

# **KLAMATH PROJECT DROUGHT RESPONSE AGENCY**

## **2024 ASSISTANCE PROGRAM – NO IRRIGATION 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 (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 and Bureau of Reclamation's forecasts for 2024 indicate that inflows to Upper Klamath Lake will be below normal, resulting in a water supply that will not meet irrigation demands within the Project. The purpose of this 2024 Assistance Program – No Irrigation (Program) is to help align Project water supplies and demand for irrigation water by providing financial assistance to agricultural producers for reducing the demand and use of Project water as defined in this Policy.

The KPDRA will administer the Program through which qualifying agricultural producers can apply for this financial assistance. Funds for the Program will be provided via Cooperative Agreement #R23AC00387 with the United States Department of Interior, Bureau of Reclamation, pursuant to the Klamath Basin Water Supply Enhancement Act of 2000, P.L. 106-498, as amended by P.L. 115-270 and P.L. 116-191. The purpose of this Policy is to describe the requirements for agricultural producers to be eligible for financial assistance under the Program. The KPDRA Board of Directors has determined these requirements to be reasonable and fair. The availability of funding for qualifying applicants under the KPDRA Program described in this policy will encourage irrigators to refrain from the use of both surface water and groundwater which would normally be used in conjunction with agricultural activities. 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 on unirrigated parcels.

The Program provided for herein shall set forth two tiers of compensation for applicable parcels. Eligible parcels which are unirrigated from November 1, 2023 to October 31, 2024 may receive Full Season payments. Otherwise, eligible parcels which are irrigated between November 1, 2023 and February 29, 2024, but unirrigated from March 1, 2024 to October 31, 2024 may receive Partial Season payments, which will be 50% of the amount per acre paid for Full Season eligible parcels.

### **B. Eligibility**

To qualify for this Program, the parcel or parcels of land designated by the Applicant with the Application form must meet all of the following criteria:

1. The parcel or parcels must be four or more contiguous acres of irrigable land in size and must have clear boundaries separating it from adjoining and adjacent irrigated land so

that the area not receiving irrigation water during the applicable time period can be independently confirmed;

2. The area of the parcel subject to payment must have been irrigated with surface water and produced a crop in 2021, 2022 or 2023, or participated in the 2021, 2022 or 2023 KPDRA Programs;
3. The Applicant must have paid any applicable annual charges or assessments of the irrigation, drainage, or other district in which the land is located;
4. The Applicant must warrant to KPDRA that the Applicant is legally authorized to apply for and receive funds under this Program; and
5. The parcel must be identified 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 for Claim Numbers 321-6, 321-17, 293 or 323-3, as set forth on the official maps generated by the Oregon Water Resources Department identifying those lands, or an exception filed thereto.

The Applicant may be asked to provide proof that they and/or the parcel meet all the eligibility criteria. The following lands are not eligible to participate:

1. Parcels to which water from any source except natural precipitation was applied between November 1, 2023, and October 31, 2024 (“the irrigation season”) are ineligible for Full Season compensation. Parcels irrigated from any source between November 1, 2023, and February 29, 2024 may be eligible for Partial Season compensation, provided they meet all other eligibility criteria, and provided that water from any source except natural precipitation is not applied between March 1, 2024 and October 31, 2024;
2. Parcels irrigated using only groundwater, in a year of normal Project water supply;
3. Federally owned lands;
4. Land in walking wetlands or other similar programs where water was applied, and no agricultural crop was produced and harvested in 2024;
5. The parcel is within a District determined by the Bureau of Reclamation to have failed to comply with the 2024 Klamath Project Bureau of Reclamation Annual Operations Plan or other Bureau of Reclamation directive; or
6. Lands in or lands receiving water from Klamath Hills District Improvement Company.

### **C. Application/Qualification Process**

KPDRA will provide notice of its Program and the availability of Applications forms for participation in the Program by posting on its website, news releases to local media, and requests to districts and Klamath Water Users Association to post notices on their websites and physical notices in their offices. However, KPDRA or its authorized representative may modify this process at any time at its sole discretion.

Applicants shall complete and submit a Program Application. Applicants shall specify if they are applying for Full Season compensation, or Partial Season compensation.

Application forms may be obtained in person from the offices of the Klamath Irrigation District, the Tulelake Irrigation District, Parks and Ratliff, or the Klamath Water Users Association; downloaded from the KPDRAs website: [klamathwaterbank.com](http://klamathwaterbank.com); or by calling 541-630-0752; or by emailing [info@klamathwaterbank.com](mailto:info@klamathwaterbank.com). All information requested on the Application form must be completed and all documentation required by the Application form must be provided with the Application. Incomplete Applications may be rejected. A complete "Application" shall include:

1. The fully completed Application form;
2. A map showing the land to be entered into this Program. The map must clearly show the boundaries of the parcel. Separate, noncontiguous parcels require separate applications. If any water from any source except natural precipitation is applied to any portion of the parcel during the irrigation season, the entire parcel will be disqualified from participating in this Program. A Google map or aerial photo showing the parcel to be entered in this Program clearly outlined is preferred; and
3. An IRS form W-9 completed and signed by the person or entity to whom KPDRAs will make the Program payment.

The Application must be received by KPDRAs on or before 5 p.m., June 14, 2024. Applications may be submitted:

1. In person to the office of Parks and Ratliff, PC., 620 Main Street, Klamath Falls, Oregon;
2. By emailing the application to [info@klamathwaterbank.com](mailto:info@klamathwaterbank.com); or
3. By mailing the application to KPDRAs, PO Box 1944, Klamath Falls, OR 97601 (Must be received or postmarked by deadline).

The qualified acreage will be determined by KPDRAs using Geographic Information Systems mapping of the area actually irrigated in the recent past. County tax map records, district assessment records and farm agency mapping acreages often include non-crop acreage (roadways, farm building, canals, and drains) and will not be used to determine the actual area of the parcel included in the Program. Any challenge to a qualified acreage determination must be made within 30 days of written notice to the Applicant of the determination, as further described in Paragraph E, below.

The Application form will be reviewed for completeness and reasonableness. The Applicant may be asked to provide additional information to aid in the processing of the Application. The Applicant will have 10 calendar days to respond and provide the requested information. Failure to respond may result in the Application being rejected.

KPDRAs will provide a map showing the location of each proposed parcel to the district, if any, that delivers water to the parcel for the district's verification of the following information:

1. That the district delivers water to the parcel;
2. That all charges and assessments owed to the district have been paid in full; and

3. That the boundaries of the parcel are distinct so that the district will be able to periodically observe the parcel during the irrigation season to verify that it received no water except natural precipitation during the applicable time period.

For qualified parcels as identified in the eligibility criteria within Section B above, but not served by a district, the verification process provided in this section and the “Payment” section, below, will be performed by KPDRA consultants or others designated by the Board of Directors.

The KPDRA Board of Directors retains the authority to reject any or all application forms where the Board, in its sole and absolute discretion, finds that the approval of an application would not sufficiently further the goals of this Program.

By submitting an Application, the Applicant is deemed to represent and warrant to KPDRA and its consultants:

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

#### **D. Payment**

KPDRA anticipates having available approximately \$8,500,000 in funding for its Programs; however, it is possible that the amount received may be more or less than this amount. KPDRA may not know the total amount of funding available until the end of the 2024 irrigation season or even later. KPDRA will use a portion of the funds it has available for the purpose of administering its Program and will allocate the remaining funds across its Program in a fair and equitable manner, consistent with the Cooperative Agreement with Reclamation, and its discretionary authority, and subject to the per acre payment caps set forth below. Funds allocated to this Program will be distributed, based on the total amount of funds, the number of qualified acres of land enrolled in this Program, and other permissible obligations of the KPDRA, including, but not limited to, amendments to the existing Policy to allocate funding for parcels

less than 4 acres in size. As a result, although KPDR may provide estimates of the timing and payment rates which might be possible under its Programs, KPDR makes no firm commitment of when payment will be made or how much money, if any, an Applicant may receive.

In November 2024, KPDR will provide a list of the parcels initially determined to qualify for this Program to its consultants and the district that delivers irrigation water to the parcels listed for verification that no water from any source, except including natural precipitation, was applied to any part of the parcel during the irrigation season. At the time the Board is able to ascertain the number of total acres eligible for payment, the Board will determine an appropriate amount per acre for those parcels eligible for Full Season compensation. The Full Season amount per acre will not exceed \$450 per acre. Those parcels eligible for Partial Season compensation shall receive 50% of the amount per acre payable in relation to Full Season parcels.

Following receipt of district verification and determination by the Board of the amount to be paid per acre, if any, KPDR will process and mail the payments to the person or entity directed in the Application. Any payments issued by the KPDR in accordance with this Program must be deposited or cashed within 180 days of issuance to the Applicant. Applicants who fail to do so will forfeit any right to payment under this Program notwithstanding the prior approval of the subject Application.

KPDR is not responsible for the payment of taxes, assessments, irrigation district charges, or any other obligations related to participation in this Program.

If KPDR 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.

#### **E. District Operation and Management of 2024 Small Parcel Assistance Program**

Each district that delivers irrigation water to land in the Project that desires to offer financial assistance to owners of parcels of land that are less than four acres in size as shown in the District's assessment records or as determined by KPDR for parcels that would be eligible for assistance under the terms of the 2024 KPDR Assistance Program - No Irrigation but for failing to fulfill the 4 acre minimum contiguous acreage criteria described in Section B.1, shall submit a 2024 Small Parcel Assistance Program application to KPDR by June 14, 2024. The Application shall warrant to KPDR that the District will comply with the terms of the of 2024 Small Parcel Assistance Program and shall include a good faith estimate of the number of acres and corresponding assessment(s), or other similar fees the district anticipates will be included in this Program. Compliance with the 2024 Small Parcel Assistance Program requires compliance with all of the terms of the 2024 Assistance Program – No Irrigation policy, except to the extent those terms have been modified by the terms of the 2024 Small Parcel Assistance Program.

By November 30, 2024, each participating District shall provide to KPDR a Summary Report regarding lands to be included in the 2024 Small Parcel Assistance Program which shall warrant to KPDR:

- a. that the District's Program, which shall be described in the Summary Report, complies with all applicable terms and conditions of KPDRA's 2024 Small Parcel Assistance Program;
- b. that each parcel included in the District's 2024 Small Parcel Assistance Program is otherwise eligible for the 2024 No Irrigation Program, except: (1) each parcel contains less than four acres as determined either by the District 2024 assessment records or by KPDRA as having less than four acres of contiguous acres of irrigable land; and (2) the requirement of Section B. 2. that the parcel was irrigated with surface water or participated in prior KPDRA Programs in the years specified in that subsection is waived for the 2024 Small Parcel Assistance Program. For Parcels found by KPDRA to have less than four contiguous acres of irrigable land, the District may use its assessment records to determine the amount of acreage qualified for its Program;
- c. that no water was delivered by the District to any of the parcels included in its 2024 Small Parcel Assistance Program during 2024;
- d. that the District verified that the amount of qualified acreage of each parcel included in its Program and the total number of acres included in the District's Summary is accurate;
- e. that the payment received by the District from KPDRA pursuant to this Program will either be applied by the District to pay unpaid 2024 charges, fees, or assessments made against a parcel by the District and or will be disbursed by the District to the owner of each parcel included in the program based on the size of each such parcel;
- f. the amount per acre actually charged or assessed by the District for the 2024 irrigation season against each parcel in the District; and
- g. that the District shall comply with all laws and regulations for the reporting of payments made to or for the benefit of the owners of the parcels.

Provided that funding is available for this Program, on or before January 31, 2025, KPDRA shall disburse to each district that applied to be included in this Program and provided the Summary Report described above in a timely manner, a payment in an amount equal to the number of eligible acres included in the District's Summary Report multiplied by the per acre amount of the regularly assessed charges, fees, and/or assessments, not including late fees or other similar charges, made by the District to each acre of land in the District for the 2024 irrigation season.

The district may retain up to three percent of the payment made by KPDRA to apply to its costs of administering its program, and shall promptly distribute the remaining funds to or for the direct benefit of each landowner included in its program.

On or before March 30, 2025, each participating District shall provide to KPDRA a list containing the name, address, district parcel number or other identifying information of each parcel, the size of each parcel in acres, and the amount paid to or for the benefit of the landowner by the District of each parcel included in its program. The District shall maintain and retain for a period of ten years all records of the money received by it and disbursed by it in conducting its Program, and shall promptly make all such records available for review, copying and audit by

KPDRA, the United States Department of Interior and the Bureau of Reclamation, and their respective agents and contractors upon request.

## **F. Other Provisions**

KPDRA has not yet received funding to make payments under this Program. KPDRA is working diligently with Reclamation to obtain funding for the 2024 Program's fiscal year. However, the receipt of funding is subject to conditions that may not be reasonably attainable or which KPDRA may determine, in its sole discretion, would be detrimental to the water users in the Klamath Project. Therefore, there may be insufficient funds or no funds available to make the payments provided by this Program to landowner who do not receive any irrigation water this year under this Program.

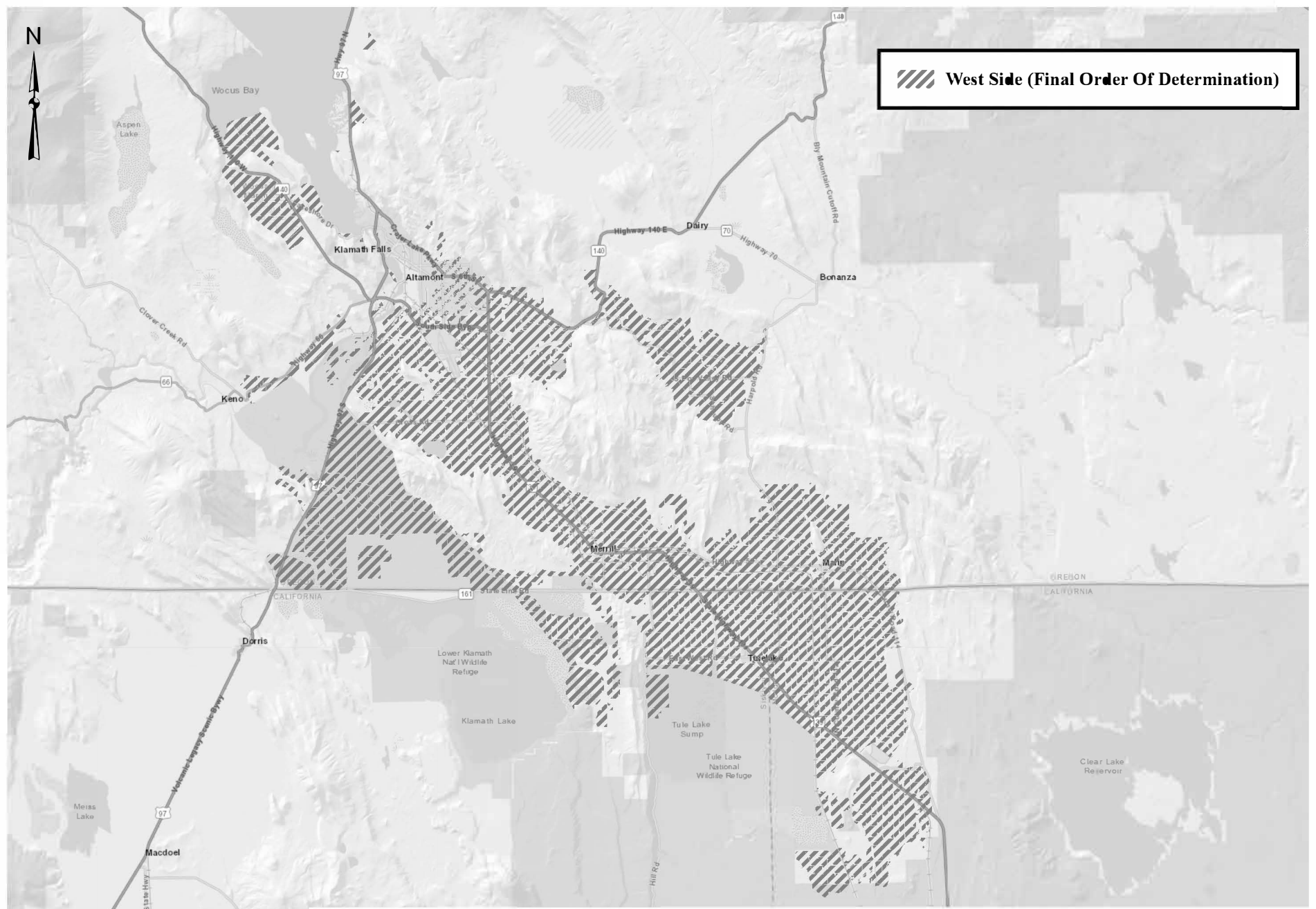
All decisions made by or on behalf of KPDRA will be made by its Board of Directors. Consultants will provide such assistance to the Board of Directors as it may request, however, the consultants are not authorized to make and will not make any decisions in administering the Program.

Any decision made by KPDRA or any action taken by or on behalf of the KPDRA, including, but not limited to the denial or partial approval of an application, or the determination of the number of irrigable acres within a parcel for which compensation is sought, may be appealed to the Board of Directors of KPDRA for reconsideration, which will hear such appeal after due notice at a public meeting. Any Applicant 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 KPDRA. Any notice shall be delivered or mailed to Counsel at said address. Any notice must be delivered within 30 days of the date of the KPDRA decision or act that is the subject to the appeal. The notice must describe with particularity the decision or action being appealed, provide detailed information describing the impact of the decision on the person appealing the decision, and must include the appellant's contact information including telephone number and mailing address. KPDRA may request additional information and will provide a full copy of the appeal notice and information to the KPDRA Board of Directors.

KPDRA will provide timely notice to the appellant by telephone or United States mail 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 KPDRA 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, make a determination in relation to the appeal, and will notify the person making the appeal of its decision.



 **West Side (Final Order Of Determination)**



**2024 Assistance Program -  
No Irrigation Eligible Lands**





# KLAMATH PROJECT DROUGHT RESPONSE AGENCY 2024 ASSISTANCE PROGRAM – NO IRRIGATION APPLICATION

**Deadline to Submit: June 14, 2024 5:00 PM PST**

**PLEASE PROVIDE MAP AND W9 WITH COMPLETED APPLICATION**

<p style="text-align: center;">Submit via Mail (received or postmarked June 14, 2024):</p> <p style="text-align: center;">KPDRA PO Box 1944 Klamath Falls, OR 97601</p>	<p style="text-align: center;">Submit Electronically to: <a href="mailto:info@klamathwaterbank.com">info@klamathwaterbank.com</a></p> <p style="font-size: small;">Note: If you do not receive a verification email within 48 hours, or if you have any questions please call (541) 630-0752.</p>	<p style="text-align: center;">Submit in person at:</p> <p style="text-align: center;">Parks &amp; Ratliff 620 Main Street Klamath Falls, Oregon</p>
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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: \_\_\_\_\_ Email: \_\_\_\_\_

## PROPERTY INFORMATION

1. Number of irrigable acres not irrigated: \_\_\_\_\_ (required)
  
2. Period that the irrigable acres were not irrigated (Check **ONE**):
 

**Full Season**  
Nov. 1, 2023 thru Oct. 31, 2024

OR

**Partial Season**  
Mar. 1, 2024 thru Oct. 31, 2024 (required)
  
3. Tax lot ID, or TID number: \_\_\_\_\_
  
4. 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? *(Check All That Apply)*

2021
2022
2023
  
5. Was the parcel enrolled in the 2021 - 2023 KPDR Program?      Yes      No (required)
 

If yes, provide Application Number for most recent program: \_\_\_\_\_

If you are unsure of the application number, please call number above. (Ex: D0098, S0098, CA0098, or KDR220098)
  
6. Name of District(s) providing irrigation water to the parcel: \_\_\_\_\_ (required)

## 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 2024 Assistance Program – No Irrigation 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 identified in the submitted IRS W-9 Form.**

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Applicant’s signature

Date

### Application Checklist

**Make sure you have submitted:**

Application due by 5 p.m. on June 14, 2024

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

IRS W-9 Form completed and signed by the entity to whom KPRA will issue payment

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

