

ATTACHMENT 4

5. Mr. Orr stated that he wanted the meeting hosts to turn a signed version of the completed document in to the Board before the evening so that the Board could send the signed completed document back to the FERC in order to make it part of the FERC proceedings. Mr. Orr stated that “someone” would be sued for leaking “confidential information.” He was pretty adamant that these neighbors answer and sign the email document because, as he said, “the Intervenors would be in a lot of trouble for what they were doing.” He said that a Board member could be fined \$1million for leaking confidential information related to a FERC proceeding. Mr. Orr did not try to persuade me to sign it, because he knew I wouldn’t.

6. Mr. Orr also stated during the meeting that the copied email document, which had the name of the sender and sender’s email address blacked out, was prepared by Board attorney Kristen Omvig, a Partner at Rocky Mountain Partners, PLLP, Kalispell, Montana. After Mr. Orr left the meeting at or near 12:30 pm, I received a copy of the email document from the Lyons, which I have attached to this affidavit as EXHIBIT 1.

7. Since the time of this meeting, I have learned that Tim Orr 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 has EXHIBIT 2, contains a number of statements that are not true.

8. The first untrue statement concerned the Kristin Omvig email that Mr. Orr brought to the Lyons’ home. In paragraph 14 of his affidavit, Mr. Orr stated he “requested that she e-mail [him] a list of questions that would be useful to have answered based on the information that [he] previously passed on to her.” This last statement cannot be true and does not make any sense to me, because the questions attorney Omvig supposedly prepared at Mr. Orr’s request did not

address his most serious concerns about the positions attorney Kogan had taken in the Motion to Intervene. For example, paragraph 9 of Mr. Orr's affidavit states that he was "personally very concerned with the positions taken by attorney Kogan." In addition, paragraph 10 of Mr. Orr's affidavit states that Mr. Orr "did not believe that those individuals understood the positions that attorney Kogan was taking and did not understand what could and could not be addressed in these proceedings." And, paragraph 13 of Mr. Orr's affidavit states that Mr. Orr had "very real and personal concerns regarding what [he] believed to be the potential negative impact of the possible intervention to the irrigation districts and to individual irrigators."

9. If the email attorney Kristin Omvig had supposedly prepared "at Tim Orr's request" had addressed Mr. Orr's "concerns," the email would have focused on what was actually contained in the Motion to Intervene attorney Kogan had filed and its potential impact on irrigators. The motion reflects that I and other of attorney Kogan's clients were suspicious that the Board had not been up front about what precisely they were negotiating in the "confidential" settlement conference proceedings and why it was important to irrigators. The motion also indicates how I and others thought the Board had been very secretive regarding how it planned to achieve its negotiating goals and objectives. And, the motion reveals our observation that the Board had refused to discuss with irrigators the relationship between our water rights, federal and tribal water rights and the low-cost block of power. In fact, each time other irrigators and I had questioned the Board about this relationship and their negotiating goals and objectives, we received the following answers: the relationship was "not relevant," the goals and objectives were "privileged and confidential" and we had to "trust them." I can honestly say that I did not and still do not feel comfortable with the Board's answers to these questions. In fact, as I have come across new information, I am more disturbed by the Board's answers than I was before.

10. The questions attorney Omvig supposedly prepared at Mr. Orr's request, however, did not address his concerns with attorney Kogan's and his clients' positions, or their possible impacts on irrigators. The questions in the email focused instead only on how attorney Kogan represented his clients. This fact convinced me that it was not Tim Orr's idea to request that attorney Omvig prepare the five questions that were contained in the email for him. I am also convinced that it was not Tim Orr's idea to distribute the questions contained in the email to attorney Kogan's clients. Instead, I believe that both of these ideas came from attorney Omvig, herself.

11. Based on my personal knowledge and my observations noted above, I am convinced that Attorney Omvig did not tell the truth in her November 13, 2015 affidavit, attached hereto as EXHIBIT 3. In her affidavit, which accompanied the FJBC/Districts' November 13, 2015 FERC filing, attorney Omvig stated that she had sent the email containing the questions to Tim Orr at his request. As paragraph 10 of attorney Kristin Omvig's affidavit untruthfully states, "[T]he first page of Exhibit 1B is an e-mail that I sent to Tim Orr at Mr. Orr's request."

12. Mr. Orr's affidavit includes two other untrue statements regarding the Kristen Omvig email. The first of these statements indicates that it was Mr. Orr's idea to black out portions of the email. Paragraph 14 of Mr. Orr's affidavit states that "I took it upon myself, with no direction from Ms. Omvig or anyone else, to blackout certain portions of that e-mail." Mr. Orr's statement does not make any sense to me, because the only portions of the email Tim Orr blacked out were those identifying attorney Kristen Omvig as the sender. I know Tim Orr for a long time. He would not have protected Kristin Omvig by blocking out her name as the sender of this email while leaving himself exposed as the receiver of the email, unless attorney Omvig or her partner, attorney Bruce Frederickson, had directed him to do so. The second of these

statements indicates that Mr. Orr had not distributed the email with an expectation of receiving any responses. As paragraph 14 of Mr. Orr's affidavit also states, "I did not ask for responses to the questions at the time of the meeting." This is blatantly untrue considering what I stated above, in paragraph 2: "Mr. Orr stated that he wanted the meeting hosts to turn a signed version of the completed document in to the Board before the evening so that the Board could send the signed completed document back to the FERC in order to make it part of the FERC proceedings."

11. Paragraph 11 of Mr. Orr's affidavit includes two additional untrue statements, as well. For example, it states that Mr. Orr "was told [...] by some of the individuals named as intervenors [...] they had not received any of attorney Kogan's filings and was told by another that he expressly indicated to attorney Kogan or to Elaine Wellman, a consultant and advocate for attorney Kogan, that he was not to be included as a party to the intervention." The first of these statements isn't true because attorney Kogan had previously distributed a copy of the Motion to Intervene to me and his other clients. I recall that such persons even included those who later decided to withdraw as intervenors from these FERC proceedings. Attorney Kogan also directly, or through Ms. Willman, distributed copies of each of the other documents he later filed with FERC to all of his remaining clients, including me.

12. The second of these statements isn't true, because the same names that were on the original Motion to Intervene that attorney Kogan filed did not appear on either of the two supplement documents he later filed with FERC. I recall that after attorney Kogan filed the Motion to Intervene several people asked him to ensure them that their names would not be included on any future documents he would file with FERC in connection with this matter. I understand that these people included Charlie and Carol Lyons. I recall that they made this

decision after FJBC Chairman Boone Cole and several FJBC Commissioners had contacted them threatening to resign if the Motion to Intervene was not withdrawn. I know, because Ted Hein and Dean Brockway (two other clients) and I also received phone calls like this from Mr. Cole and other Commissioners, including Tim Orr. Based on my review of the documents attorney Kogan filed with FERC after the Motion to Intervene, I can confirm that he did what these people asked him to do – he removed their names from the documents.

13. It causes me great pain to make this affidavit, because Tim Orr is my friend. However, I feel it is necessary to set the record straight.

further your affiant says not.

Dated: 11-30-15
MM/DD/YY

Gene Erb, Jr.
Gene Erb, Jr.

STATE OF MONTANA
COUNTY OF LAKE, ss.

Personally appeared the above-named Gene Erb, Jr.

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

Dated 11-30-15
(MM/DD/YY)

Janet Munn
Notary Public
9-18-18
My Commission Expires

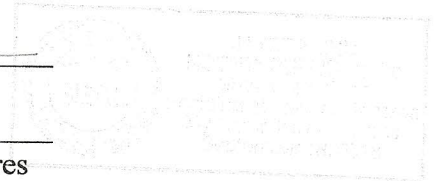


EXHIBIT 1

orrfarm@blackfoot.net

From: [REDACTED]
Date: Sunday, October 25, 2015 9:51 AM
To: "Tim Orr" <orrfarm@blackfoot.net>; [REDACTED]
Subject: Points and issues

1. Did they agree to be represented by Kogan in FERC proceedings?
2. Did they review and approve the FERC intervention pleading?
3. Has Kogan provided them with copies of pleadings, letters emails he's sent? Did they review and approve them being sent?
4. Nature of their interactions with Boone. Discussion vs. Intimidation.
5. Do they want intervention withdrawn or to be removed as intervenors?

Sent from my Verizon Wireless [REDACTED]

EXHIBIT 2

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Confederated Salish and Kootenai Tribes)
Energy Keepers, Incorporated)
)

Project No. P-5-100

AFFIDAVIT OF TIM ORR

STATE OF MONTANA)
) ss:
County of Flathead)

Tim Orr, 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 individual residing on the Flathead Indian Reservation ("FIR"). I am a farmer and own fee land on the FIR; I am an irrigator, a member of the Mission Irrigation District, and a Board and Executive Committee member of the Flathead Joint Board of Control ("FJBC").

3. I make this affidavit of my own accord and do not speak for any other individual or entity, including the irrigation districts and FJBC.

4. For many years, I was directly involved with operations of the Flathead Irrigation Project ("Project"). I am very familiar with the Project's history and with the issues surrounding Project operations. I am also very familiar with the Low Cost Block of Power ("LCB") and Net Power Revenues ("NPR"), and their associated issues, including the issues involved in the above captioned action.

5. Both LCB and NPR are vital to the continued viability of the Project and the irrigators who make their living on farms and ranches served by the Project.

6. I am providing this Affidavit in response to the Supplemental pleading filed on October 5, 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.

7. I consider each of the individuals named in the preceding paragraph to be a friend.

8. 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.

9. I am personally very concerned with the positions taken by attorney Kogan and have been outspoken regarding my concerns, both at FJBC Board meetings and in conversations that I have had with friends and other irrigators who will ultimately be impacted by these proceedings.

10. I was especially concerned when I saw the names of the individuals attorney Kogan named as intervenors in this action. I did not believe that those individuals understood

the positions that attorney Kogan was taking and did not understand what could and could not be addressed in these proceedings.

11. I took it upon myself, at no one's direction, to speak with some of the individuals named as intervenors. I was told by some that they had not received any of attorney Kogan's filings and was told by another that he expressly indicated to attorney Kogan or to Elaine Wellman, a consultant and advocate for attorney Kogan, that he was not to be included as a party to the intervention.

12. I informed FJBC's attorney, Kristin Omvig, of the nature of those conversations.

13. Based on information I had been provided and based on my very real and personal concerns regarding what I believed to be the potential negative impact of the possible intervention to the irrigation districts and to individual irrigators, I e-mailed Ray Swenson and asked if he would schedule a meeting for 10:00 A.M., Sunday, October 25, 2015, with several of the intervenors. He followed through and did that.

14. I spoke with FJBC attorney, Kristin Omvig, prior to that meeting and requested that she e-mail me a list of questions that would be useful to have answered based on the information that I previously passed on to her. That e-mail is attached hereto as **EXHIBIT 1**. I took it upon myself, with no direction from Ms. Omvig or anyone else, to blackout certain portions of that e-mail, and rather than re-writing the questions (my handwriting is poor), I simply gave it to those in attendance at the meeting as something to ponder. I did not ask for responses to the questions at the time of the meeting.


15. The 10:00 o'clock meeting was held at Charley and Carol Lyons' home and those in attendance were Ray Swenson, Charley and Carol Lyons, Gene Erb and me. Ted Heins was also supposed to be in attendance at that meeting but could not make it. The meeting was not

contentious, was entirely voluntary and I again explained my very real concerns of what I perceived to be the potential negative impact that the intervention was likely to have on this proceeding. I also shared with those in attendance the graph that was prepared by one of the irrigators. That graph is attached hereto as **EXHIBIT 2**.

16. I was not directed by any of the Board's attorneys to do or say anything at that meeting. I did not believe that the intervenors had been provided with good information from attorney Kogan, and wanted to make sure that they each understood my concerns. I acted on my own scheduling and speaking at the meeting. I was not acting on behalf of the Board or the Board's attorneys, although I know that they share many of my same concerns.

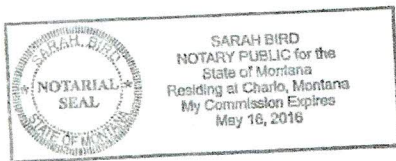
17. I have reviewed attorney Kogan's October 31, 2015 e-mail and attachments directed to attorney, Kristin L. Omvig and know his accusations to be wholly without merit. (Exhibits 1, 1A & 1B attached to Ms. Omvig's Affidavit)

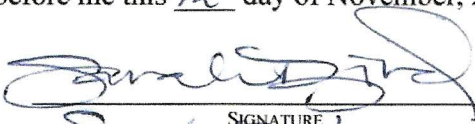
Further your affiant says not.



Tim Orr

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





SIGNATURE
Sarah Bird

PRINT OR TYPE NAME
Notary Public for the State of Montana.
Residing at Charlo, MT
My commission expires:
05-16-2016

MONTH, DAY, YEAR (201*)

EXHIBIT 3

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

- Scott and 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. 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. At no time have I requested, or even suggested, that Mr. Brockway dissociate himself from attorney Kogan.

9. On October 30, 2015, and again on October 31, 2015, I received an e-mail from attorney Kogan, a true and correct copy of which is attached as **EXHIBIT 1**. True and correct copies of the two attachments to that e-mail are attached as **EXHIBIT 1A and EXHIBIT 1B**.

10. The first page of **Exhibit 1B** is an e-mail that I sent to Tim Orr at Mr. Orr's request. The remaining pages of **Exhibit 1B** were distributed by Mr. Orr without my knowledge. Mr. Orr had meetings scheduled with some of the intervenors included in attorney Kogan's original filings in the above captioned action. Mr. Orr is a board member of FJBC and was duly concerned about attorney Kogan's filings, and planned to discuss the Board's position with those individuals with whom he intended to meet.

11. Mr. Orr and at least one other member of FJBC's Board of Directors had obtained information, either directly or indirectly, that at least some of the named intervenors was unaware of the actions attorney Kogan was taking in their name; had not received copies of any of the documents attorney Kogan had filed; and in at least one instance, had apparently expressly instructed attorney Kogan to *not* include that individual's name as an intervenor.

12. The information regarding the allegations leveled at attorney Kogan's conduct raised serious concerns regarding the attempted intervention.

13. Attorney Kogan also made allegations about Boone Cole, FJBC's Board Chair in communications with the Settlement Judge in these proceedings, that were disconcerting and which certainly did not reflect Mr. Cole's personality traits that I was familiar with. If attorney Kogan's assertions were accurate, it would have been appropriate to deal with Mr. Cole's actions. However, if those assertions were inaccurate, as I believed them to be, then attorney Kogan was making false statements as part of his attempts to participate in the settlement process at FERC.

14. Since the intervenors were purportedly all "clients" of attorney Kogan, I could not communicate directly with them. I suggested, however, that if Mr. Orr was going to visit with some of the named intervenors, he try to either confirm or dispel the information referenced in the preceding paragraph.

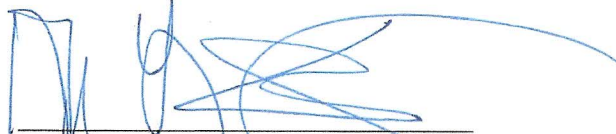
15. Mr. Orr reported to me that he met with Charley and Carol Lyons, Gene Erb, and Ray Swenson on October 25, 2015. He reported the nature of his discussions, the gist of which supported the information that we had previously received.

16. I responded to attorney Kogan on November 4, 2015. A true and correct copy of my letter to him is attached hereto as **EXHIBIT 2**.

17. In the interest of full disclosure, I did meet with Ray Swenson and members of a committee on which he serves, on November 5, 2015. That committee has nothing at all to do with the issues before FERC. Mr. Swenson is not a member of the FJBC Board. Prior to meeting, I informed Mr. Swenson that I could not communicate with him regarding any aspect of the FERC action. 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. Mr. Swenson and I also discussed the issue of his presence at the meeting with my

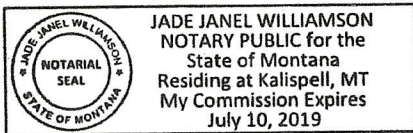
partner, Bruce A. Fredrickson. We ultimately decided we could go forward with the meeting with Mr. Swenson in attendance, however, we refrained from discussing anything regarding the FERC matter and discussed matters solely relating to Committee business.

Further your affiant says not.



Kristin L. Omvig

SUBSCRIBED AND SWORN to before me this 13th day of November, 2015.



Jade Janel Williamson
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*)