

Murphy & Buchal LLP

2000 S.W. First Avenue, Suite 420
Portland, Oregon 97201

James L. Buchal

telephone: 503-227-1011
fax: 503-227-1034
e-mail: jbuchal@mbllp.com

January 19, 2010

BY FIRST CLASS MAIL

Attorney General McKenna
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

Re: *Gold and Fish Rulemaking Misconduct Continues*

Dear Attorney General McKenna:

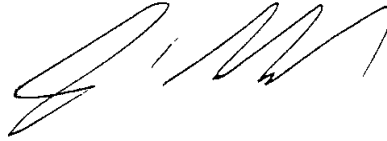
Many resource interests supported your election and continue to support you in the hope that you will rein in out-of-control State agencies. The attached letter documents circumstances in which the Department of Fish and Wildlife and the Commission urgently require your legal guidance as to their obligations under state and federal law.

We are especially concerned because an e-mail recently produced in response to a Public Records Act request, written by Assistant Attorney General Neil L. Wise, has told the Department that “a potential enforcement action against WDFW for the actions of the miners has huge legal implications for all regulatory agencies”. Any notion that WDFW could be held liable under the Endangered Species Act for the actions of those panning for gold by hand in Washington State streams is absurd, and it is vital that the Attorney General present accurate advice as to asserted legal risks to the Department to avoid needless overregulation and litigation.

Please remember that the citizens of the State of Washington have declared by initiative that the State’s resources “are responsibilities of the state of Washington . . . shall remain within the express domain of the state of Washington . . . [and] shall be

managed by the state alone . . .". RCW 77.110.030. Washington citizens look to you to defend the people of this State against overreaching federal regulation, which may in this case be propagated by misapprehension of federal law.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Buchal', with a stylized flourish at the end.

James L. Buchal
Attorney for Resources Coalition

cc: Washington State Fish and Wildlife Commission
Director Phil Anderson
Interested Legislators