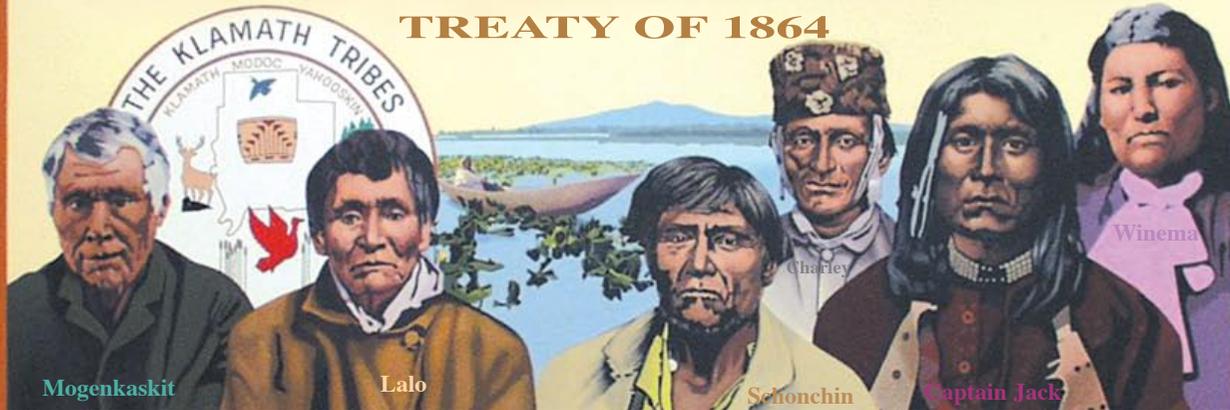


# KLAMATH NEWS

THE OFFICIAL PUBLICATION OF THE KLAMATH TRIBES:

KLAMATH, MODOC, AND YAHOOSKIN

TREATY OF 1864



Mogenkaskit

Lalo

Schonchin

Captain Jack

Winema

Volume 25, Issue 8

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

1-800-524-9787 or (541) 783-2219 Website: [www.klamathtribes.org](http://www.klamathtribes.org)

DECEMBER 2009

## A word of inspiration to our people from the Klamath Tribes Negotiation Team:

**A TIME OF CHANGE HAS COME... AND IT IS NOTHING  
SHORT OF MIRACULOUS!**

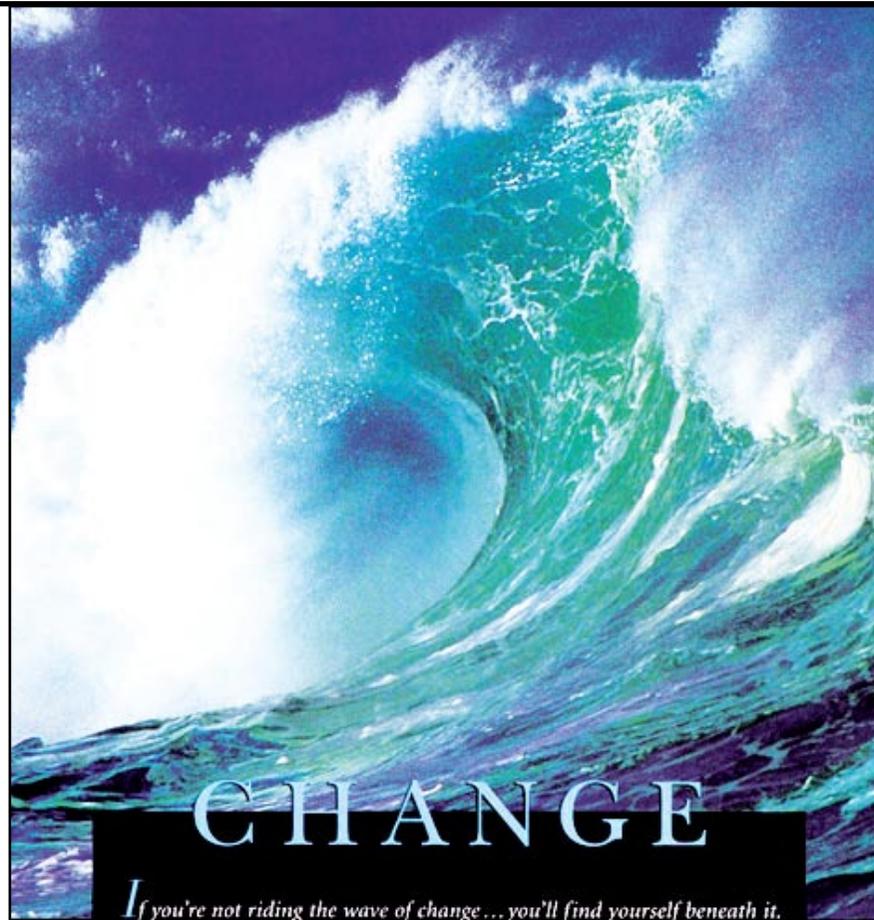
Ballots regarding the KBRA/KHSA agreements will be mailed to Klamath Tribal Members in the first week of January, 2010. Ballots must be returned and postmarked at the Chiloquin, Oregon, post office by **9:00am on January 19, 2010, in order to be counted in the vote.** Addresses from the Klamath Tribes Members Benefits (Per Capita) department are being used for the mailing.

**Finally, after years and years of hard work, deliberation, and dedication, we have arrived at a place that in our opinion is nothing short of a Miracle!**

We stand on the verge of the biggest river restoration effort in US History, and the 27 major entities that worked on these agreements can think of no other viable approach to remove dams, increase flows to the rivers and lakes, and invest the millions needed to effect basin wide restoration in our homelands. **The Klamath Tribes Negotiation Team strongly believes that the KBRA and KHSA provide the greatest opportunity that has come to the Klamath Tribes since Restoration.** Through these agreements, we can exercise our sovereign authority and use the strength of our Treaty Rights to restore and recover some of what has been lost to us through Termination. We can bring 90,000 acres of our homeland back into tribal ownership, and take care of the natural resources that make us who we are.

The KBRA will help to restore the resources that will allow us to exercise our Treaty Rights in a meaningful way. We believe that the KBRA is an unprecedented opportunity and the first of its kind in US history. It can improve the future of our people, and is an opportunity we cannot afford to lose.

We ask that you look at the facts and the benefits of the KBRA and KHSA to our people and resources. We believe that if you do, you will support the agreements and vote yes!



# CHANGE

*If you're not riding the wave of change... you'll find yourself beneath it.*



The Klamath Tribes  
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# Facts about the Klamath Basin Restoration Agreement (KBRA) and Klamath Hydroelectric Settlement Agreement (KHSA)

## Purpose of this special issue paper

The Negotiating Team is very concerned about the spread of rumors and misinformation regarding the KBRA and the KHSA, and we believe that it is in the best interest of Klamath tribal members to know the facts so they can make an informed decision. To get the correct information out, the Klamath Tribes Negotiating Team has responded briefly below to address some of the inaccurate rumors about what the agreements do, and what they don't do.

## **KBRA/KHSA released for review and referendum vote by Klamath tribal members**

Negotiations on all terms of the KBRA and KHSA were finalized on December 18, 2009. The KBRA was posted on the Klamath Tribes website, <http://www.klamathtribes.org/>, and was made available on December 21, 2009 for tribal members at the Administration Office in Chiloquin (contact the Tribal Secretary, Torina Case, for a copy). The KHSA has been available for review on the Tribe's website and at the Administration Office since October, 2009. Ballots regarding the agreements will be mailed to Klamath tribal members in the first week of January, 2010 for vote. Ballots must be returned by 9 AM on January 19, 2010, at the Chiloquin, Oregon, post office.

**Go to: [www.klamathtribes.org](http://www.klamathtribes.org) to view the KBRA and KHSA**

## **KBRA modified to address concerns of Klamath tribal members**

The Klamath Tribes Negotiating Team has worked hard for significant modifications to the KBRA in response to concerns raised by tribal members regarding the release of certain potential legal claims against the United States. These modifications ensure that the release of claims cannot be misinterpreted in a way that would limit the ability of the Tribes to pursue future claims against the United States for damages related to federal water management decisions after enactment of the KBRA, or for damages not related to water management that happened at any time. For tribal members concerned about this issue, before making your decision, it will be critical to review the changes made to the final agreement that were made specifically to address these concerns (see Section 15.3.5 of the KBRA, starting on page 85).

**RUMOR: The Klamath Tribes are giving up all claims of past injury against the United States through the KBRA - even those not related to past water management decisions.**

**TRUTH:** The KBRA is not an agreement to give up Treaty rights, as some have been saying. To quote from page 85 of the KBRA: "...the Klamath Tribes...without terminating or relinquishing the treaty rights underlying these claims...relinquish and release the following claims against the United States...".

There is only one narrow class of claims subject to relinquishment. Those are potential claims against the U.S. that resulted from federal water management decisions made before the enactment of the KBRA. The Williamson River drainage above Kirk, and the drainage above the Sycan Marsh, are specifically excluded from the release of claims, which means any potential claims regarding the Klamath Marsh, for example, are not affected at all by the KBRA. All other potential claims not related to past federal water management decisions, such as Crater Lake, mineral rights, Termination, timber, loss of treaty resources due to federal and state mismanagement of habitats and populations, to name a few examples, are not affected at all.

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

### **\* Distribution:**

Publications are distributed at the end of the month, or as funding allows.

### **\* Deadline:**

Information submitted for publication must be received by the 15th of each month- (for the following month's publication).

### **\* Submissions:**

Submissions should be typed and not exceed 500 words. Submissions must include the author's signature, address and phone number. Submissions are used as fillers and publication is strictly dependent upon space availability. ***We cannot guarantee publication of any article or submission.***

### **\*Order of Priority for Newsletter:**

#1- Tribal Government/ESSP Information

#2- Tribal Program Information

#3- Associated Tribal Information

#4-6- Fillers (when space is available, must be submitted by the family): i.e.- Obituaries, Wedding, Birth, and Family Announcements, Graduations, Individual Tribal member info., Birthdays, Etc...

**Letters to the Editor:** Letters are viewed as Associated Tribal Information. However, they must be less than 500 words. Any and All articles may be edited for clarity and length. Letters are subject to review. Letters/articles that may contain libelous, slanderous, or personal attacks will not be printed.

**\*Photographs** should be vivid and clear or 300jpg/ppi

\*All internal photos by: Taylor David -K-News, unless otherwise noted. ©All photos property of K-News dept.

**\* Returns:** For any information to be "returned", please include a "self addressed stamped" envelope.

### **\* Klamath News Rights:**

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### **\* Change of Address:**

Send address changes (for the Newsletter Only) to the following address. \*Please include your old mailing label if possible.



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or Visit the Tribal Website at:

**[www.klamathtribes.org](http://www.klamathtribes.org)**

TRUTH: This release of claims is a necessary part of the KBRA for the United States to commit to the agreement. Under the KBRA the United States will be legally bound to address problems they caused through their past water management decisions. Many of these obligations that directly benefit tribes and Treaty resources were insisted upon by tribal negotiators. From the perspective of the Tribes, these requirements are necessary to help fix the problems in the watershed and right the wrongs of the government's past water management decisions. The U.S., through fulfilling their obligations in the KBRA, will essentially be addressing the problems they created, and they will be doing it in the manner designed in large part by the Tribes. The government simply will not agree to the KBRA if they will still be liable for damage claims for past water management problems that they will be required to fix through the KBRA.

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**RUMOR: The KBRA requires the Klamath Tribes to give up their Treaty Rights and the ability to sue the government for damages due to past management, with no guarantee that the Tribes will benefit.**

TRUTH: No Treaty rights are given up. Only the release of claims for past federal water management decisions is given up to the U.S. by the Klamath Tribes if the Tribes agree to the KBRA. In return, the Klamath Tribes will benefit from the massive coordinated effort to restore our natural resources so that it will be possible for the Tribes to get salmon and steelhead back, our c'wam fisheries restored, our trout fishery improved, and a portion of our homelands back. Getting 90,000 acres of homelands back, along with program funding for watershed restoration, will give the Klamath Tribes and tribal members enormous opportunities for economic development and jobs - and the Tribes will not give up one single Treaty right.

In fact, the U.S. must deliver many things that benefit the Tribes before any release of claims is finalized. If the following things do not happen, then the Klamath Tribes will not give up any claims at all against the U.S.

- If Iron Gate Dam, Copco 1 Dam, Copco 2 Dam, and JC Boyle Dams are not removed or breached to allow the Klamath River to once again flow freely, and so that salmon and steelhead can move up and down the river again, then no claims will be released.

- Virtually all of the fish habitat restoration, salmon and steelhead reintroduction, fisheries monitoring, reduction in agricultural diversions, and other water and habitat programs required in the KBRA have to be completely funded. These programs will help our fish, our rivers, our wildlife, and will also provide jobs for tribal members. If these programs have not been funded in full (more than \$500 million), then no claims will be released.

- \$21 million must be provided to us towards the purchase of the Mazama Forest. This is 90,000 acres of reservation land returned that will support economic development, provide jobs, and help us work to fix the health of the forest. If all of this funding is not provided in time to purchase Mazama Forest, then no claims will be released.

- The interim fishing site below Iron Gate Dam that will give us opportunity to fish for salmon while they are being restored to our Treaty Area must be approved by the California Fish and Game

Commission, or another equal benefit provided. If this has not happened, then no claims will be released.

- Diked and drained parts of Agency Lake must be re-flooded to be part of better lake management for fish and other aquatic resources. If this does not happen, then no claims will be released.

---

**RUMOR: If we sign the KBRA and get the Mazama Forest back, then our Treaty Rights will only apply to the Mazama Forest, and our Treaty Rights everywhere else will be terminated.**

TRUTH: Not one single Klamath Tribal Treaty right is given up or terminated. There is no language in the KBRA that would or could cause such a limitation on Treaty rights to happen.

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**RUMOR: KBRA funding will allow irrigators to increase groundwater pumping that will further deplete surface water flows in the Klamath River.**

TRUTH: Strong protections are built in to protect springs flowing into the Klamath River, the springs entering Upper Klamath Lake, and the springs that feed the Wood and Williamson rivers. If groundwater use by the Project irrigators has an adverse impact on spring flows, they have to find a way to avoid the adverse impact; see KBRA Section 15.2.4. The KBRA doesn't harm groundwater, the KBRA protects groundwater from excessive use by the Irrigation Project.

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**RUMOR: The KBRA weakens the Endangered Species Act.**

TRUTH: The KBRA specifically retains our ability to protect fish using the Endangered Species Act (ESA). However, over the past 20 years, attempts to recover our fisheries through the use of Biological Opinions under the ESA have failed. We want to recover fish to harvestable levels, and the ESA's Biological Opinions will NEVER accomplish this goal. Instead, the KBRA takes a different approach to applying the ESA - we're going to restore flows and fish habitats, and fix water quality, by working with people through the ESA's Habitat Conservation Plans. For the very first time, we will be addressing the things that are really causing the problems with our fish. The KBRA finally uses the ESA in a way that can recover fish populations.

---

**RUMOR: The Federal Energy Regulatory Commission (FERC) will soon order removal of the Klamath River Dams without the KBRA.**

TRUTH: FERC exists mainly to make sure that dams stay in rivers. In its recent Environmental Impact Statement, FERC actually rejected dam removal. We and some other Klamath Basin tribes have looked hard at trying to force the dams out through litigation.

TRUTH: Though it might be eventually possible, to get the dams removed thru litigation, it will require more than a million dollars in legal fees, would not succeed until after 2030, and requires that we win a long series of court cases (a single loss kills us). Even if we could get the dams out through the courts, we would miss the opportunity to take advantage of the KBRA's reintroduction and restoration plans, and the funding necessary to bring our fish back. Based on FERC's track record, it is unreasonable to trust that FERC will order dam removal.

**RUMOR: The KBRA legally gives our Indian water rights to irrigation corporations, and we will give up our time immemorial priority date for water to a day after the day in 1905 when the Secretary of the Interior claimed all unclaimed water in the Klamath Basin.**

TRUTH: The statement above is false. Under the KBRA, the Project irrigators will withdraw their contests to our water rights claims in Upper Klamath Lake and the Klamath River in the Adjudication, and recognize the Klamath Tribes' "time immemorial priority and amounts of water" claimed in the Lakes and Rivers (quoted from page 4 of Appendix E-6 of the KBRA). Our bargain with the Project irrigators is that if they reduce and cap their diversions, then we will not place a call on their remaining diversions based on our time immemorial water rights in Upper Klamath Lake or the Klamath River. This is a fair deal that benefits both parties.

**RUMOR: We're giving up our Treaty rights. It's Termination all over again. We're giving up our sovereign rights as a nation. It is "Legislation Termination".**

TRUTH: Not one single Klamath Tribal Treaty right is given up or terminated in any way. No sovereign rights are given up. To the contrary, it is through the strength of our Treaty Rights that the Klamath Tribes were able to successfully negotiate the provisions in the KBRA that will directly benefit the Klamath Tribes and Treaty resources. Through the KBRA, we are exercising our sovereign authority as a tribal nation to enter into an agreement that greatly benefits our tribes and the natural resources that are so important to preserving our culture and the exercise of our Treaty Rights.



## What Do the Settlement Agreements Mean to the Future of the Klamath Tribes?

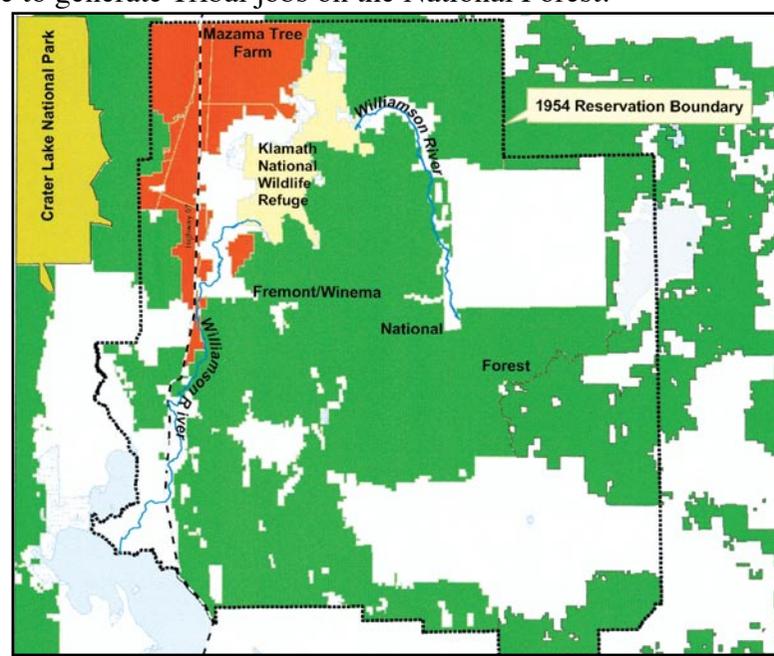
For several years, the Klamath Tribes and 26 other groups have been negotiating far reaching settlement agreements that can accomplish many things for which the Tribes have been striving for a long time. Two agreements are proposed: the Klamath Basin Restoration Agreement, and the Klamath Hydroelectric Settlement Agreement. Tribal government and staff have fought to develop a settlement package that brings the following benefits to the Tribes and the resources that Tribal members depend upon.

### Funding and Implementation of the Mazama Forest Project which:

- \*Includes \$21 million in federal money towards the purchase of 90,000 acres of the former reservation.
- \*Offers many opportunities for Tribal forest businesses and site development at Crater Lake Mill site that will put Tribal members back to work in the woods.
- \*Enables the Tribes to restore health to the Mazama Forest AND build businesses by implementing the Klamath Tribes Forest Management Plan.

### Mazama Forest positions us to be a nation-wide showcase for implementing the Tribal Forest Protection Act (TFPA).

- \*The TFPA is a new federal law under which Tribes can influence the management of adjacent federal lands. A key component of the TFPA is Tribal ownership of property that is adjacent to Forest Service lands. Over 50 miles of the Mazama boundary touch the Fremont-Winema National Forest.
- \*The TFPA enables the Tribes work with the Forest Service to collaboratively implement the Klamath Tribes Forest Management Plan on the National Forest, which will greatly increase our ability to improve forest condition and improve mule deer habitat.
- \*The TFPA and Mazama Forest allows the Tribes to make full use of Stewardship Agreements and other mechanisms with the Forest Service to generate Tribal jobs on the National Forest.



**Bringing the salmon and steelhead Home: The largest dam removal effort in history.**

\*Copco I Dam exterminated our salmon and steelhead fisheries in 1917 – settlement charts a course to removing this dam along with Iron Gate Dam, Copco II Dam, and J. C. Boyle Dam.

\*Conditions in the Klamath River are not good, and the dams are a big part of the problem – if we don't get them removed, many salmon and steelhead populations in the Klamath may face extinction over the next 50 years. If we don't remove the dams and restore salmon and steelhead now, chances are they will be forever lost to us.

\*We have been working to achieve removal of these dams since 2001, when the FERC re-licensing process began.

**\$53 million to begin a massive effort by the Klamath Tribes and others to reintroduce and restore salmon and steelhead runs to Tribal homelands.**

\*Before dam removal we and others will launch major planning and research efforts to lay out the best salmon reintroduction strategy and methods.

\*Reintroduction efforts after dam removal will begin by actively reintroducing Chinook salmon above Upper Klamath Lake; below the lake we will allow Chinook and steelhead to re-colonize on their own, and start moving fish around only if it is necessary.

\*After dams are removed funding levels will rise, because the main reintroduction effort will then start in earnest.

\*The Klamath Tribes will play a lead role in the reintroduction efforts.

**Over \$235 million for a massive effort by the Klamath Tribes and many others to fix our lakes and rivers above Iron Gate Dam.**

\*\$101 million to restore habitat and screen diversions in Upper Klamath Lake and on the Sprague, Wood, and middle Williamson rivers.

\*\$51 million to evaluate fish, water quality, and habitat responses to restoration.

\*\$16 million to treat riparian forests to reduce fuel loads, fix road crossings and provide fish passage on federal lands.

\*\$20.2 million to reconnect marshes to Upper Klamath Lake (Williamson Delta, Agency Lake and Barnes Ranches, Wood River Wetland).

\*\$55 million to restore Lake Ewauna for fish, and to clean up the water that goes down the Klamath River.

\*\$3 million to restore river habitats below Keno.

\*This is a major opportunity to develop Tribal businesses around things the Tribes really care about like river, lake and forest restoration.

\*The Klamath Tribes will be administering a significant portion of these funds through our Cooperative Agreement with the US Department of Interior.

**\*This is by far our best chance to restore abundant fisheries for suckers, salmon, and trout.**

**Over \$141 million for a massive effort by the Klamath River tribes and others to restore habitat and salmon runs in the Klamath River and tributaries downstream of Iron Gate Dam. This benefits the Klamath Tribes because healthy tributaries (especially the Shasta River) will help us restore spring Chinook to the Upper Basin, and a healthy Klamath River is crucial to the success of up-river runs.**

**\$1.5 million each year (\$14.5 million total) for the Klamath Tribes to build capacity of the Tribes Natural Resources Programs.**

**\$250,000 for a Klamath Tribal economic development study.**

**Interim salmon fishery for the Klamath Tribes on the Klamath River between Iron Gate Dam and the I-5 Bridge.**

Tribal members will be able to legally take Chinook salmon in this stretch of the river each year after the Iron Gate Hatchery egg take is complete.

**Improve water conditions in our rivers and lakes.**

\*Klamath Irrigation Project deliveries will be reduced and capped in the drier years, in exchange for a pledge from the Tribes not to further reduce Project diversions. In the driest years, a drought plan will be in place to maintain river flows and lake levels to support fish.

\*\$47 million to substantially increase flows in the Sprague, Wood and Williamson by retiring enough water uses to increase inflow to Upper Klamath Lake by 30,000 acre feet per year.

\*A new process for managing water will be established in which the Klamath Tribes will be influential.

\*Some claims in the adjudication will be settled, others may be litigated.

## **Is Settlement in the Best Interest of the Klamath Tribes?**

Settlement offers Klamath Tribal members a better future. With the return of the Mazama Forest comes real economic development that will put our people back to work in our forests, doing work that is designed to restore health to our forests and deer herds. The Mazama Forest acquisition is the key element of our strategic approach to applying the Klamath Tribes Forest Management Plan across our landscape as a state-of-the-art approach to forest management that will over time transform our forests, restore their capability to produce timber and wildlife, and provide jobs for Tribal members.

With the removal of the Klamath River dams comes the return of our salmon and steelhead that were lost 90 years ago, and a truly massive aquatic restoration effort designed to repair our damaged rivers and lakes. Before extensive development, the Upper Klamath Basin was a phenomenal producer of trout, salmon, and suckers, and all three will benefit tremendously from the restoration work that settlement will bring. Along with the ecosystem benefits come economic benefits to the Tribes. Many jobs and business opportunities will be generated by the restoration funding that comes to the area.

Is settlement the best way for the Klamath Tribes to provide a healthy future for our people and our homeland, or is there a better way to accomplish these things? The Klamath Tribal Council answers "yes" to that question, we have worked very hard over the last year's to create the very best agreement for our Tribes. We feel it provides for a balance that has eluded us for many decades. It is time to make our final decision, The Council urges our members to support these agreements, to vote "yes" for our future and the future of our nation. **The decision is where it belongs – in the hands of Klamath Tribal voters.**

# WHAT DOES A "YES" VOTE MEAN?

## **WHAT DOES A 'YES' VOTE MEAN?**

A **YES** vote means that the Klamath Tribes are approving the Klamath Hydroelectric Settlement Agreement (KHSAs), and the Klamath Basin Restoration Agreement (KBRA), and that the following things will happen:

### **Under the Klamath Hydroelectric Settlement Agreement**

**1. The lower 4 dams on the Klamath River, that presently prevent salmon and steelhead from returning to the Upper Klamath Basin, will be removed by a target date of December 31, 2020, if the following things occur:**

- \* Federal legislation consistent with the KHSAs has been enacted by March 31, 2012.
- \* California voters approve a \$250 million bond measure to cover possible costs of dam removal. The bond measure has passed the California legislature and will be on the November 2010 ballot.
- \* By March 31, 2012, the Secretary of the Interior decides that the dam removal will advance restoration of the salmon and trout fisheries of the Klamath Basin, and that removal is in the public interest, in view of the potential impacts on affected local communities and Tribes.
- \* The \$200 million fund for Klamath River dam removals established by Oregon legislation (SB 76) passed in 2009 accrues funds as projected.

**2. The target date for dam removals could shift based on considerations related to funding, and the details surrounding the many tasks related to removal.**

**3. Removal of the lower 4 Klamath River dams maximizes the likely success of restoring salmon and steelhead to the Klamath, Modoc, and Yahooskin homelands.**

### **Under the Klamath Basin Restoration Agreement**

The following major programs will happen over the next 10 years, with many intended to continue longer. Because many of the problems are large and will take time to fix, many years will be required to achieve the full benefits of the agreement. Full funding for these programs will be subject to annual appropriations by Congress. For more detail on funding amounts see Appendix C-2 of the KBRA.

**1. Through the Tribal Program, the Klamath Tribes will directly receive:**

- \* \$21 million toward the Tribes' reacquisition of the 90,000 acre Mazama Forest, which was taken from the Tribes at Termination.
- \* Annual funding for aquatic ecosystem management.
- \* Annual funding for uplands management.
- \* Funding for a Tribal economic development study.
- \* Access to fish for salmon on the Klamath River between Iron Gate Dam and the I-5 Bridge while they are being restored to the Klamath Treaty Rights Area, or an equivalent benefit.

**2. Klamath Tribal ownership of the Mazama Forest will create jobs and economic development opportunities for tribal members and for**

**the Tribes:**

- \* Biomass energy development.
- \* Bundled firewood, post and pole, other potential small businesses.
- \* Jobs in the woods.
- \* Greatly increases Klamath Tribal influence over forest management in the adjacent national forest, through the Tribal Forest Protection Act.
- \* Returns the primary forest and wildlife management roles of the Tribes to 90,000 acres of ancestral lands – the forest and big game herds can be managed to produce trees, deer, elk, and other species important to Treaty Rights.

**3. Major KBRA Programs – most of the programs will take many years to implement, and for the Klamath Tribes to experience their full benefit:**

\* Fisheries Program – a massive effort to restore river and lake habitats, improve water quality, reestablish salmon and steelhead, recover endangered suckers, and re-establish and maintain Tribal Treaty fisheries. This program is a centerpiece of the KBRA.

\* Water Resources Program – reduces (by about 100,000 acre feet in dry years) and caps water diversions by the Klamath Irrigation Project; increases and caps diversions by the Lower Klamath and Tule Lake Wildlife Refuges; protects groundwater from excessive use by the Klamath Irrigation Project; reduces diversions above Upper Klamath Lake and increases inflow to the Lake by 30,000 acre feet per year; restores former wetlands around Agency Lake; provides sufficient water to improve fisheries; strengthens the Klamath Tribes' role in water management; settles the water adjudication issues between the Klamath Irrigation Project and the Klamath Tribes.

\* Regulatory Assurance Program – improves application of the Endangered Species Act, managing for species recovery by permitting a limited take of endangered species in exchange for protection and restoration of habitats that the species rely upon.

\* Power Resources Program – provides power for irrigation purposes at a rate lower than the standard rate. Lower rates will benefit Klamath Tribal allottees who are still ranching. The Program may help start the Tribes' biomass energy development, which would benefit the Tribes economically.

\* Counties Program – provides some funding for offsetting property tax impacts of water use retirement on agricultural lands, and for some economic development planning.

**4. Jobs and economic development opportunities will come through the KBRA in many forms, and will be available to Tribal members, Tribal contractors, and Tribal programs. In particular, the massive habitat restoration and salmon reintroduction programs will bring several hundred million dollars into the Klamath Basin, creating many opportunities – to name a few: heavy equipment operators, hand crews for many different purposes, project and cultural resource monitoring, fish research and monitoring, etc.**

**5. The Tribes' water rights litigation in the Klamath Basin Adjudication will continue against all parties that do not specifically settle water rights litigation with the Tribes through the KBRA.**

# WHAT DOES A "YES" VOTE MEAN?

**6. In exchange for the benefits coming to the Klamath Tribes (which include the Klamath Irrigation Project's formal recognition of the Klamath Tribes' Time Immemorial water rights, and the Project's agreement to permanently reduce and cap water diversions), the Klamath Tribes provide conditional assurances to the Klamath Irrigation Project that the Tribes will not use Tribal trust or Tribal water rights to try to force the Project to further reduce their diversions. Assurances that the Klamath Tribes will not try to reduce Project diversions below the Project's capped amount will become permanent ONLY after the following things happen:**

\*All four dams on the Klamath River have been removed or breached so that the river is once again free-flowing and salmon and steelhead can swim up and down the river.

\*Funding has been authorized for a program to increase flows into Upper Klamath Lake by substantially reducing upstream agricultural water use.

\*The Klamath Irrigation Project has reduced, or can be forced to reduce, its water diversions.

\*\$21 million has been provided for the Mazama Forest reacquisition.

**7. In exchange for the benefits coming to the Klamath Tribes, the Klamath Tribes give up NO Treaty rights, but do provide the following limited release of claims against the US for damages resulting from U.S. water management as follows (applies only to the past performance of the U.S. up to the date when the Klamath Tribes sign the KBRA). See #8 to understand what must happen before any release of claims is provided to the U.S., and #9 to understand the claims and rights specifically retained by the Tribes.**

\* Federal water management decisions or the failure to protect Tribal water rights relating to damages to land or natural resources.

\*Federal handling of litigation of the Upper Klamath Lake and Klamath River water rights claims in the Adjudication.

\*Federal handling of litigation of other water rights claims IF they are settled later under an Off Project Water Settlement.

\*Negotiation of the KBRA and KHSA.

**8. The Klamath Tribes will not be obligated to release any of the above claims against the US until after the following things happen:**

\*Authorizing legislation passes Congress.

\*All four dams on the Klamath River have been removed or breached so that the river is once again free-flowing and salmon and steelhead can swim up and down the river.

\*The Fisheries Restoration Plan has been fully funded, which means hundreds of millions of dollars have been spent on restoring the health of our rivers and lakes.

\*Phase 1 of the Fisheries Reintroduction plan has been fully funded, to restore harvestable salmon and steelhead populations in the Upper Klamath Basin.

\*The Fisheries Monitoring Plan has been fully funded.

\*The Water Use Retirement Program has been fully funded, to increase inflow into Upper Klamath Lake by 30,000 acre feet each year through decreasing upstream agricultural water use.

\*The Interim Flow and Lake Level Program has been fully funded, to keep adequate water in Upper Klamath Lake and the Klamath River during the period before dam removal and the full reduction of diversions by the Klamath Irrigation Project.

\*The Regulatory Assurances Program has been fully funded, to help us use the Endangered Species Act to achieve recovery of suckers and salmon.

\*The Klamath Tribes have received full funding for our part of the Tribal Program, which includes \$21 million towards the reacquisition of 90,000 acres of former Reservation lands (Mazama Forest), aquatics and uplands management, and study of economic development.

\*Access for salmon fishing has been provided to the Klamath Tribes below Iron Gate Dam, or an equivalent benefit provided.

**9. The Klamath Tribes reserve the following rights and claims:**

\*Retain all Treaty rights – release of some claims as described in #7 above IN NO WAY RELINQUISHES OR TERMINATES THE TREATY RIGHTS THAT UNDERLY THOSE CLAIMS.

\*Retain claims relating to damages to land or natural resources not caused by federal water management decisions or the failure to protect Tribal water rights.

\*Retain claims relating to damages to land or natural resources caused by federal water management decisions or the failure to protect Tribal water rights that occur after enactment of the KBRA, that are not associated with implementation of the KBRA.

\*Retain claims for enforcement of the KBRA.

\*Retain all claims for water rights, except to the extent they are limited by the KBRA (see #6).

\*Retain all rights to acquire, use, and protect water rights, subject to the terms of the KBRA.

\*Retain all claims relating to activities affecting water quality, subject to the terms of the KBRA.

Copies of both agreements can be viewed and downloaded from the Klamath Tribes' website <http://www.klamathtribes.org>, or can be obtained from the Tribal Secretary, Torina Case, at the Tribal Administration office in Chiloquin, Oregon.

Once you log onto the tribal website you can find both document links on the Homepage. To view the KBRA document you will be re-directed to the Tribal Government section where you will need to call to receive a Klamath Tribal Member username and password.

**To obtain a Username and Password please call Tribal Administration and at 541-83-2219 or 1-800-524-9787, the following can help you:**

Torina Case ext. 170

Anna Bennett ext. 185

Taylor David ext. 170

Kathleen Mitchell ext. 183

Emma Harrington ext. 0

# WHAT DOES A "NO" VOTE MEAN?

## WHAT DOES A 'NO' VOTE MEAN?

A **NO** vote means that the Klamath Tribes are refusing to approve the Klamath Hydroelectric Settlement Agreement (KHTSA), and the Klamath Basin Restoration Agreement (KBRA), and that the following things will happen:

1. Removal of the lower four dams on the Klamath River will not be supported by the Klamath Tribes. It may be possible, but it is highly unlikely, that such removal could still happen without the Tribes' support.

2. Restoring salmon and steelhead to Tribal homelands is less likely to occur. If the KHTSA does not go forward, then litigating with PacifiCorp will be the only option. Continued efforts to force PacifiCorp to install fish ladders and downstream fish bypasses will require years of expensive litigation. PacifiCorp has unlimited funds and several attorney firms at their disposal to fight off our litigation. If we lose, our chance to bring salmon and steelhead home is probably gone. If we win enough to preserve our existing victories, and salmon and steelhead reintroduction goes forward with fish ladders, the reintroduction will be less successful than if the dams are removed.

3. The Klamath Tribes will NOT receive any funding for reacquisition of 90,000 acres of former Reservation lands (Mazama Forest), aquatics and uplands management, or study of economic development.

4. The Klamath Tribes will NOT receive access for salmon fishing below Iron Gate Dam.

5. Water management for Treaty fisheries in and below Upper Klamath Lake will continue as it has in the past, and will continue to be based on battles between full deliveries of water to the Klamath Irrigation Project, and Biological Opinions under the Endangered Species Act that restrict those deliveries in some years. This process is focused only on avoiding the extinction of the endangered suckers in Upper Klamath Lake, and threatened coho salmon in the Klamath River, and does not address restoring fish to harvestable levels needed for the exercise of Klamath Treaty rights. It continues the same approach taken over the past 20 years, which has not yielded significant benefits for the coho or the suckers, because Project diversions are only a part of the problem. Dam removal, a massive habitat restoration effort, and a reasonable reduction in agricultural diversions are all necessary to recover these species. So far litigation and government action have not achieved these results, and they are unlikely to achieve them in the future.

6. No land will be returned to the Klamath Tribes; the jobs and economic development opportunities for Tribal members, Tribal contractors, and Tribal programs associated with the Mazama Forest will be lost.

7. None of the jobs or economic development opportunities that would be provided by the KBRA will be available to Tribal members, Tribal contractors, or Tribal programs associated with the massive habitat restoration and salmon reintroduction programs (heavy equipment operators, hand crews for many different purposes, project and cultural resource monitoring, fish research and monitoring, etc.).

**The Vote is Yours. You can vote YES or NO when you receive your Ballot in the Mail. Ballots will be mailed the first week of January 2010, to the address you have listed with the Klamath Tribes Members Benefits (Per Capita) Department. Call Members Benefits at 541-783-2219 ext. 195 ext. 150 or ext. 203**

And now a few words from Tribal members and friends about the...

# PLAN

## For the Future

**Joe Kirk, Chairman of the Klamath Tribes-** "The Klamath Basin Restoration Agreement and the Hydro Agreement are intended to provide river quality and quantity at a level that benefits and meets the needs of the people of the Klamath Basin as well as the people and communities of the Klamath River.

Since the beginning of time, the people of the Klamath Tribes have depended on the rivers and the water for virtually everything and the rivers lakes and marshes provided it, food, clothing, shelter as well as meeting social cultural and spiritual needs, the list goes on and on... The People of our tribes sit at the head waters of the Klamath River. What happens upstream impacts downstream and what happens downstream impacts upstream. We must take care of the whole rivers system the KBRA and the Hydro Agreement provide that opportunity.

For many years all of the people of the Klamath Basin and the Klamath River, recognized that we had a problem. Water quantity, water quality and all of the negatives that go along with; not enough water, not enough clean water. For many, many years we talked about it. We talked about the dams stopping the fish runs. We watched and talked about water levels and thousands of fish dying on the banks of dried up rivers and lakes. We talked about the fish kill because of the algae. We posted, "No Fishing" signs, not because there were no fish. We posted, "No Swimming" signs, not because there was no water. Those signs were posted because the water was contaminated /dirty. We talked about not enough water to meet the demand, and not just the need of the farmers, but the broad based need of individuals, communities and industry, which includes hydro-electric power.

Through time, the needs became demands on a water supply that is simply not there! The KBRA and the Hydro-Agreement provide a reasonable and achievable solution: With all concerned parties, being involved or having had the opportunity to be involved; in finding a solution and reaching an agreement. The KBRA and the Hydro Agreement are in the best interest of the Klamath Basin/Klamath River, residents, farmers, Indian Tribes, environmentalists and business/industry. The Klamath Basin Restoration Agreement and the Hydro Agreement provide a solution to a long term on-going problem. We need to take advantage of this opportunity to fix it while we can."

**Jeff Mitchell, Klamath Tribal Council and Negotiation Team-** "The decision we make concerning the KBRA/KHSA will be one of the most important decision in the last 150 years of our Tribes. These agreements represent the most significant actions we can take to preserve and protect the values and principles, the lands, water and resources including all our fish, plant and wildlife of the entire Klamath Tribes. A vote of yes will set a new course that brings stability, predictability and certainty that we have not had since prior to termination. We can set us on a new path or we can tie ourselves and our descendents to decades more of uncertainty and litigation. I ask you all to vote yes."

**Torina Case, Tribal Member and Klamath Tribal Secretary-** "I support the KBRA/Hydro Agreement because it means a step towards a solution in the Basin. There hasn't been any possibilities of that for a very long time. We have all been fighting a battle where there would be no winner... the KBRA and Hydro Agreements offer a Win-Win solution."

**Brandi Decker, Klamath Tribal Member and Tribal Treasurer-** "I can honestly say, from my heart, that about nine years ago, I was nominated by Tribal Council to sit on the Hatfield Group. In this group of individuals, there were a variety of interests groups in participation. I was nervous, leary, and very unsure of why I was the chosen one. I had no clue what this group was about, but at the meeting, the first words out of my mouth, was that we are all a part of this Basin and it is going to take all of us working together to resolve and fix the problems.

I have several friends and relatives who are amongst the majority of each of these

other interest groups. I was not there to cause problems, nor was I there really for any answers. I simply figured I would do my best to participate and to offer what I could.

I developed a friendly working relationship with these people, and there was one individual there that was very negative and always seemed so mad. I was nominated by the group to be a co-chair, and the one thing that I did know in my heart was that there was no way anything was going to be resolved unless everyone came together to restore the whole water system from the top to the bottom.

I am very pleased to see the hard work and efforts of individuals who have put their whole lives into these issues. These two documents prove we CAN work together and show the federal government that this community, our basin, and the Tribes, have come together in this time of change, to make this a better place for our future generations. If we do not do something now, while we have the attention of the Federal Government, State Governments, Tribes, Local Officials, and other interest groups, we may never be able to fix these problems.

Despite all of the current economics everywhere in this world, I have been praying that this is the time for all of US and our families to move forward and accomplish our FUTURE. I believe we have such a potential to grow and benefit everyone right now, that we cannot give up without a FIGHT, we have come a long ways from what I can see.

Also, back to the individual I mentioned above that sat across from me in the Hatfield Group Meetings, that was always negative and mad... I am happy to say, that he has, for the past three years, showed nothing but respect and support to the Klamath Tribes, and in him we have a great friend indeed.

I cannot thank the many individuals enough (from the bottom of my heart) who have spent enormous amounts of time, energy, and dedication, at the meetings and on these documents, to prepare our FUTURE. There are too many to mention, but our Creator knows who they are and I am very proud of them. I will be voting yes."

**Larry Dunsmoor, Klamath Tribes Senior Aquatics Biologist-** "When I came here to work as your Fisheries Biologist in 1988, things looked pretty grim. The c'wam had just been listed as endangered, and the rivers, the lake, and the fisheries were in terrible shape. When I learned about the salmon and steelhead runs that once returned to the Upper Basin, I thought that there was no hope at all to bring them back. It looked pretty impossible back then to put together the funding and the collaborative relationships with other groups that would be needed if we were to ever fix this place, and truly restore the fisheries that belong here.

Now, after 22 years, I see how much has changed since 1988. We have arrived at a place that is nothing short of miraculous, to me. 10 years ago I would have laughed in the face of anyone who told me that we would be able to engineer the return of salmon and steelhead by removing 4 dams, reach an agreement on water with the Project irrigators, and bring hundreds of millions of dollars to bear on restoring the damaged aquatic ecosystems in the Upper Klamath Basin. And now, here we are, right on the brink of accomplishing those things! It's just miraculous!

(Larry's comments continued)... "Of course, merely signing the KBRA and KHSa will not accomplish these things. Those agreements chart the course, and provide the structure and funding to accomplish our goals, and in many ways are just the beginning. Approval of the agreements means we will face an enormous amount of work to make sure that we accomplish our goals, and it will take many years to do so. So, if you vote for approving these agreements as I hope you will, do so realizing that ultimate success means a lot of hard work over the coming years, and no guarantees that everything will work perfectly. But also do so knowing that these agreements deliver by far the best chance to fix this place we live in that has ever come along. It will be up to us to make sure it happens."

**Joe Browder, Environmental Consultant and Kansas Delaware tribal member, who has helped the Klamath Tribes-** "For so many years the Klamath Tribes have come very close to winning better protection of their waters and fisheries, only to see the opportunities slip away – and still, the Klamath Tribes keep working for what is theirs. This time, thru these documents, the work can produce victory, a restoration of Klamath Tribes resources that respects the Klamath Tribes' sovereign rights."

**Anna (Ridenour) Bennett, Klamath Tribal Member-** "I support the KBRA and the Hydropower agreement because it is a means of restoring our environment to support harvestable levels of treaty guaranteed resources. For the first time since 1909, salmon and steelhead will swim the waters of the Williamson and Sprague Rivers'. It is also a means of recovering a portion of our homelands. And with that, we gain a valuable tool to utilize the Tribal Forest Protection Act. This will enable us, along with the federal government, to restore the natural habitat of the Winema-Fremont National Forest, which we exercise our Treaty hunting, fishing, gathering and trapping rights on. It also strengthens our water rights, in which the Project Irrigators have agreed to withdrawing contests in the Klamath Basin Adjudication to our Time Immemorial priority date and to our claimed amounts of water. They have also agreed to reduce their take of water from the lake. This is a great opportunity for the Tribes to move to the fore-front in restoring our natural resources."

**Buttons Bodner, Modoc Elder of the Klamath Tribes-** "The return of the Salmon is important, the elders before me were fisherman, but since the salmon have been gone over 90 years that means our Treaty Right hasn't been respected or enforced in all this time. I'm eighty years old now and its been a long time since the Sprague River and all the other waterways have been clean. I'm voting YES on the KBRA and Hydro Agreement because many things have changed in my lifetime. But the worst thing I've seen is the way our water has been depleted for everyone, and how our deer and elk herds have suffered. I hope things can change for our wildlife and I hope the water can be clean again in the future, then maybe we can all start working together."

**Billy David, Klamath Tribal Member-** "I support the KBRA & KHSa because I believe they will provide for the sustainability for not only our Klamath people but our fellow Klamath Basin residents. Once the water ways in the Klamath Basin become healthy and the fish in the water ways become healthier, then our people will become healthier in body and mind. Although my generation cannot go back in time and take back Termination, and the effects it took on my grandparents and parents, it is my generation that MUST start to put those things in place to ensure longevity for our people. Clean and healthy water will create strong fish and vegetation, which will make our deer herds healthy and strong. Also, along the water ways grows our wocus and those items needed for basket making- healthier river banks will make these basket materials grow more prosperous."

**Bob Farris, Klamath Tribal Member-** "It's simple. I support it because the lake is dying and the trout are in a lot of trouble."

**Bill Tupper, Tribal Elder and former 15 year President of the Klamath Tribal Water Allotees-** "I believe our tribe has a lot to gain by supporting the KBRA and KHSa. Not only because of the adjudication reasons, but because I believe it will cause the State of Oregon to look on us favorably.

I remember in 1935, when I was 5 or 6 years old, I would go with my Grandad,

Watson Duffy, to Jackson field in Beatty. It's Tetter Hess's family ranch now, but there was a place there we called "Jackson Ford"... this is where my Grandad would pitch-fork big sucker fish each year. He would fork them and throw 'em on the bank for me to put in the gunny sack. We'd get about 15 gunny sacks, then we'd take some over to my great-grandfather, Jeff Riddle, to share. We'd dry the fish and deer meat then... it was our livelihood. Today, there are no sucker fish or salmon, and I'm only 80 years old now.

I spent a lot of time learning about adjudication and water rights as the former Allotees President, and as a life-long resident of Klamath County. Lately I've listened to some tribal members say they don't support these two documents. I cannot understand that. Why would two State Governor's (Oregon and California) support documents, if they weren't good for everyone? I believe Governor Schwarzenegger and Kulongoski to be men that would look out for their States, just as I believe our Tribal Government, our Water Attorney, Biologists, and our Water Negotiation Team have done (in good faith) for the Klamath Tribes. It's been a lot of hard work and negotiations to get us to this point.

I know the downriver tribes all support Dam Removal, and these documents can get us to that end and provide the millions of dollars it will take to do that and restore the river systems. Not to mention how dam removal will clean up the toxic waste from behind those dams.

I don't know if I'll live long enough to see the salmon return once the dams are removed and we reintroduce the fish to this area, but I believe the salmon return is important for this community. This is our tribe's chance to move ahead to once again be one of the strongest and respected tribes in the nation. This is a chance for us to protect our resources for generations to come.

I encourage all my family and friends to vote Yes!"

**Cheryl Parrish, Klamath Tribal Member-** "I think we owe it to the future generations to protect and provide for all our natural resources, our ancestors gave too much of their lives for us to ignore this important step in our future. Vote yes on the KBRA/Hydro Agreements for Dam Removal and watershed restoration."

**S. Craig Tucker, Karuk Tribe Klamath Coordinator-** "We stand on the verge of the biggest river restoration effort in US history. I can think of no other politically viable approach to remove dams, increase flows to the rivers and lakes, and invest the millions needed to effect basin wide restoration in the Klamath."

**Damon Crume, Horticulture Program Manager Springfield Oregon-** "It is our obligation...continuing to restore and replenish what Mother Earth has given to us and continues to give."

**Darryl Ortis, Klamath Tribal Member-** "As to why I support the dam removal, is for the return of the salmon. All the removal of the dams is cheaper than getting the dams up to the standards that they have to be at.. either way the public will have to pay."

**Don Gentry, Klamath Tribal Member-** "In all my years of keeping up on tribal Treaty rights concerns as a tribal fisherman and hunter, and as an employee of in the Klamath Tribes Natural Resource Department for over 25 years, there has never been such a great opportunity as the KBRA to get the extensive funding needed for the large-scale restoration program necessary to improve our current fish populations, restore our c'wam fisheries, and to get salmon and steelhead back to our homeland.

Through the KBRA, Klamath tribal members will also benefit from the many jobs and economic opportunities that will come from getting 90,000 acres of our reservation back [Mazama Forest] and that will come with the massive watershed restoration program to restore our rivers, lakes, and forests.

Because of the significantly reduced and capped irrigation water diversions in the KBRA, there will be more water left in the lakes and rivers for fish, wildlife and plants. And the Klamath Tribes will not give up a single Treaty Right!

I also have been concerned about the KBRA's release claims against the United States for past water mis-management that has impacted the Klamath Tribes. After review of the final version of the agreement, though, I am now more comfortable with how the language was changed to make sure our rights are protected.

Also, I now understand more clearly why the government has insisted that the release of claims be included. What the Tribes have required in the KBRA is that the United States commit major funding to fix the problems they caused through their past water management decisions, and that they support the Tribes economically and provide other benefits while the watershed and our fisheries are being restored.

(Don Gentry's comments continued)... "The benefits the Tribes demanded to be included in the KBRA are, in essence, the types of actions we would likely require the United States to do if we were successful in court against them. Because of this, I can understand why the government will not agree to the KBRA unless they are released from liability for damages from past water management--damages that the Tribes have required them to fix in the KBRA, and that will be fixed in the way that the Tribes have demanded. It is also comforting to know that if even one of the benefits the Tribes have negotiated in the KBRA are not fulfilled by the government, then we are not obligated to release any claims."

**Greg Crume, Klamath Tribal Member-** "This project with our water and dam removal will meet the needs of our people and allow our water ways to bring back what once was a thriving source of food for our people. It will benefit other non-tribal community members with their businesses.

Our water ways will, in time, become clean again once the toxic build-up behind the dams are gone. This will allow the water to flow freely and will help the fish in the Klamath river and around the basin. Once this happens our ecosystem will fall into place. Because we all know that when someone has a monopoly on something like these dams, all they see is \$ and don't care about our fish, people or the animals that need to live in these native waters and lands. God will always make it possible for our animals, fish, and people to have what once was here, so pray and let the creator hold all this in his hands... Bless our People and our Land."

**Shawn Jackson, Klamath Tribal Member-** I am in support of the KBRA/Hydro Agreements for dam removal and salmon return for reasons that benefit the land, water and the people! If we don't make efforts to improve the current situation then we all lose!"

**E.J. Miller, Klamath Tribal Member-** "From what I have learned of the KBRA and Hydropower agreements, I believe that our active participation and cooperation in these proceedings can eventually lead to a better environmental, economic, and political situation for both our tribal people and our tribal homeland in the future. However, I also believe that in order to reap the full benefit from these proceedings our people need to have a clear understanding of what we stand to gain or lose from them. Otherwise, we may miss a great opportunity or further erode the bond that holds our people together because of misunderstanding and a lack of clear and open communication."

**Taylor R. David, Klamath Tribal Member-** "I know that nothing is perfect in this world of ours, but I believe these documents are a ray of hope for our people and the watershed in this area. How will we know, unless we try.

As a young girl growing up in the Sprague River Valley, I used to ride my pony along the tracks and pack a lunch with my sister and family. We'd go to our ranch and swim in the Sprague River (it was clear then) and my horse could walk across the rocky bottom all the way to the other side. Then on my way home we'd ride thru the "hundreds" of willows that lined the train tracks all the way to Beatty. Then I'd stop my horse at our natural artesian for an ice cold drink of water... and I too, drank from the Artesian... it was clean and clear. But today, there are NO more willows because the water table is too low. And the Sprague River is so dense with green moss that you cannot see across the rocky bottom where I used to swim, and the natural artesian dried up when I was in college in the early 90's, and has never returned.

I am not without reservation regarding the future work and the policies that we will face in the future, but I believe that if I don't vote yes... then nothing will change, and things will only get worse. I've worked from my tribe for over 18 years, and I've seen the hard work that has went into these two documents. I feel it is my responsibility to vote yes... as it is our responsibility to protect our natural resources."

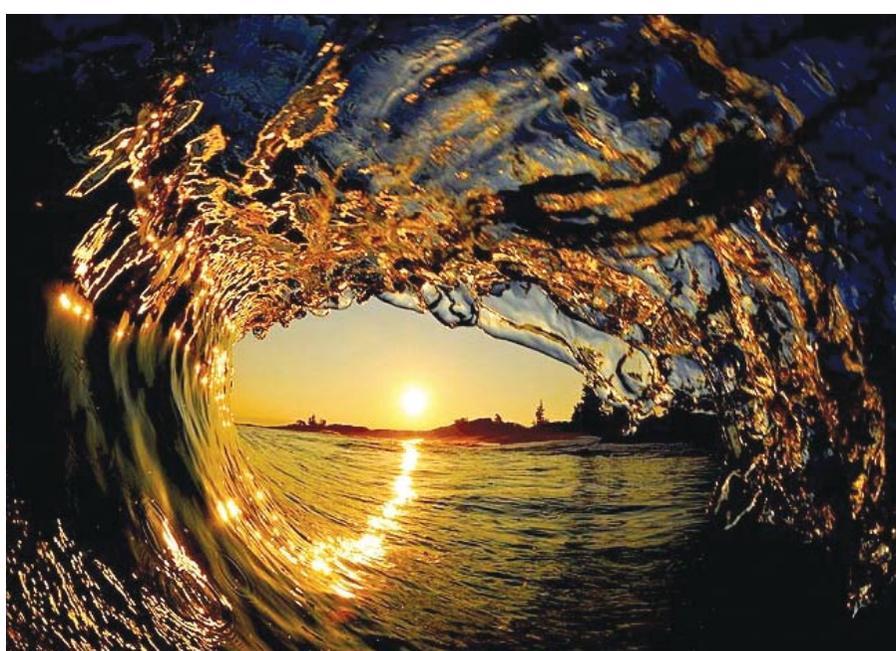
**Jana (Walker) DeGarmo, Klamath Tribal Member-** "I have not been very involved in the Water issues, but I am in support of the dam removal. I believe that it will bring life back to the rivers and lake and also bring back the salmon and other fish. My mother (Cookie Walker) always told us that the lake used to be clean and people could swim in it. She told us that her grandmother and two or three other older Tribal ladies used to camp at the lake and they would take their canoe, a shot gun, fishing pole, and

frying pan and go out on the lake and get duck eggs, fish, and pull up Tule to eat. My mom said when the winds would come up, the old ladies would head for the islands in the lake and camp at night. According to what my mother told me, the lake was clear and plentiful and her grandmother and other ladies camped at the lake and lived off it all summer long. My mom blamed the dams for dirtying up the lake. My Mother also told me that my children's grandmother, Mildred Lotches Riddle (Sis), used to swim the lake from Modoc point (at the very point) across to the islands. I am not sure this can be done anymore with the lake in the condition that it is in. I have a lot of stories from my mother, and many of them are centered around the lake and the rivers from when she was a young girl growing up."

**Randy Henry, Klamath Tribal Members-** "I support these agreements because they stand for drastically improving the water quality here in the Klamath Basin. The KBRA and Hydro agreements provide a chance to show the world that ecologically responsible people can repair damaged watersheds. We must be brave enough to take the flak from the opposition and do what's right by our mother earth. Its time we start doing things better for our future generations of Klamath Tribal members. I will never forget that before those dams were erected there were salmon here. Take them out and they will come back with a little help."

**Nick Buchanan, Doctorate Student M.I.T.-** "The KBRA and Hydro agreements are two essential documents that help pave the way forward towards fuller recognition of the Klamath Tribes' treaty rights. The programs these agreements will make possible seem to me to be an essential part of the process begun with Restoration in 1986--the reinvigoration of the Klamath Tribal culture, society, economy, and environment. As someone who does research on resource management, I think that in the future people will look to these agreements as pivotal. The agreements, after all, have successfully brought together so many groups once thought to be natural enemies. And they have brought them together around a shared desire for cultural, economic, and environmental sustainability. Action of the scope necessary to protect the Klamath Watershed and the people who call it home is only possible when everyone is on board. These agreements make that possible."

**Cheewa James, Klamath descendant and Enrolled Member of the Modoc Tribe of Oklahoma-** It is time that human needs and environmental respect form a partnership. It is time that communities look to the future and make Seventh Generation decisions: how will those seven generations down the line be affected?"



**Be the light that others can come to with  
their ideas, visions and dreams.  
Never doubt that blending your talents with  
those of others can change the world!**

## Review of Controversial KBRA Sections by Professor Charles Wilkinson

The Tribal Council asked for an independent review of the more controversial sections of the KBRA by Professor Charles Wilkinson, who is one of the leading Indian Law scholars in the nation. Professor Wilkinson worked on Restoration of the Klamath Tribes, was one of the founders of NARF, and has been a friend of the Klamath Tribes for many years. He responded with a 5 page letter which was too long to print in this newsletter, so only key quotes from the letter are presented here. Complete copies of the letter can be obtained from the Tribal Secretary, Torina Case. Overall, ***Professor Wilkinson enthusiastically endorses the KBRA by saying it "...is one of the most remarkable and promising efforts that I have witnessed in my thirty-eight years of work on natural resources law and policy in the American West...this is a truly historic agreement, and you deserve to take great pride in it..."***



Professor Wilkinson pictured here with the late Klamath Tribal Elder, and good friend, Corrine Hicks.

When asked about the effect of the Tribes' assurance to the Project irrigators to not seek further diversion reductions below those specified in the KBRA, Professor Wilkinson responded that "...this limited assurance is absolutely not a waiver of all tribal water rights... In my opinion, this assurance is reasonable from the Tribes' point of view."

When asked about the release of certain claims against the U. S., Professor Wilkinson says the following. "...The Tribes agree to "relinquish and release" all claims against the United States for damage to tribal water and fishing rights that resulted from actions above the California-Oregon border and that arose before the KBRA goes into effect. ...The law on such claims for past damages, however, is against the Tribes in several respects. For older claims, the United States could raise statutes of limitations and other procedural defenses. In general, as you know, the courts have grown increasingly antagonistic to tribal rights over the past twenty years. An example is the rejection of your fishing rights suit against PacifiCorp. Klamath Tribes of Oregon v. PacifiCorp... The Tribal Council can know that the relinquishment has little or no real-world effect... The relinquishment of suits against the United States for money damages for past breaches of trust seems to be giving up little, if anything....The assurances and relinquishments relating to claims against the United States and water rights cannot be viewed in isolation. Instead, they should be seen as necessary and minor aspects of the comprehensive and powerful provisions of the KBRA..."

When asked whether the KBRA terminates Treaty rights, Professor Wilkinson responds that "what the Tribes would agree to do in the KBRA is to hold back on enforcing the treaty rights in specific, limited circumstances... the Tribes, in a long campaign that they themselves initiated, have agreed in the KBRA not to claim their treaty rights in a small number of carefully-targeted situations in order to achieve overriding tribal goals. The rights themselves, however, remain in place. This is not a termination, or abrogation, of any treaty right."

## **Don't Forget, the 2010 Klamath Tribal Council Elections/ Nominations are coming in February 2010**

**NOTICE:** The elections are upon us once again, Saturday, February 20, 2010, at 10:00am at the Klamath Tribal Administration Building in Chiloquin, Oregon (501 Chiloquin Blvd). This is the date for the nominations to be made for Klamath Tribal Council members.

**If you wish to be nominated, or accept a position for nomination to be on the election ballot, YOU MUST BE PRESENT AT THAT MEETING TO ACCEPT YOUR NOMINATION (IN WRITING) -before the adjournment of the meeting on February 20, 2010, per the requirement of the Election Ordinance.**

**Don't forget to take the time to call your elected officials and ask about any questions or rumors that you may be hearing about elections. Also, be sure to check with the Enrollment Department to insure that your address is updated and correct, so that you will be able to receive an election ballot.**

### **Current Klamath Tribal Council Members:**

Joe Kirk, Tribal Chairman 783-2219 ext. 100

Joe Hobbs, Vice-Chairman 783-2219 ext. 102

Torina Case, Tribal Secretary 783-2219 ext. 170

Brandi Decker, Tribal Treasurer 783-2219 ext. 164

Allen Foreman, Council Member (leave message with ext. 170)

Jeff Mitchell, Council Member (leave message with ext. 170)

Will Hatcher, Council Member (leave message with ext. 170)

Perry Chocktoot, Council Member (leave message with ext. 170)

Jeannie McNair, Council Member (leave message with ext. 170)

Janice Miller, Council Member (leave message with ext. 170)

**Any questions, please call Kathy Rich, Election clerk at 783-2219 ext. 101**

**or Torina Case, Tribal Council Secretary at ext. 170.**