

KLAMATH NEWS

THE OFFICIAL PUBLICATION OF THE KLAMATH TRIBES:

KLAMATH, MODOC, AND YAHOOSKIN

TREATY OF 1864



Mogenkaskit

Lalo

Schonchin

Captain Jack

Winema

Volume 30, Issue 2

The Klamath Tribes, P.O. Box 436, Chiloquin, OR 97624

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Senate Bill 2379 - "Bring Home the Salmon"

Klamath Tribes Referendum Vote Passed

Klamath Tribal Council is pleased that Senate Bill 2379 is now moving forward regarding the KBRA, KHSA, and UKBCA.

The Klamath Tribal Council has reviewed Senate Bill 2379, the Klamath Basin Water Recovery and Economic Restoration Act of 2014, and is pleased to note that it is faithful to the bargained-for benefits negotiated by parties throughout the Basin. The Act, which will effectuate the Klamath Basin Restoration Agreement (KBRA), the Klamath Hydroelectric Settlement Agreement (KHSA) and the Upper Klamath Basin Comprehensive Agreement (UKBCA), was introduced by Oregon Senators Ron Wyden and Jeff Merkley, along with California Senators Dianne Feinstein and Barbara Boxer. Feinstein and Boxer represent tribes and other KBRA and KHSA parties in the lower Klamath Basin.

Tribal Chairman Don Gentry said, "Senator Wyden's introduction of the legislation is another positive step in the Klamath Tribes' long struggle to secure a better future for the Klamath, Modoc and Yahooskin Paiute people." Gentry further explained, "The Agreements not only address key issues affecting the restoration and sustainability of our fisheries and other Treaty resources, they provide economic balance and opportunity to our Tribal members in the near-term while the massive river restoration and salmon and steelhead recovery programs are being implemented. Through the exercise of our sovereignty and the strength of our Treaty Rights, we have been able to negotiate agreements that will help achieve the long established goals of our people to protect and enhance our Treaty resources and restore our homeland."

According to Vice-Chair Vivian Kimbol, "The Klamath Tribes will be paying close attention as this legislation moves forward. You might say we are cautiously optimistic. We expect that Congress will respect the hard-fought negotiations and the agreements we've reached, but our history shows that we can never take that for granted. We will be monitoring the legislative process to make sure that the Klamath

Tribes' bargained-for benefits remain intact." Kimbol's statement reflects a motion that was passed overwhelmingly by the Klamath Tribes General Council on November 16, 2013, and subsequently incorporated into the UKBCA and the legislation. As directed by Klamath Tribes General Council, one condition critical to the UKBCA becoming final is that the Klamath Tribes must review the final legislation and notify the Secretary of Interior that the legislation is "materially consistent" with the UKBCA.

Through its referendum process, the Klamath Tribes have voted to support the Agreements on three different occasions. The first vote, for the KBRA and KHSA, took place in 2010, and was overwhelmingly supportive. A second vote, taken in 2012, addressed amendments to the KBRA and was also overwhelmingly supportive. Last month the Tribes had a referendum vote on the UKBCA (Section 16 of the KBRA). Approximately 57% of those who voted chose to support the Agreement. David Gover, a Senior Staff attorney with the Native American Rights Fund, observed, "Water settlements are always tough but the Klamath agreements, as a whole, provide the best pathway forward to protect the Tribes' treaty resources, restore the tribal fisheries and improve the tribal economy."



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U.S. Senators Ron Wyden, Jeff Merkley, Dianne Feinstein, and Barbara Boxer Introduce Klamath Basin Legislation

Governor Kitzhaber Calls Legislation "the Culmination of a Decade-Long Effort"

The *Klamath News* is a Tribal Government Publication of the Klamath Tribes, (the Klamath, Modoc, and Yahooskin Band of Snake Indians).

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Washington, D.C. – Moving quickly to build on the work done by local ranchers, tribes, and federal and state officials, Oregon Senators Ron Wyden and Jeff Merkley and California Senators Dianne Feinstein and Barbara Boxer introduced legislation today that will put into law the Upper Klamath Basin Comprehensive Agreement that was signed in April.

The Upper Klamath Basin Agreement was hammered out by a task force appointed last year by Wyden, along with Merkley, Congressman Greg Walden and Governor John Kitzhaber. It was signed on April 18, 2014, during a ceremony on the banks of Spring Creek in Klamath County.

The Senate bill gives Congressional approval to the Upper Basin Agreement, authorizing the Department of the Interior to act and achieve the agreement's benefits: increased stream flows into Upper Klamath Lake, more water certainty to irrigators, improved and protected riparian areas and economic development for the Klamath Tribes and its members. The legislation also authorizes other agreements that comprehensively settle water rights disputes in favor of collaborative solutions to water management in the basin.

"After nine months of hard work by the tribes, ranchers and government officials to craft an agreement that benefits the Upper Klamath Basin and those who rely on it, it is now time for Congress to step up," Wyden said. "The people of the basin have set aside their differences for the benefit of the region. Congress should follow their example, pass this legislation and put the Klamath Basin on the road to recovery. I want to thank Senator Merkley for his steadfast support and help in crafting the agreement that is basis for this legislation."

"The stakeholders of the Klamath Basin have chosen cooperation over conflict. In partnership with Senator Wyden, I'll do all I can to implement the vision and detailed plan they have developed," said Merkley. "The people in the Basin have done the hard part, now it's time for the House and Senate to move forward and get this legislation passed. This is essential for both economic prosperity and environmental restoration in the Klamath Basin."

"California is in the midst of a historic drought, and this bill—in particular the authorization of the Klamath Basin Restoration Agreement and the Klamath Hydroelectric Settlement

Agreement— will help Northern California,” Feinstein said. “The three agreements authorized by the bill will improve water supply reliability, environmental recovery and economic growth for a wide range of California stakeholders. These agreements also demonstrate the benefits of different groups coming together in a spirit of compromise and acting on behalf of the greater good.”

“This consensus legislation will implement a carefully crafted plan that will help farmers, fishermen, Native American communities and the environment by restoring the Klamath River Basin,” Boxer said. “I applaud the leadership of Senator Wyden and Senator Merkley and all the stakeholders for coming together behind a deal that will strengthen the region’s economy and the environment.”

"With this legislation, Senator Wyden is honoring his commitment to work with the basin to implement a consensus-based solution to over-allocated water resources. The people of the basin are ready to move forward with the historic agreement between the Klamath Tribes and Upper Basin water users. Now it is up to Congress to take the final steps to rebuild prosperity in the region," said Governor Kitzhaber. "This is the culmination of a decade-long effort to support the vitality of the river and all who depend upon it. I applaud the determination of everyone who has committed to reshaping the future of the Klamath region and thank Senator Wyden and Senator Merkley for their strong leadership in Congress."

Now that the bill has been introduced, it will be referred to the Senate Energy and Natural Resources Committee of which Wyden is a member.

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Jeff Mitchell, Klamath Tribes, opens with a Honor/Prayer Song at the Ceremony. Klamath Chairman, Don Gentry gave opening remarks.



Klamath River Tribes Support Klamath Basin Restoration Agreement

Following article by: Josh Saxon, Member of the Karuk Tribal Council
Article reprinted from *Indian Country Today Media Network.com*

Photo by Klamath News Dept. Klamath Tribal Members, Jackson and Ohles getting their 1st Salmon in over 95 years at Iron Gate Dam Hatchery 2013. Once the dams are removed, according to the agreements, the salmon recovery process will begin in the upper basin.



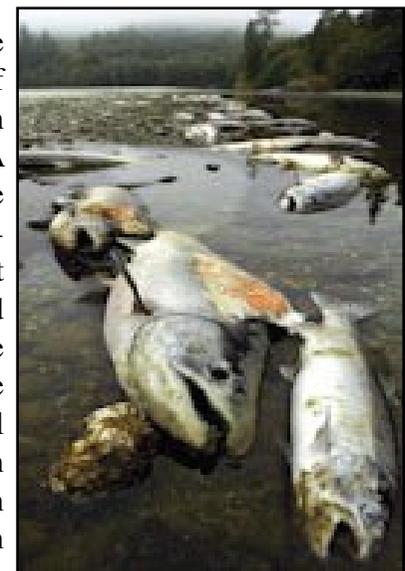
Following Article Reprinted from Indian Country Today Media Network.com (June 18, 2014)

<http://indiancountrytodaymedianetwork.com/2014/06/18/klamath-river-tribes-support-klamath-basin-restoration-agreement>

Josh Saxon 6/18/14

The Klamath Basin has been the home of one of the West’s most infamous water disputes for more than a century. It’s a sad yet classic American tale of colonialists driving native populations from the land, denying opportunities to practice cultural traditions, harvest traditional foods such as salmon, and a string of broken promises. However, when the Klamath’s rural communities hit rock bottom in the drought of 2001-02, enough public attention was focused on the bitter fight between Tribes and irrigators that an opportunity to improve fisheries and forward the right to Tribal self-determination emerged.

In 2001, in the midst of a terrible drought, irrigation water to Bureau of Reclamation’s 225,000 acre Klamath Project was curtailed to protect ESA listed salmon and suckers which serve as cornerstones of local tribal cultures. The consequences were that many irrigators went bankrupt and the community rallied to put pressure on the Bush Administration to make amends. In 2002, with the Basin still in a drought, the Bush Administration decided to deliver water for irrigation resulting in the largest salmon kill in US history.



Everyone’s first reaction to the federal actions during the drought was to litigate. However, the courts did little to resolve the issue. Then the license to operate the Klamath River dams expired. The dams, owned by American business tycoon Warren Buffet’s Paci-

fiCorp, do not divert water to the Bureau's irrigation project, but have dramatic effects on fish health and water quality. Thus, from the Tribes' perspective, there were two problems to solve: 1) develop an irrigation plan for the Bureau's project that left enough water in the river to recover struggling fisheries and 2) remove four large hydro-electric dams.

To the credit of leaders from both Tribal and ranching communities, there was an honest commitment to meet face to face over the course of several years to hammer out a compromise. For the Tribes the message was clear: you can stay and farm but you must use less water and support removal of the dams. For the irrigators' part, they were willing to accept the Tribes' demands if the Tribes' agreed to discontinue ongoing litigation to further curtail irrigation diversions.



Salmon Rally 2005 Sacramento, CA.

The decisions to enter into these Agreements were not taken lightly. The Karuk, Yurok, and Klamath Tribes invested heavily in technical analyses to develop a basin wide restoration plan, an approach to safely executing largest dam removal in history, and a flow plan to restore the fishery. This plan goes above and beyond the current environmental safeguards provided by the Endangered Species Act and the Clean Water Act which will remain in effect.



Salmon Rally 2005 Sacramento, CA.

After over 8,000 pages of peer reviewed scientific analysis and thousands of public comments were considered, the Department of Interior, in collaboration with Karuk, Yurok, and Klamath Tribes released an Environmental Impact Statement in 2011 recommending removal of dams and implementation of the Klamath Agreements.

Despite widespread support for the Agreements from Klamath River Tribes, local irrigation districts, the dam owner, and a host of fishing and conservation groups, opposition still exists. Most of the opposition comes from classic anti-Indian right wing hate groups and rural counties with a long history of opposing Tribal rights. However, the Hoopa Tribe has also emerged as an opponent as detailed in ICT's June 1 coverage of the introduction of legislation to implement the Klamath Agreements by Senators Wyden, Merkley, Feinstein, and Boxer.

The Hoopa Reservation is centered on the Trinity River, the Klamath's largest tributary. Hoopa contends that the Agreements serve to 'terminate' tribal water and fishing rights and provide irrigators a superior water right that does not currently exist. Neither of these claims are true. No new water rights were granted and no existing water or fishing rights are terminated by these Agreements. Furthermore, Hoopa's claims that the flow and restoration plan detailed in the Agreements will not serve to restore fisheries and water quality are not backed up by any scientific analysis – in fact they are contradicted by scores of studies and reports by federal, university, private and tribal scientists.

So why would the Hoopa Tribe make such dramatic claims and use such provocative terms as 'termination?' It may simply be that Hoopa genuinely believes that we could achieve greater results by litigating our way to a solution. However, as demonstrated by Hoopa's settling of their lawsuit against DOI for a breach of Tribal Trust after the 2002 fish kill for a mere copy million, justice for Tribes is rarely served by federal courts.

Hoopa may also be concerned that the cost of implementing the Klamath Agreements, nearly \$500 million in new federal spending over 15 years, could affect funding for their restoration efforts on the Trinity. We note that Tribes party to the Agreements are just as enthusiastic about Klamath River restoration as we are for Trinity River restoration – we need the entire Klamath Basin to be healthy for our fisheries to thrive.

We urge everyone with something at stake in the Klamath to consider the Klamath Agreements and what they achieve: the largest dam removal in history, the largest river restoration effort in history, and an opportunity for Klamath River Tribes to take the lead in restoring the watershed our ancestors have entrusted us with. We cannot wait for another opportunity to come along to resolve the Klamath Crisis, if we don't seize this moment, we are likely to witness the disappearance of our salmon runs and an irreplaceable loss to our cultures.

Josh Saxon is a member of the Karuk Tribal Council. He lives in the traditional Karuk village site of Panamnik with his wife and 4 children. He is the grandson of Zona Drake Ferris from Somes Bar.

Read more at <http://indiancountrytodaymedianetwork.com/2014/06/18/klamath-river-tribes-support-klamath-basin-restoration-agreement>

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May 23, 2014

Dear Chairman Gentry:

You have requested, on behalf of the Tribal Council, my independent opinion on aspects of the Upper Klamath Basin Comprehensive Agreement, dated April 18, 2014 (the Upper Basin Agreement). In particular, you have asked me to respond to these questions:

- (1) whether the Agreement is reasonable given the fact that the Klamath Tribes are a sovereign water rights holder, and
- (2) how the Agreement is likely to affect future generations of tribal members and Treaty resources.

By way of brief summary, these are my answers to the questions.

- (1) Yes, the Agreement is reasonable, indeed, excellent, given the Tribes' status as a sovereign water rights holder.
- (2) Sovereigns, tribes or otherwise, rarely have the opportunity to take sweeping actions that will bring an array of significant benefits to sovereignty, culture, and economic and social well-being that will affect its citizens for many generations to come. For the Klamath Tribes, this Agreement is such an opportunity.

At the outset, I want to acknowledge limitations on my ability to fulfill this important assignment. This Agreement is complex and it is tied directly to two other highly complex agreements, the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSA). I was not directly involved in the long and elaborate negotiations of any of these agreements, and so I lack the kind of detailed information that can only come from in-depth knowledge of the negotiations.

At the same time, I have spent my career since the early 1970s working on land and water issues in the American West. Developments in the Klamath Basin involving the Klamath Tribes have long been a special interest of mine as an attorney at the Native American Rights Fund representing tribal members trying to lessen the effects of termination; representing the Tribes, when I was on the law faculty at the University of Oregon, in drafting the Tribes' first fish & wildlife code; and working with the Tribes during restoration. As for the KBRA, KHSA, and Upper Basin Agreement, I have been following those developments closely since the early 1990s since it was apparent that they were becoming leading issues in water policy in the West and Indian Country. In all, I believe that, as a result of my professional background and personal experience, I am well positioned to respond to your questions.

1. The Agreement's Water Use Provisions

The key parties to the Upper Basin Agreement are the Klamath Tribes, who have the broad objectives of watershed restoration and economic development, and the Off-Project Irrigators, who have the broad objective of receiving sufficient water to continue raising crops. The irrigators had opposed the KBRA and KHSA and refused to negotiate on any matters that involved any changes to their irrigation practices. The matter came to a head in March 2013 when the Oregon Water Resources Department issued its Final Order of Determination in which the Tribes were determined to hold the number one priority date of "Time Immemorial" and that many of the tribal rights called for instream flows. In the Spring of 2013, the Tribes, as the senior rights holder, and the Klamath Reclamation Project made calls on the river. The State enforced the calls, which shut down most irrigation by the Off-Project Irrigators. This action by the Tribes brought the irrigators to the bargaining table. The Tribes had an incentive to negotiate since the support of the KBRA and KHSA by the Off-Project Irrigators would greatly increase the chances of congressional passage of the KBRA and KHSA.

As a starting point, by settling with the major source of opposition to the Tribes' adjudicated right, the Agreement goes a long way toward assuring that the tribal water rights determined in the adjudication will not be weakened in court. (Although the state agency ruling is described as a "final order," it is only final for the agency and can still be challenged in state court.) I have reviewed the Final Order of Determination, including the partial orders of determination, and believe that the Tribes' legal position is well-founded. However, one can never predict results in litigation with certainty. Some other parties have filed exceptions in the Circuit Court, but settling with the irrigators in this fashion resolves a large part of the concern over having tribal rights limited by the courts.

The Upper Basin Agreement has several unique provisions involving water use and protection, and the Agreement as a whole reflects the Tribes' significant leverage resulting from the successful call. In a most unusual provision, the Off-Project Irrigators agreed to retire 18,000 acres of irrigated farmland, which will return 30,000 acre feet of water to the river. The irrigators also will be bound by Riparian Management Agreements, which will require robust ecological farming practices rarely seen in western irrigation operations. These agreements will be in force on approximately 224 stream miles, about 80% of the stream miles on agricultural lands. Under the Agreement, therefore, non-project irrigation will be substantially reduced and managed under a rigorous, ecologically-conscious regime.

In terms of regulating water withdrawals by Off-Project Irrigators, the Agreement establishes a complicated system based on Specified Instream Flows (SIF), which will apply throughout the off-project area, for fish, wildlife, and other ecological concerns. These SIF are science-based and substantial—this system is considerably stronger

Continued on page 8...

What Does the Upper Basin Agreement Accomplish?

The Upper Basin Agreement (UBA) will protect our time-immemorial in-stream water rights while providing conditional limited water use for irrigators who are junior water rights holders in the Upper Basin. This agreement, together with the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSA), sets terms for historic legislation recently introduced in Congress. If Senate Bill 2379 becomes law, the Klamath Tribes will receive the following benefits:

- Permanently secured time-immemorial water rights.
- Increased flows of 30,000 acre feet per year into Upper Klamath Lake.
- Permanent retirement of water rights on up to 18,000 acres of irrigated land.
- Approximately 223 miles of river and stream habitat returned to proper functioning condition as a result of permanent Riparian Management Agreements.
- A \$40 million economic development fund for land acquisition and economic development, and an additional \$1 million per year for each of the next five years (\$5 million total) to address Tribal needs during the Transition Period beginning in 2014.
- Acquisition of the Mazama Forest (or a similar agreed-to parcel of land) with the support of \$21 million provided by the federal government.

"We have no power over what has been but we have it in our power to shape our future and the future of our children. Out of the discouragement, the bitterness of the past, and out of Termination, perhaps something good can be created. It is important that you and I work harder than ever so that we can continue to lift up our heads with pride, and if they were living today, our ancestors too, could be proud of us."

- Seldon E. Kirk, Chairman
Klamath General Council (August 1961)

"What the Tribes have done [in ratifying the Upper Klamath Basin Comprehensive Agreement] is the exact opposite of termination. It is full-scale self-determination... Assuming that the Upper Basin Agreement, KBRA, and KHSA are approved by Congress, the Tribes will have installed their priorities as the priorities of several federal and state agencies; taken the lead in restoring a major natural system; established meaningful water rights; established a cutting-edge scientific staff and program for healing the land; brought a large parcel of lost tribal land back into tribal ownership; created a substantial fund for tribal economic development; created jobs for tribal members; and acted in full accordance with the Tribes' traditional cultural values."

- Professor Charles Wilkinson (May 2014)



Agreements: Honoring Our Treaty, Protecting Our Homeland



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Frequently Asked Questions

What Treaty Rights were given up for this agreement?

A: None. In fact, the legislation specifically states on pages 16-17: "Nothing in this Act amends, supersedes, modifies, or otherwise affects – (G) the Treaty between the United States and the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians dated October 14, 1864 (16 Stat. 707); or (H) the Klamath Indian Tribe Restoration Act (25 U.S.C. 566 et seq.)."

What process did the Klamath Tribes use to determine whether to sign on to the 2014 Upper Basin Agreement?

A: In 2009, the Klamath Tribes General Council established a Tribal public review and voting process for the KBRA and KHSA. The process was followed for the KBRA and KHSA in 2010, amendments to the KBRA in 2012, and the Upper Klamath Basin Comprehensive Agreement (Section 16 of the KBRA) this year. In all three cases, a majority of Tribal voters approved the negotiated agreements.

How does the Upper Klamath Basin Comprehensive Agreement affect the KBRA?

A: The Upper Basin Agreement (UBA) is the third essential part of the package of agreements that together lay out plans for a more secure future for the Klamath Tribes and a more peaceful and productive Klamath Basin for all residents. Together with the KBRA and KHSA, the Upper Basin Agreement provides the framework for Senate Bill 2379.

The full text of S. 2379, *Klamath Basin Water Recovery and Economic Restoration Act of 2014* can be seen at

<http://beta.congress.gov/bill/113th-congress/senate-bill/2379>

Klamath Tribes will receive many benefits if the terms of the three Klamath Basin Agreements become law.

Klamath Tribes	With No Agreements	With Agreements
Water rights	The 2013 recognition of the Klamath Tribes senior water rights in the Klamath Basin Adjudication will be subject to challenge in court and may not be secure into the future. Litigation could go on for another 10 - 20 years.	The federal government, state government and Klamath Basin water agreement parties recognize the Klamath Tribes senior, time-immemorial water rights which will be decreed by the court. In exchange, Tribes allow conditional limited water use for irrigation.
Fish Recovery	Delay in dam removal and habitat restoration could push some fish to extinction and prevent the return of salmon and steelhead. Poor water quality is less likely to be improved.	Immediate increased flows in Klamath Lake, better water quality and stream habitat in most of the Upper Basin, and dam removal to begin in less than 7 years help fish species return and make other fish more likely to recover.
Dam removal	Federal Energy Regulatory Commission (FERC) relicensing process is reopened. With likely legal challenges, the dams would stay in place until 2030 or beyond.	Removal of the four major Klamath River dams will begin in 2020, opening the opportunity for salmon and steelhead (both Treaty resources) to begin their return to the Upper Klamath Basin.
Economic Vitality	No funding from the U.S. to support Tribal land acquisition (except Mazama), economic development or much of the needed habitat restoration.	\$45 million provided under the UBA by the U.S. to the Klamath Tribes including \$40 million for land acquisition and economic development, and \$1 million each year for 5 years to address UBA related Tribal needs during the Transition Period beginning in 2014.
Relations with Klamath Basin neighbors	Continued conflict and litigation over water rights may result in more hostility.	Negotiated agreements set the tone for more collaborative problem -solving and cooperation.

In the words of our Ancestor's...

**naanok ?ans naat sat'waya naat
ciiwapk diceew'a**

"We help each other; We will live good."

than most, and perhaps all, instream flow programs we see elsewhere in the West. If the SIF are violated by irrigation withdrawals, they can be enforced by the Tribes through making calls.

The SIF depart in some respects from the adjudicated tribal rights and in some years, the SIF may fall below the adjudicated rights. Nonetheless, the SIF are rigorous and there is no question that the Agreement ensures dramatic advances in the ecological condition and restoration of the Upper Klamath Basin. The program has been peer-reviewed for its effectiveness. The Agreement itself provides, in addition to the SIF, impressive benefits in terms of the retirement of irrigation land and RMAs discussed above. Further, this Agreement, in addition to resolving significant legal concerns as to tribal water rights, paves the way for the congressional approval of the KBRA and KHSA, which provide extraordinary basin restoration benefits. And, as discussed next, the Agreement includes benefits to the Tribes beyond measures specifically involving water.

2. Additional Benefits to the Tribes

In negotiating the Upper Basin Agreement, the Tribes succeeded in obtaining several favorable provisions that go well beyond the water issues. The Off-Project Irrigators agreed to support the Tribes' purchase of the 90,000-acre Mazama Forest, which was negotiated within and delivered by the KBRA, and the taking into trust of that land. This aspect of the Agreement eliminates a significant political obstacle to the land return, which is the bold first step in realizing the dreams for a land base that tribal members have held ever since termination.

The Tribes succeeded in obtaining other provisions to strengthen the Tribes' economic future. The Agreement calls for a Tribal Economic Development Fund of \$40 million and \$1 million per year for five years for purposes such as additional land acquisition, jobs in forest management, and other economic development initiatives. Further, in addition to the jobs and tribal income resulting from tribal management of the Mazama Forest, the Agreement establishes a federally-funded program with state participation that will create 10-20 jobs for tribal members in water and fisheries management and, as well, in developing skills in sustainable ranch management.

3. The Relationship of the Agreement to the KBRA and KHSA

While the Upper Basin Agreement, standing alone, is a significant step forward for the Tribes, it also has the critical purpose of activating passage of the KBRA and KHSA.

The KBRA mandates a whole range of recovery initiatives, unprecedented in scope, for restoring the Upper Basin. By every analysis, this ambitious program will bring great benefits to the salmon, wildlife, vegetation, rivers, marshes, economy, and people of the Upper Basin, especially the Tribes. The main feature of the KHSA is the removal of the four main Klamath River dams. This project, when

completed, will be the largest dam-removal effort in world history. I remember, as an attorney with the Native American Rights Fund in the early 1970s, hearing the recollections of Klamath elders who, as young boys, witnessed large salmon runs, especially the big Chinook salmon, and how—before the dams—the runs were so thick that they took as many fish as they needed with pitchforks. No one can say for sure how expansive the runs will be when the dams are removed but, if the early returns on the Elwha River after that dam removal are any indicator, there is good reason for optimism on the Klamath. In both the KBRA and KHSA, the Tribes, through their policy leaders, scientists, and attorneys, took a leadership role in building the coalition of some 45 entities that led to the final signing of the two documents in 2010.

In a normal time, the KBRA and KHSA would have sailed through Congress based on the broad support evidenced by the coalition. But Congress has been in gridlock and the initiatives have stalled. The Upper Basin Agreement has changed that: Under the terms of the Agreement, the Off-Project Irrigators—once the most vocal opposition—now support the initiatives. This gives life to the KBRA and KHSA, and the benefits in the Agreement make the package even more attractive. On May 21st, the package was introduced in the Senate by all four Oregon and California Senators. When, and if, passage of the legislation will occur is unknown, but prospects have been enhanced by the historic settlement as set forth in the Agreement.

4. Conclusion

I understand, from the media and tribal members, that there has been opposition to the Upper Basin Agreement from within the Tribes. This is understandable. So much damage has come to the Klamath Tribes over the long course of history. The original 1.9 million-acre reservation came at the cost of being forced to cede more than 18 million acres of tribal homeland. Government surveying errors and various takings of land reduced the reservation. Allotment imposed the loss of one-quarter of the reservation. Termination, also forced upon the Klamaths, was a disaster. All of those events burn in the memories of tribal members yet. The Klamath people do not want to repeat that past.

But it is important to pause and appreciate how different these circumstances are from that tragic history. All of those past events were decided upon by outsiders and imposed upon the Tribes. In the case of the KBRA, KHSA, and the Upper Basin Agreement, the Tribes were a driving force in the coalition that included the States of Oregon and California, the Department of the Interior, Forest Service, National Marine Fisheries Service, several environmental groups, commercial fishing organizations, and the Klamath Reclamation Project. The Klamath Tribes—and the Yurok Tribe as well—were widely recognized as front-line leaders in that effort and much of the complex strategy came from them. The tribal lawyers were deeply knowledgeable, definitely among the most able of the many attorneys representing all the organizations working on the project.

Klamath Tribes and Irrigation Project Clarify Terms of Water Call: Klamath Falls Wells Are NOT Affected by Tribes' Call

Tribal scientists—I can remember a time when tribes didn't even have scientists—were especially influential because so many of the issues depended upon identifying the environmental problems and devising the best scientific strategies for addressing them. I remember a discussion with a top official on one of the major national environmental organizations, which I knew had little or no scientific capacity. I asked him how his organization, which strongly supported the agreements, made sure the best science was being used—did he call upon university scientists? Speaking of the Klamaths and Yuroks, he replied, “I always checked first with the tribal scientists. I always wanted to know what they thought.”

During this effort for Klamath basin restoration, contrary to the past events that so debilitated the Tribes, the Klamaths have been on the offensive the entire time. Rather than responding to outside directives cooked up by outside interests, the Tribes successfully developed their own positions and convinced all manner of groups, including several federal agencies and PacifiCorp, the operator of the Klamath River dams, to accept them. The Klamath doggedly pursued their water rights for nearly 40 years in the Klamath adjudication and emerged with an order recognizing “time immemorial” rights that has become the envy of Indian Country. The Klamath put that order to use in the Spring of 2013, when the Tribes so courageously and wisely made the call on the Off-Project Irrigators. The Klamath then proceeded to use the leverage from that call to achieve the remarkable Upper Basin Agreement with the irrigators, which almost everyone thought impossible.

What the Tribes have done is the exact opposite of termination. It is full-scale self-determination. The accomplishments at Klamath epitomize what tribes across the country are working toward. Assuming that the Upper Basin Agreement, KBRA, and KHSA are approved by Congress, the Tribes will have installed their priorities as the priorities of several federal and state agencies; taken the lead in restoring a major natural system; established meaningful water rights; established a cutting-edge scientific staff and program for healing the land; brought a large parcel of lost tribal land back into tribal ownership; created a substantial fund for tribal economic development; created jobs for tribal members; and acted in full accordance with the Tribes' traditional cultural values. If that isn't an example of full-blown modern Indian tribal sovereignty, what is?

Thank you again for asking me to take on this assignment. I very much enjoyed doing it and hope that it is useful you, the Tribal Council, and the Klamath Tribes.

My best regards,

Charles Wilkinson
Distinguished Professor
Moses Lasky Professor of Law

Chiloquin, Ore. – The Klamath Basin is facing one of the lowest water years on record, and concerns over water allocations and in-stream flows are already becoming apparent. Due to evidence of dropping water levels in several Upper Basin streams and lakes, earlier this week the Klamath Tribes placed a call for water. The call is necessary to increase in-stream flows in the Upper Williamson River, Lower and Upper Sprague River, the Sycan River and the Wood River, including their tributaries.

As confirmed in the 2013 Klamath Basin Adjudication ruling, the Klamath Tribes maintain time-immemorial water rights in the Upper Basin streams, Upper Klamath Marsh, Upper Klamath Lake and seeps and springs. When exercising a call on water, the Klamath Tribes have rights over flow levels in these systems to meet the Tribes' treaty resource in-stream flow requirements.

“Both the Adjudication outcome and our recent negotiated settlement with Upper Basin irrigators supports our right to protect flows and levels in these systems on behalf of imperiled fisheries and aquatic plants important to our tribal members,” said Klamath Tribes Chairman Don Gentry. “Our decision to make this water call was not made lightly; we understand the impacts it may have on our farming and ranching neighbors. Unfortunately, due to the extremely low water levels, we feel we must exercise our water rights to protect this important part of our Treaty rights and the resources essential to our tribal community.”

The 2013 Water Adjudication recognized water rights to the Klamath Basin Reclamation Project, under which their own recent call for water regulation arises. Unlike the Klamath Tribes, the Project's call on water reflects water flows into Klamath Lake itself. As reported in today's Herald and News newspaper, the Project's call for water may impact the City of Klamath Falls' ability to pump water out of two wells that fall within one mile of Upper Klamath Lake, although the Oregon Water Resources Department has reported that such well use for human consumption purposes will not be restricted. The Tribes' call has no impact on the City of Klamath Falls.

The Oregon Water Resources Department is responsible for implementing any water shut-offs related to the calls made by the Klamath Tribes and the Klamath Project.

**“SPECIAL”
GENERAL COUNCIL MEETING**

Saturday August 2, 2014

10:00 a.m.

Administration Auditorium – Chiloquin, OR

10:00 a.m.

- I. Call to order, quorum Count, Opening Prayer
- II. Nez Perce v Jewell (formerly Salazar) litigation since 2006 w/Don Wharton, NARF Attorney & Ed Goodman, HSDW Attorney
- III. Ruby Pipeline Investment portfolio w/Charles Fremont from Morgan Stanley.
- IV. Adjourn

Living Cultural Center Funds

For Consideration by the General Council at the August 2, 2014 Special General Council Meeting: Whether to Accept or Not Accept Accelerated Early Payment to the Tribes of the Living Cultural Center Funds

In 2010, the General Council agreed to a Mitigation Agreement with the Ruby Pipeline. As part of that Agreement, El Paso Gas, the owner of Ruby Pipeline, agreed to pay the Tribes funds to be used for the development and construction of a Living Cultural Center. A specified portion of the full amount was to be paid in a lump sum up front, with the remaining amount to be paid out in installments for the next 30 years. The Tribes have received the initial lump sum payment, along with two years of the annual installments (a third is due this August). The Mitigation Agreement states that the Tribes can take an early pay-out at any time after year 5 (August 2016). That early pay-out would be at a discounted “Net Present Value.”

El Paso Gas has been acquired by another corporation (Kinder Morgan). Kinder Morgan has contacted the Tribes with a proposal for an accelerated early pay out. The proposal is that Kinder Morgan would pay the Tribes the remaining sum owed now, with the same Net Present Value discount applied. This means the Tribes could get the early pay out over two years earlier if approved by the General Council.

There are two issues for the General Council to consider. First is whether to agree to accept an accelerated early pay out, or to simply wait for another two years and exercise the existing early pay out (or to continue to receive the annual payments for the full term). The second issue is, if the General Council is interested in an accelerated early pay out, whether the amount proposed by Kinder Morgan is acceptable, or if there should be a counter-offer on the amount.

The Tribal attorney and the Tribal financial advisor will be at the August 2 meeting to present more detailed information to assist the General Council in making these decisions.

**Nez Perce Tribe v. Jewel Settlement to be
Addressed at August 2, 2014
Special General Council Meeting**

The Klamath Tribes, represented by the Native American Rights Fund (NARF), have been a Plaintiff in the Nez Perce case since it was filed in December 2006. The case seeks accountings and other declaratory and equitable relief regarding the trust accounts, funds, and assets that the United States holds for the Tribes. The Tribes, represented by NARF, have been in active negotiations with the United States for settlement since November 2010. On December 9, 2011 the United States made an offer of settlement to the Tribes, which was amended (increased) as to amount in January 2012. That offer was submitted to the General Council for consideration on March 8, 2012 and was rejected, at least in part because the General Council viewed the waivers and releases of claims that the United States insisted on as objectionable. Since that time the Tribes and the United States have proceeded in good faith to try to reach agreement on language concerning the claims waivers and releases, focusing in particular on protecting the Tribes’ water rights claims and settlements and future protection for the Tribes’ hunting and fishing rights.

The Tribes’ attorneys recently achieved agreement on acceptable language in a revised proposed settlement agreement that protects the water settlement and resolves almost all of the issues important to the Tribes. Like Settlement Agreements the US has reached with other Tribes under this Presidential Administration, any funds agreed to in the settlement would be paid directly to the Tribes, and cannot be placed in any trust accounts of the Tribes.

A group of individuals referring to themselves as the Klamath Claims Committee has filed a Motion to Intervene in the Klamath claims part of the Nez Perce case. The Court has not ruled on that motion. However, the same group was denied the right to pursue claims that belonged to the Klamath Tribes in a different federal court, the Court of Federal Claims.

The provisions of the present offer of settlement in Nez Perce Tribe v. Jewell will be discussed in detail at the meeting on August 2, 2014. The Tribes attorneys will be present for that discussion.

**"Regular"
Meeting of the General Council
Saturday August 16, 2014
10:00am
Auditorium- 501 Chiloquin, Oregon**

For more information contact: Torina Case, Council Secretary
541-783-2219 ext 170

Tribal Cemeteries:

It has come to the attention of Tribal Council that there are issues with the Tribal Cemeteries and that some have no current committee in place to oversee them or to take care of these issues. Some of the issues are people burying in the wrong place, roads in need of repair, outhouse conditions, burn areas etc....

In order to make attempts to assist the cemetery committees deal with these issues, Tribal Council is scheduling a meeting for current cemetery committee members, family members and anyone who may have an issue with a cemetery. This meeting will be at the Tribal Administration office on **Monday July 28, 2014 at 5:30 p.m. at the Tribal Administration auditorium in Chiloquin.** Tribal Council will be needing input and feedback on what would be the best solutions for these issues.

Tribal Employment Stats:

Tribal Health Employee Stats = 114
 Regular/Probationary Employees = 99
 Trainee Employee = 1
 Temporary Employees = 8
 Commission Corp Employees = 6
 *Klamath Tribal Members = 56
 *Members other Tribes = 9
 *Klamath Descendent = 1
 *Non- Tribal = 48
 *Percentage of Native = 57.9%

Tribal Admin Employee Stats = 118

Full time = 95
 Part-time = 4
 Temporary = 15
 Tribal Council Officers = 4
 *Klamath Tribal Members = 68
 *Members other Tribes = 15
 *Klamath Descendent = 7
 *Non -Tribal = 28
 *Percentage of Native = 75%

*All Jobs are posted with both HR Departments and tribal website: www.klamathtribes.org

Chiloquin Shaker Church Update,

I would like an article to be placed in the next newsletter regarding the 1910 Indian Shaker Church in Chiloquin, Oregon.

I've come across several articles stating that the current church has been there since 1914 & its officers since 1917. I'm trying to gather more facts & if it is the church's 100 year, I will definitely be planning a big 3-day celebration shake this year at the church. I am currently the Assistant Minister & am charge of the church through the organization. I can be reached at 541-274-0218.

I'm trying to get as much history, stories, & facts as possible. Anyone & everyone are welcome to Sunday service, which begins at 10am & then prayer service for those in need.

Thank You, Fred Donahue

NOTICE TO TRIBAL MEMBERS**FURNITURE GIVE-AWAY****Tuesday- August 12, 2014**

Klamath Tribal Administration will be making available to tribal members on Tuesday, August 12, 2014 between the hours of 8:00 am to 4:00 pm, the following office furniture that has been declared surplus.

Office Furniture

(chairs, desks, file cabinets, office equipment)

*Note: items are "as is" and may not be in operating condition. Repairs may need to be made to be functional.

LOCATION

All surplus office furniture items will be set up at the Klamath Tribes Maintenance Building located at:

Tribal Administration
 501 Chiloquin Blvd
 Chiloquin, Oregon

TIME SCHEDULE/Bring I.D.

Tribal Elders/Veterans: 8am-9am
 Tribal College Students: 9am-11am
 Tribal High School Students: 11am-1pm
 Tribal Members: 1pm-3pm
 Tribal Employees: 3pm-4pm

The time schedule will be adhered to – if you fall into one of the above-mentioned categories, that is your scheduled time.

A priority system for the release of the furniture and equipment has been developed. First priority will be for tribal elders; second priority is for tribal members currently enrolled in college; third priority is for tribal members currently attending high school; fourth priority is for general tribal membership; and fifth priority is for tribal members currently employed by the Tribes. College and high school students need to bring proof of school attendance and everyone will need to bring their tribal enrollment card.

Each individual will need to check in with the Receptionist. No one will be allowed to pick up any furniture and/or equipment for someone else or set aside for anyone else. You need to be present at the designated times, to select furniture.

NO EXCEPTIONS.

**Questions call the Maintenance Program,
 at 783-2219 ext. 143 and ask for Todd.**

Hunting Regulation Changes

Effective June 1st, 2014, the Klamath Indian Game Commission (KIGC) has initiated changes to the hunting season regulations. The changes are in response to 3 primary concerns:

- 1) Persistent decline and suppression of the deer population
- 2) Harvest of local wintering deer
- 3) Potential for increased harvest related to new tribal enrollment policies

The deer population has experienced a drastic decline since the 1960's (Figure 1). Research results indicate that multiple sources of mortality are influencing populations. Not only is human harvest a direct source of mortality, but the timing and duration of hunting can also influence deer fitness and health, pregnancy rates, timing of birth and rates of predation. The overharvest of large bucks can also deplete the gene pool as smaller bucks complete the breeding season in the absence of dominant animals. Research has also concluded that most deer will migrate off of the historic reservation during years that we experience a "normal" winter. Those that remain are remnants of a local deer herd. Winter hunts focus hunting pressure on local deer, disturbs animals on winter range when animals are experiencing nutritional stress, and misidentification of animals becomes a concern as fawns grow and bucks lose their antlers. It is also during the winter hunt that mature bucks are harvested during a "spike only" hunt and adult does are harvested when only yearlings are allowed; changes to hunting regulations are intended to address these problems.

The effects of enrolling additional tribal members remain unknown. However, if the tribes experience a 20% increase in enrollment, a 20% increase in harvest can be expected assuming the same rate of participation. Although the impact remains unknown, the KIGC recognizes that deer are a finite resource and overexploitation can result in further population declines.

The new regulations are meant to address deer population declines and the harvest of "local" deer, coordinate hunting season dates to make the regulations more easily understood, and make it easier to enforce regulations. Changes in the hunting regulations include a reduction in the number of tags allowed per month, a decrease in season length, clarification between "bucks" vs. yearlings, and the elimination of deer harvest during the winter. The changes are substantial and will require you to read the new hunting synopsis for a thorough understanding.

Additional changes to the hunting synopsis have also been approved: 1) there are additional changes to the elk season, 2) the Organization of Forgotten Americans and the Squaw Flats Store will no longer be an outlet for purchasing hunting tags, and 3) the use of lead shot when hunting waterfowl is now prohibited. The KIGC is trying to find money to initiate a lead buyback program to assist in the transition and proper disposal of lead, stay tuned for more information. The game regulations have always required the return of previous tags before new tags would be issued, however, participation has been low and in response the Natural Resources Department will become more insistent on tribal members being compliant with regulations. Please bring your old tags with you when you plan to purchase new

Figure 1: Annual track count data providing an index of deer populations in the Sprague River Management Unit 1964 - 2013.

tags. The KIGC and Natural Resources Department have also been working on the implementation of an electronic tag system. Again, stay tuned for more information.

Finally, the KIGC wishes to remind all tribal members of their responsibility to possess their official tribal identification card while hunting. The court case Kimbal vs. Callahan stipulates: ... any tribal member hunting or fishing or trapping without a valid treaty permit card in possession shall be deemed not to be exercising tribal treaty reserved rights and shall be subject to all applicable state laws.

Please stop by the Natural Resources Department to pick up a copy of the new hunting synopsis which identifies all hunting season regulations discussed in this announcement.

98th Annual Restoration Celebration Powwow 2014

Spirit of our Ancestors

**August 22-24, 2014
Chiloquin, OR 97624**

Host Drum:

Red Hoop
(Gardnerville, NV.)

Emcee:

Dave Brown Eagle, Spokane, WA.,
(Spokane/Ho-Chunk)

Arena Director:

Roy Redner, Fallon, NV.
(Shoshone/Tlingit/Redwood)

Drum Competition

TBA

*Day pay will not be provided for who
register for drum competition*

First 10 drums guarantee pay

Dancer Registration fee \$ 3.00

Encampment fee \$10.00 and \$5.00 deposit and Showers

will be provided Absolutely NO drugs and Alcohol!

Grand Entry:

Friday 22nd: 7pm

Saturday 23rd: 1pm and 7pm

Sunday 24th: 12pm

Location:

Chiloquin, OR.,
Chiloquin High School Football Field

Contacts:

(Coordinator): Kimmie McNair-Miller
(541) 205-8530

(Co-Coordinator): Kayla Ohles
kaylaohles@yahoo.com

(Vendor): Felicia McNair
(541) 591-8886

Teen Girls and Boys All Around Spotlight

Special

(Ages 13-17)



Ribbon Cutting Ceremony – Community Partnership, Growth & Accomplishment

There was a Ribbon Cutting Ceremony to bless the Tribes new 22 Passenger Route Bus, which was held at Klamath Tribes Administration Building Tuesday, May 20, 2014. Curtis Raines, Transportation Manager, was the coordinator of the event and Don Gentry, Tribal Chairman was the MC. Don opened with an opening Prayer and honor song. Hal Gard, the Administrator for the Rail and Public Transit Division was introduced who spoke for ODOT. A short power point presentation was given by Curtis explaining the trials and tribulations of getting a successful Transit system up and running. Curtis also explained the meaning of the Quail Design as being a symbol of family and represents the Quail Plume. Joyce Berry told stories about other

people who use the bus, as she does, every morning. They were stories of self improvement, new employment, continued education and the rejoining and reinforcement of families. These stories were not only inspirational but they proved that this Transit System is an invaluable resource for the whole community.

At that time the ceremony moved outside for the ribbon cutting. Tribal Elder, Eloise Ohles provided an Elder's prayer. Harold Wright, Language instructor, blessed the buss with prayer and smudging. People that were instrumental in the acquisition of the bus and securing the routes were invited to hold the ribbon, such as: Ernie Palmer, Joni Bramlett, Marsha Hoskins, Joyce Berry, and Kimberly Stanchfield along with our two (2) route drivers, Pat Damrow and John Galbreath. The ribbon was then cut by Don and Hal. Refreshments were served in the main entry.

This process is a wonderful accomplishment for the Tribe and the community and we look forward to continued growth and partnerships in the future.

