

# Attorney general denies knowing about destruction of Oso emails

By [Noah Haglund](#) and [Jerry Cornfield](#)

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EVERETT — Attorney General Bob Ferguson on Thursday denied knowing that state experts routinely destroyed emails for more than a year while preparing for the Oso mudslide lawsuit but vowed “a full accounting of what happened and why.”

“Whatever happened ... it clearly was not right. We know that,” Ferguson said.

The comments from Washington’s top attorney, made in a meeting with The Daily Herald editorial board, come as a judge contemplates sanctions against the state for damaging the legal case brought by survivors of the disaster and relatives of those who were killed.

The state is working with a computer forensic consultant to recover deleted emails that should have been turned over to plaintiffs’ attorneys to prepare for trial.

Ferguson’s office has provided the court with some recovered emails as well as internal communications intended to shed light on who knew about the agreement to delete records and when.

King County Superior Court Judge Roger Rogoff [is weighing the extent of prejudice](#) to the plaintiffs’ case. Some of the more severe sanctions available to the court include deciding the case in favor of the plaintiffs without a trial, or barring state expert witnesses from testifying.

The trial is scheduled to start next month. Also named as a defendant is Grandy Lake Forest Associates, a timber company that logged trees near the slide zone. [Snohomish County](#) was a defendant as well, but was dismissed from the suit Wednesday.

The problem of missing emails from state experts [came to light in August](#), after lawyers working for slide victims and their families uncovered the problem and asked the court to impose sanctions.

In depositions, state scientific and geological experts said the plan to delete emails came up at a March 2015 meeting.

“As we understand it, the experts came up with that plan,” Ferguson said. “An attorney was aware of that plan and didn’t say, ‘Don’t do this.’”

On Thursday, Ferguson said he was unaware of what was happening until recently — “Absolutely no.”

“To say I was deeply concerned by the allegations would be an understatement,” he said.

After learning of the problem, he assigned the two highest-ranking attorneys in his office to help retrieve missing documents.

“The first course of business is let’s get all the emails we can and turn them over,” he said.

A computer forensic consultant has estimated that it would take until early October to recover data from at least 17 electronic devices used by eight different people working for the state.

Ferguson, a Democrat, is seeking a second term in office and is opposed by Libertarian candidate Joshua Trumbull, an Arlington attorney. Both men attended the editorial board interview Thursday.

Trumbull said his office is located in a building where some of the survivors involved in the lawsuit have come to give depositions.

“They’re crushed,” he said. “People had faith in the system. They trusted the rules would be followed.”

Trumbull criticized attorney Bob Christie’s continued participation in the state’s legal defense, calling it a “very clear appearance of an ethical quandary.”

Christie, who runs a Seattle law firm, was hired to join the attorney general’s legal team in October 2014 at the request of an insurance carrier. Earlier that year, Christie had [paid court-ordered sanctions](#) in an unrelated lawsuit involving the destruction of records that his client should have turned over to lawyers on the opposing side.

In a sworn statement in the Oso case, Christie has said he was present for the experts’ March 2015 meeting, but could recall no discussion of emails. He said he gave no advice on which documents to save or discard.

Special assistant attorney general Mark Jobson, who had a lead role preparing the state’s defense, said he was present when experts discussed deleting emails but mistakenly believed they would still be in compliance with rules for legal discovery.

Christie and Jobson remain on the state’s legal team.

Wherever the breakdown occurred, Ferguson promised to figure it out.

“It is a challenging situation for the office,” he said. “There’s no two ways around that.”

Noah Haglund: 425-339-3465; [nhaglund@heraldnet.com](mailto:nhaglund@heraldnet.com). Twitter: [@NWhaglund](https://twitter.com/NWhaglund).