

Privileged – For Review by AGO

3.19.25

We believe that WDFW and the Gov's Office are facing significant operational, reputational and legal risks (financial) that if left unchecked, will continue to escalate and worsen. We believe that it is imperative that the Gov's Office be made aware of these risks, especially as new Commissioners are being chosen. We have generally organized this document from most serious to less serious concerns.

Based on our experience, known legal risks around PRA/OPMA, and the results of the Ruckelshaus Report, we believe the dysfunction at the FW Commission can be traced to two root causes:

- Some Commissioners not following the law
- Some Commissioners not acting in good faith

1. Legal concerns

- a. There is evidence of conducting business outside of public meetings to ensure that Tim Ragen was voted into the Vice Chair position. **Attachment 1**
 - i. Coordinating the Vice Chair vote to ensure Ragen is successful.
Texts from Smith (from her husband's phone) to Ragen (his pers phone),
"Do you have 5 votes, since Barbara is a no show?" 12/14/23

"You need to talk to John or Steve...otherwise..." 12/15/23

"I will also drop Steve a note.. re: Molly lack of performance." 12/15/23

"Big congrats! John came through! 12/16/23
- b. We have significant concerns with current litigation from Sportsman's Alliance and the lack of responsiveness by Commissioners.
 - i. The AGO is currently working with Commissioners to complete attestations. Commissioner Rowland's statements were deeply troubling and set the stage for a constructive denial of records argument under the PRA. Commissioner Smith immediately attacked staff and argued that she didn't have to provide the information.
 - ii. As of Friday, no records from Smith or Rowland have been provided.
- c. Additional Concerns:
 - i. We have evidence that records were not provided from personal devices.
 1. There have been no text messages provided for any PDR from Rowland, Smith or Lehmkuhl, but we have copies of text messages due to access to Ragen's computer
 2. Smith and Ragen have attested that they do not need to search their pers. devices despite evidence to the contrary (e.g.: Czarnecki PDR 23674)
 3. As of February 25, 2025, Commission Myers has 14 outstanding PDR requests, 9 of which are overdue. He has provided no records. He has not responded to communication from our PDR coordinator despite many attempts by email and phone. The last message received from

Commissioner Myers was 10/4/2024 and the last Declaration of Search was dated 7/18/2024. **Attachment 2**

- ii. In 2022, Commissioner Rowland refused to provide text messages that she referenced during a Commission meeting directing her to change a motion. She received this message on her personal device required the engagement of AGO, Director Susewind, Cyber-security Chief Potter, and eventually Gov Inslee's Deputy Chief of Staff. **Attachment 3**
 - d. Without access to personal devices, it is impossible to quantify risks
2. Colluding with active litigants against the State's interests. **Attachment 4**
- a. Claire Davis in her capacity as legal counsel provided information directly to Commissioners regarding pleadings from Wild Fish Conservancy and Conservation Angler and let them know that she was available to discuss at their convenience.
 - b. WFC provided legal information and let Commissioners know that they amended their complaint to name the Commissioners such that the Commissioners would be briefed on the legal strategy. The implication is that this strategy would then be provided to WFC or modified to help litigants.
 - i. At the next executive session, Commissioners Rowland and Smith asserted that they should be providing direction to AGO on how to conduct litigation.
 - c. Smith, Rowland and Ragen met with WFC and their lawyer Claire Davis the day before voting on WDFW budget requests in 2023. At the time, WFC and WDFW were in active litigation on hatchery issues (HGMPs)
 - d. Commissioners have requested legal counsel, opinion and presentations from NGOs and non-AGO staff, ie: Public Trust briefing, wolf PSR, Colville rights regarding hunting.
 - e. Sharing of legal documents to prep Commissioner Smith
3. Attempting to stack the Commission **Attachment 5**
- a. A spreadsheet shared from Claire Davis to Tim Ragen that uses terms like "decoy" for replacing Commissioner Anderson who has a viewpoint informed by his 30-year career working in fisheries and with tribes
 - i. Smith, Rowland and Ragen all appear to have contributed to the spreadsheet and worked together with WA Wildlife First to interview/recruit
 - ii. Reinforcing that Commissioners who are advocates are preferred and identifying that compromise is not a preferred attribute.
4. OPMA Concerns: There is evidence of serial meetings and communications intentionally set up to avoid OPMA violations. **Attachment 6**
- a. WA Wildlife First organized Zoom meetings most weeks from 1/2022 – 2/2025 with a subset of Commissioners to cover topics coming in front of the Commission. They used the term "Gang of Four" to describe themselves.
 - b. A series of dinners were held in 4/2023 at Tim Ragen's house with the Executive Director of WA Wildlife First. There were two dinners held back-to-back with sets of 3 Commissioners. Ragen, Myers, Lehmkuhl, Parker and then Smith, Rowland, Ragen. Linville and Anderson were not invited and Baker declined to participate (pers.comm)

- c. Chair Baker set up a series of meeting with Commissioners prior to the co-manager training (2024) and was explicitly told that it would be serial meeting, she acknowledged that and said she would ask for forgiveness.
- d. Evidence that Commissioners were invited to a set of serial meetings regarding wolf rulemaking petition that was sent to private email accounts.

Other Issues

- 5. There is evidence that Commissioner Smith has leveraged her position for financial gain.
 - a. After reviewing all spreadsheets for Commissioner Smith:
 - i. Over the last 14 months (January 2024- February 2025), Commissioner Smith has documented that she worked every day, including holidays and weekends except for Christmas, New Years and 5 other days.
 - ii. We have emails stating specific periods that she would not be available (son's wedding, vacation, serving as a volunteer in a remote location), but these dates were not excluded from her claiming 8 hours of work.
 - iii. For WDFW, if you work for 1 hour, you receive 100\$ for that day.
 - iv. Commissioner Smith was paid more than any other Commissioner including the Chair and Vice Chair. She was paid 3X the amount as Chair Baker
 - v. Staff expressed concerns to Chair Baker and to Commissioner Smith and there was no change in behavior
 - b. Commissioner Smith's husband was the Executive Dir of an organization they co-founded.
 - i. Commissioner Smith's husband requested additional WDFW logo wear for Commissioner Smith because she would be doing so much more work with the organization.
 - ii. The organization then highlighted Commissioner Smith as an attendee and speaker when requesting donations.
- 6. Tim Ragen, Commissioners Smith, Lehmkuhl and Rowland have strong ties to Washington Wildlife First that are unlike any we have seen with NGOs in the past.
 - a. The level of coordination and secrecy between Rowland, Smith, Ragen, Myers and Lehmkuhl, Washington Wildlife First and their partner organizations (WFC, Conservation Angler) is unprecedented:
 - i. Demanding that the Director "just cut them a check" to provide money to WFC with state resources outside of normal process
 - ii. Providing specific questions that the Commissioners would then divide up to ask staff in public meetings re: wolf, cougar, bear, budget, hatcheries
 - iii. Developed a group they called, The Gang of Four, to implement priorities not shared with staff or the rest of the Commission.

- iv. Evidence that this group met with WA Wildlife First before most meetings.
 - 1. 3/22/23 from Lorna's pers email to John, Tim, Melanie, "Our gang of four should probably try to get together before the next meeting via Zoom. SO much to plan for and how to somehow loop in the new members, which sadly we can't make part of our gang, officially, anyway! Saying we can't discuss at all outside of Ex session seems unrealistic."
- 7. Commissioner Myers is not fulfilling his duties:
 - a. Since joining the Commission, he has been absent for 16 days of meeting and was remote for an additional 16 days when expected to be present in person, out of a total of 66 days of meetings.
 - b. Complete lack of responsiveness by Commissioner Myers.
 - i. As of February 25, 2025, Commission Myers has 14 outstanding PDR requests, 9 of which are overdue. He has provided no records. He has not responded to communication from our PDR coordinator despite many attempts by email and phone. The last message received from Commissioner Myers was 10/4/2024 and the last Declaration of Search was dated 7/18/2024.
 - c. He has not fulfilled his role as Commission lead for the only RCW required advisory group: Americans with Disabilities Act Advisory Committee. He has not responded to emails nor to meeting invites. This has been raised to the Chair and there has been no change in behavior.