

**FWD: RE: Klamath Irrigation Demand for Copy of Newly Amended Text of Amended KHSA; Invocation of KHSA Notice and Dispute Provisions**

lkogan@koganlawgroup.com [lkogan@koganlawgroup.com]

Sent: Tue, 8:56 am

To: chuck.bonham@wildlife.ca.gov, Richard.M.Whitman@oregon.gov, kathryn.sullivan@noaa.gov, dustin.till@pacificorp.com, sarah.kamman@pacificorp.com, officeoftheseecretary@ios.doi.gov, governors.press@das.state.or.us, don.gentry@klamathtribes.com, t.schlosser@msaj.com, torourke@yuroktribe.nsn.us, mlovelace@co.humboldt.ca.us, kmorris@klamathcounty.org, torourke@yuroktribe.nsn.us, dgensaw@yuroktribe.nsn.us, ghemmingsen@co.del-norte.ca.us

Attachments:

KID - Demand for Copy of Newly Amended Text of Amended KHSA - Invocation of KHSA Notice and Dispute Provisions.pdf

Mr. Sheets,

Once again, your response to my demand letter explaining that Mr. Richard Whitman of the State of Oregon had dispatched a copy of March 31, 2016 Amended KHSA draft to Nathan Ratliff of the Klamath Drainage District ("KDD") is irrelevant for purposes of satisfying your KHSA, transparency and due process obligations under the agreement to the Klamath Irrigation District ("KID") which I represent as legal counsel. As you and Mr. Whitman should have easily discerned from the original KHSA signature page, the KDD and KID are distinct legal entities.

Your most recent response to my demand letter also reflects your careful excision of the names of the federal, state, local and tribal governments and PacifiCorps representatives planning to execute the Amended KHSA tomorrow. I have provided these individuals, as well as some members of the press, the courtesy of including them herein so they are aware of the legal and political predicament in which your and Mr. Whitman's actions have placed them.

It is now clear that you, as negotiations facilitator, improperly and illegally withheld the March 31, 2016 Amended KHSA draft from the Klamath Irrigation District ("KID") until Monday evening, April 4, 2016. It also is now apparent that you failed (intentionally) to consult with the KID since the time of the March 16, 2016 public meeting in Sacramento, CA regarding the amendments that you and these parties had intended to make, and in fact, did make, to the Amended KHSA following the conclusion of that meeting, which rendered obsolete the March 15, 2016 draft distributed for discussion at that meeting.

For these reasons, I have now included congressional professional staff in our email correspondence exchange given the crossborder, regional and national implications of your actions and their impact on Congress' constitutional jurisdiction over interstate commerce and navigable waterways.

I repeat, once again, for the public record, for your immediate satisfaction of KID's quite reasonable demands as set forth in the two email correspondences and attached correspondence dispatched to you yesterday, April 4, 2016.

Sincerely,

Lawrence Kogan

Counsel to the Klamath Irrigation District

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----- Original Message -----

**Subject: RE: Klamath Irrigation Demand for Copy of Newly Amended Text of Amended KHSA; Invocation of KHSA Notice and Dispute Provisions**

From: lkogan@koganlawgroup.com

Date: 4/4/16 11:26 pm

To: "Ed Sheets" <[ed@edsheets.com](mailto:ed@edsheets.com)>

Cc: erin.ryan@mail.house.gov, "Dennis Linthicum" <[dennis@dirtyroadeconomist.com](mailto:dennis@dirtyroadeconomist.com)>, nick.strader@mail.house.gov, mark.spannagel@mail.house.gov, chuck.bonham@wildlife.ca.gov, Richard.M.Whitman@oregon.gov, kathryn.sullivan@noaa.gov, dustin.till@pacificorp.com, sarah.kamman@pacificorp.com, officeoftheseecretary@ios.doi.gov, governors.press@das.state.or.us, don.gentry@klamathtribes.com, t.schlosser@msaj.com, torourke@yuroktribe.nsn.us, dgensaw@yuroktribe.nsn.us, ghemmingsen@co.del-norte.ca.us, mlovelace@co.humboldt.ca.us, kmorris@klamathcounty.org

Dear Mr. Sheets,

Once again, I emphasize that your dispatch of the 3-31-16 draft of the Amended KHSA to Mr. Ratliff who is legal counsel for the Klamath Drainage District ("KDD") is irrelevant for purposes of satisfying your KHSA, transparency and due process obligations to the Klamath Irrigation District ("KID") which I represent as legal counsel.

Consequently, KID demands, once again, adequate (a reasonable) time within which to review, analyze and discuss these amendments only dispatched to me, on KID's behalf, this evening (4/4/16), and KID also invokes the Notice, Dispute and Meet and Confer provisions of the KHSA to discuss your violation of process and procedure and its adverse impact on the KID as signatory to the KHSA, prior to the governmental and private parties moving forward on the Amended KHSA's scheduled execution.

As previously stated, I trust that the press/media to which KID's correspondence of this evening was distributed should find your response wholly inadequate and a blatant abuse of process.

Sincerely,

Lawrence Kogan

Counsel to the Klamath Irrigation District

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----- Original Message -----

**Subject: RE: Klamath Irrigation Demand for Copy of Newly Amended Text of Amended KHSA; Invocation of KHSA Notice and Dispute Provisions**

From: "Ed Sheets" <[ed@edsheets.com](mailto:ed@edsheets.com)>

Date: 4/4/16 8:18 pm

To: [lkogan@koganlawgroup.com](mailto:lkogan@koganlawgroup.com)

Cc: [erin.ryan@mail.house.gov](mailto:erin.ryan@mail.house.gov), "Dennis Linthicum" <[dennis@dirtrodeconomist.com](mailto:dennis@dirtrodeconomist.com)>, [nick.strader@mail.house.gov](mailto:nick.strader@mail.house.gov), [mark.spannagel@mail.house.gov](mailto:mark.spannagel@mail.house.gov), [chuck.bonham@wildlife.ca.gov](mailto:chuck.bonham@wildlife.ca.gov), [Richard.M.Whitman@oregon.gov](mailto:Richard.M.Whitman@oregon.gov), [kathryn.sullivan@noaa.gov](mailto:kathryn.sullivan@noaa.gov), [dustin.till@pacificorp.com](mailto:dustin.till@pacificorp.com), [sarah.kamman@pacificorp.com](mailto:sarah.kamman@pacificorp.com), [officeofthesecretary@ios.doi.gov](mailto:officeofthesecretary@ios.doi.gov), [governors.press@das.state.or.us](mailto:governors.press@das.state.or.us), [don.gentry@klamathtribes.com](mailto:don.gentry@klamathtribes.com), [t.schlosser@msaj.com](mailto:t.schlosser@msaj.com), [torourke@yuroktribe.nsn.us](mailto:torourke@yuroktribe.nsn.us), [dgensaw@yuroktribe.nsn.us](mailto:dgensaw@yuroktribe.nsn.us), [ghemmingsen@co.del-norte.ca.us](mailto:ghemmingsen@co.del-norte.ca.us), [mlovelace@co.humboldt.ca.us](mailto:mlovelace@co.humboldt.ca.us), [kmorris@klamathcounty.org](mailto:kmorris@klamathcounty.org)

Dear Mr. Kogan:

Richard Whitman distributed the final draft of the KHSA last week. The distribution list include Nathan Ratliff. I have forwarded that email and the attachment to you.

Ed Sheets.

**From:** [lkogan@koganlawgroup.com](mailto:lkogan@koganlawgroup.com) [mailto:[lkogan@koganlawgroup.com](mailto:lkogan@koganlawgroup.com)]

**Sent:** Monday, April 04, 2016 4:40 PM

**To:** [ed@edsheets.com](mailto:ed@edsheets.com); [chuck.bonham@wildlife.ca.gov](mailto:chuck.bonham@wildlife.ca.gov); [Richard.M.Whitman@oregon.gov](mailto:Richard.M.Whitman@oregon.gov); [kathryn.sullivan@noaa.gov](mailto:kathryn.sullivan@noaa.gov); [dustin.till@pacificorp.com](mailto:dustin.till@pacificorp.com); [sarah.kamman@pacificorp.com](mailto:sarah.kamman@pacificorp.com); [officeofthesecretary@ios.doi.gov](mailto:officeofthesecretary@ios.doi.gov); [governors.press@das.state.or.us](mailto:governors.press@das.state.or.us); [don.gentry@klamathtribes.com](mailto:don.gentry@klamathtribes.com); [t.schlosser@msaj.com](mailto:t.schlosser@msaj.com); [torourke@yuroktribe.nsn.us](mailto:torourke@yuroktribe.nsn.us); [dgensaw@yuroktribe.nsn.us](mailto:dgensaw@yuroktribe.nsn.us); [ghemmingsen@co.del-norte.ca.us](mailto:ghemmingsen@co.del-norte.ca.us); [mlovelace@co.humboldt.ca.us](mailto:mlovelace@co.humboldt.ca.us); [kmorris@klamathcounty.org](mailto:kmorris@klamathcounty.org)

Cc: erin.ryan@mail.house.gov; Dennis Linthicum; nick.strader@mail.house.gov;  
[mark.spannagel@mail.house.gov](mailto:mark.spannagel@mail.house.gov)

**Subject: Klamath Irrigation Demand for Copy of Newly Amended Text of Amended KHSA;  
Invocation of KHSA Notice and Dispute Provisions**  
**Importance: High**

Dear Mr. Sheets,

Please find attached the Klamath Irrigation District ("KID")'s formal demand for the immediate delivery of a copy of the newly amended text of the Amended KHSA. In addition, please find the KID's formal invocation of the KHSA Notice and Dispute Provisions contained in KHSA Articles 8.5, 8.6 and 8.7.

As you are well aware, the immediate delivery of such text is necessary to provide the KID with an adequate opportunity (i.e., a reasonable amount of time) to review, analyze and discuss the newly added text and its potential impact on KID members. The immediate delivery of the text AND the KID's invocation of the KHSA's Notice and Dispute provisions also requires you, as lead facilitator of the KHSA negotiations, and all KHSA parties, to meet and confer with the intent of resolving this dispute as quickly as possible. It is critical to emphasize that such actions must be completed before the federal, state, local and tribal government parties and the sole key private to the KHSA (Warren Buffet's PacifiCorps) can legally move forward toward execution of the Amended KHSA, notwithstanding the scheduling of the execution ceremony for this coming Wednesday, April 6, 2016, or any time soon thereafter.

The KID trusts that you will encourage all government and private parties to the KHSA to comply with the KHSA's Notice, Dispute and Meet and Confer provisions at once.

Thank you for directing your immediate attention to this matter.

Sincerely,

Lawrence Kogan,  
Counsel to the Klamath Irrigation District

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