

I believe now and always have believed in open and transparent actions by our elected officials. This is one of the many beliefs that prompted me to run for the office of Klamath County Commissioner.

I fully understand and except the high level of scrutiny associated with any elected office. This is something that I have always embraced over the many, many years of involvement in various local matters. Having taken strong positive stands on issues, I have been the target of more unfounded criticism than I could count. Again, all this goes with the territory. I will continue to welcome any and all ideas and opinions on issues facing Klamath County.

Dealing with criticism respectfully and straight forward with simple truth and facts has always been my philosophy. However at some point, one has to question how far is far enough with unfounded claims and criticism?

I will state the obvious, I am not only a Klamath County Commissioner, but my wife and I have a smaller irrigated farm. I do not run the day to day operation any longer. Being a County Commissioner is much more than a full time position.

A recent Complaint filed with the Oregon Government Ethics Commission, by Klamath Irrigation District, against me is another example of a baseless claim. I have been accused of having improper unannounced meetings dealing with water issues in the Klamath Basin, forming a Proclamation. The simple fact is that the Klamath County Board of Commissioner discussion was conducted in scheduled, open public meetings with appropriate agendas posted as required. I did not suggest the formation of the Proclamation and furthermore, I did not even participate in the discussion.

This elected Klamath Irrigation District Board also claim I was using my position as a public officer, using public funds and facilities for my personal benefit. Their claim is that thru the Klamath Adjudication, my irrigation water was shut off and the Proclamation was an attempt to have the Court allow me to turn my water back on. This elected Board not only missed the published meeting notices and agendas, but also somehow missed the very simple fact that our irrigation water was **NEVER** even shut off! My wife and I made a simple business decision many years ago to drill a well so we would have the option of irrigating from the river or a well. So in short, there was NO personal benefit to be realized. We are still irrigating. I have a very hard time believing that this Board or their attorney had absolutely no knowledge of these facts before filing this claim.(only 3 of the 5 board members voted to file this complaint)

This effort is an obvious vain attempt to harass me, as an elected official, trying to defame and slander me personally for **PURE** political motives.

But as always, I will continue to do what the citizens of Klamath County elected me to do which is to gather the facts and be willing and able to make the hard decisions required to help Klamath County not only survive but thrive in these troubling times.

The continual positive calls, e-mails, letters and personal comments are more rewarding than I ever imagined possible. I enjoy each and every day and each and every challenge. I thank every citizen for this opportunity to continue serving all of Klamath County.

**BOARD OF COUNTY COMMISSIONERS - COUNTY COUNSEL
REGULAR MEETING
JUNE 11, 2013**

Agenda Items:

- 1) Friends of the Court brief for water adjudication;
- 2) Public Works activity restrictions;
- 3) Non-partisan Ordinance;
- 4) Legal Fee Reserve Fund;
- 5) Informed Consent;
- 6) Discussion
 - a) Contract Extensions
 - b) CHA Memorandum

**BOARD OF COUNTY COMMISSIONERS - COUNTY COUNSEL
REGULAR MEETING
JULY 16, 2013**

Agenda Items:

1) Amicus Brief:

2) Trespass Authority;

3) Humane Society contract;

4) Jail fee per household update;

5) Open discussion:

REGULAR MEETING OF THE
 KLAMATH COUNTY BOARD OF COMMISSIONERS
 KLAMATH COUNTY LIBRARY SERVICE DISTRICT
 TUESDAY, JULY 2ND, 2013 - 9:00 A.M.
 COMMISSIONERS' HEARING ROOM

- A. OPEN MEETING/THOSE PRESENT/FLAG SALUTE
 - 1. COMMISSIONERS JIM BELLET, VICE-CHAIR, TOM MALLAMS, AND DENNIS LINTHICUM, CHAIR; LAURA TURNER, RECORDING SECRETARY; DALE GEIGLE AND NICK HILL, VIDEO TECHNICIANS; STAN STRICKLAND, PUBLIC WORKS; JASON LINK, FINANCE; GREG SEGER, CDD- BUILDING; AMANDA BUNGER, BEHAVIORAL HEALTH; PAUL HANSEN, KLAMATH RADIO KELS; FRANK SKRAH, SHERIFF; REPRESENTATIVES FROM SPOKES, DHS, AND KLAMATH TRIBES.
- B. AGENDA ADDITIONS OR DELETIONS
 - 1. ADDITION: E.2 B.1 ADDED
- C. WEEKLY PROCEEDINGS
 - 1. IN THE MATTER OF APPROVING THE WEEKLY PROCEEDINGS FOR THE PERIOD OF JUNE 25TH - JULY 1ST, 2013 - COMMISSIONER LINTHICUM, BOCC. C.1 APPROVED
- D. PRIOR ITEMS APPROVED
 - NOTE FOR THE RECORD:
 - 1. IN THE MATTER OF APPROVING NEW LIQUOR LICENSE FOR JODY'S ROUND LAKE ROAD TEXAS RIB HOUSE (BOCC). D.1 PRIOR APPROVED
 - 2. IN THE MATTER OF AGREEMENT BETWEEN PORTLAND GENERAL ELECTRIC COMPANY (P.G.E.) AND KLAMATH COUNTY FOR WEED CONTROL (PUBLIC WORKS). D.2 PRIOR APPROVED
 - 3. IN THE MATTER OF ADOPT A SUPPLEMENTAL BUDGET WITHIN THE SHERIFF PATROL SUB-DEPARTMENT OF THE GENERAL FUND (FINANCE). D.3 PRIOR APPROVED
 - 4. IN THE MATTER OF APPROVE THE PURCHASE OF 40 WALL MOUNT STEEL BUNKS TO BE INSTALLED IN B POD (SHERIFF). D.4 PRIOR APPROVED
 - 5. IN THE MATTER OF PRIOR APPROVED MODIFICATION OF AGREEMENT NO. 12-PA-111060200-022 BETWEEN US FOREST SERVICE AND KLAMATH COUNTY FOR WEED CONTROL - (PUBLIC WORKS). FISCAL IMPACT: \$20,000 REVENUE D.5 PRIOR APPROVED
- E. PROCLAMATIONS/PRESENTATIONS
 - 1. IN THE MATTER OF PROCLAIMING THE MONTH OF JULY 2013 AS "ANNIVERSARY FOR AMERICANS WITH DISABILITIES ACT" IN KLAMATH COUNTY, OR (BOCC). SPOKES, DHS AND KLAMATH TRIBES. E.1 PROCLAIMED
 - 2. IN THE MATTER OF PROCLAIMING "EFFICIENT AND PRODUCTIVE USE OF WATER RESOURCES" IN KLAMATH COUNTY, OR (BOCC). E.2 ADDED/ PROCLAIMED
- F. PUBLIC HEARINGS
 - 1. F.1 NONE

NOTATED

- G. BID/AWARDS/
PROPOSALS
 - 1. IN THE MATTER OF EXECUTE BID AWARD FOR TIRE CAPPING AND REPAIRS FOR THE PERIOD BEGINNING JULY 1, 2013 THROUGH JUNE 30, 2014 – STAN STRICKLAND, PUBLIC WORKS. G.1 APPROVED
 - 2. IN THE MATTER OF EXECUTE BID AWARD FOR THE FOOTHILLS MULTI-USE PATH - STAN STRICKLAND, PUBLIC WORKS. G.2 APPROVED
- H. ORDINANCES
 - 1. H.1 NONE
- I. RESOLUTIONS
 - 1. IN THE MATTER OF APPROVING A RESOLUTION SCHEDULING THE PUBLIC HEARING ON THE DRAFT ORDINANCE NO. 86, WHICH WILL MAKE THE BOARD OF COUNTY COMMISSIONERS OFFICE NON-PARTISAN BEGINNING 2013 – DENNIS LINTHICUM, BOCC. RS 2014-001. I.1 APPROVED
- J. ORDERS
 - 1. IN THE MATTER OF TRANSFER OF EXCESS ROAD FUNDS MONIES TO THE GENERAL FUND SHERIFF PATROL DIVISION – JASON LINK, FINANCE. OR 2014-001. J.1 APPROVED
 - 2. IN THE MATTER OF APPROVE THE FINAL ORDER FOR THE VACATION OF THE LOT LINE BETWEEN LOTS 3 AND 4 OF BLOCK 25, OREGON SHORES – UNIT 2 (TRACT 1113 – MTL R-3807-018DD-04900 & 05000) – COMMISSIONER LINTHICUM. OR 2014-002. J.2 APPROVED
- K. AGREEMENTS
 - 1. IN THE MATTER OF EXECUTION OF AN AGREEMENT BETWEEN KLAMATH COUNTY AND THE CITY OF KLAMATH FALLS – STAN STRICKLAND, PUBLIC WORKS. K.1 APPROVED
 - 2. IN THE MATTER OF INTERGOVERNMENTAL AGREEMENT #29169 BETWEEN KLAMATH COUNTY AND THE STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION – STAN STRICKLAND, PUBLIC WORKS. K.2 APPROVED
 - 3. IN THE MATTER OF INTERGOVERNMENTAL AGREEMENT #29499 BETWEEN KLAMATH COUNTY AND THE STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION – STAN STRICKLAND, PUBLIC WORKS. K.3 APPROVED
 - 4. IN THE MATTER OF EXECUTE INTERGOVERNMENTAL AMENDMENT BETWEEN LANE COUNTY AND KLAMATH COUNTY FOR RIGHT-OF-WAY ACQUISITION SERVICES 2011-2014 – STAN STRICKLAND, PUBLIC WORKS. K.4 APPROVED
 - 5. IN THE MATTER OF EXECUTION OF AN AGREEMENT BETWEEN KLAMATH COUNTY AND DESCHUTES CONSTRUCTION FOR THE FOLLOWING PROJECT: "LOST RIVER (JOHNSON ROAD) BRIDGE" – STAN STRICKLAND, PUBLIC WORKS. K.5 APPROVED
 - 6. IN THE MATTER OF AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN LAKE COUNTY AND KLAMATH COUNTY TO PROVIDE PLAN REVIEW AND INSPECTION SERVICES – GREG SEGER, COMMUNITY DEVELOPMENT DEPARTMENT - BUILDING. K.6 APPROVED

NOTATED

- 7. IN THE MATTER OF AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN LAKE COUNTY AND KLAMATH COUNTY TO PROVIDE BUILDING OFFICIAL SERVICES – GREG SEGER, COMMUNITY DEVELOPMENT DEPARTMENT - BUILDING. K.7 APPROVED
- 8. IN THE MATTER OF APPROVE AMENDMENT #3 TO THE DEPARTMENT OF HUMAN SERVICES 2011-2013 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF COMMUNITY DEVELOPMENTAL DISABILITY SERVICE AGREEMENT # 134281 – AMANDA BUNGER, BEHAVIORAL HEALTH & WELLNESS. K.8 APPROVED
- 9. IN THE MATTER OF APPROVE AMENDMENT #4 TO THE DEPARTMENT OF HUMAN SERVICES 2011-2013 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF COMMUNITY DEVELOPMENTAL DISABILITY SERVICE AGREEMENT # 134281 – AMANDA BUNGER, BEHAVIORAL HEALTH & WELLNESS. K.9 APPROVED
- L. BUDGET RESOLUTIONS 1. L.1 NONE
- M. LICENSES 1. M.1 NONE
- N. OTHER COUNTY BUSINESS 1. N.1 NONE
- O. PUBLIC COMMENT/ PETITIONS 1. GARY WELLS, KENO RESIDENT – INSTEAD OF TARGETING OUR SAFETY DEPARTMENTS; POLICE & FIRE; HOW ABOUT LAYING OFF STREET MAINTENANCE PEOPLE INSTEAD OF OUR SAFETY PEOPLE. O.1 GIVEN
- P. COMMISSIONER REPORTS 1. HAVE A SAFE INDEPENDENCE DAY. P.1 GIVEN
- Q. LIBRARY SERVICE DISTRICT ISSUES 1. Q.1 NONE
- R. DRAINAGE SERVICE DISTRICT ISSUES 1. R.1 NONE
- S. ADJOURNMENT 1. ADJOURNED FROM REGULAR SESSION AT 10:30 A.M.

KLAMATH COUNTY COMMISSIONERS E-MAIL ADDRESS "BOCC@KLAMATHCOUNTY.ORG". KLAMATH COUNTY WEB SITE WWW.KLAMATHCOUNTY.ORG INVITATIONS TO BID AND REQUESTS FOR PROPOSALS FOR ALL COUNTY PROJECTS AND SERVICES CURRENTLY OPEN, ARE NOW AVAILABLE ONLINE AT WWW.KLAMATHCOUNTY.ORG CLICK ON DEPARTMENTS, ADMINISTRATIVE SERVICES AND CONTRACTS/GRANTS. NOTE: ALL ITEMS COVERED UNDER ORS 294.250 ARE POSTED AT THE COMMISSIONERS' OFFICE AND THE LIBRARIES; COPIES OF PROCEEDINGS ARE AVAILABLE FROM THE COMMISSIONERS' OFFICE. THE MEETING FACILITY IS HANDICAPPED ACCESSIBLE. PERSONS NEEDING MATERIALS IN ALTERNATE FORMAT OR COMMUNICATION ACCESS, SUCH AS A SIGN INTERPRETER, MAY TELEPHONE THIS OFFICE AT (541) 883-5100 (VOICE/TDD) OR THE ADA COORDINATOR AT (541) 883-4296 (VOICE/TDD) AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING.



Oregon

John A. Kitzhaber, MD, Governor

Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

E-mail: ogec.mail@state.or.us

Web Site: www.oregon.gov/ogec

RECEIVED

AUG 09 2013

by Board of Commissioners

August 6, 2013

Tom Mallams
Klamath County Commissioner
305 Main St
Klamath Falls, OR 97601

Re: Notice of Complaint Received

Dear Mr. Mallams:

Oregon Statute requires the Oregon Government Ethics Commission (Commission) to notify named parties when a complaint is received.

The content of the complaint is being reviewed by the Executive Director to determine if the matter is within the jurisdiction of the Commission. Another letter will be sent to you following the review that will advise you of the complaint status. A copy of the complaint is enclosed for your reference.

The Commission will make no public disclosure or comment related to this matter other than to acknowledge that a complaint is pending if an inquiry is made. The confidentiality requirement applies only to Commission personnel. The ability of any other persons to publicly comment about this matter is not affected.

Sincerely,

Erin Horstman
Commission Staff

Enclosures

ethicsNC1A

KLAMATH IRRIGATION DISTRICT

6640 K.I.D. LANE

KLAMATH FALLS, OREGON 97603

Phone: (541) 882-6661 Fax: (541) 882-4004 Email: kidmark@fireserve.net

July 30, 2013

Oregon Government Ethics Commission
3218 Pringle Road SE, Suite 220
Salem OR 97302-1544

2013
CLERK OF THE ETHICS COMMISSION

Re: Klamath County Commissioner Tom Mallams

Dear Ethics Commission:

The Board of Directors of the Klamath Irrigation District requests that you investigate action taken by Klamath County Board of Commissioner Tom Mallams, which appears to us to be an inappropriate use of his official position and misuse of public funds with respect to litigation pending in the Klamath River Adjudication.

For more than 35 years, the Oregon Department of Water Resources has been conducting an Adjudication of the use of the waters of the Klamath River. On March 11, 2013, the Department entered a Final Order adjudicating the Claims filed by numerous parties in the administrative portion of the Adjudication. The Final Order was filed with the Circuit Court of the State of Oregon for Klamath County. The Order found in part that the United States of America, Department of Interior, Bureau of Indian Affairs, as Trustee for The Klamath Tribes, and The Klamath Tribes, hold certain water rights for instream flows in the tributaries to Upper Klamath Lake. The Order also found in part that the owners of irrigated land in the Klamath Reclamation Project located in Southern Klamath County and Northern Modoc and Siskiyou Counties in California, have rights to divert water from the Klamath River for irrigation of land in the Klamath Project.

Klamath County Board of Commissioner Tom Mallams owns a ranch located upstream of the Upper Klamath Lake on a tributary, the Sycan River. Mr. Mallams holds two Certified Water Rights, 83139 and 83140, to divert water from the Sycan River or its tributaries to irrigate a portion of his land. He also holds a Permit to use ground water produced from a well to irrigate a portion of his land. Mr. Mallams' water rights are junior and subordinate to the rights of The Klamath Tribes and the Klamath Project landowners.

On June 10, 2013, the United States, BIA, and The Klamath Tribes made a "call" requesting that the State Water Master enforce their senior water rights. On that same day, the Klamath Irrigation District and other water delivery districts within the Klamath Project also made a "call" requesting that the State enforce their senior water rights against junior appropriators. Because of those calls, the Water Master directed Mr. Mallams and similarly situated junior water right holders to stop the diversion of surface water, in Mr. Mallams' case from the Sycan River and its tributaries. That shut off the irrigation of Mr. Mallams' land with surface water.

On or about May 1, 2013, Mr. Mallams and approximately 29 other upstream landowners filed a Petition in the Circuit Court requesting that the court stay the enforcement of the rights of The Klamath Tribes and the Klamath Project landowners. On June 13, 2013, Mr. Mallams and his co-petitioners filed a Motion for a Temporary Restraining Order requesting that the court restrain the Department of Water Resources from enforcing the Tribal and Project irrigators' water rights. The court, acting through the Honorable Cameron F. Wogan, Circuit Court Judge, then set a series of dates for briefing of the Petition for Stay and Responses to it, and the Temporary Restraining Order. Judge Wogan also conducted several hearings, including one on July 2, 2013. During the hearing on July 2, 2013, a "Proclamation" of the Board of Commissioners of Klamath County, Oregon, signed by all three Commission members, including Mr. Mallams, was delivered to Judge Wogan. A copy of the Proclamation is enclosed.

The Proclamation includes the following statement:

"WHEREAS, the Circuit Court in Klamath County has the ability to move in a direction to help all entities stay somewhat whole for the near future and wait until agreements are made that everyone looks forward to;"

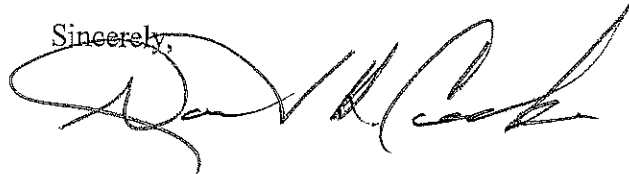
We interpret that phrase as a request to the Circuit Court that it act to stay the enforcement of the Tribal and Klamath Project landowners' rights. The effect of a stay of enforcement of those rights by the court would be to allow Mr. Mallams to continue to irrigate his land with surface water from the Sycan River and its tributaries.

After considering the arguments at the hearing and the briefings of the parties, Judge Wogan dismissed the Petitions for Stay filed by Mr. Mallams and his co-petitioners.

We are aware of no public notice made that the Board of Commissioners was going to conduct a meeting to consider the Proclamation. Clearly, it is of interest to the parties who were participating in the proceeding in Circuit Court, including the Klamath Irrigation District. We object to Mr. Mallams using his position as a public officer and using public funds and facilities to advocate a position for his personal benefit, i.e., requesting that the court stay the enforcement of our water rights and those of The Klamath Tribes so that he can irrigate his land.

We respectfully request that the Ethics Commission investigate this matter to determine whether Mr. Mallams' actions in this matter violated the ethics rules that apply to all Oregon public officials.

Sincerely,



David A. Cacka, President
Board of Directors, Klamath Irrigation District

Enclosure

**BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY, OREGON**

**IN THE MATTER OF PROCLAIMING "EFFICIENT AND)
PRODUCTIVE USE OF WATER RESOURCES") PROCLAMATION
IN KLAMATH COUNTY, OREGON)
)**

WHEREAS, Klamath County is in a drought condition, that will affect all water users in Klamath County; and

WHEREAS, Total loss of water to any irrigator, national park, refuge, or fishery or other entity that depends on water will devastate the economy of Klamath County in the millions of dollars; and

WHEREAS, Any loss of a ranch, farm, national park, refuge, or fishery in Klamath County impacts the future of Klamath County and its ability to maintain its services to the citizens of the County; and

WHEREAS, Our federal government wants an agreement with all water users, that is fair and equitable and works to alleviate injustice by having all parties involved in the agreements; and

WHEREAS, the Circuit Court in Klamath County has the ability to move in a direction to help all entities stay somewhat whole for the near future and wait until agreements are made that everyone looks forward to;

NOW THEREFORE BE IT PROCLAIMED, by the Klamath County Board of Commissioners, that there is a need for expediency to help Klamath County, its citizens, Crater Lake National Park, the refuges and all farms and ranches, to *Ensure Reasonable Access to the Productive Use of Our Water Resources*" in Klamath County, Oregon

DONE AND DATED this 2nd day of July, 2013.

BOARD OF COUNTY COMMISSIONERS



Dennis Linthicum, Chair



Jim Bellet, Vice-Chair



Tom Mallams, Commissioner





Oregon

John A. Kitzhaber, MD, Governor

Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

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Web Site: www.oregon.gov/ogec

August 12, 2013

Tom Mallams
Klamath County Commissioner
305 Main St
Klamath Falls, OR 97601

Re: Tom Mallams
Case No. 13-177EAI

Dear Mr. Mallams:

You were previously notified that the Oregon Government Ethics Commission (Commission) has received a complaint from David A. Cacka regarding you.

The Commission's jurisdiction is very specific and relates to matters involving Oregon Lobby Regulation laws pursuant to ORS 171.725, executive session provisions of Oregon Public Meetings law pursuant to ORS 192.660, and Oregon Government Ethics law, which prohibits the use of public office for personal gain pursuant to ORS Chapter 244.

The information provided in the complaint is insufficient for the Commission to take action at this time. Additional information has been requested from the complainant to enable Commission staff to determine if official action can be taken. No action is required of you unless further notified. Please feel free to contact this office if you have questions.

Sincerely,

Ronald A. Bersin
Executive Director

ethicsNC5

RECEIVED

AUG 15 2013

by Board of Commissioners