



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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March 19, 2012

Preston Mui
Evergreen Freedom Foundation
2403 Pacific Avenue SE
Olympia WA 98501

Subject: Complaint Filed Against the King Conservation District, PDC Case No. 12-147

Dear Mr. Mui:

The Public Disclosure Commission (PDC) has completed its investigation of the complaint you filed on July 28, 2010, alleging that King Conservation District (KCD) violated RCW 42.17.190 by failing to file "*Reports of Lobbying by State and Local Government Agencies*" (L-5 report) for public agency lobbying activities undertaken during calendar year 2006, and for under-reporting lobbying activities for 2005.

PDC staff opened a formal investigation into this matter on December 12, 2011, and reviewed the allegations in light of the following statutes:

RCW 42.17.190 allows public agencies to hire contract lobbyists to lobby on the agency's behalf, the Washington State Legislature, the Governor's Office or any state agency. The L-5 report discloses lobbying activities undertaken by public agencies, either through hiring a contract lobbyist or through its employees.

RCW 42.17.020(31) states that "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW.

We reviewed your complaint, lobbyist information available to the public on the PDC website, the L-5 reports filed by KCD, the Lobbyist Employer reports (L-3 report) filed by KCD, and L-2 reports filed by Sara Hemphill. As a result of our review, we found:

- KCD hired Sara Hemphill, a contract lobbyist, who engaged in reportable lobbying activities on behalf of the district during calendar years 2005 through 2009.
- The reportable activities cited in your complaint are based on the Monthly Lobbyist Expense reports (L-2 report) filed by Ms. Hemphill for lobbying activities undertaken on behalf of KCD during calendar years 2005 through 2009.

- On February 28, 2006, KCD timely filed an L-3 report disclosing lobbying activities undertaken in 2005 totaling \$23,392. On April 30, 2009, KCD filed two L-5 reports. One report disclosed lobbying activities undertaken during the first quarter of 2009 that was timely filed, and one report disclosed lobbying activities undertaken for the first quarter of 2008 that was filed one year late. In addition, on March 2, 2010, KCD filed an L-3 report disclosing reportable lobbying activities undertaken during calendar year 2009.
- The alleged discrepancy for 2005 activity noted in the complaint was based on the L-2 reports filed by Ms. Hemphill that disclosed \$51,059 in total KCD lobbying expenses, while \$23,392 in total lobbying expenses for 2005 was disclosed on the L-3 report filed by KCD. The 2005 L-2 reports disclosed that Ms. Hemphill had received \$49,300 from KCD in compensation, and an additional \$1,759 for other lobbying expenses, which resulted in a \$27,667 discrepancy between the L-2 and L-3 reports.
- On September 28, 2010, PDC staff sent a letter to KCD informing them that a complaint had been filed by EFF alleging violations of RCW 42.17.190 for failing to file reports disclosing agency lobbying activities undertaken during calendar year 2006.
- KCD did not respond. PDC staff had exchanged e-mails and telephone messages with KCD staff, but no reports were filed disclosing agency lobbying activities. While reviewing the complaint, PDC staff noted that Ms. Hemphill had reported receiving compensation from KCD for lobbying during the first and second quarters of 2007, but KCD had filed no report disclosing those activities.
- On February 1, 2012, Ms. Hemphill, an employee of KCD since January 1, 2010, met with PDC staff and filed nine L-5 reports on behalf of KCD disclosing lobbying activities undertaken for calendar year 2006, the first and second quarters of 2007, the first quarter of 2008, and the first and second quarters of 2009. The L-5 reports filed by KCD confirmed that no reportable lobbying activities had been undertaken by district officials or employees during those periods.
- KCD had previously disclosed the lobbying activities for the first quarter of 2008, and the first and second quarters of 2009, and the reports filed for those periods on February 1, 2012 confirmed the amounts reported earlier.
- Ms. Hemphill stated that the \$27,667 discrepancy resulted from over-reporting her time spent lobbying in 2005. This occurred because she continued disclosing her full compensation as a contract lobbyist for KCD even after the Legislative Session had ended, rather than the pro-rata share of her salary that accurately reflected her time spent lobbying.

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As a preliminary matter, we note that many of your allegations involve activity that occurred quite some time ago. The allegations listed in your complaint against KCD concern the failure to report lobbying activities for calendar year 2006 and the discrepancies in the 2005 lobbying totals. The Commission has no jurisdiction to act on violations that are more than five years old.

Regarding the more recent alleged violations, we have determined that KCD failed to timely file the required L-5 report for lobbying activities undertaken during the first two quarters of 2007. However, these late filings are mitigated by the fact that the public had access to lobbying information filed by the district's registered lobbyist, Sara Hemphill, and the L-5 reports indicated no lobbying was conducted by KCD officials or employees.

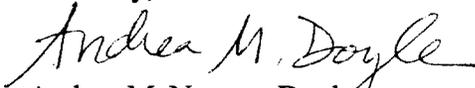
Although KCD filed late, it has now reported its lobbying activities for all of calendar year 2006, and the first two quarters of 2007. Because the public had access to the information concerning the lobbying being conducted on behalf of the KCD, no further enforcement efforts will be undertaken in this instance. KCD will be reminded to report all future public agency lobbying activities on the L-5 report in a timely manner, and that failure to do so could result in enforcement action.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and determined that the circumstances do not warrant further use of Commission resources in pursuit of a formal enforcement action. For this reason, I am dismissing your complaint against King Conservation District, with the concurrence of the Chair of the Public Disclosure Commission.

Thank you for bringing this matter to our attention. The process relies on citizens monitoring lobbying activity to promote full compliance with the law. Your actions will contribute to better awareness of the Public Disclosure Law and better public disclosure of important lobbying information.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828, or by email at phil.stutzman@pdc.wa.gov.

Sincerely,



Andrea McNamara Doyle
Executive Director

c: King Conservation District