

## **2018 KLAMATH PROJECT DROUGHT RESPONSE AGENCY**

### **2018 LAND IDLING PROGRAM POLICY**

#### **A. Program Summary**

President Trump signed an Omnibus Bill on March 23, 2018, authorizing Drought Relief Funding for the Klamath farmers in the Klamath Reclamation Project. The 2018 Klamath Project Drought Response Agency (KPDRA) was organized to contract with the U.S. Bureau of Reclamation (USBR) to receive the Drought Relief Funds from USBR to be distributed to Applicants who idled and did not irrigate land located in the Klamath Reclamation Project west of Harpold Dam in 2018 that would have been irrigated with water from Upper Klamath Lake if water had been available. KPDRA will also administer a program to reimburse well owners for electrical power charges incurred in operating wells to provide irrigation water to irrigate land located in the Klamath Reclamation Project in 2018 that would have been irrigated with water from Upper Klamath Lake if water had been available. KPDRA has contracted with MBK Engineers, Inc. to assist with the implementation and management of this Land Idling Program and the Groundwater Program.

The purpose of this Land Idling Program is to provide Drought Relief Funds to land owners who were willing to forego all irrigation of their land between November 1, 2017 and October 31, 2018 to augment Project water supplies. The distribution of funds will occur through an Application process. Funds for this program will come from water made available through deliveries to the Tule Lake and Lower Klamath National Refuges and through other approved methods. The amount of Drought Relief Funds available for this Program will not be known until the end of 2018. The purpose of this Policy and the 2018 Groundwater policy is to provide the available assistance in a manner that the KPDRA Board of Directors, in its discretion, has determined to be fair and reasonable. Any payment provided by this Program is not intended to fully compensate for the value of lost crop or the value of the use of the water which has been foregone by the participant.

#### **B. Eligibility**

MBK Engineers, on behalf of KPDRA, will solicit Application forms for voluntary participation in this 2018 Land Idling Program of land normally irrigated with surface water that meets the following criteria:

- 1) The parcel must be **5 or more contiguous acres of irrigable land** and must have clear boundaries separating it from adjoining and adjacent irrigated land;
- 2) The area subject to payment will be the area normally irrigated with surface water from Upper Klamath Lake as measured on aerial photographs: see section D 3 (b).
- 3) The parcel **MUST** be dependent upon irrigation with surface water from Upper Klamath Lake, must actually have been irrigated with surface water, and produced an irrigated crop in at least one of the last three years (2015, 2016, or 2017) or participated in the

2015 Klamath Water and Power Agency Water User Mitigation Program. The Applicant may be asked to provide proof of regular irrigation or that the parcel meets all the criteria of the Application form.

- 4) The Applicant and the parcel must have been be ready, willing, and able to apply surface water for irrigation of the parcel in 2018.
- 5) The Applicant must be legally authorized to apply for and receive funds under this program and must so warrant to KPDRA.
- 6) The parcel must be listed as having a water right in the Klamath Project according to the Final Order of Determination or an exception filed thereto.

The following lands are **ineligible** to participate:

- Land only irrigated using groundwater, in a year of normal Project water supply, **do not qualify**;
- Lands east of Harpold Dam **do not qualify**;
- Refuge lease lands **do not qualify**;
- Land in walking wetlands or other similar programs where water was applied and no agricultural crop was produced and harvested, **do not qualify**.

### **C. Program**

This 2018 Land Idling Program is as follows:

- 1) **FULL SEASON** - No water from any source other than natural precipitation shall have been applied between November 1, 2017 and October 31, 2018. A **flat rate payment per acre** will be determined by the KPDRA following the review and approval of all of qualified Applications submitted on or before November 9, 2018. Completed Applications may submitted by hand delivery at Program workshops, by fax or email to the office of MBK, or by certified mail addressed to MBK's office and postmarked on or before November 9, 2018.

### **D. Claim Form Application/Qualification Process**

The following Notice and application process will be employed. Provided, however, that KPDRA or its authorized representative may modify this process at any time at its sole discretion:

- 1) KPDRA will notify irrigators through public notice and local media selected by MBK that Applications forms for voluntary participation in the 2018 KPDRA Land Idling Program are available. The Application period will be October 19 through November 9, 2018.
- 2) The Applicant shall complete and submit the Application form for participation in the 2018 Land Idling Program, provided by the KPDRA. **All information requested on**

**the Application form must be completed and all documentation required by the Application form must be provided with the Application form.** Incomplete Applications may be rejected. Application forms are available at the office of the Klamath Irrigation District, Tulelake Irrigation District, and MBK. Application forms will also be available to be downloaded from the KPDRA website: [www.klamathwaterbank.com](http://www.klamathwaterbank.com), or by calling (541) 363-1880, or by emailing [info@klamathwaterbank.com](mailto:info@klamathwaterbank.com).

- 3) A “complete” Application form shall include the Application form and a map showing the land to be entered into the 2018 Land Idling Program.
  - a. A Google map aerial photo showing the proposed property to be entered in the program clearly outlined is preferred. If Applicant participated in one of KWAPA’s previous year’s Demand Reduction Programs with the exact same parcel and area to enroll, a new map is not required, but the Applicant must clearly indicate on the Application that the parcel is the exact same parcel that was included in a previous Demand Management Program and identify the year of participation.
  - b. The qualified acreage will be determined using a Geographic Information Systems mapping the area actually irrigated in the past. County tax map records, district assessment records and farm agency mapping acreages often include non-crop acreage (road ways, farm building, canals and drains) and will not be used to determine the actual area of the parcel included in the Contract. The determination of qualified acreage by KPDRA shall be final and shall not be subject to challenge.
- 4) Applications will be reviewed for completeness and reasonableness. The Applicant may be asked to provide additional information to aid in the processing of the claim. MBK will notify the Applicant with a request for additional information. The Applicant will have 10 calendar days to respond. Failure to respond may result in the Application being rejected.
- 5) KPDRA will provide a map showing the location of each parcel to each irrigation district for the district’s review and comment.
- 6) The KPDRA Board of Directors retains the authority to reject any or all application forms.
- 7) By completing and submitting an Application form the Applicant is deemed to represent and warrant to the 2018 Klamath Project Drought Response Agency and MBK Engineers, Inc.:
  - a. That the Applicant has the legal right to claim and receive any proceeds from this program that may be paid by KPDRA to Applicant for the parcel described in the Application;

- b. That the information included on this Application is complete and correct, and that the Applicant and the parcel described on this Application form comply with all of the criteria set forth in this Policy for participation in this Program;
- c. Applicant agrees that neither KPDRA nor MBK Engineers has an obligation to verify the information provided by the Applicant or to otherwise investigate, correct, supplement, or verify the information provided on or with this Application form. Applicant waives any claims, counterclaims, other assertions, or defenses Applicant may now have or may hereafter discover that KPDRA or MBK Engineers failed in any manner to independently investigate and determine that the Applicant or the well qualify for participation in this program.

Applicant agrees and warrants that Applicant shall indemnify and hold harmless KPDRA, its officers, contractors, consultants, advisors, and agents from any loss or damage, including, but not limited to attorney fees and costs of suit, and from any claim or liability arising from Applicant's submittal of the Application and Applicant's participation or non-participation in this program, including but not limited to, disputes relating to more than one applicant submitting an application relating to the same property, or properties. This application is submitted solely for the purpose of determining the availability of aid. In the event a dispute arises amongst Applicants, the KPDRA reserves the right to make payment jointly to Applicants to allow for adjudication as and between the parties as to the respective right or rights to payments by an appropriate adjudicator, without further obligation by the KPDRA.

#### **E. Payment**

It is a goal of KPDRA to payout the funds received from the Bureau of Reclamation without delay. However, KPDRA will not know how much money is available or how much each Program participant will receive until the end of 2018 at the earliest. KPDRA makes no representations of when payment will be made or how much money an Applicant may receive. Payment(s) will be mailed to qualified Applicants at the address shown on the Application form.

- 1) KPDRA is not responsible for the payment of taxes, assessments, irrigation district charges, and any other obligations related to participating in this program.
- 2) If KPDRA discovers that any of the information provided on the Application was not accurate, the land will be disqualified from the program and no payment will be made to the Applicant.

#### **H. Other Provisions**

The funding for this program is being provided by the United States Bureau of Reclamation. KPDRA shall have no liability whatsoever for any damage to the Applicant that results in whole or in part from the failure of Reclamation to provide the funding KPDRA requires to operate this program.

# 2018 KLAMATH PROJECT DROUGHT RESPONSE AGENCY APPLICATION for LAND IDLING PROGRAM

~Submit Claim Form via Certified Mail, electronically, by fax, or in-person at the Workshops~  
**no later than NOVEMBER 9, 2018**

Submit via Certified Mail postmarked by November 9, 2018 to:  Klamath Water Bank c/o MBK Engineers 455 University Ave, Suite 100 Sacramento, CA 95825	Submit Electronically to: <a href="mailto:info@klamathwaterbank.com">info@klamathwaterbank.com</a>  Submit by Fax to: 916-456-0253  Note: If you do not receive a verification email within 48 hours, please call (541) 363-1880.	Submit in person at Workshops hosted by the 2018 KPDRA.  See <a href="http://www.klamathwaterbank.com">www.klamathwaterbank.com</a> for additional information including dates and locations of Workshops.
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## APPLICANT CONTACT INFORMATION

Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: _____	State: _____	ZIP Code: _____
Phone: _____	Cell: _____	Email: _____

## LEGAL OWNER OF PROPERTY / CONTACT INFORMATION

Owner (*If other than Applicant*): \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: _____	State: _____	ZIP Code: _____
Phone: _____	Cell: _____	E-mail: _____

## PROPERTY INFORMATION

**Number of proposed acres that were ready, willing and able to use surface water to produce a crop; however, were idled in 2018:** \_\_\_\_\_

Provide a map showing the parcel which was idled in 2018.

Tax lot or TID number(s) \_\_\_\_\_

Name of District or Ditch Company that charges or assesses this land for irrigation water: \_\_\_\_\_

1. In which of the last three years was the land irrigated with surface water and produced an irrigated crop? (*Circle*)      2015          2016          2017
  
2. Did you idle the exact parcel in 2015, 2016 or 2017? (*Circle*)          Yes          No
  
3. If the exact parcel was idled in 2015, did you participate in the 2015 KWAPA WUMP?  
    (*Circle*)          Yes          No
  - a. If so, identify the 2015 KWAPA WUMP Contract No. \_\_\_\_\_

***Note: It is the claimant's responsibility to prove the legal right to provide supplemental water for Klamath Reclamation Project irrigated land.***

## WARRANTY and SIGNATURE

- ☐ This parcel is normally irrigated with surface water from the Klamath River. This parcel was irrigated with surface water and produced an agricultural crop in 2015, 2016 and/or 2017.
- ☐ This parcel was ready, willing, and able to use surface water to produce the crop if water had been available in 2018.
- ☐ This parcel is 5 or more contiguous acres of irrigable land and has clear boundaries separating it from adjoining and adjacent land.
- ☐ This parcel is not only irrigated by groundwater.
- ☐ This parcel is not Refuge lease land or in walking wetlands or similar programs.
- ☐ No water was applied to this parcel between November 1, 2017 and October 31, 2018.

Applicant is not subject to backup withholding and Applicant certifies that its social security number or tax identification number is: \_\_\_\_\_.

Applicant represents and warrants to the 2018 Klamath Project Drought Response Agency ("KPDRA") and MBK Engineers, Inc.:

1. That the Applicant has the legal right to claim and receive any proceeds from this program that may be paid by KPDRA to Applicant for the well described in this Application;
2. That the information included on this Application is complete and correct, and that the Applicant and the well described on this Application form comply with all of the criteria set forth in the Policy for participation in this program;
3. Applicant agrees that neither KPDRA nor MBK Engineers has an obligation to verify the information provided by the Applicant or to otherwise investigate, correct, supplement, or verify the information provided on or with this Application form. Applicant waives any claims, counterclaims, other assertions, or defenses Applicant may now have or may hereafter discover that KPDRA or MBK Engineers failed in any manner to independently investigate and determine that the Applicant or the well qualify for participation in this program.

Applicant agrees and warrants that Applicant shall indemnify and hold harmless KPDRA, its officers, contractors, consultants, advisors, and agents from any loss or damage, including, but not limited to attorney fees and costs of suit, and from any claim or liability arising from Applicant's submittal of the Application and Applicant's participation or non-participation in this program, including but not limited to, disputes relating to more than one claimant submitting an application relating to the same property, or properties. This application is submitted solely for the purpose of determining the availability of aid. In the event a dispute arises amongst claimants, the KPDRA reserves the right to make payment jointly to claimants to allow for adjudication as and between the parties as to the respective right or rights to payments by an appropriate adjudicator, without further obligation by the KPDRA.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Make sure you have submitted **BY November 9, 2018:****

- ☐ Application Form
- ☐ Map CLEARLY marked with an outline of the parcel for which you are claiming (Google Earth Map, County Tax Lot Map).

### Please Note:

- **COMPLETED** and **SIGNED** application forms and **ALL** of the requested documentation must be received by the due date above. ***Incomplete application forms may be returned.***
- You may be asked to provide additional information to aid in the processing of your application. If we notify you that additional information is necessary, you will have 10 calendar days to respond.
- Submit a separate application form for each parcel (non-contiguous) you desire to enter in this program.