



**The shoddy, shocking reasoning of the PDC staff in rejecting enforcement of state campaign laws against What’s Upstream sponsors**

<b>The law:</b>	<b>The evidence</b>	<b>The PDC findings</b>
<ul style="list-style-type: none"> <li>● Registering as a grassroots campaign is required when money is spent</li> <li>● The minimum threshold for spending is either \$700 in a week or \$1400 in three weeks.</li> <li>● Lobbying defined: “presenting a program to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation.” RCW 42.17A.640(1).</li> </ul>	<ul style="list-style-type: none"> <li>● The campaign spent hundreds of thousands of dollars of taxpayer money of about \$650,000 budgeted before EPA stopped the funds. They did voter polling, developed messaging, planned an initiative, developed a bill, created a website, and put up billboards and bus signs.</li> <li>● The campaign hired Strategies360 to manage the effort, including signature-gathering.</li> <li>● Project plan for campaign said ultimate goal was to pass citizen initiative</li> <li>● The campaign wrote a memo to its partners talking about launching the updated website in time for the 2016 legislative session.</li> <li>● The campaign hired a lobbyist and developed a bill for the 2016 session to</li> </ul>	<ul style="list-style-type: none"> <li>● The only expenditure that could be considered grassroots lobbying was the “Take Action” button on the website. But it did not meet the \$1400 reporting requirement.</li> <li>● The staff repeatedly said it did not have time to do more investigation, including having no basis to determine the costs associated with the Take Action button.</li> <li>● The moneys spent by the campaign did not belong to the Swinomish Tribe or the person who managed this campaign, and therefore no money was spent, therefore the requirement did not apply to them.</li> <li>● Since the findings held the Swinomish Tribe and its campaign manager not guilty, the question of tribal immunity from the Public Disclosure Law was not tested and remains unclear. But the</li> </ul>

	<p>require new setbacks--the same “solution” called for in the campaign.</p> <ul style="list-style-type: none"> <li>● At the start of the legislative session the campaign launched advertising to drive people to the website.</li> </ul>	<p>Director noted they had no way of knowing if tribes were complying with the law.</p>
	<ul style="list-style-type: none"> <li>● The campaign prepared a canned letter to legislators for citizens to send, urging support for 100’ stream buffers on farms, the same requirement as their bill. They promised to send to legislators “whose votes we hope to influence.”</li> <li>● The campaign developed an automated mechanism to send the letter, and linked that to a Take Action “button” on the website.</li> </ul>	<ul style="list-style-type: none"> <li>● The letter to legislators (51 were sent) did not state the bill number therefore the lobbying threshold was not met.</li> <li>● “Reasonable minds could disagree” and that given the uncertainty and disagreements among staff “statutory clarification” may be advised</li> </ul>

**What's at stake:**

- The public confidence in our public disclosure system and enforcement. Does it have integrity? Is it partisan? Are some citizens more equal than others?
- Should the operators of a nearly three-quarter million dollar campaign to change state law have zero responsibility to disclose their political operation?
- Should tribes or others operating through tribes be allowed to bypass public disclosure of any and all political activity?

**What should be done?**

- The PDC staff “findings” are absurd and inadequate on their face, but if you accept their excuse that they lack time and resources to adequately research such a case, surely the state attorney general’s office has enough. The AG should take up this case and bring it to court.
- And state legislators should introduce legislation to fill the massive loopholes in the state’s public disclosure law exposed in this case.