



HARRANG LONG
GARY RUDNICK P.C.
ATTORNEYS AT LAW

BEN MILLER
Admitted in Oregon
360 East 10th Avenue, Suite 300
Eugene, OR 97401-3273
ben.miller@harrang.com
541.485.0220
541.686.6564 (FAX)

April 19, 2013

VIA EMAIL

Oregon Fish and Wildlife Commission
c/o AAG Steve Sanders
3406 Cherry Ave. NE
Salem, Oregon 97303

Re: Columbia River Gill Net Rulemaking

Dear Chair Levy and Commissioners:

As you may know, I represent Steve Fick, Jim Wells and Fishhawk Fisheries, Inc. in a case challenging recent rule changes to the Columbia River non-tribal commercial fishery. I have been following closely the Department's efforts to readopt, amend or repeal those rules. In particular, I wanted to bring the Columbia River Fiscal Impact Advisory Committee to your attention.

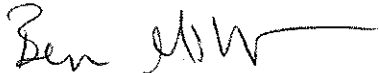
You may not have been aware the Columbia River Fiscal Impact Advisory Committee met on April 3 because the Department failed to provide 24 hour notice as required by ORS 192.640(3). The Department further failed to distribute a copy of the fiscal impact statement so members of the public could comment in a timely and considered fashion. The Department also held the meeting in Salem, away from the affected area. Finally, the Department appointed three employees as voting members of the committee. Members of an advisory committee are not the agency, but rather must "represent the interests of persons likely to be affected by the rule." ORS 183.333(1). The Legislature's purpose is to involve the public in the development of public policy and rule-drafting, not to have agency personnel approve their own creation.

A more cynical person might think the Department is simply attempting to go through the motions before it inevitably readopts the challenged rules. I would encourage you to engage in a procedurally adequate and candid analysis of the impacts of these rules. There is no emergency. There is no need to rush. The people of Oregon who rely on the Columbia River fisheries for their livelihood and diet deserve full participation and a fair review. You too deserve complete information on which to base your decisions.

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In our estimation that has not occurred and is not occurring. We would ask you to postpone the date of intended action to correct these issues and allow proper public input. ORS 183.335(4).

Very truly yours,



Ben Miller

BJM:nas

cc: Inge Wells (via email)
Richard Whitman, GNRO
Director Roy Elicker, ODFW

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