

**RICHARD S. FAIRCLO**

**Attorney at Law**

409 Pine Street, Suite 209, Klamath Falls, OR 97601  
Telephone: (541) 273-2215; Cell: (541) 891-9778; Fax (541) 882-8819  
Email: rfair7@earthlink.net

June 24, 2016

Sent solely via email.

Nathan R Rietmann  
Rietmann & Rietmann LLP  
1270 Chemeketa St NE  
Salem OR 97301  
[nathan@rietmannlaw.com](mailto:nathan@rietmannlaw.com)

Lawrence Kogan, Attorney  
The Kogan Law Group, P.C.  
100 United Nations Plaza Suite  
14F New York, NY 10017  
[lkogan@koganlawgroup.com](mailto:lkogan@koganlawgroup.com)

Re: Your client Klamath Irrigation District (KID).

Greetings:

Please be advised that I represent Klamath Basin Improvement District (KBID) and I am writing this letter on KBID's behalf and direction.

As you likely are aware, KID has the obligation to assure the delivery of irrigation water, including through the C Flume. In fact, the primary purpose of these districts is to provide irrigation water to their patrons.

A large percentage of the acreage within KBID is downstream of the C Flume and receives water for irrigation.

Reports have been made that KID is considering attempting to substitute KID for the functions and ownership of the United States within the Klamath Project. This seems surprising to me, because in the past KID has sided with the United States and restricted delivery to my client based upon the legal basis of our respective districts' contracts with the United States (so called "A" and "B" contracts). I am anxious to talk about the new inter district contracts you are proposing, as there would no longer be any legal basis for asserting the superiority of KID water deliveries. I remind you that our districts have essentially equal water rights.

My client is very interested in your proposal of privatizing the Klamath Project that should elevate my client's position to that of so called "A" districts for water deliveries. However, there are many other items requiring discussion regarding privatizing the Klamath Project, including issues of the Endangered Species Act; Tribal Trust; Clean Water Act; NEPA; new individual contracts for deliveries to the many districts and even more non-district individuals with contracts; third party liability and public liability issues. These and other items associated with transfer of reserved works have been discussed many times over the decades, however, discussion may again be appropriate, if your client is again interested.

Regardless, such a discussion must not be an excuse for delaying the replacement of the C Flume. Nor should any other perceived district issue take precedence over the safe delivery of water.

Structural integrity questions have already resulted in engineering restrictions on the irrigation water flow through the C Flume. This is the result of KID delays in its replacement or more permanent repairs.

Many of the landowners within KBID rely on water deliveries by KID through the C Canal, including the C Flume. If KID asserts that the "A" superiority would allow reduced deliveries because of KID's failure to complete the repairs or replacement of the C Flume, I will advise my client to consider litigation against KID.

Any further delays will certainly cause damages or unnecessary expenses, to which our clients' are contributing.

In addition to the damages that could be the result of KID failure to remedy the flow restrictions on the C Canal, the ultimate failure of the C Flume would be catastrophic, including damages to KBID landowners for failure of water deliveries.

Please expect KID to be the focus of lawsuits by my client and its landowners, should such damages occur.

Very truly yours,  
*Richard Fairclo*

RF:gb  
C: Client