

ATTACHMENT 2

Confederated Salish and Kootenai Tribes) Docket No. P-5-100
Energy Keepers, Incorporated)
)

AFFIDAVIT OF ELAINE WILLMAN
PAGE 1

St. Ignatius, Montana office, also located on the FIR, with a blank thumb drive to use for purposes of downloading the video.

6. On November 3, 2015, at approximately 10:05 a.m., I arrived at Mr. Passieri's office with a blank thumb drive. While visiting with David, his co-worker, Trudy Samuelson with whom I am well acquainted, came out to say hello. During that conversation Ms. Samuelson, remembered something she had wanted to tell me. It concerned a previous telephone call she had received from Dr. Catherine Vandemoer, an informal adviser to the FJBC, sometime in mid-to-late December 2013. In particular, Ms. Samuelson recalled how, during her call with Dr. Vandemoer, Dr. Vandemoer had emphasized that she (Dr. Vandemoer) "had a great idea," and had asked Ms. Samuelson to keep her office open so that certain members of the FJBC could come over and fax an FJBC letter to the BIA as soon as possible; that the FJBC letter had to be sent out immediately. Ms. Samuelson recalled that she kept her office open and that several FJBC members subsequently arrived and faxed the FJBC letter to the BIA.

7. Ms. Samuelson also recalled that the FJBC letter had concerned an unusual request the FJBC had made to the BIA to take over operation and maintenance of the Flathead Irrigation Project ("FIP"), and that it followed shortly after the previous FJBC had been dissolved. When I asked Ms. Samuelson if she had a copy of the subject letter, she responded that she wasn't sure, but invited me to come back and look through her record collection specific to the FJBC. I was interested in obtaining a copy of that letter because the FJBC website did not contain any information about FJBC Agendas, Minutes, historical documents or other records of public interest. This letter also interested me because it seemed to conflict with current Commissioners' awareness, and contradict FJBC member representations that the FJBC was and remains dead set against BIA operation and management of the FIP.

8. On November 5, 2015, my assistant, Wendy Davis, and I returned to Ms. Samuelson's office in St. Ignatius where we were provided with a private office and four boxes of records to look through. Ms. Samuelson said we were welcome to take and photocopy anything that we thought might be helpful information. In the records search at Ms. Samuelson's office, we located a letter dated December 18, 2013 sent to the "Honorable Sally Jewell, Secretary" and signed by "Jerry Laskody, Flathead Irrigation Project irrigator, Commissioner, Mission Irrigation District Commissioner, former Flathead Joint Board of Control." This letter was accompanied by two other letters signed by Jerry Laskody of the same date addressing the same subject matter – one addressed to Montana Attorney General Timothy Fox, and the other addressed to Montana State Records Manager, Patty Borsberry. I have attached all three letters hereto as EXHIBIT 1. Page 1 of the Sally Jewell letter specifically called for "the Department of Interior [to] resume control over the project operations" to safeguard "Project funds, trust lands or interests in such lands, real property assets and trust resources." I presented this December 18, 2015 letter to Ms. Samuelson and asked her if it was the same letter that had been faxed on her fax machine by FJBC Commissioner Laskody in response to the telephone request Ms. Samuelson had previously received from Dr. Catherine Vandemoer. Trudy said, "Yes, that's it! That's the letter." I then asked Ms. Samuelson if she would be willing to provide a formal affidavit as to her telephone conversation with Dr. Vandemoer wherein Dr. Vandemoer claimed that the letter was her "great idea" and informed Ms. Samuelson of the urgency to get the letter faxed immediately to the BIA. Ms. Samuelson said, "I think the truth needs to come out; yes I will." Ms. Samuelson began to draft her comments for an affidavit while Wendy Davis and I were continuing to review her record collection. As we were leaving, Ms. Samuelson was preparing an email regarding her comments which she agreed to send to attorney Kogan at my request.

However, she was interrupted by phone calls and walk-in clients and did not then complete the electronic transmittal to attorney Kogan.

9. Wendy Davis and I left Ms. Samuelson's offices at approximately 1:30 p.m. on November 5, 2015, with numerous documents we retrieved from the collection we reviewed. At approximately 5:30 p.m. that evening, I received a telephone call from Gene Erb, one of attorney Kogan's clients, who had visited Ms. Samuelson's offices after Wendy Davis and I had left them. Mr. Erb informed me that Terry Backs, a close colleague of Dr. Vandemoer, arrived at Ms. Samuelson's offices just after we had departed there from, and that Ms. Samuelson had since changed her mind about providing the affidavit. Later that evening at approximately, 7:30 p.m., I received a phone call from Ms. Samuelson confirming what Mr. Erb had told me. She said that she had changed her mind about the affidavit out of concern for her real estate business. I subsequently informed attorney Kogan about what had transpired.

10. To the best of my knowledge and belief, Trudy's abrupt change of mind was likely the direct result of Terry Backs' compelling intervention at Ms. Samuelson's offices. Ms. Backs' coincidental appearance at Ms. Samuelson's offices shortly following our departure was puzzling. I suspected that Ms. Backs may have appeared there, mostly likely on behalf of Ms. Vandemoer, with no intention other than to ensure that Ms. Samuelson did not provide attorney Kogan and I with the affidavit Ms. Samuelson had promised us. Nothing else can sufficiently explain why Ms. Samuelson, who earlier had told me that "the truth needs to come out," suddenly became concerned that providing us with the affidavit would adversely affect her real estate business. I don't know how Terry Backs became aware of my discussions with Ms. Samuelson, or of my presence with Wendy Davis at Ms. Samuelson's offices. I do know,

however, that a week or so earlier, FJBC Chairman Boone Cole and a few FJBC Commissioners had used a similar subtle harassment and intimidation technique with several of attorney Kogan's clients.

11. I am informed by several clients that beginning on or about October 23, 2015, and continuing until October 24, 2015, FJBC Chairman Cole and several FJBC Commissioners had contacted by telephone or in-person several of attorney Kogan's clients. These included Ted Hein, Dean Brockway, Carol and Charlie Lyons, Roy and Sheila Vallejo, and Ray Swenson. This FJBC outreach effort was intended to strongly "persuade" Mr. Kogan's clients to withdraw the Motion to Intervene they had asked attorney Kogan to file just one day earlier (i.e., on October 21, 2015). When I heard from several of these clients that Commissioner Orr had stated that he would resign if our clients did not withdraw their motion to intervene, I promptly notified attorney Kogan by email, attached hereto as EXHIBIT 2. I later learned that Mr. Orr's threats to resign from the FJBC were empty threats, because when the Motion to Intervene wasn't withdrawn Commissioner Orr did not resign.

12. I have focused the remainder of my affidavit on statements made by attorneys Bruce Frederickson and Kristin Omvig in recent Affidavits, because I previously enjoyed a cordial and professional relationship with these attorneys, and am very surprised by their current hostile conduct toward attorney Kogan. I first met with attorneys Frederickson and Omvig at their Kalispell, Montana offices during the week of September 9, 2014 before I became deeply involved in federal Indian policy matters in Montana. It was during this initial meeting when these attorneys informed me that they possessed no particular expertise in either water law or

Indian law. As I have been studying federal Indian policy and law for twenty years, and work with citizens, local communities and community groups across the country, I spent three hours in our initial meeting, giving Mr. Frederickson and Ms. Omvig a general overview of Indian law. To help their learning curve, I proceeded to communicate with them via email and telephone during the period spanning September 2014 through May 2015. I also provided attorneys Frederickson and Omvig with Indian case law spreadsheets, U.S. Title 25 policies, and additional information during this period. Furthermore, I referred them to a nationally recognized water law and Indian law expert residing in Arizona, whose contact information I do not share with many people. Given the positive rapport I had enjoyed with attorneys Frederickson and Omvig for nearly one year, I was stunned by a chilling reception at an August 2015 meeting I had arranged with the Mr. Frederickson and Ms. Omvig, for attorney Kogan to meet with them at their offices during attorney Kogan's week-long August 2015 trip to Montana. I thought attorneys Frederickson and Omvig would welcome attorney Kogan's offer to forge a mutually reinforcing working relationship to address water and Indian law issues that were/are adversely affecting Montana irrigators' economic and legal interests. I was shocked, however, by the actual adversarial reception attorneys Frederickson and Omvig had given attorney Kogan during that August meeting. I also am shocked by how these attorneys have since discontinued their cordial and professional relationship with me, and have even avoided speaking with me in public settings when we are present in the same room. FJBC Commissioner Ted Hein, also present at this meeting, was equally disturbed about our reception at this introductory meeting, and returned unannounced and on his own, to the offices of Mr. Frederickson and Ms. Omvig, to discover that Dr. Catherine Vandemoer had arrived there, not long after our meeting concluded.

13. Since the time of this outreach effort, I have learned that attorney Bruce Frederickson and attorney Kristin Omvig had prepared and signed an affidavit dated, November 12, 2015 which was included in the November 13, 2015 FERC filing made by the Flathead Joint Board of Control of the Flathead, Mission and Jocko Valley Irrigation Districts ("FJBC/Districts") in connection with this matter. This affidavit, which is attached hereto as EXHIBIT 3, contains several unsubstantiated statements that attack attorney Kogan's character and credibility and are simply not true.

14. Paragraph 7 of the Frederickson affidavit states, without more, that, "I have certainly been critical of attorney Kogan's positions and objectives during the course of those meetings, and have been forthcoming with my belief that attorney Kogan has misstated facts and law in the pleadings he has submitted in this and other matters." The Frederickson affidavit, however, fails to identify any specific misstated fact or law it alleges attorney Kogan had made "in this and other matters." Furthermore, the affidavit fails to identify the specific "other matters" to which Mr. Frederickson refers. I have worked with and around attorneys for several decades during my professional career, and it is my professional opinion and belief, that Mr. Frederickson's intent in making this statement was nothing other than to smear attorney Kogan personally. For this reason, I am surprised and rather shocked that the FERC Chief Administrative Law Judge would accord this statement any credibility at all in the current proceedings.

15. Paragraph 9 of the Frederickson affidavit states that Mr. Frederickson had "reviewed attorney Kogan's October 31, 2015 e-mail and attachments directed to my partner, Kristin L. Omvig and know his accusations to be wholly without merit." The Frederickson affidavit,

however, mentions nothing about FJBC Commissioner Tim Orr or the email his partner, attorney Kristin Omvig, supposedly had written "at Tim Orr's request" for distribution to attorney Kogan's clients, especially Carol and Charlie Lyons. It also fails to mention anything about attorney Kogan's accusations with respect to attorney Omvig's authorship of that email. Paragraph 10 of the Frederickson affidavit then proceeds to discuss how attorney Frederickson had advised attorney Omvig to avoid a potentially prohibited communication with Ray Swenson, one of attorney Kogan's clients. Affidavit paragraph 10 obviously is intended to create the impression (without stating so) that attorney Omvig had conscientiously avoided prohibited indirect communications through the Tim Orr email and October 25, 2015 meeting with Carol and Charlie Lyons, attorney Kogan's former clients, in the same manner as she had ostensibly done on November 5, 2015, with attorney Kogan's client Ray Swenson. Yet, the facts fail to demonstrate that attorney Omvig had met or otherwise conferred with attorney Frederickson prior to working with FJBC Commissioner Orr on the fated email to ensure against the making of a prohibited client communication.


16. Paragraph 13 of the Frederickson affidavit, in the same vein, states how attorney Frederickson "had spent twelve years of [his] practice life serving on the Commission on Practice for the Supreme Court of Montana (Montana's lawyer disciplinary body) and have dealt extensively with ethical issues and with Montana's Rules of Professional Responsibility." Apparently, Mr. Frederickson felt he needed to establish his bona fides in Montana attorney ethics to create a "cover" for the questionable conduct of his partner, Kristin Omvig, who attorney Kogan alleged had potentially breached the Washington, D.C. and New York Rules of Professional Responsibility by indirectly making contact with his clients through FJBC

Commissioner Tim Orr, whose Board-related activities attorneys Frederickson and Omvig represent as part of their representation of the Board.

17. Apparently, attorneys Frederickson and Omvig had created the misperception that we had the type of cordial and professional relationship that would endure. They also created the misperception that they would be willing to work with other attorneys who offered to render assistance in these matters. Perhaps attorneys Frederickson and Omvig have found other expertise in Indian and water law, presumably or Dr. Catherine Vandemoer who has heretofore, and over many decades, only represented the federal government or tribal governments, and not until this specific instance, represented individual property owners or their respective irrigation districts. It is currently my understanding that Dr. Vandemoer has continued to advise these attorneys on such matters which advice, over time, has proven to be ineffective and unsupportive of the interests of the very same FJBC irrigators that attorneys Frederickson and Omvig represent.

Further your affiant says not.

Dated: 11-30-2015
MM/DD/YY


Elaine Willman

STATE OF MONTANA
COUNTY OF LAKE, ss.

Personally appeared the above-named Elaine Willman,

And made oath that the above facts are true upon her personal knowledge, information and belief and, to the extent that they are based upon information and belief, she swears that she believes them to be true.

Dated 11-30-2015
(MM/DD/YY)

Chris Jackson Chris Jackson
Notary Public
07-02-2018
My Commission Expires

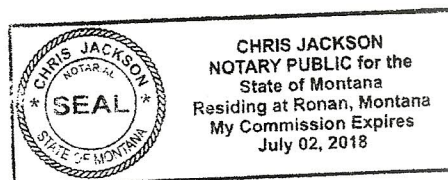


EXHIBIT 1

December 18, 2013

Honorable Sarah Jewell, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington DC 20240

**Subject: Notice of Dissolution of the Flathead Joint Board of Control and Termination
of Flathead Indian Irrigation Project Transfer Agreement**

Dear Secretary Jewell:

This letter notifies you of the dissolution of the Flathead Joint Board of Control (FJBC) as a result of the withdrawal of two of the three districts from the FJBC effective December 12, 2013. As the primary signatory of the agreement which transferred (Transfer Agreement) the operation and maintenance of the federal Flathead Irrigation Project to landowners within the project, the dissolution of the FJBC renders this Transfer Agreement, and the Cooperative Management Entity (CME) formed under it in 2010, null and void.

The purpose of the Transfer Agreement is to fulfill the requirements the 1908 Act ¹ by enabling the owners of the lands irrigated by the Project, acting through the CME, to manage and operate the Project. The CME is an entity created by the Confederated Salish and Kootenai Tribes (CSKT) and FJBC also pursuant to the State-Tribal Cooperative Agreements Act, Title 18, Chapter 11, 101, et Seq., Mont. Code Ann. (2009), to manage and operate the Project. There is no mechanism in the Transfer Agreement or State law that allows for any other organizations except the FJBC and the CSKT to manage the irrigation project.

The Transfer Agreement requires that the Department of the Interior resume control over the project operations if the CME is "found to be operating the project or any part thereof in material violation of the Transfer Agreement." The CME does not now exist and is devoid of any authority to manage the operations of the Flathead Irrigation Project. An emergency resumption of project operations may be directed by the Secretary if the CME has failed to fulfill the requirements of the Agreement and this failure poses (a) an immediate threat of imminent harm to the safety of any person; or (b) imminent substantial and irreparable harm to Project funds, trust lands or interests in such lands, real property assets and trust resources.

¹ "When the payments required by this Act have been made for the major part of the unallotted lands irrigable under any system and subject to charges for construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands to be irrigated thereby." 35 Stat. at 450

We request your immediate direction to the Bureau of Indian Affairs to temporarily resume project operations until such time as a suitable Transfer Agreement can be renegotiated with an entity that represents all three irrigation districts. Such a temporary resumption by Interior of project operations will safeguard the project and trust assets while these issues are resolved. We also request your immediate assistance in protecting the records of the Flathead Irrigation Project and the CME which are of important historic and current relevance to project operations and management.

Thank you for your assistance in this urgent matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Laskody", with a long horizontal flourish extending to the right.

Jerry Laskody,
Flathead Irrigation Project irrigator
Commissioner, Mission Irrigation District
Commissioner, former Flathead Joint Board of Control

Cc: Honorable Tim Fox, Attorney General, State of Montana
Joe Durglo, Chairman, Confederated Salish and Kootenai Tribes
Gordon Wind, Project Manager, Cooperative Management Entity
Jon Metropoulos, Attorney, Flathead Irrigation District and former Flathead Joint Board of Control
W. John Tietz, Attorney, Mission Valley and Jocko Irrigation Districts
Honorable Judge Jim Manning, 20th District Court
Mitch Young, Lake County Attorney

December 18, 2013

Honorable Tim Fox
Attorney General for the State of Montana
Department of Justice
P.O. Box 201401
Helena, MT 59620-1401

Subject: Notice of Dissolution of the Flathead Joint Board of Control and Termination
of State-Tribal Agreement forming the Cooperative Management Entity

Dear Attorney General Fox:

This letter notifies you of the dissolution of the Flathead Joint Board of Control (FJBC) as a result of the withdrawal of two of the three districts from the FJBC effective December 12, 2013. As the primary signatory of the agreement which transferred (Transfer Agreement) the operation and maintenance of the federal Flathead Irrigation Project to landowners within the project, the dissolution of the FJBC renders this Transfer Agreement¹, and the Cooperative Management Entity (CME) formed under it, null and void.

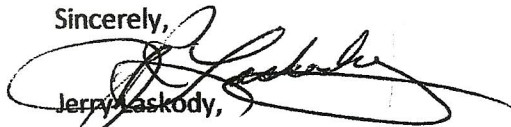
The CME is an entity created by the Confederated Salish and Kootenai Tribes (CSKT) and FJBC pursuant to the State-Tribal Cooperative Agreements Act, Title 18, Chapter 11, 101, et Seq., Mont. Code Ann. (2009), to manage and operate the Project under the Transfer Agreement. There is no mechanism in this Transfer Agreement or the CME Cooperative Agreement that allows for any other organizations except the major signatories, the FJBC and the CSKT, to manage the irrigation project absent a the negotiation of a new agreement.

We are requesting that the Secretary of the Interior resume temporary control of project operations through the Bureau of Indian Affairs while the irrigation districts develop a solution to the transfer of project operations to landowners as directed by the 1908 Act (cite). Pending this solution we expect to renegotiate an agreement with the CSKT pursuant to the MCA 18-11-101 and will keep you apprised.

¹ CME Transfer Agreement: <http://westernmtwaterrights.files.wordpress.com/2013/09/cme-transfer-contract.pdf>

Please find attached our notice to the Secretary of Interior.

Sincerely,



Jerry Laskody,

Flathead Irrigation Project irrigator

Commissioner, Mission Irrigation District

Commissioner, former Flathead Joint Board of Control

Cc: Sarah Jewel, Secretary of Interior,
Honorable Judge Jim Manning, 20th District Court
Mitch Young, Lake County Attorney
W. John Tietz, Attorney, Mission Valley and Jocko Irrigation Districts
Jon Metropoulos, Attorney, Flathead Joint Board of Control
Joe Durglo, Chairman, CSKT

December 18, 2013

Ms. Patty Borsberry
Montana State Records Manager
Office of the Montana Secretary of State
Records and Information Management
1320 Bozeman Street
Helena, MT 59601

Subject: Request for Records Retention & Preservation

Dear Ms. Borsberry:

This letter is to notify you of the dissolution of the Flathead Joint Board of Control (FJBC), the joint representative of the Flathead, Mission Valley, and Jocko Irrigation Districts formed as local government entities pursuant to state law, as of December 12, 2013. The FJBC is the major signatory, along with the Confederated Salish and Kootenai Tribes (CSKT), to the Cooperative Management Entity (CME), an entity formed as a State-Tribal agreement pursuant to the State-Tribal Cooperative Agreements Act, Title 18, Chapter 11, 101, et Seq., Mont. Code Ann. (2009). The CME was formed to jointly manage the Flathead Irrigation Project. Because of the dissolution of the FJBC, the CME is no longer a viable entity under State law.

The records of the FJBC and the CME are public records of significant historic and present relevance to the public, each of the individual irrigation districts, and the CSKT. This letter requests that your office take immediate steps to preserve and protect the records of the former FJBC and the CME while a final disposition of such is determined by the irrigation districts and the Tribes. Please find attached our similar notifications to the Department of the Interior and the Montana Attorney General,

Thank you for your prompt attention to this matter.

Sincerely,

Jerry Laskody,
Commissioner, Mission Irrigation District
Commissioner, former Flathead Joint Board of Control

Cc: **Tim Fox, Montana Attorney General**
W. John Teitz, Attorney, Mission Valley and Jocko Irrigation Districts
John Metropoulos, Attorney, Flathead Irrigation District
Joe Durglo, Chairman, Confederated Salish and Kootenai Tribes
Gordon Wind, Project Manager, (former) Cooperative Management Entity
Honorable Judge Jim Manning, 20th District Court
Mitch Young, Lake County Attorney

EXHIBIT 2

Boone Cole, FJBC Chairman

Elaine Willman [toppin@aol.com]

Sent: Oct 23, 11:10 pm

To: lkogan@koganlawgroup.com

Larry,

I have heard (my sources are completely verifiable) from several sources now that **Boone Cole, Chairman of the FJBC**, has telephoned or in-person confronted several of our Plaintiffs and demanded that they withdraw as plaintiffs from our case. Among those phoned or personally confronted are:

Ted Hein
Dean Brockway
Ray Swenson
Charlie & Carol Lyons
Roy & Shiela Vallejo

None of these plaintiffs are willing to withdraw. They all support our case.

You may want to give the FJBC Chairman a quick heads-up as to how legally inappropriate he is behaving. He has no plausible deniability here. He did what he did, and it can be attested to.

His phone numbers are: 406-544-5395 or 406-544-4257.

I have a couple of "boon-" emails but am uncertain as to which one is Boone Cole's email address so I can't provide that now... Ted probably has it...

Elaine

EXHIBIT 3

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Confederated Salish and Kootenai Tribes)
Energy Keepers, Incorporated)

Project No. P-5-10

AFFIDAVIT OF BRUCE A. FREDRICKSON, ESQ.

STATE OF MONTANA)
) ss:
County of Flathead)

Bruce A. Fredrickson, being first duly sworn upon oath, deposes and says:

1. I am a citizen of the United States, a resident of the State of Montana, of legal age and I am competent to be a witness. I am percipient and if called upon to testify could testify to the following, all of which are within my own personal knowledge.

2. I am an attorney duly licensed to practice law in the State of Montana, and have been so licensed since 1986. I am a partner with the Kalispell, Montana law firm, Rocky Mountain Law Partners, PLLP ("RMLP"). RMLP is general counsel for the Flathead Joint Board of Control, Flathead Irrigation District, Mission Irrigation District and Jocko Irrigation District (collectively "FJBC").

3. I am providing this Affidavit in response to the Supplemental pleading filed on November 6, 2015, by attorney, Lawrence A. Kogan's on behalf of TED HEIN, DEAN BROCKWAY, BUFFALO WALLOW LLC, WESTERN WATER USERS ASSOCIATION LLC, GENE ERB, JR., PAUL A. and BARBARA GRIECO, MARY K. MATHEIDAS, R. ROY and SHEILA M. C. VALLEJO,

4. By comparing the case caption on attorney Kogan's Supplemental pleading with the case caption on prior pleadings filed by Mr. Kogan, it appears that the following are the

"clients" that have severed their relationship with Mr. Kogan, at least with respect to the above captioned action:

- Linda Ambo;
- Gary and Sandy Baertsch;
- Charley and Carol Lyons;
- Robert and Erlene Robinson; and
- Ray L. and E. Anne Swenson.

5. I have had no direct contact regarding the above captioned action with any of the individuals referenced in the preceding paragraph. Whatever "indirect" contact I may have had with those individuals regarding the above captioned action would have come through comments I may have made in open, public FJBC Board meetings, and would only have been the result of those individuals attending the public sessions of those Board meetings. I believe that Ray Swenson was in attendance at one or more of those meetings. I do not know if any of the other individuals were or were not present at those meetings.

6. I have never requested, either directly or indirectly, that any of the individuals named in Paragraph 4, above, withdraw as intervenors in the above captioned action.

7. I have had direct contact with Mr. Hein during the course of executive board sessions and public board meetings with FJBC on matters involving the above captioned action. Mr. Hein is a Board member at large, and is a member of FJBC's Executive Committee. He has attended, as he has a right to do, and spoken at those meetings. I have not spoken individually or privately with Mr. Hein regarding any matter related to these proceedings since he has become associated with attorney Kogan. I have certainly been critical of attorney Kogan's positions and objectives during the course of those meetings, and have been forthcoming with my belief that attorney Kogan has misstated facts and law in the pleadings he has submitted in this and other

matters. At no time have I requested, or even suggested, that Mr. Hein dissociate himself from attorney Kogan.

8. I have had direct contact with Mr. Brockway during the course of FJBC public board meetings on matters involving the above captioned action. Mr. Brockway is a Board member. He has attended, as he has a right to do, and spoken at those meetings. I have not spoken individually or privately with Mr. Brockway regarding any matter related to these proceedings since he has become associated with attorney Kogan. I have certainly been critical of attorney Kogan's positions and objectives during the course of those meetings, and have been forthcoming with my belief that attorney Kogan has misstated facts and law in the pleadings he has submitted in this and other matters. At no time have I requested, or even suggested, that Mr. Brockway dissociate himself from attorney Kogan.

9. I have reviewed attorney Kogan's October 31, 2015 e-mail and attachments directed to my partner, Kristin L. Omvig and know his accusations to be wholly without merit. (Exhibits 1, 1A & 1B attached to Ms. Omvig's Affidavit)

10. In the interest of full disclosure, I met briefly on November 5, 2015 with Ray Swenson and Kristin Omvig prior to a meeting of a committee on which Mr. Swenson serves. I was unable to attend the meeting on that date, but I know the committee has nothing at all to do with the issues before FERC. Mr. Swenson is not a member of the FJBC Board. Ms. Omvig and Mr. Swenson met with me to obtain my opinion as to whether Mr. Swenson could participate in the meeting since Ms. Omvig would also be involved. Mr. Swenson informed me at that time that he placed a call to attorney Kogan on Friday, October 30, 2015, and requested that he and his wife be withdrawn as named parties to the action. Ms. Omvig and Mr. Swenson agreed that regardless of the Swensons' decision to extricate themselves from attorney Kogan and these

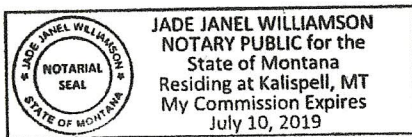
proceedings, Mr. Swenson and Ms. Omvig would not discuss anything regarding the FERC matter and would only discuss matters solely relating to Committee business. Ms. Omvig sought my advice since I had spent twelve years of my practice life serving on the Commission on Practice for the Supreme Court of Montana (Montana's lawyer disciplinary body) and have dealt extensively with ethical issues and with Montana's Rules of Professional Responsibility. Ms. Omvig and Mr. Swenson's agreement not to discuss the FERC proceedings was overly cautious considering Mr. Swenson's stated withdrawal from this action.


Further your affiant says not.



Bruce A. Fredrickson

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.





SIGNATURE
Jade Janel Williamson

PRINT OR TYPE NAME
Notary Public for the State of Montana.
Residing at Kalispell
My commission expires: July 10, 2019

MONTH, DAY, YEAR (201*)