

LAKE CHELAN RECLAMATION DISTRICT

MANSON, WASHINGTON

RESOLUTION 19-06

**AUTHORIZATION FOR FERTIGATION, CHEMIGATION, OR HERBIGATION WITHOUT
BACKFLOW PREVENTION AND INDEMNIFICATION AGREEMENT AND
ASSOCIATED POLICY CHANGE**

RECITALS

1.1 RCW 87.03.010 authorizes the District to construct, operate and maintain irrigation works on lands within the District;

1.2 The District provides irrigation water for commercial agricultural operations on properties located within its approved boundary.

1.3 The District has rules and regulations in place that prohibit fertigation, chemigation or herbigation (collectively referred to as "fertigation");

1.4 The District desires to amend the fertigation policy for landowners within its boundaries to petition the District's Board of Directors for the ability to fertigate without backflow prevention upon entering into a written agreement that indemnifies the District from any and all liability for damages associated with such action;

NOW THEREFORE, the Board of Directors of the Lake Chelan Reclamation District adopts the following by resolution:

2.1 The District hereby adopts the policy attached as Exhibit "A" hereto as the policy relating to Irrigation System Operations, section 2.8 Herbi-Fertigation and associated Indemnification Agreement;

This Resolution 2019-06 is adopted this 12th day of March, 2019 at the regular meeting of the Board of Directors.

LAKE CHELAN RECLAMATION DISTRICT

BY: 
President

ATTEST:

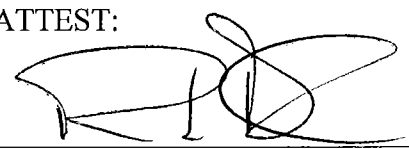

Secretary-Manager

EXHIBIT 'A'

POLICY

II. System Operations

2.8 Herbi-Fertigation: Herbigation or fertigation is allowed only on the users side of the turnout. It is the users responsibility to insure that District approved backflow prevention devices have been installed prior to beginning applications. Any damages adjacent users or other users due to backflow or chemical trespass will be solely attributable to the user. Any person practicing herbigation or fertigation without District approved backflow prevention will be subject to discontinuation of District water use. Any deviation from this policy must be first approved by the District's Board of Directors on a case by case consideration. The user must also take responsibility in writing for any damages that could be attributed to their use of unprotected fertigation. The irrigation season will not be extended or forwarded to supply water for herbigation or fertigation purposes. The cost for a District installed back flow shall be set by the Board of Directors.

INDEMNIFICATION AGREEMENT

AUTHORIZATION FOR FERTIGATION, CHEMIGATION OR HERBIGATION WITHOUT BACKFLOW PREVENTION AND INDEMNIFICATION AGREEMENT

THIS AUTHORIZATION FOR FERTIGATION, CHEMIGATION OR HERBIGATION WITHOUT BACKFLOW PREVENTION AND INDEMNIFICATION AGREEMENT ("Agreement") is made and entered into by and among the Lake Chelan Reclamation District, a Washington municipal entity ("District") and Customer ("Customer").

RECITALS

1.1 The District operates a commercial irrigation system water delivery under contract with United States Department of Interior, Bureau of Reclamation.

1.2 The District provides irrigation water for commercial agricultural operations on properties located within its approved boundary.

1.3 Customer is the owner or operator of a commercial agricultural property located within the District's boundary.

1.4 The District has rules and regulations in place that prohibit fertigation, chemigation or herbigation (collectively referred to as "fertigation") without approved backflow

prevention in place unless the District's Board of Directors approves, in writing, the fertigation without backflow prevention (see District Rules and Regulations, Section "C", subsection 2.8).

1.5 As a condition of making exception to the requirement for backflow prevention for any fertigation, Customer is required, among other things, to sign an agreement to accept responsibility for any loss or damage caused to others as a result of operating without backflow prevention and to indemnify and hold the District harmless from any such claims.

1.6 Customer desires to fertigate without backflow prevention, and the District has agreed to make exception to its policy to allow Customer to fertigate without backflow preventions, on the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereby agree as follows:

AGREEMENT

2.1 Authorization to Fertigate without Backflow Prevention. The District, under authority of its Rules and Regulations, Section "C", subsection 2.8, hereby authorizes Customer to fertigate on its property without approved backflow prevention.

2.2 Indemnification of District. Customer agrees to indemnify, defend, and hold the District harmless, at the District's option, from and against any and all claims, losses, liabilities, cause of actions, costs, fees and expenses caused by, arising from, or relating to its operation of a commercial agricultural irrigation system without backflow prevention. This agreement to indemnify, defend and hold harmless shall include an obligation to indemnify, defend and hold the District harmless from any claims that real or personal property of others has been damaged, or others have suffered any form of loss, as a result of Customer's fertigation without backflow prevention.

2.3 Notices. Except as otherwise expressly provided in this Agreement, all notices, requests, demands, and other communications required under this Agreement shall be in writing and shall be deemed to have been given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of receipt, if sent by facsimile to the person to whom notice is to be given at the facsimile number set forth below, or (iii) on the third day after mailing, if mailed to the person to whom notice is to be given, by first class mail, postage prepaid, and properly addressed as follows:

To District:

Lake Chelan Reclamation District
Attention: Manager
80 Wapato Way
Manson, WA 98831

To Customer:

Any Party or designated recipient may change his address for purposes of this paragraph by giving written notice of such change to the other Party and/or designated recipients in the manner provided for in this paragraph.

2.4 Arbitration of Disputes. The Parties agree to attempt to resolve any disputes relating to this Agreement by negotiation and/or with a mutually agreed-upon mediator. However, if their attempts are unsuccessful, upon demand by either party, all claims between the Parties shall be referred for binding arbitration in accordance with the Washington Uniform Arbitration Act (RCW 7.04A et seq.). If the Parties cannot agree on an arbitrator, upon request by any party, the presiding judge of the Chelan County Superior Court shall select the arbitrator. There shall be one arbitrator, whose decision shall be final, and binding, and judgment may be entered thereon. The arbitrator shall be familiar with agricultural properties in the Chelan/Douglas area. The arbitrator shall not be related to either party by blood or marriage to a principal or owner of either party and shall have no economic interest direct or indirect with either party. The arbitrator is authorized to restrict and/or limit discovery in the arbitrator's discretion, to that discovery reasonable under the circumstances considering the complexity of the matter and the amount in controversy. Each of the Parties shall be responsible for payment of their own attorney's fees and costs. The costs of arbitration shall be paid equally.

2.5 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the District authorization for fertigation without backflow prevention and Customers obligation to, indemnify, defend and hold the District harmless from claims relating to its irrigation without backflow prevention. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all of the Parties to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the ____ day of _____, 20____.

“LAKE CHELAN RECLAMATION DISTRICT”

“CUSTOMER”
