

April 4, 2016

Mr. Edward Sheets  
Ed Sheets Consulting  
4545 Sand Point Way Ne # 801  
Seattle, WA 98105

Re: KID Demand for Copy of Newly Amended Text of Amended KHSA;  
Invocation of KHSA Notice and Dispute Provisions

Dear Mr. Sheets,

I am Counsel and Legal Representative of the Klamath Irrigation District (KID). I understand from the terms of Article 1.B of the draft proposed [Klamath Power and Facilities Agreement](#) (“Definitions and Acronyms - Amended KHSA”) which was recently "leaked" to the public, that the Federal and State Parties to the Amended KHSA intend to execute the Agreement on Wednesday, April 6, 2016, or soon thereafter.

Among other problems with the new draft KPFA, it is clear that the process for its negotiation has been other than public and transparent considering that the draft KPFA was itself labeled “Confidential and Privileged Settlement Communication,” as was the amended KHSA previously. As you may recall, Congressman Doug LaMalfa (R-CA) and his Chief of Staff, Mark Spannagel, had protested to you and the other federal and state officials participating in these “confidential settlement negotiations” against the non-transparency of the negotiating process as well as against the illegality of the requirement that participants and observers sign a nondisclosure agreement.

As today's press reveals, the KPFA provision noted above has all been but corroborated in the following press release and news article issued today, April 4, 2016, respectively, by Secretary of the Interior Sally Jewell, Oregon Governors Kate and Edmund Brown, and by the Northcoast Journal.

- <https://www.doi.gov/mediaadvisories/secretary-jewell-governors-california-and-oregon-tribal-leaders-water-users-make>
- <http://www.northcoastjournal.com/NewsBlog/archives/2016/04/04/california-oregon-governors-to-make-major-announcement-on-klamath>.

You may recall, during the March 16, 2016 public meeting in Sacramento, California, that I requested on several occasions, in my capacity as Counsel and Legal Representative of the KID, a signatory and stakeholder to the KHSA, for the opportunity to submit, on the KID's behalf, redline edits to the amended KHSA. The KID had been working on these edits for several weeks until it learned from third parties that the March 15, 2016 amended KHSA text has, once again, been amended.

Unfortunately, you have failed to share with us such subsequently amended text, and have thus violated the KID's and its members' due process rights under said agreement.

Since the KID did not, as signatory and stakeholder, receive a copy from you of the once again amended text of the amended KHSA, the KID now demands that you provide it with such a copy without delay. Additionally, the KID demands that the federal, state and local governments and tribal parties to the amended KHSA immediately cease all activities that would lead to execution of said agreement in the near future without adequate review by and discussion between and among the parties.

In making these demands, the KID officially invokes the Notice and Dispute provisions of Articles 8.5 and 8.6 of the KHSA, which requires all KSHA parties to meet and confer to resolve this dispute pursuant to the provisions of KHSA Article 8.7.

As signatories and stakeholders to the amended KHSA, the KID is entitled to a reasonable opportunity, as a matter of due process of law, to receive, to review and to comment on the newest and most recent text of the subsequently amended KHSA, *before* the federal, state and tribal parties execute said agreement.

Mr. Sheets, as the appointed "neutral" intermediary, facilitator and convener of the public meetings and negotiation processes surrounding both the amended KHSA and the recently disclosed draft KPFA, you are both legally and ethically obligated to uphold your responsibility to all signatories and stakeholders be fair, neutral, equitable and disinterested. Your actions to date betray this obligation.

Please be apprised that should you not act in the manner becoming of such role and proceed to deny the KID its legal and procedural rights, the KID, on behalf of its members, reserves the right to proceed legally against you, as a contractor of the Bureau of Reclamation, and against the U.S. Department of Interior, and the States of Oregon and California.

In the interest of reconciliation, I look forward to receiving immediately the newly amended KHSA text and your very prompt reply.

Sincerely,

*Lawrence Kogan*

Lawrence Kogan  
Managing Attorney

Cc: Klamath Irrigation District, Brent Cheyne, Chairman of the Board of Directors  
U.S. Department of Interior, Sally Jewell, Secretary,  
U.S. Department of Commerce, Kathryn D. Sullivan, Under Secretary of Oceans & Atmosphere  
PacifiCorp d/b/a Pacific Power, Stefan A. Bird, President and CEO

California Natural Resources Agency, Edmund G. Brown, Governor  
State of Oregon, Kate Brown, Governor  
California Department of Fish and Game Wildlife, Charleton Bonham, Director  
Oregon Department of Environmental Quality, Joni Hammond, Interim Director  
Oregon Department of Fish and Wildlife, Curt Melcher, Director  
Oregon Water Resources Department, Thomas Byler, Director  
Karuk Tribe, Arch Super, Chairman  
Klamath Tribes, Donald Gentry, Chairman  
Yurok Tribe, James Dunlap, Chairperson  
Del Norte, California, Gerry Hemmingsen, Chairman, Board of Supervisors  
Humboldt County, California, Mark Lovelace, Chairman, Board of Supervisors  
Klamath County, Oregon, John Elliott, Commissioner  
Honorable Douglas LaMalfa, California 1st District  
Honorable Gregory Walden, Oregon 2<sup>nd</sup> District