

KLAMATH PROJECT DROUGHT RESPONSE AGENCY

2020 DROUGHT RESPONSE PROGRAM POLICY

A. Program Summary

The Klamath Project Drought Response Agency (“KPDRA”), was formed by an Intergovernmental Cooperation and Joint Exercise of Powers Agreement (“Agreement”) in 2018 to do all things necessary or incident to the maximization of water supply for the members of the KPDRA and all irrigation water users in the Klamath Reclamation Project, including but not limited to, the design and implementation of conservation and management programs through the coordination, incentives, and compensation indicated in the Recitals of the Agreement to the extent permitted by the laws and regulations governing such operations.

United States Natural Resource Conservation Service predictions for the 2020 Klamath Project irrigation season indicate that inflows to Upper Klamath Lake will be significantly below normal, resulting in an irrigation water supply that will not meet demand. The purpose of this Drought Response Program is to provide assistance to landowners who are not able to irrigate their land with water from Upper Klamath Lake or the Klamath River during the 2020 irrigation season as defined in this Policy. The distribution of funds will occur through an Application process. Funds for this program will come from water delivered to the Tule Lake and Lower Klamath National Refuges. The amount of Drought Response Funds available for this Program will not be known until the end of 2020. The purpose of this Policy is to provide financial assistance when and if it becomes available in a manner that the KPDRA Board of Directors, in its sole discretion, determines to be reasonable and fair. Any payment provided by this Program is not intended to compensate for the value of lost crop or the value of the use of the water which was lost by the participant.

B. Eligibility

MBK Engineers, Inc. on behalf of KPDRA, will solicit Application forms for participation in this 2020 Drought Response Program of land normally irrigated with surface water that meets the following criteria:

1. The parcel must be five or more contiguous acres of irrigable land in size 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 or the Klamath River as measured on aerial photographs: see section D(3).
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 2017, 2018, or 2019 or participated in the 2018 KPDRA Programs. 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 ready, willing, and able to apply surface water for irrigation of the parcel in 2020 and must have paid the annual charges or assessments of the irrigation, drainage, or other district in which the land is located.
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 Klamath River Adjudication Amended and Corrected Findings of Fact and Final Order of Determination or an exception filed thereto.

The following lands are ineligible to participate:

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

To qualify for this program in full no water from any source other than natural precipitation shall be or have been applied between November 1, 2019 and October 31, 2020.

To qualify for this program in part no water from any source other than natural precipitation shall be or have been applied between March 1, 2020 and October 31, 2020.

A flat rate payment per acre (differentiated between full and partial participation) will be determined by the KPDRRA following the review and approval of the qualified Applications submitted on or before May 15, 2020. Completed Applications may submitted by hand delivery to the office of Parks and Ratliff, PC., 620 Main Street, Klamath Falls, Oregon, by fax or email to the office of MBK, or by mail addressed to the KPDRRA, PO BOX 1944, Klamath Falls, Oregon, postmarked on or before May 15, 2020.

D. Claim Form Application/Qualification Process

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

1. KPDRRA will notify irrigators through public notice and local media selected by KPDRRA that Applications forms for participation in the 2020 KPDRRA Drought Response Program are available.
2. The Applicant shall complete and submit the Application form for participation in the 2020 Drought Response Program, provided by the KPDRRA. 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. Applications forms are available at the office of the Klamath Irrigation District, Tulelake Irrigation District, Klamath Water Users Association, and MBK. Application forms will also be available to be downloaded from the KPDRRA website: klamathwaterbank.com, or by calling 541-630-0752, or by emailing info@klamathwaterbank.com.
3. A “complete” Application form shall include the Application form and a map showing the land to be entered into the 2020 Program. A Google map or 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 or KPDRRA’s 2018 Program with the exact same parcel and area to enroll, a new map is not required, but the Applicant must clearly indicate on the Application Claim Form that the parcel is the exact same parcel that was included in a previous Program and identify the year of participation.

4. 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.
5. Application forms will be reviewed for completeness and reasonableness.
6. KPDRA will provide a map showing the location of each parcel to each irrigation district for the district's review and comment.
7. The KPDRA Board of Directors retains the authority to reject any or all application forms, including, but not limited to, those applications for partial participation, where it appears to the Board that the approval of an application would not sufficiently further the goals of this program.
8. By completing and submitting an Application form the Applicant is deemed represent and warrant to the 2020 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; and
 - d. 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.

E. Payment

1. 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 2020 at the earliest. KPDRA makes no representations of when payment will be made or how much money, if any, an Applicant may receive. Payment(s) will be mailed to qualified Applicants at the address shown on the Application form.
2. Participants in the program in part (not irrigating March 1 through October 31 only) will receive 67% of the payment made to a participant in full (not irrigating November 1 through October 31).

3. KPDRRA is not responsible for the payment of taxes, assessments, irrigation district charges, and any other obligations related to participating in this program.
4. If KPDRRA 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.

G. Other Provisions

1) The funding for this program is being provided by money currently held by KPDRRA and eight million dollars of additional funding that has been authorized and appropriated by the United States Congress, but the receipt of which is subject to conditions that may not be reasonably attainable or which KPDRRA may determine, in its sole discretion, would be detrimental to the water users in the Klamath Project. Further, KPDRRA has instituted a Groundwater Program to augment the available water supply. KPDRRA, in its sole discretion, may allocate the available funding between the Groundwater Program and this Drought Response Program. Funding for this Program and a Groundwater Program is subject to receiving the additional funding. Klamath Water Users Association is working diligently with our Congressional representatives, the US Bureau of Reclamation, and other Federal, State, and local agencies to make the additional funding available to KPDRRA. However, there may be insufficient funds available to pay in full all eligible payments under the Groundwater Program and provide relief to landowner who do not receive any irrigation water this year under this Program.

2) All decisions made by or on behalf of KPDRRA will be made by its Board of Directors. MBK will provide such assistance to the Board of Directors as it may request, however, MBK is not authorized to make and will not make any decisions during the course of this Program.

3) Any decision made by KPDRRA or any action taken by or on behalf of the DRA may be appealed to the Board of Directors of KPDRRA for reconsideration, which will hear such appeal after due notice at a public meeting. Any Klamath Project water user may initiate an appeal for reconsideration by written notice provided to Nathan Ratliff, Parks and Ratliff PC., 620 Main Street, Klamath Falls, Oregon 97601, legal counsel for KPDRRA. Any Notice may be delivered or mailed to Counsel at said address. Any Notice must be delivered in a timely manner and should describe the decision or action being appealed and provide detailed information describing the impact of the decision on the person appealing the decision. Mr. Ratliff may request additional information and will provide a full copy of the appeal Notice and information to the members of the Board of Directors. Mr. Ratliff will provide timely Notice of the date, place, and time of the meeting at which the Board of Directors will consider the appeal for reconsideration. Although it is the intent of KPDRRA that any such hearing be informal with a goal of timely resolving the appeal for reconsideration, the person making the appeal may be represented by legal counsel and may provide additional information and witnesses at the appeal hearing. The Board of Directors will consider the information provided, shall make a decision on the appeal for reconsideration, and will notify the person making the appeal of its decision.

KLAMATH PROJECT DROUGHT RESPONSE AGENCY 2020 DROUGHT RESPONSE PROGRAM APPLICATION

~Submit Application Form, and a new map if required, via mail, electronically, by fax, or in person at Parks & Ratliff~

no later than 5 p.m. on May 15, 2020

Submit via Mail postmarked by May 15, 2020 to: KPDRA PO Box 1944 Klamath Falls, OR 97601	Submit Electronically to: info@klamathwaterbank.com Submit by Fax to: 916-456-0253 Note: If you do not receive a verification email within 48 hours, please call (541) 630-0752.	Submit in person at: Parks & Ratliff 620 Main Street Klamath Falls, Oregon
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APPLICANT CONTACT INFORMATION

Applicant: _____

(If applicant is not the owner, must provide authorization to represent owner.)

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 irrigable acres not irrigated: _____

Period that the irrigable acres were not irrigated (Circle):

Nov. 1, 2019 thru Oct. 31, 2020

or

Mar. 1, 2020 thru Oct. 31, 2020

Tax lot or parcel number: _____

Intended crop to be grown in 2020: _____

In which of the last three years was the parcel of land shown on the map submitted with this Application (“parcel”) irrigated with surface water and produced an irrigated crop? (*Circle*)

2017 2018 2019

Or was the parcel enrolled in the 2018 KPDRA Program? (*circle*) Yes No

Name of district(s) that provides Irrigation water to the parcel: _____

WARRANTIES AND REPRESENTATIONS

By completing and submitting this Application, Applicant represents and warrants to the Klamath Project Drought Response Agency (“KPDRA”):

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 parcel;

2. That the information included on this Application and the documents submitted with this Application is complete and correct, and that the Applicant and the parcel comply with all of the criteria set forth in the Klamath Project Drought Response Agency 2020 Drought Response Program 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 land qualify for participation in this Program;

4. 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; and

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

_____.

Applicant’s signature

Date

Application Checklist

Make sure you have submitted:

Application due by _____

Map CLEARLY marked with an outline of the parcel for which you are applying. (Google Earth Map, County Tax Lot Map)

Please submit a separate application for each non-contiguous parcel you desire to enter in this Program.