

EPA's involvement in What's Upstream ran deep

Agency helped pressure state lawmakers for greater regulation

By DON JENKINS
Capital Press

A little more than a month ago, What's Upstream was an obscure political advocacy campaign backed by U.S. Environmental Protection Agency money, a Washington state Indian tribe and a handful of environmental groups.

Today, the campaign has been condemned by one-third of the U.S. House as an attack on agriculture, and the inspector general of the EPA has promised to investigate whether it is a misuse of taxpayer money.

If it is, the Northwest Indian Fisheries Commission may have to repay the money and could be cut off from receiving future grants. The commission funneled the EPA money to the Swinomish tribe to fund an advertising and letter-writing campaign aimed at the Washington Legislature seeking mandatory 100-foot buffer zones between farms and rivers.

The website features a photograph — not taken in Washington — of cattle standing in a river and salmon that apparently had died after spawning, a natural occurrence. The implication was that farming in Washington state is not adequately regulated.

Wyoming property-rights attorney Karen Budd-Falen, who has followed the environmental movement for years, said she's reviewed a lot of EPA-funded projects, but nothing quite like What's Upstream.

"I have never seen anything this bad," she said, while taking her first look at the What's Upstream website. "This is really amazing."

'Take Action'

The website included a "Take Action" button that allowed visitors to send letters to Washington legislators urging the mandatory buffer zones, which promoters say would prevent farm runoff from reaching rivers. The letters made no mention of EPA funding or involvement.

"To fund a program that tries to influence the state Legislature, that I find totally shocking," said Budd-Falen. "If that's the goal, I don't believe it is a legitimate goal."

Swinomish tribal Chairman Brian Cladoosby said the tribe's goal is to draw attention to water pollution that threatens the tribe's treaty rights. Stronger federal and state laws are needed, he said.

"At the end of the day, we have to do what we think is right.



Courtesy of Save Family Farming

A billboard near Bellingham, Wash., promotes the What's Upstream campaign funded by the U.S. Environmental Protection Agency. The billboard, and one like it in Olympia, has been taken down.

We didn't do anything wrong by trying to educate the public on agricultural practices," he said. "You call people out for pollution, and they're going to react like you've seen them react."

The "Take Action" button has been removed from the website, but the controversy remains.

In addition to condemning the campaign, some members of Congress question whether lobbying laws that may carry fines have been broken.

In the meantime, the EPA has disassociated itself from What's Upstream, but members of Congress want to know how deep the agency's involvement was and how the agency will prevent grants from being misused in the future.

U.S. Sen. Deb Fisher, R-Neb., confronted EPA Administrator Gina McCarthy about What's Upstream at a budget hearing in April.

"At what point did your agency become aware of the misuse of the EPA funds for the What's Upstream campaign and what role did EPA have in reviewing that billboard and website?" Fischer asked.

McCarthy said she didn't have an exact date and that the campaign was the result of a "subcontract."

However, EPA records show the agency's involvement was hands-on. EPA spent more than four years and more than a half-million dollars directing the campaign to lobby Washington state legislators to impose agriculture rules tougher than allowed under the federal Clean Water Act, according to EPA records.

Grab attention

The campaign was designed by a Seattle public relations firm to grab attention. And it did.

As a result, the EPA has stopped taking questions about What's Upstream, including an important one: How much has the agency spent?

EPA records are incomplete. An estimate by the Capital Press puts the figure at roughly \$570,000, though neither the EPA, the fisheries commission nor the Swinomish tribe have answered requests for a full accounting.

The EPA responded to a list of questions for this story with a brief statement, saying the agency expects the fisheries commission to cut the flow of money to the Swinomish tribe and to review the tribe's actions. EPA declined to answer follow-up questions. The fisheries commission also declined to comment.

Some lawmakers — including U.S. Senate Agriculture Committee Chairman Pat Roberts and Senate Environment and Public Works Committee Chairman Jim Inhofe — have compared EPA's funding for What's Upstream with the "covert" campaign last year to promote the Waters of the United States rule.

In that case, the Government Accountability Office faulted the methods EPA used to rally support for the controversial rule, spreading messages via social media and outside websites without disclosing EPA's involvement.

What's Upstream has sometimes not disclosed EPA funding on its materials. Billboards that were erected in Bellingham and Olympia made no mention of the EPA's involvement. The billboards have now been taken down, but for a time they overshadowed the website.

Roberts called them "malicious," and McCarthy said they were the most "egregious" aspect of What's Upstream.

"I can't believe two billboards got that much attention," the tribe's Cladoosby said. "We didn't see that coming at all."

Besides the letter-writing campaign and inadequate disclosure about EPA funding, the

content of the website and the rest of the campaign has become the issue.

"This is just a new low," said Washington state agriculture lawyer Toni Meacham. "It's shocking to me our tax dollars went for that."

Corrective action?

The EPA initially defended the campaign as "public education" on Puget Sound fish recovery, but in April, the agency reversed course and blamed the fisheries commission and the Swinomish tribe for misusing EPA money on the campaign. The EPA said it would take corrective action.

However, more than four weeks later, the What's Upstream website remains online. Asked about the campaign's future, Cladoosby said, "Stay tuned."

The EPA's McCarthy assured the Senate Environment and Public Works Committee in April that her agency was "distressed by the use of the money and the tone of that campaign."

One year earlier, McCarthy spent the afternoon with Swinomish tribal leaders, according to EPA records and photographs posted on the EPA website. McCarthy met with the leaders for 30 minutes and then went on a 90-minute walking and boating tour of the Skagit River with a group that included Cladoosby, the tribe's environmental policy director Larry Wasserman, and the EPA's Northwest administrator, Dennis McLerran.

The meeting and tour were closed to the press. An EPA spokesman said the agency had no information to indicate that the What's Upstream campaign was discussed. Cladoosby said McCarthy visited in response to President Barack Obama's call for leaders in his administration to visit Indian Country. The What's Upstream campaign did not come up, Cladoosby said.

EPA's involvement

Public records show the EPA has been aware for several years that the tribe hired Seattle public relations firm Strategies 360 to develop a message and campaign strategy.

Strategies 360 has offices in 10 states and the District of Columbia and lists Shell Oil Co., Starbucks and Microsoft among its clients. Strategies 360 employees also spoke to reporters on behalf of central Washington dairies that were sued over groundwater pollution in 2013 in what became the landmark Cow Palace Dairy case.

The EPA was kept informed as the tribe recruited some of agriculture's sharpest critics as partners and wanted the outcome to, as the EPA records put it, "increase the level of regulatory certainty."

The EPA issued specific directions, including demands for advertisements and the placement of news stories, which in turn did not disclose EPA's involvement.

The EPA also reviewed the website, but did not prevent What's Upstream from adding the "Take Action" button to send letters to state legislators.

The EPA also received a marketing report in the fall of 2014 from Strategies 360. The firm reported that people were going to the What's Upstream website as long as \$1,000 a week was being spent on advertising.

The EPA posted the reports from the tribe's Wasserman and Strategies 360 online on the agency's Puget Sound Financial and Ecosystem Accounting Tracking System.

According to the agency, the system allows anyone — from the White House to the press — to monitor how EPA money is being used in the Puget Sound. EPA adds its expectations to the report.

According to an EPA fact sheet, the reports "will give EPA and awardees the ability to tell a story." The reports, the fact sheet states, "Will allow us to make a strong case for additional Puget Sound investments."

Campaign's nature

The campaign's partners include the environmental groups Puget Soundkeeper, Spokane Riverkeeper, Western Environmental Law Center and the Center for Environmental Law and Policy.

The groups vigorously defend the campaign, saying the protests are the sound of an agriculture industry playing the part of the wounded victim. "The truth hurts sometimes," Puget Soundkeeper Executive Director Chris Wilke said.

What's Upstream angered Washington farm groups only partly because EPA funded it, farm advocates say, adding that the campaign's line of attack —

that agriculture is "unregulated" — is flat-out wrong and vilifies producers for water pollution that's the sum total of rural life and urban development around the Puget Sound.

"No one is disputing water quality is an issue that needs to be addressed," said Gerald Baron, director of Save Family Farming, a farmer-funded group formed this year to push back against agriculture's critics in northwestern Washington.

"It's not honest to say it's not an anti-farming campaign because it blames all the water issues on farmers," he said.

Cladoosby acknowledged that it may overstate the case to say agriculture is unregulated.

"It's possibly not 100 percent true, not 100 percent lie," he said.

Campaign's claims

The What's Upstream billboard image turned out to be a picture from a stock photo service labeled, "Amish Country cows in stream."

A similar photo on the What's Upstream website shows cows standing in a bucolic stream. The photo is also available from a stock photo service and was taken by a British nature photographer.

Asked where the photo was taken, the tribe's Wasserman, who's in charge of the website, said he didn't know.

Another photo meant to link farming to dead fish showed a spawned out salmon.

Wasserman and the environmental groups have defended the website as factual, saying links back up the claims.

For example, the website states: "In Washington, over three-quarters of state water pollution clean-up funds were used to clean up waters contaminated by agriculture between 2005 and 2013."

The statement links to a Washington Department of Ecology report on federally funded pollution-control projects.

The website claim appears to be based on the percentage of projects funded in eastern Washington.

Actually, 46 percent of the funds statewide were spent on agriculture-related projects. In the Puget Sound area, where the Swinomish tribe is based, more money was spent to control urban sources of pollution.

Asked about the website's images and some of the claims, Wasserman responded by emailing a report issued in April by the Western Environmental Law Center. The 151-page report presents a case for stricter regulations on agriculture.

The report includes a commentary by Wasserman on the importance of streamside vegetation buffers but does not answer questions about What's Upstream.



9-1-WHAT?

THE BEST OF THE WORST CALLS TO ASTORIA 911 DISPATCH

Inordinate

Not that we judge or anything, but exactly how much pot do you have to smoke in your car on a Wednesday morning in Astoria to get reported to the police?

And who uses the word "inordinate" in an emergency call?

Follow reporter Kyle Spurr on his 9-1-What? Twitter watch, where a few of the sometimes head-scratching calls to area dispatch take center stage. The full feed is at www.twitter.com/9_1_WHAT.

9-1-WHAT?

9-1-WHAT?

{4/25 @ 2:56 p.m.} Report of a cow walking in the lane of traffic eastbound on U.S. Highway 30. #Astoria

6:18 AM - 28 Apr 2016

9-1-WHAT?

9-1-WHAT?

{4/25 @ 10:22 p.m.} Caller reported a possum in their chicken coup. #Warrenton

6:18 AM - 28 Apr 2016

9-1-WHAT?

9-1-WHAT?

{4/27 @ 11:08 a.m.} Caller thinks the driver in front of her was smoking an inordinate amount of marijuana. #Astoria

6:18 AM - 28 Apr 2016

9-1-WHAT?

9-1-WHAT?

{4/26 @ 6:51 a.m.} Vehicle honking excessively. #Seaside

6:19 AM - 28 Apr 2016

9-1-WHAT?

9-1-WHAT?

{4/28 @ 9:10 a.m.} Report of a loose goat in a neighborhood. #Astoria

7:41 AM - 29 Apr 2016

9-1-WHAT?

9-1-WHAT?

{4/27 @ 11:08 a.m.} Caller thinks the driver in front of her was smoking an inordinate amount of marijuana. #Astoria

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