

**NORTH UNIT IRRIGATION DISTRICT  
JEFFERSON COUNTY, OREGON**

**RESOLUTION No. 2022-08\_\_\_\_\_**

**A Resolution Regarding the Installation and Maintenance  
of Cattle Guards and Gates Within District Easements**

**FINDINGS:**

A. The North Unit Irrigation District (“District”) delivers water to District water users pursuant to a system of canals, ditches, and laterals that make up the District’s water delivery system.

B. The District and/or the U.S. Department of the Interior, Bureau of Reclamation (“Reclamation”) own and/or manage easements to allow for the delivery of irrigation water by means of the District’s water delivery system, and the District is contractually obligated to operate and maintain the water delivery system in compliance with all applicable federal, state, and local laws.

C. Cattle guards, gates, and other obstructions within the easements pursuant to which the District delivers water have the potential to impact the District’s operations, as they may limit or impede the District’s use of the easements and otherwise increase the amount of time it takes District employees to inspect, operate, manage, repair, and improve the District’s water delivery system.

D. The District Board of Directors finds that a policy governing the installation of cattle guards and gates within the District’s easements, including those owned by Reclamation, will provide a more consistent, uniform, and equitable approach to cattle guards and gates, and minimize impacts on District operations. The policy shall enable the District to fully comply with its operation and maintenance obligations for all easements it owns or manages without undue interference or obstructions.

NOW, THEREFORE, be it resolved by the District Board of Directors as follows:

**Section 1. Resolution.**

The District Board hereby adopts a policy regarding the installation and maintenance of cattle guards and gates within District easements:

1) Applications for Cattle Guards and Gates. A landowner shall apply to the District on a form provided by the District to install a cattle guard and/or a gate within a District easement. (A lessee or tenant may also make such an application, so long as the landowner signs the application. When a lessee or tenant makes such application, the term “landowner” as used herein also includes a lessee or tenant.) The current application form is attached hereto as Exhibit A, and may be revised from time to time by the District Manager. The application fee

shall be \$50 for applications filed in 2022, and for future years, the application fee will be set by the District fee schedule adopted by the Board annually.

All applications will be reviewed and evaluated by the District on a case-by-case basis, in the order that applications are received. The District must approve, in writing, all plans and designs of proposed cattle guards and/or gates on any District easement prior to installation. Prior to any approval by the District, the landowner must complete the Reclamation Consent to Use form, pay all applicable Reclamation fees, and secure any approval or authorization from Reclamation as may be required. The District's approval of any application is solely at the discretion of the District, and if approved, an agreement between the District and landowner shall be entered and recorded in the appropriate county records documenting the District's approval and the terms and conditions of such approval. The current form of agreement between the District and an approved applicant is attached hereto as Exhibit B, and may be revised from time to time by the District Manager. The landowner shall pay all county recording costs and fees.

## 2) Cattle Guard Requirements.

a) Installation and Removal. Following approval by the District, cattle guards shall be installed at the sole expense of the landowner, and must be installed by a District-approved contractor or professional. No cattle guard may be installed during the irrigation season without written District approval, and no approved cattle guard may be removed without written District approval.

b) Cattle Guard Specifications. Cattle guards must be of such design to withstand twenty (20) tons or more weight, be a minimum of ten (10) feet long and seven and one-half (7½) feet wide, be placed on concrete footings, and be installed in a straight section of road. Please refer to Exhibit C for design recommendations.

c) Cattle Guard Maintenance. Any cattle guard installed on a District easement must be maintained and kept in good repair by the landowner, at the sole expense of the landowner, and in a manner so as to not interfere with the operation and maintenance of the District's water delivery system. Should a cattle guard not be properly maintained or should it interfere with the operation and maintenance of the District's water delivery system for whatever reason, as determined solely by the District, the District will make all attempts to work with the landowner to repair or remove the cattle guard, but the District may repair or remove the cattle guard if deemed necessary, solely at the discretion of the District and at the sole expense of the landowner, following ten (10) days' notice to the landowner. If removed, the District may terminate the agreement provided for in Section 1, Paragraph 1 above. In the event the District charges the landowner for the costs of repair or removal, the District may cease delivering irrigation water to the landowner until these charges are paid.

## 3) Gate Requirements.

a) Installation and Removal. Following approval by the District, gates shall be installed at the sole expense of the landowner, and must be installed by a District-approved contractor or professional. No gate may be installed during the irrigation season without written District

approval, and no approved gate may be removed without written District approval. Upon the request of the landowner, and in lieu of a District-approved contractor or professional, the District may agree to install the gate at the sole expense of the landowner.

b) Gate Specifications. Gates shall be designed according to the specifications detailed in Exhibit C, attached hereto. In particular, gates shall be equipped with District-standard solar powered units, as described in Exhibit C. Where joint use of the gate is anticipated, gates shall have separate open/close frequencies; one for the District and one for the landowner (where the latter frequency would be utilized by the landowner as well as all other landowners who are authorized to jointly use the gate). For safety reasons, gates must be installed a minimum distance of seventy (70) feet off public rights-of-way to allow for truck and trailer length. Accommodations for emergency services will be provided as necessary. All gates shall be a twelve (12) (minimum) foot heavy duty Powder River type or an approved equivalent (decorative gates may be approved if adequately described in the application form). Gates must be mounted to a six (6) inch steel casing post set in concrete. Any deviations from these specifications based on site-specific conditions must be approved in writing in advance by the District, which approval is solely at the discretion of the District.

c) Gate Maintenance. Any gate installed on a District easement (including Reclamation-owned easements managed by the District) must be maintained and kept in good repair by the landowner, at the sole expense of the landowner, and in a manner so as to not interfere with the operation and maintenance of the District's water delivery system. Should a gate not be properly maintained, should it malfunction, or should it interfere with the operation and maintenance of the District's water delivery system for whatever reason, as determined solely by the District, the District will make all attempts to work with the landowner to repair or remove the gate, but the District may repair or remove it if deemed necessary, solely at the discretion of the District and at the sole expense of the landowner, following ten (10) days' notice to the landowner. If removed, the District may terminate the agreement provided for in Section 1, Paragraph 1 above. In the event the District charges the landowner for the costs of repair or removal, the District may cease delivering irrigation water to the landowner until these charges are paid.

#### 4) Miscellaneous.

a) No access or work shall be performed within the District's easements without the full knowledge of the District Manager who shall be given not less than 48 hours' advance notice of the initiation of the permitted work at (541) 475-3625.

b) Prior to the start of any construction, the landowner must obtain any additional easements or consents from owners of other interests in land as may be necessary.

c) Prior to any excavation or underground work, the landowner must notify Oregon Utility Notification Center (OUNC) (1-800-332-2344). The District may suspend or revoke any authorization for construction started without an "OUNC Locate" number.

d) Prior to any access or work, landowner must show proof of insurance and is required to extend insurance coverage to the District as an additional insured for not less than one million dollars (\$1,000,000) for any damages to District property or injury to District personnel.

e) The cattle guard or gate to be installed by the landowner shall be installed so as not to obstruct in any manner the flow of water in the District's canals or laterals, or to otherwise interfere in any manner the flow of water through the District's canals or laterals, or to otherwise interfere in any manner whatsoever with construction, reconstruction, operation, repair, or maintenance of any part of the District's water delivery system. The cattle guard or gate to be installed by the landowner shall further be installed so as to not obstruct or interfere in any manner with the District's rights-of-way or easements that provide the District access to its water delivery system, and shall not interfere with the construction, reconstruction, operation, repair, replacement, or maintenance of the District's easements for ingress and egress to its system. Landowner shall be solely liable for the costs of relocation, modification, or repair of landowner's cattle guard or gate to the extent required in order to accommodate and conform to any addition, deletion, or other change or modification in the District's facilities, including but not limited to the District's irrigations works and improvements to and upon the District's easements.

f) All work performed by the landowner shall be subject to District rules, regulations, guidelines, and specifications, and requires the written approval of the District Manager.

g) The cattle guard or gate shall continue to be the property of the landowner after its installation.

5) Liability. The District shall not be liable for the installation, use, operation, maintenance, or removal of any cattle guard or gate located within a District easement, including but not limited to any such activities by any invitees, servants, contractors, agents, or family members of the landowner, as well as any unauthorized user of the cattle guard or gate. As provided for in the agreement provided for in Section 1, Paragraph 1 above, the landowner shall be liable for any and all damages to the property of the District, or any third party or parties, by reason of the exercise of the license conferred by this Agreement, and landowner shall indemnify, protect, and hold harmless and defend the District, its Directors, officers, officials, employees, contractors, and agents from and against any and all claims, demands, losses, defense costs, or expenses, including attorney fees, or liability of any kind or nature which its Directors, officers, officials, employees, contractors, or agents may sustain or incur or which may be imposed upon them in any manner or form arising in consequence of the execution of this Agreement, or any work performed in consequence, excepting that landowner shall not be held liable for the District's negligence or wrongful acts.

6) Violations. Installation, construction, or the presence of a cattle guard or gate in violation of this policy shall result in the District issuing a written warning to the landowner, advising the landowner of the violation, furnishing a copy of this policy to the landowner, and requesting that the violation either (i) be remedied with the submittal of an application as described above by the landowner to the District within 10 (days) of the notice of violation, or (ii) be removed within ten (10) days of the notice of violation. The notice of violation may be provided personally to the

landowner or sent by certified mail, postage prepaid. The ten (10) day period shall commence upon the date of personal delivery or the date of mailing of the notice of violation, whichever method is used. Should the violation fail to be remedied by the end of the ten (10) day notice period (either with an application consistent with this policy or by removal of the cattle guard or gate), the District Manager shall cause the cattle guard or gate to be removed by the District at the sole expense of the landowner. In the event the landowner submits an application before the end of the ten (10) day notice period, and the District determines that the cattle guard or gate meets the specifications described above, the District may in its sole discretion enter an agreement with landowner as described above. If the District determines that the cattle guard or gate does not meet the specifications described above, or otherwise decides not to enter an agreement with landowner, the District will notify the landowner in writing accordingly, and the landowner will have ten (10) days from such written notification to remove the violation. Should the violation fail to be remedied by removal by the end of the ten (10) day notice period, the District Manager shall cause the cattle guard or gate to be removed by the District at the sole expense of the landowner.

**Section 2. Effective Date.**

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY UPON ADOPTION BY THE DISTRICT BOARD.

ADOPTED BY THE BOARD OF DIRECTORS OF NORTH UNIT IRRIGATION DISTRICT AT A REGULAR MEETING HELD ON THE \_\_ DAY OF \_\_\_\_\_ 2022, BY THE FOLLOWING VOTES:

AYES: \_\_\_\_\_  
NAYS: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_