

DOC HASTINGS

4TH DISTRICT, WASHINGTON

COMMITTEE ON
NATURAL RESOURCES
RANKING REPUBLICAN MEMBER



1203 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5816

2715 SAINT ANDREWS LOOP, SUITE D
PASCO, WA 99301
(509) 543-9396

105 SOUTH 3RD STREET, SUITE 107
YAKIMA, WA 98901
(509) 452-3243

www.hastings.house.gov

Congress of the United States

House of Representatives

May 13, 2010

The Honorable Gary Locke
Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Locke:

I am concerned and troubled by the Obama Administration's announced selection of Mr. Will Stelle to be the Northwest Regional Administrator for the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries).

It is deeply troubling that the Administration would choose an individual whose prior service in this position resulted in numerous controversial actions and who led the writing of the failed 2000 Columbia River BiOp that has mired the Pacific Northwest in a decade-long court battle that it has not yet escaped.

With this selection, the Administration has apparently decided to take a step backward into the controversies of the past, rather than selecting a new person who could lead this agency into a fresh start.

A great many in the Northwest hope that a legally-sound BiOp will soon be in place and that management decisions will soon be free of the courtroom, and that is why having a new leader for the agency is especially appealing at this time.

Based on Mr. Stelle's actions and decisions while Regional Administrator in the 1990's, as well as his paid advocacy in the decade since he departed on some of the very issues he would oversee in returning to this position, I fear that the many legal, regulatory, and policy decisions that now confront the agency could be haunted and complicated by his past dealings.

In the ten years since Mr. Stelle departed to work in the private sector, salmon runs have improved and diverse groups have sought to find consensus in the region. The confrontational times of Mr. Stelle's prior service when irrigation canals were shut down and farmers denied water, when Snake River dam breaching studies were at their peak, and when economic activities dependent on federal permits were slowed – these times should not be reignited but rather we

Honorable Gary Locke
May 13, 2010
Page 2

should seek to move beyond them. Mr. Stelle's reappointment would seem to make this more difficult, if not impossible.

The question must also be raised of whether this appointment would run afoul of President Obama's oft-stated goal of ensuring political appointees would not work on regulations or contracts directly and substantially related to their prior employer. As you are certainly aware, for the past several years, Mr. Stelle has actively taken a paid professional interest in issues over which the Regional Administrator has direct authority – both in the capacity of a registered lobbyist and as a lawyer representing clients before the Department and in particular, NOAA Fisheries.

Mr. Stelle, a partner at Kirkpatrick & Lockhart Preston Gates Ellis, LLP, has been a registered lobbyist for clients who have a direct interest in issues over which the Regional Administrator has regulatory authority, and for others that have directly or indirectly been involved in litigation with NOAA Fisheries. This creates a very real potential for conflicts of interest, not only for those clients he has directly represented, but also for other clients that his law firm has represented.

Mr. Stelle has received substantial compensation for his lobbying services by the Environmental Defense Fund (EDF) within the past two years. The EDF is connected to the Environmental Defense Center and the Northwest Environmental Defense Center, which have advocated for divisive, job-killing policies including breaching of the four lower Snake River dams and legislation to impose a new cap-and-trade national energy tax.

In addition to his activities as a lobbyist, Mr. Stelle has represented clients before the Pacific Fishery Management Council as recently as November, 2008. This Council is the regional body that develops fishery management plans for the Northwest Region. The Northwest Regional Administrator, or his designee, sits on the Pacific Council as a voting member and, therefore, would be making decisions on issues that Mr. Stelle's clients and his firm's clients have a vested interest in.

In addition to fishery management decisions, the NOAA Fisheries Regional Administrator has jurisdiction over, and makes decisions on, regulatory matters within a number of statutes that govern a large swath of regulatory activities that impact state, local, and tribal governments, private property, hydroelectric dams, transportation, forestry, farming and irrigation, and other Northwest job-creating industries. The Regional Administrator routinely makes decisions regarding Endangered Species Act listings and critical habitat designations, routinely makes decisions under the Coastal Zone Management Act regarding the permitting of both on-shore and offshore activities, as well as engages in consultations on other agencies' permitting activities. Mr. Stelle has represented clients before NOAA on Endangered Species Act (ESA) issues in several regions of the country and has recently been retained by a client with

Honorable Gary Locke
May 13, 2010
Page 3

pending ESA permit applications in the North Pacific. In addition, he has represented at least one client with an interest in issues currently pending before the NMFS Region that are likely to face litigation in the near future.

The reason I raise Mr. Stelle's work over the past decade is not as automatically disqualifying factors, but rather to highlight the importance of reviewing this work in an open, transparent manner to make clear what conflicts of interest do exist, or could occur.

For this reason and in support of the Administration's own pledge of ensuring the background of political appointments are fully transparent, I would request that the Administration promptly disclose all of Mr. Stelle's current and past clients, as well as other clients represented by his firm that could have an interest, or be impacted, by decisions of NOAA Fisheries. The terms of compensation, both past and any future payments he may receive from the firm, should also be disclosed.

Mr. Stelle should also promptly disclose all positions or offices he has held with organizations since 2000 as well as whether any have received federal grants, have engaged in lawsuits or litigation against NOAA Fisheries or other federal agencies, and whether he has contributed to any non-profit organization that has sued NOAA Fisheries or other federal agencies.

In addition, I would ask for an advance statement of how potential conflicts of interest would be publicly disclosed, how it would be ensured that Mr. Stelle would be fully recused from any decision or action that might directly affect any of his or his firm's clients, and how it would be ensured that he was fully recused from any decision or action that might indirectly affect any of his clients or their advocacy campaigns. A written list of all known issues for which recusal will be necessary is also requested.

Thank you in advance for your prompt attention to these concerns and requests for openness, transparency and public disclosure as it relates to this appointment. Please feel free to contact me if you have questions, or your staff may contact Todd Ungerecht on my Committee staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Doc Hastings". The signature is stylized and written in a cursive-like font.

Doc Hastings
Ranking Republican
House Natural Resources Committee