

<https://wlj.net/article-12901-guest-opinion.html>

Western Livestock Journal (May 13, 2016)

Guest Opinion

MAY 13, 2016

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Your recent story (“More troubled waters on the Klamath,” May 2) on challenges facing the Klamath Irrigation District (KID), while certainly well-intended, is unfortunately flawed. That is because it relies on information provided by the individual who makes himself the centerpiece of the article; Larry Kogan, a New York City attorney...

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KID is an irrigation district that serves hundreds of family farms spread over approximately 42,000 acres in Southern Oregon’s Klamath Basin, a region of tremendous agronomic diversity, which produces beef and dairy cattle, potatoes, grains, mint, onions, horseradish, and alfalfa. The C Canal is the critical supply artery that serves most of this acreage. One of the biggest problems faced by western irrigators is the sad state of our aging water infrastructure. The 100-year-old concrete flume section of the C Canal is no exception. Earlier this year, over 95 percent of the district’s patrons voted in favor of accepting a low-interest federal loan to replace the C Flume with an underground, gravity-fed pipe system.

And then, along came Kogan. KID is a local government district and is legally required to make decisions in public board meetings. A newly-elected, agenda-driven KID board majority recently hired Kogan, who quickly demonstrated a propensity for self-motivation that far exceeded the oversight abilities of the KID board and its patrons. He was retained specifically to advise on the C Canal flume contract. However, he quickly inserted himself into virtually every legal and political function of the district, including solo, unauthorized lobbying in Washington, D.C. Many of his actions have created anxiety and animosity and threaten to derail positive things done by others. And we—the irrigators—get to pay for it.

In the recent *WLJ* article, Kogan uses charged words like “threatening” and “unforgiving” when discussing the C Flume contract between KID and the Bureau of Reclamation. The repayment terms he lambasts are exactly the same as any rancher would encounter when seeking to secure a loan to buy cows. Kogan apparently does not understand commonplace contract provisions that are intended to ensure that, when you fail to pay a loan, you are no longer allowed to use whatever you bought with it.

Kogan's statements regarding the recently passed Senate energy bill amendment are equally ludicrous.

Last month, a natural resources amendment to an energy policy bill—which included important Klamath Basin provisions—passed the U.S. Senate floor unanimously. The energy bill [S. 2012] in its entirety soon passed the floor as well, by an 85-12 margin. The bill now has to go to conference to merge the Senate version with the House version that was passed late last year. If the conference is successful, the bill will be placed on the president's desk for signature and enacted into law.

Kogan quickly weighed in on this, claiming that the amendment contains provisions that could, among other things, result in the removal of four Klamath Basin dams. For this reason, Kogan likened the amendment to a “Trojan Horse.”

Once again, Kogan has his facts wrong. The energy bill's Klamath provisions say absolutely nothing about dams. The amendment formally provides the C-Flume with an Emergency and Extraordinary Operation and Maintenance designation, which would save millions of dollars for project water users. It directs the Department of Interior to take actions to reduce power costs for irrigation. It authorizes for reimbursement of some previously-agreed-to costs associated with operations of the massive “D” pumping plant. And it facilitates the conveyance of non-project water, such as groundwater, through federally-owned infrastructure.

As currently out-voted members of the KID board of directors, we are baffled as to how Kogan has concluded that any of these things have anything to do with approving a larger agreement to take out dams. But, it's par for the course with this New York City attorney, as he apparently sees conspiracies, black helicopters, and bogey men around every corner. — **Dave Cacka and Greg Carleton, Klamath Irrigation District Board Members**

<https://wlj.net/article-12902-letter-to-the-editor.html>

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Letter to the editor

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Letter to the editor

I am writing in response to your recent article (“More Troubled Waters on the Klamath,” May 2), which appears to rely heavily on the perspective of Larry Kogan, an East Coast attorney recently

hired on by the Klamath Irrigation District (KID). Kogan's representation of the issues facing KID and his characterization of the Bureau of Reclamation (Reclamation) interaction with KID and project irrigators is untrue, unfair, and in no way represents the view of the majority of KID's patrons.

Contrary to Kogan's assertions, the terms and conditions of the C Flume contract were negotiated in a public forum. There were no threats and the KID negotiators were offered the opportunity to walk away.

Instead, KID constituents, by a vote count of 268-12, agreed to enter into the C- Flume contract with Reclamation. Despite Kogan's conspiracy-laden rhetoric, in no way was the district forced to enter into the contract through intimidation or threats by the federal government, and most certainly is not representative of the landslide vote in favor of the contract.

KID's mission is to deliver water. In the five months that have elapsed since KID's new board of directors assumed control, the district has begun to regularly make decisions behind closed doors, leaving patron questions unanswered, and attacking traditional allies who are trying to help. And within two months, the board hired Kogan, who appears to be accountable to no one.

For many years prior to the sudden emergence of Kogan, the KID leadership has negotiated in good faith with tribes, constructive conservation groups, commercial fishermen, recreationists, and other stakeholders up and down the Klamath River. It has been and will continue to be our intent to find common ground with these parties, so all who benefit from the waters of the Klamath Basin can prosper.

Kogan, on the other hand, lacks credibility, as evidenced by his dismal track record in attempting to break up a water settlement agreement in Montana. He has already been exposed in the Klamath Falls newspaper for basically admitting to public meeting law violations. Since Kogan's hiring, the KID board has deflected and avoided the questions of its patrons numerous times. Public input for KID patrons has been restricted due to time restrictions, and in some cases, limited to written comments only! The current majority is making decisions outside of the boardroom, without the benefit of public meeting discussion, as mandated by law.

And, amazingly, KID patrons don't even actually know who Kogan is working for, since he hasn't submitted a single invoice to KID. This, again, mirrors actions taken by his anti-settlement team in Montana, where opponents had incredible difficulty in pinpointing where the funding to support legal actions was coming from. Nevertheless, back in Klamath, he is still using KID's name to advance his political and public relations agenda.

There was probably no way for *Western Livestock Journal* to expect this was going on. After all, Kogan portrays things in a way that suggests some kind of exciting, vast conspiracy is underway, which of course, is worthy of coverage. If there is a conspiracy driving the situation at KID, our local community has a pretty good idea of the names of the conspirators. I suggest that Kogan take a look in the mirror, rather than pointing an accusatory finger at others, especially the hard working citizens of Klamath County, OR. However, as is almost always the case, there is another, less dramatic, but very real and depressing, side of the story to tell.

Thank you for this opportunity to help tell that story.

Ed Bair, Bair Farms, Oregon (former KID Board Member and Chair)