



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
REGIONAL  
COUNSEL

December 2, 2016

**Via email and First Class Mail**

Linda Dalton  
Senior Assistant Attorney General  
Government Compliance and Enforcement Division  
P.O. Box 40100  
Olympia, WA 98504-0100  
LindaD@atg.wa.gov

Re: US Environmental Protection Agency Supplemental Response to PDC  
Complaint, **Case No. 8321**; Request for Dismissal

Dear Ms. Dalton:

I am writing to supplement EPA's response to the above Public Disclosure Commission (PDC) complaint, to request dismissal of the complaint against Dennis McLerran, EPA Regional Administrator and to provide the attached declaration of Mr. McLerran.

The Washington State Public Disclosure Commission (PDC) has no jurisdiction over Mr. McLerran's official actions as Regional Administrator of U.S. EPA Region 10. As the attached declaration demonstrates, Mr. McLerran's actions with respect to the whatsupstream website were all in his official capacity as EPA Regional Administrator.

The SFF complaint to the PDC contends with no factual or legal foundation that Mr. McLerran has violated RCW.42.17A by engaging in grassroots lobbying without registering with the PDC. The SFF complaint and accompanying documents show that Mr. McLerran has not engaged in grassroots lobbying in either his official or personal capacity. SFF offers little beyond its allegation to support its complaint against Mr. McLerran.

The statute SFF claims that Dennis McLerran has violated provides for the award of attorneys' fees to defendants who prevail in citizen suits against them. EPA may seek attorneys' fees in the event that SFF chooses to pursue a citizen suit despite lacking legal and factual support beyond its own assertions.

Please feel free to contact me at 206-553-6296 or Rodriguez.socorro@epa.gov with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Socorro Rodriguez', with a stylized flourish at the end.

Socorro Rodriguez

U.S. EPA Region 10  
Office of Regional Counsel  
WSBA 12403

CC Evelyn Fielding Lopez, Executive Director, Washington PDC  
James Tupper, Attorney for Save Family Farming  
Larry Wasserman, Swinomish Tribal Community

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

In re:

Larry Wasserman, Strategies 360, Inc., and  
Dennis McLerran

Respondents

Case No. 8321

Declaration of Dennis McLerran,  
Regional Administrator, U.S.  
Environmental Protection Agency

Declaration of Dennis McLerran, Regional Administrator, U.S. Environmental Protection Agency:

1. I am the Regional Administrator for EPA Region 10 which covers Alaska, Washington, Oregon, Idaho and 271 federally recognized Indian tribes.
2. I am making this declaration in response to the September 14, 2016 complaint, amended October 19, 2016, filed by Save Family Farming (SFF) with the Washington Public Disclosure Commission (PDC), alleging that I have personally violated Washington State law by failing to register as a grassroots lobbyist and that I have funded and directed a grassroots lobbying campaign led by the Swinomish Tribe and Strategies 360.
3. I have not personally or officially engaged in grassroots lobbying. I have not personally or officially directed or funded a grassroots lobbying campaign. All contacts I have had with the Swinomish Tribe regarding the sub-award they received from the Northwest Indian Fisheries Commission have been as part of my official duties as Regional Administrator of EPA Region 10.
4. As EPA Regional Administrator I direct regional implementation of agency policies and programs, including the protection and restoration of Puget Sound. EPA and 12 other agencies make up a federal caucus that promotes information sharing, joint priorities and collaboration with state, local, and tribal partners to restore Puget Sound.

5. My communications with our federal, state, tribal, and local government partners are part of my official duties as EPA Regional Administrator.
6. The Northwest Indian Fisheries Commission (NWIFC) is a partner in our regional implementation of Puget Sound restoration.
7. EPA receives money from Congress periodically through the National Estuary Program (NEP) to protect and restore Puget Sound. EPA distributes these funds through grants to state, local and tribal governments who work together to implement Washington's Puget Sound Action Agenda. [http://www.psp.wa.gov/action\\_agenda\\_center.php](http://www.psp.wa.gov/action_agenda_center.php)
8. EPA National Estuary Program funding was directed to the NWIFC via a cooperative agreement, the terms of which provide for the NWIFC to make sub-awards to other eligible entities, including the Swinomish Tribe.
9. As Regional Administrator, I am not the awarding official for any of the agency's grants. Thus, the grant to NWIFC was made by the EPA as an agency, not by me personally. Nor did I have any role in directing funding on any of the NWIFC sub-awards, including the sub-award to the Swinomish Tribe.
10. In accordance with the terms of its grant agreement with EPA, NWIFC makes sub-awards to other eligible entities who are accountable to NWIFC for the use of federal funds provided by their sub-awards. The Swinomish Tribe is one such NWIFC sub-award recipient. While NWIFC's sub-awardees are accountable to NWIFC for the use of federal funds, at times EPA staff works directly with sub-awardees when questions or concerns arise.
11. Several years ago I learned from EPA staff that the Swinomish Tribe was suggesting that they would use their NWIFC sub-award funding to build support for a state ballot initiative. I instructed staff at that time to inform the Swinomish Tribe that it would be inappropriate to use federal funds for such an effort. It is my understanding that staff

conveyed that to the Swinomish Tribe and that the idea of federal funding supporting a ballot initiative was dropped by the Tribe.

12. On July 16, 2015, my staff arranged for a call among Larry Wasserman of the Swinomish Tribe, several EPA Region 10 staff and me so that I could directly request of Mr. Wasserman that some of the proposed website content of the whatsupstream project be toned down. I asked Mr. Wasserman to work with Region 10 staff to make the content of the whatsupstream website more collaborative – and thus consistent with the intent of the National Estuary program. The Swinomish Tribe's attorney participated in the call as did members of EPA Region 10 staff.

EPA legal staff had advised me that EPA had very limited control over a sub-award recipient, but Region 10 staff and I felt that we should inform the Tribe of EPA's concerns about the content staff had seen. It was my hope that the conversation would result in the Tribe modifying the content of whatsupstream and that they would work with Region 10 staff to make the content less adversarial in nature. That was the last point at which I engaged in discussions with the Swinomish Tribe regarding the NWIFC sub-recipient award until staff informed me many months later in the Spring of 2016 that the whatsupstream campaign website and a "take action" button had been finalized, billboards and bus ads had been erected, and that the agricultural community was upset. I had no personal knowledge of a "take action" button, billboards or bus ads until staff informed me of their existence in spring 2016. By the time I learned of these items, the transit ads had already been taken down.

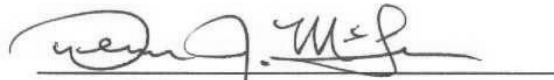
13. Thus, in spring 2016 I contacted Brian Cladoosby, Chairman of the Swinomish Tribal Community, and requested that the tribe take down the billboards and website. Ultimately, over a period of two weeks or so, I had several such telephone conversations with Chairman Cladoosby and his staff, repeating my request that the Tribe take down

the billboards and web content. In those conversations Chairman Cladoosby indicated the tribe would take down the billboards and would not seek further reimbursement from the NWIFC for whatsupstream. However, he ultimately did not agree with my request that the Tribe take down the website.

14. After learning of Congressional concerns about the whatsupstream website and advertising, I had a separate face-to-face meeting with Mike Grayum, then the Executive Director of the NWIFC, and Chairman Brian Cladoosby, and again expressed EPA's concerns about the tone, content, and impact of whatsupstream, as well as the reactions we were getting from Congress.
15. I was not aware of any state legislation that might have been proposed by the Swinomish Tribe, nor did I ever engage in any discussions about Washington legislation with the Swinomish Tribe.
16. All of the above actions were in my official capacity as EPA Regional Administrator.

I declare that, to the best of my knowledge and belief, the information herein is true, correct, and complete.

Dated this 1st day of December 2016.

  
Dennis McLerran  
Regional Administrator  
United States Environmental Protection  
Agency, Region 10