

# *A View of the Summit*

*from the CRAG*

*Celebrating  
10 Years*

artwork by Asante Riverwind



*Goshawk Flight*

***Crag Law Center***

***Spring 2011***

# A View of the Summit Ten Years of Service

by Chris Winter, Staff Attorney

In 2011, the Crag Law Center celebrates our 10th Anniversary, a time for us to reflect on our successes and prepare for the long road ahead. In this issue of the Summit, we focus primarily on our current work, including stories on Grand Island in the Willamette Valley, offshore drilling in the Arctic, and gravel mining on the Rogue River. We also profile three unique and dedicated individuals who are making selfless contributions to the organization: Emily Bartha, a new board member, and Dick and Jeanne Roy, two of our generous donors. At the same time, however, we are taking time to commemorate the history of our organiza-

tion, and we hope you will join us as we look back and pay tribute to many years of hard work.

Our story starts in the summer of 2001, when Ralph Bloemers and I left high paying jobs at a large corporate law firm, unsatisfied that our skills were being used solely for profit and not the broader public interest. At the time, we had a vision of providing professional legal services for free or as close to free as possible to groups working in the public interest on natural resource issues. After many months of soul searching, we jumped ship to start the Crag Law Center.

In the first issue of the Summit, in the winter of 2002, I talked about the doubters who questioned whether we would ever have a real world impact through our work. When we first started Crag, we operated on faith and dedication – faith that we were doing the right thing and that our hard work would pay off for our clients and the broader public. We didn't listen to the skeptics. Instead, we focused on public service and implementing our vision for a new organization.

Now, after 10 years, our faith and hard work have paid off. By serving our clients and putting their interests at the forefront of our work, we have achieved major victories for Oregon and the Pacific Northwest.

As we celebrate over the next year, we will be honoring not only these successes, but also the behind-the-scenes support of so many people who made the work

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*Crag is a client-focused law center that supports community efforts to protect and sustain the Pacific Northwest's natural legacy.*

photo by Justin Bose



*Crag founders Chris Winter and Ralph Bloemers at a 2002 civil protest of the George Bush era gutting of protections of Pacific Northwest roadless and old growth forests.*

possible. Those people include you – our supporters – who encourage us, donate to our organization, and congratulate us on our successes. Without your support, Crag would not exist! So please join with us over the next year to commemorate

our collective work. Our anniversary will culminate on November 5, 2011, with our third WildShots benefit auction. Stay tuned for more information, and until then give yourself a big pat on the back for a job well done! ●

## Ten Years at a Glance



- Crag protected the North Side of Mount Hood from a massive proposal to pave the watershed and build subdivisions and shopping malls.
- Crag has safeguarded thousands of acres of old-growth forest across Oregon and Washington that provide clean water, clean air and wildlife habitat for current and future generations.
- Crag defends special places on the Oregon Coast like the Sand Lake Estuary, Botts Marsh, and the Miami and Coquille Rivers.
- Crag has worked to protect water quality and salmon habitat in the Tillamook State Forest.
- For the last four years, Crag has worked with Native communities to protect the Arctic Ocean from the irresponsible drilling plans of Royal Dutch Shell.

# It's A Grand Island

by Ralph Bloemers, Staff Attorney

The Willamette River flows from high in the Cascades down to the Columbia. The river's floodways have some of the most fertile soil in Oregon, and many farms extend right to the river's banks, including on places like Grand Island.

photo by Ralph Bloemers



Staff Attorney Courtney Johnson with Grand Island clients Craig Markham, Kris Bledsoe and Sam Sweeney at the site of the proposed quarry.

Located in Yamhill County, Grand Island is a great place to farm because of its amazing soils. Each acre produces more food and for a longer period than most other land in the valley. The island supports cherry orchards, organic community supported agricultural operations, and family fun in its pumpkin patches. People come here to bike, visit the state park and fish.

Last year, a gravel mining company called Baker Rock Resources came along and bought up 174 acres of prime farmland on the upstream end of the island. Baker then proposed to dig large pits and mine gravel on the land. As part of the operation, the company proposes to pump large amounts of groundwater out of the area in order to be able to mine down 60 feet. The operation threatens groundwater supplies and will require hundreds of trucks trips per week on the narrow island roads.

In response, the people of Grand Island came together to protect their farms from this proposal and they contacted Crag for help. Just one visit to the island revealed to us a place that is emblematic of Yamhill County, the Willamette River basin, and family farmers who are committed to sustaining their families for generations.

Crag agreed to take on this challenging work. We acted quickly to retain a groundwater expert, a mining expert, a river scientist, and a wetland biologist who carefully reviewed the proposal and found significant gaps and flaws in Baker Rock's application. We have been working with the farmers ever since to educate the Yamhill County Commissioners, who have the power to deny the proposal.

photo by Suzanne Savell



Beverly May visits with Kris Bledsoe and Margaret Scoggan at Kris's Grand Island farm.

One key question for the commissioners is whether the County should sacrifice farmland that has sustained families for generations for one-time profit. The farmers, of course, believe the answer is no.

We are working hard at the local and state level to ensure that these sustainable operations and the people that depend on them are protected and that the island remands a grand place to live, work and raise a family. ●

## DONOR HIGHLIGHT

### Agents of Change: Crag Supporters Dick and Jeanne Roy

by Suzanne Savell, Development Coordinator

For a lot of people, the challenges we face in addressing climate change, ocean acidification and large-scale timber or mining operations are overwhelming. People wonder: how can we make a difference?

Crag supporters Dick and Jeanne Roy believe that everyone has the potential to create lasting change. They have dedicated their lives to helping people realize their own potential. In 2007, the Roys founded The Center for Earth Leadership with the singular vision that "citizens will provide the essential leadership to a sustainable culture."

"People say that an environmentalist activist is 'out to save the world' but this is not realistic, and Dick and Jeanne get it," says Crag co-executive director, Ralph Bloemers. We all have circles of influence within which we can create change. Through educational workshops, programs and publications, the Center focuses on individuals' potential to take on leadership roles and reduce their personal impact on the earth. In fact, over 650 Portland residents have taken their training offered at no cost through the Center on "How to Be an Agent of Change in Your

Circle of Influence" and are now working to effect change within their workplace, neighborhood, child's school or other group in which they are involved.

Dick & Jeanne Roy are nationally recognized leaders in the sustainability movement. Before founding the Center for Earth Leadership, the Roys led the development and growth of Northwest Earth Institute, the Oregon Natural Step Network, Recycling Advocates, the Oregon High School Earth Club Network, the Coalition for Commercial-Free Schools and the Sustainable Investment Institute.

A graduate of Harvard Law School, Dick worked 23 years as a corporate lawyer at Stoel Rives, resigning in 1993 to join

Jeanne as a full-time volunteer. "When I was an associate at Stoel Rives I heard the legend of Dick Roy, a high-powered corporate lawyer who 'retired' to start an organization dedicated to providing people and business the tools to build a sustainable future," Ralph recalls, "I was inspired." We continue to be inspired by Dick and Jeanne, and carry their philosophy with us in our daily work at Crag. ●



Crag supporters Dick and Jeanne Roy received a Green Giant Award at the 2008 Go Green Conference.

"Crag has built a superior legal team ready to enforce laws and create new laws to protect the earth. We are deeply grateful for the vision of Ralph and Chris in creating this unique resource, and gain comfort knowing that Crag stands ready to confront those who exploit the natural world for short-term financial gain. Our financial support of Crag is very simply an essential investment to protect this remarkable bioregion that we call home." — Jeanne and Dick Roy

## UPCOMING EVENTS

### **Reggae Superstar Pato Banton to play benefit show for Crag!**

**Wednesday, May 4 at 9pm  
Mt. Tabor Theatre  
4811 SE Hawthorne Blvd.,  
Portland, OR**

What better way to kick start Crag's 10th Anniversary celebrations than grooving to world class reggae? Pato Banton & The Now Generation Band and Portland's own Nuborn Tribe will be performing a benefit show for Crag on Wednesday May 4th at the Mt. Tabor Theatre. Roots Garden Supply is the presenting sponsor, and Aaron Matusick is a supporting sponsor. A native of Birmingham, England, Pato Banton first came to public attention in the early 1980s when he worked with The Beat. A grammy nominated reggae artist, Banton has recorded with the likes of Sting, UB40, English Beat, and General Public and performed at the Northwest World Reggae Festival. Crag is honored that he is playing a benefit to support our work. Tickets are \$12 in advance or \$15 at the door. We are offering a limited number of VIP package tickets for \$50. In addition to concert admission, the VIP



package includes dinner and a reception with Pato Banton and The Now Generation before the show. Email [suzanne@crag.org](mailto:suzanne@crag.org) or call 503-525-2724 to reserve your advance tickets. ●

#### **Upcoming Center for Earth Leadership Programs (no cost):**

**Saturday, May 7**

##### **The Local Organizer's Toolkit:**

A three-hour workshop by Jeanne and Dick Roy covering key elements of their popular *Agent of Change* framework.

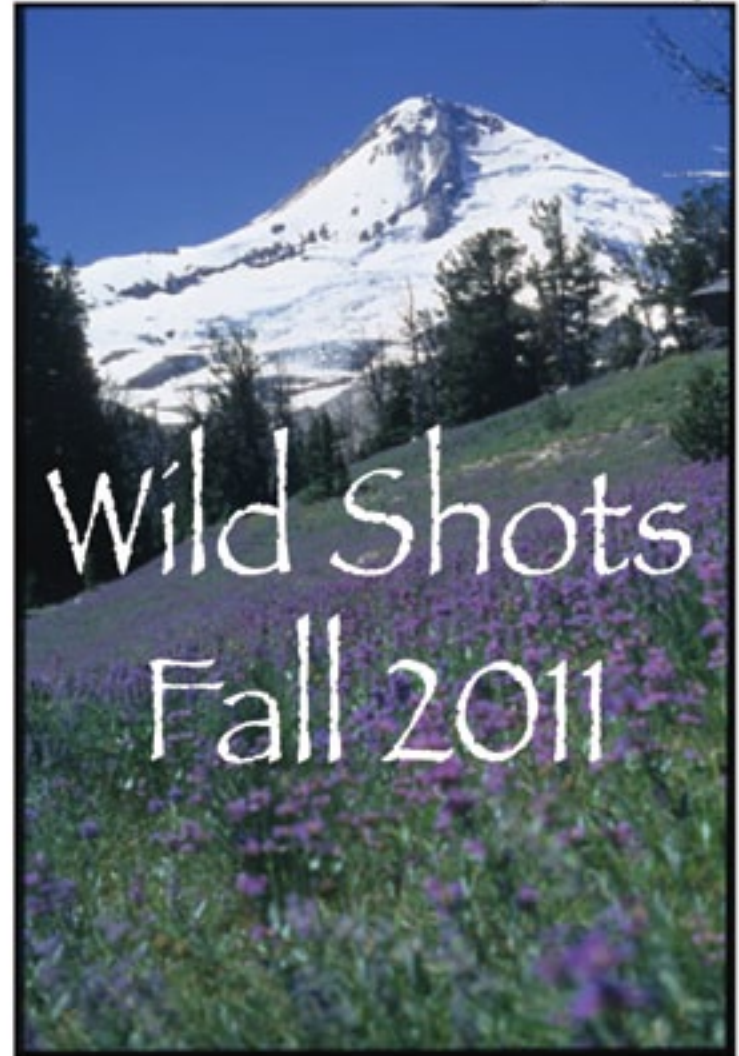
**Fall 2011**

##### **How to Be an Agent of Change:**

Six session course providing a framework, tools, and hands on project guidance for effecting local change from the ground up.

Contact the Center for details: 503-227-2315, [info@earthleaders.org](mailto:info@earthleaders.org).

Join Us for Crag's  
10 Year Anniversary Party



more details coming soon!

*photo by Jessica K. Robertson, U.S. Geological Survey*



*Arctic Sunset*

## ***Air Victory for Inupiat and Beyond***

*by Tanya Sanerib, Staff Attorney*

There is nothing quite like starting off the New Year with a bang – right? And that is exactly what Crag accomplished for its Inupiat Eskimo clients from the North Slope of Alaska. My first day at work in 2011, Chris Winter, co-executive director of Crag walked into my office with a stack of over eighty sheets of paper. He is my co-counsel in a challenge to air permits for offshore drilling in the Arctic issued to Shell Offshore Inc and Shell Gulf of Mexico Inc. by the Environmental Protection Agency (EPA). The stack of paper was a favorable decision that represents a huge victory for our clients and should lead to changes in how the EPA addresses environmental justice issues under the Clean Air Act.

A three judge administrative panel called the Environmental Appeals Board handed down the decision. The Board sent EPA back to the drawing board

to re-define the source of air pollution under the permits. This led in part to an announcement in early February that Shell was not going to try to drill in the Arctic this year.

In and of itself, this was a great outcome. Our clients have significant concerns about pollution in the Beaufort and Chukchi Seas upon which they depend for sustenance, and the ability of the government and oil and gas companies to handle (much less clean-up) an oil spill in the icy, dark, and remote waters of the Arctic. The on-going catastrophe in the Gulf of Mexico has proven these concerns are very real, and we are hopeful that in light of these developments the government will now look and listen before leaping offshore in Alaska.

But the Board's decision also rejected EPA's attempts to rely on existing air quality standards to protect Inupiat's

health and to determine they would not suffer a disproportionate impact from Shell's air pollution. In the permits, EPA relied on standards for nitrogen oxides (NOx) that are linked to respiratory problems, to protect the health of local communities who already suffer higher than average rates of lung and respiratory problems. At the same time, EPA was updating the very NOx standard upon which it relied in the permits, because the standard was inadequate to protect human health. In deciding that EPA could not proceed in this manner, the Board made it clear that Clean Air Act standards are just one component of an environmental justice analysis.

The Board's ruling also clarifies that when an agency is considering issuing an

air permit and local communities raise concerns about environmental justice impacts in their communities from the air pollution, the agency must analyze those impacts before making its permitting decision. This ruling will have far-reaching consequences beyond this case and will benefit communities throughout the U.S. whose homes and way of life are threatened by new sources of air pollution.

Since 2007, Crag has represented Native communities on Alaska's North Slope, and this is the third major legal victory during that time. Our track record of success speaks both to the commitment of the local community and to the deeply flawed processes used by federal agencies in attempting to regulate offshore drilling. ●

## **Dance to Protect Your Pacific Northwest Paradise**

*Featuring:*

*Pato Banton & the Now Generation and The Nuborn Tribe*



**Wednesday, May 4 at 9pm,  
Mt. Tabor Theatre  
Tickets: \$12 in Advance,  
\$15 at the Door**

**VIP Tickets: \$50** – includes VIP concert seating and dinner with Pato Banton, starting at 6:45pm at Tarboush Lebanese Bistro and Bar, 3257 SE Hawthorne Blvd

**\*Advance tickets available at the Crag Law Center, Tickets West, or Mt. Tabor Theatre. VIP tickets are only available from Crag.**

# Rogue Mining Threatens Fish and Local Communities

by Courtney Johnson, Staff Attorney

Over the past several years, Crag has been working with local communities and groups like Rogue Riverkeeper and Oregon Shores Conservation Coalition to protect Oregon's rivers from harmful gravel mining operations. River gravel removal operations can destroy spawning and rearing habitat for native salmon and steelhead, increase sediment in river water, impact floodwater movement, or even cause a river channel to change its course. In areas like Gold Beach, where the health of the Rogue River and its salmon populations now support a strong tourism economy, in-stream



gravel mining poses a significant threat to not only the river and its natural habitat, but also the economic health of the local communities.

Last year Crag represented Oregon Shores Conservation Coalition and Curry Sportfishing Association in challenging approval of a gravel mine at the site of an old plywood mill adjacent to the Rogue River. The site is a favorite spot for recreational fishermen and located only a short distance from the City of Gold Beach's municipal drinking water intake. I went before the Land Use Board of Appeals (LUBA) to argue that water quality impacts from stormwater runoff to the Rogue, as well as potential groundwater contamination from the

old plywood mill ponds had not been adequately addressed by the County's permit. LUBA found that the County could rely on the Department of Geologic and Mineral Industries (DOGAMI) to issue a permit for stormwater discharges and deferred to the County's findings that the method of mining, using a side-cut scalp method, would not cause groundwater movement in the area.

Fast forward to October of 2010: local residents notify DOGAMI that that Tidewater, the mining company, had excavated its entire annual allotment of gravel without obtaining the required

stormwater permit and had also mined to a depth exceeding the terms of the DOGAMI mining permit. DOGAMI issued two separate notices of violation and a suspension order, and required Tidewater to re-grade the site. In communications with the agency, Tidewater's representative admitted that it had altered its mining method from the proposed side-cut scalp to a series of pits and that it was stockpiling overburden at the mine site.

When Tidewater applied for a renewal of its permit last November, Crag again represented Oregon Shores before the Curry County Planning Commission. Crag argued that the violations of DOGAMI's permit also constituted violations of the County's conditional



Rogue River

use permit, and that Tidewater's admitted modification of its mining method required a modification of the permit. The Planning Commission agreed and denied the permit renewal request with a 7 to 1 vote. The Planning Commission's decision is a breath of fresh air for local people seeking to protect the Rogue River, its fish and wildlife, and the revenue and jobs the river supports.

Tidewater has appealed the decision to the Board of Commissioners. In its appeal, Tidewater asked the Board for a three year extension of the permit, instead of the one-year term authorized in the permit. Tidewater pointed the

finger at DOGAMI and argued that it didn't know it was violating the DOGAMI permit. Tidewater also argued that the Board should not require strict compliance with the conditions of the permit. The Board of Commissioners held a hearing on the appeal on March 29. Crag submitted comments on behalf of our clients again opposing the permit renewal. The Board did not act on the appeal at the March 29th hearing and left the record open for further evidence and testimony. Crag will continue to represent our clients to encourage the Board to uphold County law and deny the renewal request. ●

## Trout on the Wind tours national film festivals and wins awards!

*Trout on the Wind*, Ralph Bloemers and Sam Drevo's documentary about the Hemlock Dam removal on Trout Creek, recently won the Best Accomplished Documentary in the National Paddling Film Festival. Since its premiere last year, *Trout on the Wind* has continued to attract accolades and awards. In 2010, the film was an official selection at Columbia Gorge Film Festival, Salem Film Festival,

Yosemite Film Festival and was awarded Honorable Mention at Western Watersheds Resources Initiative Film Competition and the prestigious John Muir Award at the Yosemite Film Festival. *Trout on the Wind* kicked off 2011 as an official selection at the Wild & Scenic and Indie Spirit film festivals. Congratulations to Ralph and Sam for putting together this wonderful film in their "spare" time! ●

# Measure 37 Update

## Corraling the Last Gunslingers - Land Use in Oregon

by Ralph Bloemers, Staff Attorney

In 2004, Oregon once again became the Wild West but with gunslingers and speculators of a different kind. This time it was housing developers looking to convert Oregon's rural landscape to suburban sprawl in the name of "property rights" under the banner of fair compensation touted by Measure 37. Crag is still handling over a dozen cases from this wild time in Oregon land history, and in September of 2010 we won the lead case that is finally restoring order to the territory.

Measure 37 was the initiative that allowed property owners to force the government to remove all of the community-supported land use regulations from their land or pay out extravagant sums of money to property owners for supposed losses in property value. The initiative sounded fair; "pay just compensation for a loss of value," but it proved impossible to determine what value was lost and didn't account for how much Oregon's land use system increases property values for all of us.

Soon after its passage, the gunslingers fired off claims, seeking millions of dollars from the state, or alternatively proposing developments of 10, 50, and even 200-plus houses on prime farmland and forestland. The schemes threatened water supplies, the value of homes, and the character of communities.

The Crag Law Center stepped up first

to help affected landowners and local citizen groups protect Middle Mountain near Hood River, the coastal lakes south of Newport, the headlands above Astoria, wine country in Yamhill and Marion Counties, the waters of the Applegate River valley and the Ponderosa Pine country in eastern Oregon.

By 2007, we had over 300 of the worst gunslingers in the brig and subject once again to the rule of law. The Court of Appeals was poised to rule on the lead case when the people of Oregon voted once again and passed Measure 49. The new law reined in the worst abuses unleashed by Measure 37 and offered a compromise of up to 3 home sites or up to 10 with proof of loss. Most of the 7,500 claimants opted to go this route.

But a few dozen claimants opted to fight it out to the end. Whether you see them as scoundrels or misguided rogues – they have fought hard to continue with the developments they proposed under Measure 37. Last fall we won the first Court of Appeals case overturning a Yamhill County decision that had found a claimant vested in the right to build over 10 houses on Bald Peak Mountain an area of high-value Yamhill County farmland.

In a unanimous opinion by a 3-judge panel, the Court of Appeals rejected

*continued on next page*

photo courtesy of Kate McCarthy



*Hood River's rich farmland produces millions of pears and supports hundreds of families and farmers.*

# Outreach Update

by Suzanne Savell, Development Coordinator

A big part of Crag's mission and work is community outreach and organizing. This winter and spring, I was excited to be able to connect many of our clients and supporters with Beverly May, a friend of mine from Kentucky who has become a household name for many people who are faced with battles to save the places they love from the exploits of extractive industries. The story of Beverly's struggle to save her home from mountain-top removal is portrayed in

the documentary film, *Deep Down*. Crag partnered with Columbia Riverkeeper to show the film in Portland this winter and then in Astoria and Kelso, WA this

photo by Suzanne Savell



*Beverly May on KMUN Coast Radio with Anti-LNG organizers Carolyn Newman and Cheryl Johnson.*

photo by Suzanne Savell



*Beverly May discusses strategies with Grand Island residents over breakfast at Kris Bledsoe's farm.*

March. Beverly May came out to visit with Crag clients and attend the March screenings of *Deep Down*. She also joined with local musicians to host a square dance as part of the Astoria screening, which drew an audience of 150 people. Beverly visited with Grand Island farmers and residents, coastal residents who have been fighting LNG and citizens concerned about the coal export facility proposed in Longview. ●

*continued from page 12*

what Judge Haselton referred to in oral argument as a "bait and switch" – a strategy in which developers claimed they would build cheapo homes in order to get a grandfathered right and then build big expensive homes and make a killing.

The developer sought review by the Oregon Supreme Court, and on May 2, Ralph Bloemers will argue the case before seven judges of Oregon's highest court. The Court has expedited the

case so that life can return to normal in Oregon's bucolic landscape.

Many Oregonians realize that we do not live in the Wild West, rather we live in a complex modern society. Sure, property rights derive from the individual and what we do with the land may improve its value, but our actions also affect our neighbors and the larger community. The Crag Law Center has and will continue to support communities that see themselves as stewards of the land for this and for future generations. ●

## BOARD HIGHLIGHT

# Emily Bartha

by Andrew Mulkey, Legal Assistant

Crag's tenth anniversary is right around the corner, and in preparation for the upcoming celebration, the staff are taking a look back at Crag's beginnings and all its accomplishments since. This retrospective includes recognizing all the hard work and long hours put in by interns over the years.

Emily Bartha was one of first. In 2003 Emily received a grant from her university to spend the summer of her Junior year working with an environmental non-profit of her choice. She chose Crag. And the way Emily tells it, Crag co-founders Chris Winter and Ralph Bloemers were somewhat shocked to get a call from a potential intern. At the time of Emily's inquiry, Chris and Ralph were running Crag from their homes in Portland. They had recently found office space downtown but hadn't yet moved in. Ready or not, Crag had a website and a cause that caught Emily's eye.



Emily Bartha was Crag's first intern. She now serves as a board member and volunteer.

Interning at Crag was a good fit. Emily grew up in the area around Sandy and Boring, Oregon where she spent time hiking, camping, climbing, and rafting in the forests and waters of Mt. Hood. Drawn to Crag's work to protect public lands, Emily's interests expanded over the course of the summer. Emily helped Crag stop a number of post-fire salvage logging projects and worked with Chris and Ralph to expand Crag's mission to include more environmental justice work.

Now Emily works with the architectural firm ZGF in Portland and recently joined Crag's Board of Directors. Looking back, "It's impressive to see the shift," Emily says, referring to Crag's expanding caseload and recent work on climate change and environmental justice issues.

As a board member, Emily, who is also a member of the Portland-based dance company Bouand, wants to reach out to her friends in the art world and spark their interest in Crag's work. "It's a different group of people than is typically involved in conservation," she says, but Emily thinks their support and involvement is needed. We agree, and thank Emily for her past and continued work to support Crag. ●



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## Crag Credits

Crag is truly blessed with great volunteers and supporters. So many people have helped keep us going! We would like to specifically thank:

Artwork by Asante Riverwind

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Alberto Rey –  
Cover Design  
Asante Riverwind –  
Summit Artwork  
Paula Reynolds –  
Crag Law Center Logo

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Kennett Payne, Hilary Williams, Brian Bagdonas,  
Brett Ratliff, Rich Kirby

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Burning Foundation, Impact Fund, Mazamas  
Conservation Committee, McIntosh Foundation,  
McKenzie River Gathering, Oak Foundation,  
Patagonia

*Thank you so much to everyone who has kept Crag going strong!*



Redtail Hawk




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Crag has a newly redesigned website and blog! Check it out at [www.crag.org](http://www.crag.org). We welcome your comments online!

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