

Regular Meeting Minutes

**Klamath Project Drought Response Agency
Regular Board Meeting
May 12, 2021
10:00 am**

MEETING CALLED TO ORDER

Marc Staunton, the President, called the regular scheduled Board of Directors meeting of the Klamath Project Drought Response Agency (KPDRA) to order on Wednesday, May 12, 2021, at 10:04 am at KWUA boardroom at 2312 South Sixth Street and via the online conference platform called Zoom.

ROLL CALL

Directors Present: Marc Staunton, Luther Horsley, Jerry Enman, and Mike McKoen
Guests: Chelsea Shearer, Paul Simmons, Kyle Knutson, Gene Souza, Brad Kirby, Nathan Ratliff, Bill Ganong, Moss Driscoll, Haley Grohs, Mike Neuman, Laurie Askew, Lauren Jespersen, Jenneke deJong, and Pat Neu.
Media Presence: none

Minutes

The Board was presented with minutes from Dec., 9 and 21 of 2020, and Feb. 16 and 25th of 2021, as well as March 1,9, and 18, 2021

Motion: To approve the minutes provided.

Motion by: Mike McKoen Second: Luther Horsley

Vote: Unanimous

Motion Carried.

Financials

Motion: To approve the financials as presented and pay the outstanding invoices.

Motion by: Mike McKoen Second: Jerry Enman

Vote: Unanimous

Motion Carried.

Report on Recommendations from Engineering RFP Subcommittee

Jerry Enman reported that the RFP subcommittee met yesterday to review the submissions. Only one response was received, which was from MBK, collaborating with Adkins Engineering. The subcommittee recommends authorizing negotiations. The proposal did not contain pricing schedules, but MBK supplemented with a schedule of fees, which was presented in the packet.

Motion: To accept RFP Subcommittee recommendation and authorize Jerry Enman and legal counsel to negotiate and approve Engineer Services Contract with MBK for provisions of engineering services for up to 3 years, with a mutual option to extend for another 2 years.

Motion by: Mike McKoen Second: Luther Horsley

Vote: Unanimous

Motion Carried.

Domestic Well Mitigation Program

KWUA Director Paul Simmons stated that KWUA had requested Governor Brown in a letter to grant one million dollars for domestic well programs, specifically for any wells needing assistance that are refreshed by irrigation ditches that should be full. Paul asked that everyone ask their state representatives to push Brown from funding. Paul also stated that he is going to plug in the number of 20 million for the 2022 funding letter request. The DRA and KWUA will send out joint letters to both states

Regular Meeting Minutes

Moss Driscoll stated that if granted, the funds can be "banked" to accumulate funds and be able to apply upto five years. Marc Staunton stated that he is concerned about the flux of potential dry domestic wells; with current funds, he suggested that the DRA may want to look at adjusting the minimum amount. Jerry stated that the DRA did not need to address this now, but as the program continues, the subject could be addressed.

Status of Grant Application

The Board was tasked with the discussion of the language regarding the Bureau of Reclamation request to exclude patrons from Districts that fail to comply with 2021 Operating Plan from 2021 grant-funded programs. The Bureau has indicated it will require the grant application as follows:

Section 10, Number 5. Recipient's responsibilities. Abstain from making payments under the programs described in this agreement to any district patron whose District has failed to comply with Reclamation's 2021 Operating Plan, provided that the District has been notified of any such non-compliance and failed to comply within the time failed to comply as described herein shall not be eligible to receive compensation from KPDR 2021 programs.

Section 11, Number 3. Reclamations Responsibilities. Reclamation shall be responsible for making a determination of a failure to comply with Reclamation's 2021 Operating Plan by a district and shall notify the KPDR 2021 regarding its determination.

Luther voiced his discontent over the matter and stated that he was very disappointed at Reclamation.

Jerry read a prepared statement to be memorialized in the minutes; it reads as followed:

"As a condition fo receiving grant funds for 2021 DRA programs, Reclamation insists that DRA will make all Partons of and District that fails to comply with Reclamation 2021 Operating Plan ineligible to receive any of said funds. I strongly disagree that a landowner who does not use water should become ineligible for funding as a result of actions they cannot control. Unfortunately, I believe Reclamation will not provide grant funds to the DRA without this provision. For this reason alone, I grudgingly accept the necessity of the DRA to submit to this policy. Doing so in no way means that the District I represent accepts that Reclamation is acting with its proper authorities by claiming that it has water rights that are exempt from the Klamath Basin General Stream Adjudication process and creating Operating plans that rely on the assumption that Reclamation has water rights that were exempt from the requirement of being present in said Adjudication."

Luther questions what the remedy of this policy is?. The landowner will be penalized if they belong to a district with a rogue board, which is wrong. He continued to ask if the landowner could sue someone over that? Paul Simmons stated that it's a lobbying issue more than a legal issue at this point. Chelsea Shearer asked if a district is excluded, what happens to that \$ that is now forfeited? She also asked if those funds are divided amongst eligible patrons or banked to the next year? Marc stated that the funds would be available to eligible patrons only, and they could not see the DRA holding any funds in 2021 from eligible patrons.

The discussion continued over the proposed language that would require a motion. The Board suggested that they begrudgingly accept the forced language with the addition "funded by this agreement." Mike Neuman stated they he feels it should be ok to add. Neuman then instantly received "guidance from upper management" that this clause will be applied to any federal funding received, not just funds in this agreement. Mike McKoenasks Mike Neuman how Reclamation can control funding from other sources. Neuman stated he was "being told in real-time" that "we can discuss it, but it will slow the process down."

Nathan Ratliff stated that he suggested three potential options for a motion, based on the discussion of the Board, as follows:
Proposed Motion 1a: Motion to accept language proposed by Bureau of Reclamation set forth above for inclusion in the grant application.

Proposed Motion 1b: Motion to accept language proposed by Bureau of Reclamation set forth above for inclusion in the grant application, with amendments.

Proposed Motion 1c: Motion to notify BOR of rejection of the inclusion of proposed language in 2021 BOR grant funded KPDR 2021 programs.

Regular Meeting Minutes

Jerry Enman makes Proposed Motion 1b:

Motion: Motion to use language proposed by Bureau of Reclamation Set forth above for inclusion in grant application, with the amendment discussed.

Motion by: Jerry Enman

Discussion: Janneka deJong asked what are the ramifications if the Board chooses 1c? Neuman stated that he "is being told" (he does not identify who he is receiving direction from) that the grant will be denied, and there will be no funding for the DRA if this language is not included.

Jerry proposed another change, "lands of patrons in those districts," removing the word patrons. This would signal the lands only and not the patron. There are many patrons that have lands in other districts and want to ensure that only the "lands" are penalized and not the patron that may have other lands.

Marc stated there is a motion looking for a second. He reads the language as proposed:

Section 10, Number 5. Recipient's Responsibilities. Abstain from making payments under the programs described in this agreement to any patron for land within a district which has failed to comply with Reclamation's 2021 Operating Plan, provided that the District has been notified of any such non-compliance and failed to comply within the time provided in such notice. Lands within those districts determined to have failed to comply as described herein shall not be eligible to receive compensation from KPDR 2021 programs funded by this agreement.

Section 11, Number 3. Reclamation's Responsibilities. Reclamation shall be responsible for making a determination of a failure to comply with Reclamation's 2021 Operating Plan by a district and shall notify the KPDR regarding its determination.

The proposed Motion 1b is: Motion to use language proposed by Bureau of Reclamation Set forth above for inclusion in the grant application, with the amendment.

Jerry reminds the Board that his KID board has not approved this; he makes this motion as a DRA member.

Motion: Motion to use language proposed by Bureau of Reclamation Set forth above for inclusion in the grant application, with the amendment.

Motion by: Jerry Enman Second: Mike McKoen

Marc calls for a vote:

Luther Horsley- abstain

Marc Staunton- Aye

Jerry Enman- Aye

Mike McKoen- Aye

Motion: will die. Luther asks for clarification. Nathan stated that he has to have a yes or no vote for it to move. Luther reluctantly removes the abstain and votes Eye. Chair

Motion Carried unanimously.

Review/approve updated 2021 No Irrigation Program Policy/Application in Relation to item #4

Motion: Motion to amend 2021 KPDR No Irrigation Policy to include modified language as requested by BOR and approved in Agenda item 6.

Motion by: Jerry Enman Second: Luther Horsley

Motion Carried unanimously.

March Staunton asks if the DRA should open up applications. Board generally reluctant as they need the grant approval first with the new language included. Chelsea and Nathan both encourage a press release at minimum to relieve to calls their office is receiving. Jerry suggests that we should state the applications should be available in the first part of June.

Regular Meeting Minutes

Motion: To authorize a press release with pending grant approval with the allowance of Marc Staunton's approval.

Motion by: Luther Horsley Second: Mike McKoen

Motion Carried unanimously.

Review issues relating to 2020 Applicant

The discussion related to D0459-John Sowell requests an increase in acreage paid. Mr. Sowell is requesting an additional eight acres that were not paid. Kyle stated that the acres are not in the FDO, but he is claiming that he has been paid in the past for these acres. Nathan stated that Mr. Sowell's acres do not qualify per the policy as they are not in the FFOD. Gene Souza noted that he does pay KID assessment rates on the acres. The Board agreed that there was no action to take as it doesn't fall within the policy and the application has already been denied. Nathan will send a letter stating the board policy.

Public Comment

None

Other

Appoint of RFP subcommittee needs to send out, rank the legal and accounting RFP and make recommendation to the Board.

Motion to: Appoint Luther, Jerry and Paul as RFP Subcommittee regarding legal and accounting services for opening, ranking and recommendation to Board, to meet at 4 pm June 8

Motion by: Jerry Enman Second: Mike McKoen

Motion Carried unanimously.

Being no further business, the meeting was adjourned the meeting at 12:05 pm.

Motion: To adjourn the meeting.

Motion by: Luther Horsley Second: Jerry Enman

Motion Carried.

Next meeting will be June 9, 2021 at 11:00 am.

Minutes prepared by Chelsea Shearer

Approved: Marc Staunton _____, President

Approved: Rob Unruh _____, Secretary