an interruptible basis pending the inclusion of the Landowner's lands into an irrigation block or local improvement district service area. Such water may not be available for the irrigation of Landowner's lands during periods of water shortage or peak periods of use by other Project lands within irrigation blocks. The District will make the determination of availability of water and will control its use and delivery under this contract.

(d) The Landowner, without cost or expense to the District or the United States, shall acquire all necessary rights-of-way and construct all necessary facilities to furnish water to the Landowner's land. The Landowner will be required to obtain a permit from the District and, if required, from the United States for all construction on Project rights-of-way. All plans for proposed construction, including measuring facilities, shall be approved in advance by the District and, if required, by the United States.

(e) It is anticipated that in the future the lands of the Landowner will be included into either irrigation blocks or local improvement district service areas. In the event water does become available to the Landowner's lands by such inclusion through irrigation delivery facilities constructed by either the United States or the District, the Landowner will take delivery of water therefrom for all of the Landowner's lands in such block or service area, which will then be subject to assessment on the same basis as other irrigable lands in such block or service area, and this contract shall be terminated as of January 1 of the year such water first will become available for a full irrigation season.

(f) In the event water becomes available to the Landowner's lands as provided in Article 5(e) hereof, the Landowner shall convey to the United States at the appraised price all of the Landowner's facilities on Project rights-of-way which may be required as determined by the United States, as part of the irrigation facilities to be constructed. The Landowner shall further be notified of his facilities on the rights-of-way that are not required for these irrigation facilities to be constructed, and the Landowner may be required to remove or adapt the same to accommodate Project or District irrigation facilities. The Landowner shall bear all costs occasioned by his failure to remove or adapt the facilities within the time limit specified. The Landowner agrees that in any settlement in connection with acquisition or utilization of land or rights-of-way under 5(e) for the construction of irrigation facilities across lands covered by this contract, either by the United States or the District, no enhancement in land value because of the availability of water will be allowed.



PAYMENT FOR WATER

6. (a) The Landowner will pay to the District a nonrefundable annual minimum sum equal to the per acre charges determined in accordance with Article 6(b) multiplied by the number of acres irrigated hereunder immediately upon being notified of the execution of this contract by the District. Minimum annual payments thereafter shall be paid to the District in advance of delivery of water under this contract and, in any event, on or before April 30 of each year. Utilization of water prior to payment thereof shall, in addition to interest, subject the Landowner to a penalty of 5 percent (5%) of the annual minimum sum.

(b) The minimum annual per acre charge for the lands to be irrigated under this contract irrespective of whether the Landowner utilizes the full water allotment provided hereunder will consist of the following:

1. A charge of \$9.00 per acre based on a water service rate of \$3 per acre-foot of water, provided such charge will be adjusted to reflect changes in the rate per acre-foot as provided in Article 10(a) of the Master Water Service Contract;
2. A construction charge of \$2.63 per acre;
3. A per acre operation and maintenance charge equal to 75 percent of average per acre O&M assessment of platted lands (i.e., farm units and water delivery units within irrigation blocks) of the District for the then current year.
4. Such additional charge as the District may make for its own purposes.

(c) Payment of the above minimum annual charge as the same may be adjusted will entitle the Landowner to water in the amount of 3.0 acre-feet per acre for the lands described in Article 5(b) hereof. Water in addition to 3.0 acre-feet per acre, when available, may be purchased in minimum quantities of 25 acre-feet and the per-acre foot charge therefore shall be the total of the following:

1. \$3 per acre-foot of water provided such charge will be adjusted to reflect changes in the rate as provided in Article 10(a) of the Master Water Service Contract;
2. An amount equal to 130 percent (130%) of one-third of the per acre charge established in Articles 6(b)(3) and 6(b)(4).

(d) In the event the Landowner is unable to utilize any First Phase Continuation Water provided for in the year this contract is entered into, any charges so paid shall be credited against the charges to be paid by the Landowner for the following year. In the event that the Landowner utilizes less than 50 percent (50%) of the minimum quantity of water provided for hereunder during the year the contract is entered into, the charges for that year shall be prorated based upon the amount of water actually utilized and any credit to which the Landowner is entitled to shall be applied against the charges to be paid under this contract for the following year. In no event shall the provisions of this paragraph extend the payment of charges, or the prorating thereof, beyond the year following the year that the contract is entered into.



(e) Payment in advance of any delivery of water is a condition precedent to the delivery thereof. The District reserves the right to refuse delivery of water unless and until any charges owing to the District are paid including charges owing to the District for work performed by the District on behalf of the Landowner. The District further reserves the right to specify the method of irrigation to be used on the subject lands.

(f) The District and the Landowner hereby agree that the charges for the delivery of water hereunder may be assessed, collected and enforced in the manner provided in RCW 87.03.445 for the collection and enforcement of rates, tolls and charges. All charges imposed by this contract, upon compliance with the applicable procedural provisions of said RCW 87.03.445 shall at once become and constitute an assessment upon and against the lands for which they are levied, with the same force and effect and the same manner of enforcement and with the same rate of interest from date of delinquency in case of nonpayment as other District assessments. Said assessment procedure shall be in addition to any measures available to the District, including the right of contract termination as provided for in this contract.

WASTE, SEEPAGE, AND RETURN-FLOW WATERS

7. (a) The Landowner assumes responsibility, during the life of this contract, for disposal of wastewater in connection with irrigation farming of the said land so as not to damage Project facilities or other properties and also for any necessary drainage of the said land. Failure of the landowner to properly dispose of wastewater shall be grounds for the termination of this contract in accordance with Article 10 hereof.

(b) Neither the United States nor the District abandons or relinquishes any waste, seepage, or return-flow water resulting from the water being made available to the Landowner under this contract, and all such waters are reserved and retained as a source of water supply for the Project.

WATER MANAGEMENT AND CONSERVATION

8. The Landowner shall develop and carry out any water management and conservation program that may be required by the District.

DISCLAIMER

9. It is understood and agreed between the parties that no provision for the delivery of water under this contract will be construed to bind the United States or the District to make such water available on a continuing basis to the Landowner or be the basis of a permanent water right; that the United States and the District assume no responsibility for any permanent, continuing delivery of such water, and that neither they nor their officers, agents or employees shall have any liability for or on account of:

(a) The control, carriage, handling, use, disposal, or distribution of such water diverted from Project delivery facilities then being operated and maintained or utilized by the United States



or the District;

(b) Damage claims of any nature whatsoever, including, but not limited to, property loss or damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water:

(c) Any damage, whether direct or indirect, arising out of or in any manner caused by seepage, absence of drainage, or shortage or absence of said water, whether such shortage or absence be on account of inspections, repairs, improvements, new construction, changes in operation, drought, hostile diversion, supplying other irrigated lands, prior or superior claims, or any other causes.

TERMINATION

10. In the event of any failure by the Landowner to comply with all the terms and requirements of this contract or any regulations issued in connection therewith, or if the use or attempted use of water furnished hereunder is in any way unreasonably wasteful or harmful to the Project as determined by the District or the United States, or if water is used for any purpose other than irrigation of the above-described land, the District or the United States may terminate this contract, after giving reasonable notice and opportunity to comply therewith. Either the Landowner or the District may terminate this contract by written notice to the other at the end of any irrigation season but not later than November 30 of any year, provided, however, that the Landowner may not terminate this contract unless all charges owing to the District have been paid. In addition, this contract will terminate as provided under Article 5(e) hereof at any time the Landowner's land is included into a new Columbia Basin Project irrigation block, or is added to an existing Columbia Basin Project irrigation block.

COVENANTS

11. All terms, conditions, covenants and agreements herein made including the rules and regulations attached hereto and made a part hereof by reference shall be deemed to be covenants running with the land and shall be binding on the Landowner and his heirs, administrators, executors, assigns, and successors.

REPORTS AND RECORDS

12. The Landowner shall develop and maintain annual records of reasonable estimates of land use and crop production on lands receiving Project water hereunder. Reports thereon shall be furnished to the United States in such form and on such date or dates as may be required by the United States.

OFFICIALS NOT TO BENEFIT

13. (a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this contract if made with a corporation or company for its general



benefit.

(b) No official of the District shall receive any benefit that may arise by reason of this contract other than as a landowner within the project and in the same manner as other landowners within the project.

EXCESS LANDS

14. Project water made available under the terms of this agreement shall only be delivered by the District in compliance with the excess land provisions of Reclamation Law as they now exist or may hereafter be amended. Under no conditions will recordable contracts be executed for the sale of excess lands or be accepted as a condition for delivery of water from the Project to First Phase Continuation Acres served under the terms of this agreement.

RULES AND REGULATIONS

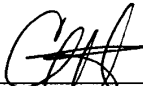
15. The United States or the District may make rules and regulations, not inconsistent with the provisions of this contract, and the Landowner shall observe the same. Attached hereto and hereby made a part of this contract are rules and regulations entitled, "Rules and Regulations for Water Service Contracts for First Phase Continuation Acres, East Columbia Basin Irrigation District." Said Rules and regulations shall be duly complied with by the Landowner. The District reserves the right to hereafter formulate and adopt such supplemental rules and regulations as it may deem necessary or advisable for the distribution and management of First Phase Continuation Water and such supplemental rules and regulations shall be adhered to by the Landowner, his heirs, administrators, executors, assigns and successors.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

(SEAL)



ATTEST:

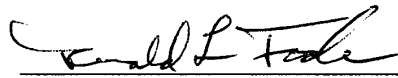


District Secretary

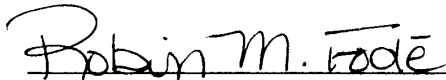
EAST COLUMBIA BASIN IRRIGATION DISTRICT



President of the Board



Ronald L. Fode



Robin M. Fode

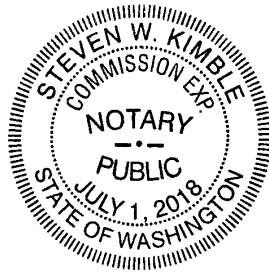


STATE OF WASHINGTON)
County of)

On this 7th day of October, 2015 Personally appeared before me Boe Clausen, to me known to be the President of the Board of Directors of the East Columbia Basin Irrigation District, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



Steven W. Kimble

Notary Public in and for the
State of Washington
Residing at: Warden
Commission expires: 7/1/2018

STATE OF Washington)
County of Grant)

On this day personally appeared before me Ronald L. & Robin M. Fode, to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they signed the same as they're free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 16th day of September 2015.



McKenzie Morris

Notary Public in and for the
State of Washington
Residing at Grainy
Commission Expires: 10/30/2018

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**RULES AND REGULATIONS FOR WATER SERVICE CONTRACTS
FOR FIRST PHASE CONTINUATION ACRES
EAST COLUMBIA BASIN IRRIGATION DISTRICT**

The following Rules and Regulations and the District wide Rules and Regulations annually adopted by the Board of Directors of the East Columbia Basin Irrigation District which are incorporated herein by reference shall be a part of this water service contract granted by the East Columbia Basin Irrigation District for the irrigation of First Phase Continuation Acres and the terms and conditions thereof, where applicable as determined by the District, shall be fully complied with by the Landowner.

I.

Construction of Irrigation Facilities to Serve Landowner's Lands

1. Landowner shall obtain a District permit approving of the plans for the construction of irrigation facilities, including but not limited to the diversion facilities, water measuring device and the pumping plant. Construction shall be subject to the approval of the District and shall be at Landowner's expense. The diversion facilities and the water measuring device shall be under the District's exclusive control.
2. The Landowner shall furnish to the District construction plans. The plans shall include a lockable headgate, which shall be under the control of the District, water measuring device and pumping plant. The plans shall show in detail the location of the proposed diversion facilities, water measuring device, pumping plant, the power meter(s), and the size and length of the pipelines, together with any such other information as may be required by the District Manager. Landowner shall furnish to the District a map showing the location of the distribution system, including dimensions of circle sprinkled areas and other areas and the acreage to be irrigated, and the point of water diversion from the Landowner's pipeline or other conveyance facility to each of said areas. If the size of a Landowner's proposed diversion, in the event of an operation failure, could adversely affect the District's operation, the District may require the Landowner to install an automatic alarm system.
3. An approved water flow meter shall be installed by the Landowner at the location designated by the District Manager and shall be of the type and size required by the District. The meter shall be for the purpose of determining the amount of water used by the Landowner and shall be read and recorded by the District at such times as deemed necessary by the District. All water diverted from the District's facility must be measured. In the event the water flow meter becomes inoperative, the District Manager shall estimate the amount of water diverted under this contract for the irrigation of any lands served from the headgate, and such estimate and the resulting cost of water so estimated to have been diverted shall be binding upon and shall be paid for by the Landowner as in this contract provided.
4. The Landowner shall secure or convey a valid nonexclusive, perpetual easement(s) over the land on which the diversion facilities, water measuring device, pumping plant, power meter and distribution system and other required facilities are to be installed and constructed. Said easement(s) shall include the District's right of vehicular ingress and egress over, along and across the lands described in the easement(s) for purposes of conducting operation and maintenance activities, for the purpose of determining whether the terms and conditions of this contract are being kept and performed, and for other uses and purposes relative to this contract. The area of said easement shall be that required by the District, which shall include any necessary ingress and egress thereto. The District's title to said easements shall be subject to District approval and any title costs incurred in determining the validity of the District's title shall be paid for by the Landowner.

II.

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Miscellaneous Provisions

1. The District, in the event it becomes necessary to enforce the terms and conditions of this contract, in its sole and uncontrolled discretion, may shut off the water to enforce the terms of this contract by locking the diversion facility.
2. The Landowner shall pay annually the cost of the minimum quantity of water and shall pay for such additional water utilized, all as provided for in this contract. In the event more than one area of land is being irrigated from a single diversion facility, additional quantities of water utilized over the minimum quantity shall be prorated among the two or more separate areas of land entitled to receive water and payment therefore shall be as in this contract provided.
3. Water will not be diverted from the District's facility by the Landowner at such time, during the year that the District, in its sole and uncontrolled discretion in considering the best interests of all water users of the District, determines that water should not be made available from its facilities.
4. Unless the written consent of the District is obtained, Landowner shall not irrigate, nor cause or permit any land to be irrigated from the Landowner's irrigation facilities, any land other than that described in this contract, nor shall any water from the District's facility be utilized for any purpose other than agricultural irrigation of land in parcels comprising not less than forty (40) irrigable acres.
5. In the case of a common pipeline constructed from the point of diversion of water from the District's facility to serve the lands of the Landowner, or any land to be served therefrom under any other water service contract entered into by the District with any third party or parties, and in the event the Landowner, or any third party utilizing said common pipeline, or any of them, or their lessees, heirs, assigns or successors, fails to pay to the District any amounts due under this contract, or any amendment or modification thereof, or fails to perform any other term or condition of this contract, the District may, at its sole and uncontrolled discretion and without liability to any person, shut off the water at the point of diversion from the District's facility until such default has been corrected, or the District may take any other enforcement action herein provided. The fact that one or more persons has complied with all contract requirements shall not derogate from this provision.
6. Because of the demand for the District's available water, no water service contracts shall be granted for the irrigation of lands other than by sprinkler irrigation. Variations from this condition will be permitted only if specifically authorized by the Board of Directors of the District.
7. The District shall not be liable for the construction, breaking, leakage, repair or maintenance of any pipeline, including any common pipeline serving Landowner's lands and/or lands of any third party, nor for the securing and retention by the Landowner and/or any third party of any easement or right-of-way required for the delivery of water to the Landowner's lands or to the lands of any third party which may be served by any common pipeline. The District shall not be responsible for any damage, loss, cost or expense, occasioned to the Landowner or any other person, from the construction, breaking, leaking, seepage, or operation of any of the irrigation facilities, including pipelines, of the Landowner, and the Landowner shall hold the District harmless from any such loss, cost or expense.
8. To enable the District to comply with the excess lands provisions of the District's Repayment Contract dated December 18, 1968, with the United States of America, all land ownerships of the Landowner, or any of them, or any transfer thereof, must be recorded with the Auditor of the county in which the land is located. In the event a Landowner, or any of them, or any third party, being served from the District's facility becomes the owner of excess lands, by operation of law or otherwise, and in the event the lands are being supplied with irrigation water by a common pipeline in conjunction with other Landowners, the District shall refuse to deliver water to the common pipeline from its facilities for the excess Landowner unless and until the excess status of any Landowner or third party shall have been resolved.



9. Violation or default of any of the terms and conditions herein contained shall entitle the District to terminate this water service contract. Further, in the event a Landowner utilizes water made available hereunder in a manner that is unreasonably wasteful or harmful to the District facilities or downstream water users, (including the return of irrigation wastewater to District facilities containing undue or harmful amounts of silt and debris), or in the event the irrigation of the Landowner's lands occasions damage, by seepage or otherwise, to District facilities, the District may terminate this contract.
10. In the event the Landowner sells or conveys the land covered by this contract, such sale or conveyance shall constitute an assignment of this contract by the Landowner and the terms and conditions hereof shall be binding upon the Landowner's grantees or successors. In the event a grantee or successor is not entitled to receive irrigation water from the District for any reason whatsoever, including the excess land provisions of federal reclamation law, the District shall have the right to terminate this contract. In the event any person acquires title, including a purchaser's interest from the Landowner of all or a portion of the lands covered by this contract, the District may, at its option, terminate this contract and require the then Landowner or Landowners to enter into a new contract or contracts with the District.
11. The term "Landowner" referred to herein in the singular shall include any and all persons herein named, whether one or more, and each shall be individually and jointly bound to the terms and conditions of this contract.
12. In addition to the termination provisions provided for in this contract, the District shall have all rights and remedies provided by law for the recovery of moneys owing and for damages occasioned by any default or breach of covenant on the part of the Landowner.



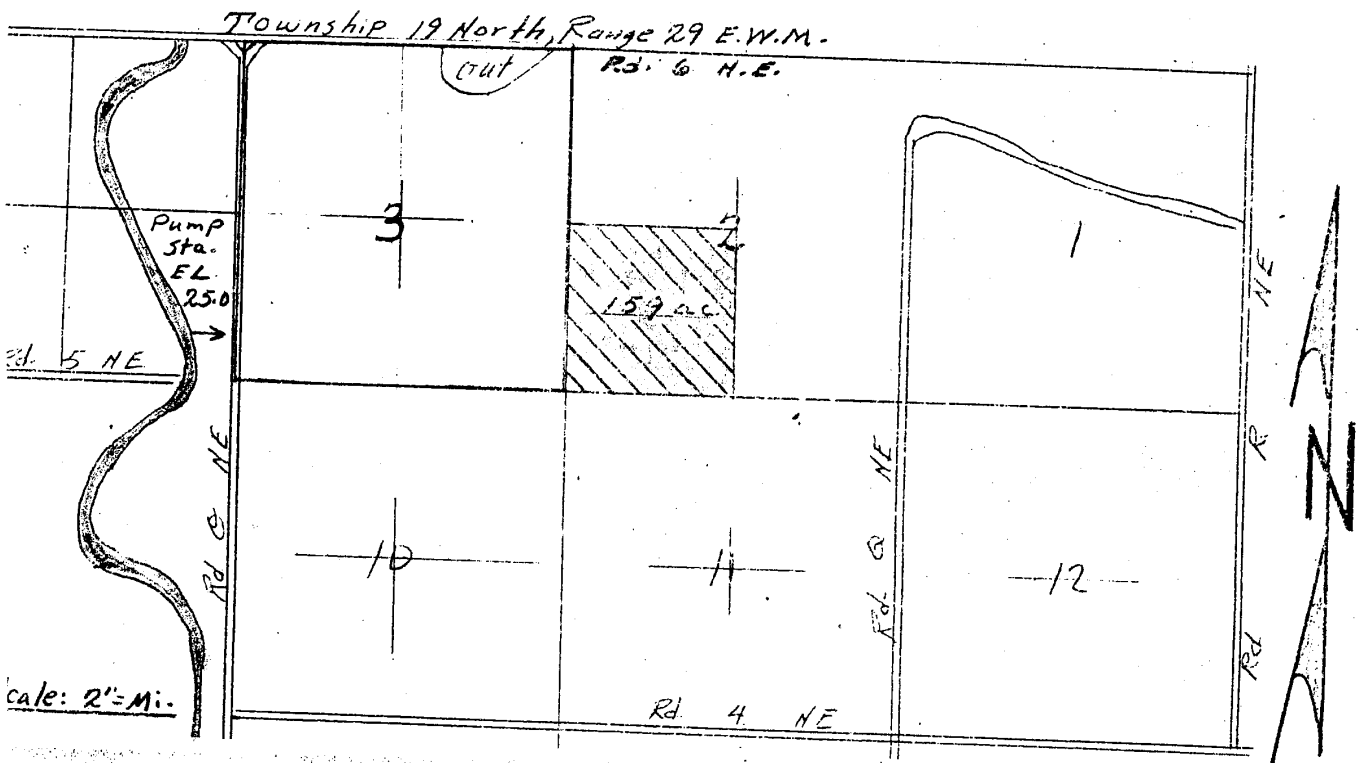


Exhibit "A"



EXHIBIT "F"

IRRIGABLE ACRES

RANDY L. and MICHELE P. KIESZ

Irrigable Acres: 415 irrigable acres located on:

A portion of the North half of Section 1, Township 19 North, Range 29, E.W.M., Grant County, Washington AND the Northeast quarter and the East half of the Southeast quarter of Section 2, Township 19 North, Range 29, E.W.M., Grant County, Washington.

Parcel 1: - 18-0143-000

Parcel "A": That portion of the North half of Section 1, Township 19 North, Range 29, E.W.M., Grant County, Washington lying Northerly of the following described line:

Beginning at a point on the East line of said Section 1, a distance of 800 feet South of the East quarter corner, thence Northwesterly on a straight line to a point on the West line of said Section 1, a distance of 400 feet North of the West quarter corner and the terminus of said line, EXCEPT a portion of the Southeast quarter of the Northeast quarter of Section 1, Township 19 North, Range 29, E.W.M., described by metes and bounds as follows:

Commencing at the Northeast corner of said Section 1 and running thence Southerly on the East boundary line of Section 1, a distance of 1470 feet to the True Point of Beginning, thence running Westerly parallel with the North boundary line of Section 1, a distance of 270 feet; running thence Southerly parallel with the East boundary line of Section 1, a distance of 180 feet, running thence Easterly parallel with the North boundary line of Section 1, a distance of 270 feet to an intersection with the East boundary line of Section 1, running thence Northerly on the East boundary line of Section 1, a distance of 180 feet to the True Point of Beginning.

Parcel "B": That portion of the South half of Section 1, Township 19 North, Range 29, E.W.M., Grant County, Washington, lying Northerly of the following described line:

Beginning at a point on the East line of said Section 1, a distance of 800 feet South of the East quarter corner, thence Northwesterly on a straight line to a point on the West line

of said Section 1, a distance of 400 feet North of the West quarter corner and the terminus of said line.

Parcel 2: 18-0144-000

The Northeast quarter and the East half of the Southeast quarter of Section 2, Township 19 North, Range 29, E.W.M., Grant County, Washington

SPARKS-SCHMIDT

Irrigable Acres: 65 irrigable acres located on:

Parcel No. 18-0148-000

The West half of the Southeast quarter of Section 2, Township 19 North, Range 29 E.W.M., Grant County, Washington.

EXHIBIT "G"
PUD POWER COSTS

PUD Electric paid by year

	2015	2014	2013	Average
Circle 21	656.85	607.10	655.87	639.94
North Well	19,105.10	20,565.96	17,316.27	18,995.78
Middle Well	41,119.95	34,252.08	24,042.63	33,138.22
Mini Roy	442.89	411.87	379.43	411.40
Circle 14	1,167.50	986.66	1,049.06	1,067.74
Kies Well #22	3,985.48	2,685.12	3,618.01	3,429.54
Canal Pump Station	24,953.88	16,807.28	17,796.03	19,852.40
TOTAL	91,431.65	76,316.07	64,857.30	77,535.01
Acres	1,460.00	1,460.00	1,460.00	1,460.00
Per Acre	62.62	52.27	44.42	53.11