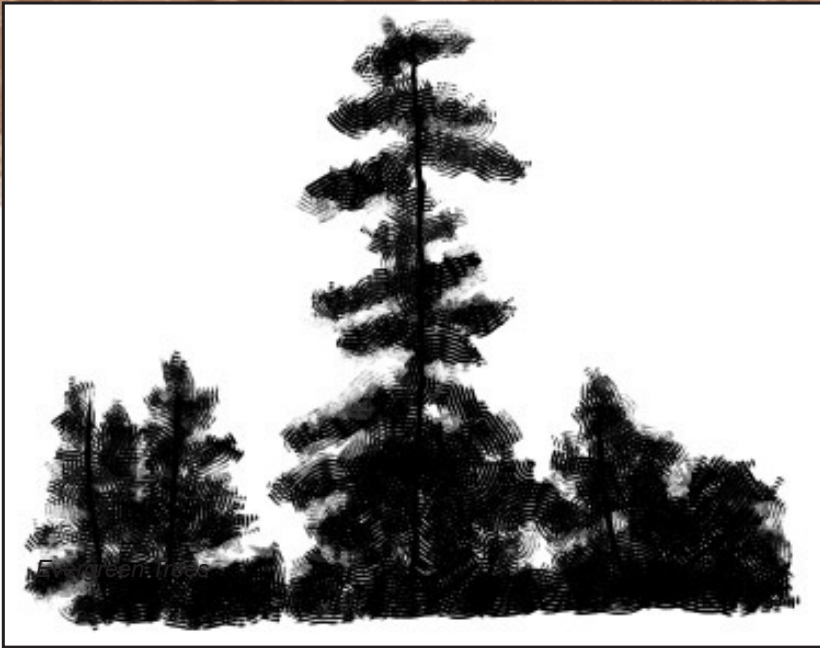


# *A View of the Summit*

*from the CRAG*

***Seeing the Forest for the Trees***

art by Anna Stonestrom



***Crag Law Center  
Summer 2007 Issue***

# ***A View of the Summit*** **Seeing the Forest for the Trees**

*by James D. Brown, Staff Attorney*

A common phrase that law professors extol to their attentive students is “see the forest for the trees.” Meaning: don’t get caught up in the details and forget the larger picture. As a practitioner of law it is difficult not to get bogged down in legal details. There are many distinctions in the law that have resulted in the wholesale destruction of reams of paper in the form of court documents. However, winning a point of law does not necessarily result in tangible results on the ground. To truly gauge the difference we are making at the Crag Law Center, we need to assess not only our efforts in the court but the impact we are having for the communities and organizations we represent and the places they care about.

The harshness of the court system is well represented by cases we have undertaken as part of our Public Lands Program. In two examples of cases where

we successfully represented clients in their opposition of federal logging projects that ran afoul of the law, the result was dramatically different on the ground. The first case is the School Fire Project, which is the subject of a later article in this newsletter. On behalf of a coalition of groups, Crag worked with a clinical law professor at Gonzaga and law student Sean Malone to bring a challenge to a large post-fire logging project in the Blue Mountains of Eastern Washington. Crag prevailed before the Ninth Circuit Court of Appeals on several points of law and secured key protections for old-growth forests and roadless areas. The court sent the Forest Service back to the drawing board to modify the sale to ensure the protection of living, large diameter trees.

The second case is the Mr. Wilson timber sale in old growth, northern spotted owl habitat. As part of the Mr. Wilson timber sale, the BLM proposed the logging of trees in excess of six feet in diameter that were several hundred years old. Representing a coalition of concerned public interest organizations, Crag filed a challenge of the timber sale in federal court. Despite requests from local citizens, the court declined to temporarily halt the logging while the court determined whether the BLM complied with the law in authorizing the logging of these old growth habitats. Taking advantage of the opening, timber companies quickly moved to harvest the giant Douglas fir trees that comprise some of the most key habitat in the area. Eventually after an appeal to the Ninth Circuit Court of Appeals, the opponents in fact won the case. The Ninth Circuit determined that indeed the BLM had violated the law in several respects. However, it was a victory that was

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*photo provided by Umpqua Watersheds*



*Francis Eatherington at the Mr. Wilson Project Site.*

tempered by the wholesale destruction of the area that inspired the court challenge in the first place.

What are the lessons to be learned? Is there anything that can be done differently in the future to prevent old growth logging before there is a decision from the courts on the legality of the logging? Can we take solace in the legal victory that will be binding on future courts who consider the same issues? These are the hard questions that still dog us even with our recent success in the court. The larger picture, the forest, requires nothing less.

In addition to understanding the on-the-ground impact of court decisions, we are increasingly aware of the importance of public dialogue as a necessary companion to our efforts to enforce and shape the law. We understand that a majority of the public shares our values and our clients' values regarding conservation and environmental protection. We also know that the public generally tends to prioritize other issues at the ballot box and in the public discourse. Because of this dynamic, we have developed an understanding that Crag needs to assist our clients in communicating their concerns and efforts to the public in a manner that creates a tangible

connection between their priorities and our efforts. In part, this means dispelling the myth that conservation and environmental concerns are competing or contrary to concerns for economic well-being. Crag is dedicated to helping local people articulate their creative solutions to the local community, gathering support for those solutions and putting our shoulder to the wheel to achieve them. Conservation issues are getting more complex, and the law is not enough to solve them. The key is public understanding. Too often successful conservation efforts are undermined by a backlash of public misperception. A truly successful result is one that sticks with the people for the long term.

The last high level snapshot of our work I want to highlight is our environmental justice effort. The Crag Law Center recognizes that without the equal enfranchisement of all segments of society, there can be no lasting solutions to our environmental problems. What may appear to be a great result for one portion of the community, may in fact be the mere disproportionate transference of a problem on to an underrepresented portion of our society. Without addressing the needs of all people, the nation continues to collectively stumble forward without lasting solutions to our environmental problems. Take a look inside at the environmental justice update to learn about three efforts to address inequities and balance the scales for change, which is positive for all. ●



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## FROM THE SUMMIT

# Schooled in the Science of the Blues

by Kristin Ruether, CRAG Board Member,  
and Sean Malone, Summer Associate (Gonzaga 3L)

Set in the dry, arid conditions east of the Cascades, the Umatilla National Forest is located in the Blue Mountains and spans from southeastern Washington to northeastern Oregon. It is home to a diverse array of wildlife and tree species, including grand fir, Douglas fir, ponderosa pine, and lodgepole pine. These tree species have evolved with fire, some of the trees displaying thick-bark and deep root systems for protection.

The School Fire swept across the Washington portion of the Blue Mountains during the summer of 2005. In the wake of this fire, the Forest Service proposed logging approximately 9,500 acres, including portions of two “uninventoried” roadless areas: the Upper Cummings Creek and Upper Tucannon roadless areas. Combined, these roadless areas are just shy of 6,000 acres. Roadless areas are protected for their unique ecological and recreational benefits as large undisturbed areas.

When the plaintiffs’ survey team reviewed the sale areas in August of 2006, they were discouraged by the discovery of that many live old-growth trees were marked for cutting — in direct violation of the “Eastside Screens,” which prohibit the Forest Service from logging any live trees greater than or equal to 21 inches in diameter. The Eastside Screens were implemented in 1994 after a scientific panel concluded that there was a significant depletion of resources in the forests east of the Cascade Crest, including old-growth trees. Dr. James R. Karr, a member of that scientific panel and professor emeritus at the University of

Washington, said: “In short, cutting those trees as the Forest Service now proposes quite simply sacrifices the ecological and evolutionary future of these landscapes. Instead of being a scientifically grounded policy, the current Forest Service approach is a policy decision being masked as scientific.”

In marking trees for logging, the Forest Service relied on a set of flawed guidelines to determine tree viability known as the Scott Mortality Guidelines. The Scott Mortality Guidelines have not been peer-reviewed, have not been published in a scientific journal, and have been repeatedly invalidated in the field. Leaders in the scientific community have expressed dismay regarding the use of these guidelines. Dr. Jerry F. Franklin, Professor of Ecosystem Sciences at the University of Washington, said: “I find it surprising that the Forest Service is proposing to remove living trees of any size—and most certainly old-growth trees—based on a set of guidelines (Scott et. al.) that have no basis in sound peer-reviewed scientific study and have, in fact, been shown to be grossly inaccurate in their prediction of death in at least four case studies.”

In 2003, the present administration expanded the definition of an Emergency Situation Determination (ESD) from one that was traditionally reserved for ecological or public safety emergencies to economic emergencies. ESDs preclude the traditional public appeals period and allow logging to begin immediately. When the Forest Service Chief issued an

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economic ESD for the School Fire Project based on the potential deterioration and loss of value from decaying timber, Crag, joined by the University Legal Assistance from Gonzaga University, filed suit on behalf of a coalition of conservation organizations for an injunction to halt the logging. The Forest Service played games with its designation and marked live old-growth trees that were allegedly dying and used the respect it is typically afforded to dissuade the District Court Judge from granting the injunction.

Crag then expedited the appeal to the 9th Circuit. In classic Orwellian style, the Forest Service argued against logic and common sense, maintaining that the term “live” was a technical definition that did not include living trees that were dying. In an attempt to advance their argument, the defendants argued that a dying tree was analogous to a cut flower in a vase. The Ninth Circuit was not persuaded and was quick to point out that a cut flower has no functioning root system. Crag countered and argued that there is no technical debate and that “live” simply means not dead. The three judge panel for the Ninth Circuit agreed with plaintiffs and reversed the lower court’s decision. The district court then enjoined logging of any trees with green needles that were greater to or equal than 21 inches in diameter and ordered the Forest Service to re-mark the timber sales.

In recent months, the Forest Service has moved to change the law by amending the forest plan for the Umatilla National Forest and explicitly re-defining “live” and “dead” based on an artificial classification system. The Forest Service is applying the same flawed mortality guidelines to implement the amendment. The Forest Service then approved another economic ESD to immediately proceed with logging. Plaintiffs are presently challenging the ESD, the flawed mortality guidelines, and the proposed

amendment to the Umatilla National Forest. Recently, Crag persuaded the district court to enjoin the ESD (the first victory of its kind) until the merits of the case could be decided. Congratulations to staff attorney Ralph Bloemers for helping to secure this big victory for Eastside ecosystems! ●

*photo by Sean Malone*



*Ponderosa pine improperly marked for cutting.*

# Environmental Justice Project Updates:

by Josh Halladay, Summer Intern, and Chris Winter, Co-Executive Director

## Big Oil Threatens Inupiat Whaling Traditions

The lackluster crew sits bored on the dead silent waters. Hopes of a catch for the day are all but lost. Crew members play trivial games to keep from shutting their sluggish eyes. “Abviq!” [“Bowhead Whale!”] In an instant the lifeless crew shifts into gear. Their tiny, three-person boat almost topples as the crew rushes to pursue the bowhead whale, the first seen all week. The captain quickly barks out orders for the small, eager crew in their native language, Inupiaq. They must paddle silently, but swiftly through the rough, icy water if they have any hopes of feeding their village this week. The crew rows for five minutes, further and further away from shore based on only a glance, finally giving up after a wave nearly capsizes their seal skin boat, hurling one of the crew members into the icy cold water.

This is the average day for Harry Brower Jr., a whaler of 35 years. Brower, as chairman of the Alaska Eskimo Whaling Commission (AEWC), is responsible for the care and well being of 170 crews and making sure that eight villages on the North Slope of Alaska are able to obtain the food they need to survive. The Inupiat have relied on the subsistence harvest of

bowhead whales for thousands of years and have worked extremely hard to ensure sustainable management of the “Ice Whale.” However, currently Brower and Inupiat community members risk losing their ability to whale, and with it, their food supply.

The Crag Law Center’s Environmental Justice Project has stepped up to protect the Inupiat whaling traditions in partnership with the AEWC and the North Slope Borough (NSB), the municipal government with jurisdiction over more than 89,000 square miles on the North Slope. Crag Staff Attorney Chris Winter is representing the AEWC and the NSB in a challenge to the Beaufort Sea Outer Continental Shelf Lease Exploration plan set to take place during 2007-2009. The plan, put in place by Shell Offshore Inc., is a blueprint for the exploration of the North Slope in the hopes of finding oil. Oil drilling in the North Slope would have detrimental effects on the Inupiat community. In addition to the risk of an irreparable oil spill and the potential effects on marine mammals, polar bears and other Arctic resources, the

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*Inupiat Whaling Camp*

*a View of the Summit*



*CRAG staff attorney Chris Winter meets with Rep. Earl Blumenauer, Rep. Hilda Solis, and local Environmental Justice advocates.*

exploration plan also threatens the lives of the Inupiat whalers by forcing them many miles offshore into the Arctic Ocean to find the bowhead whale.

Since Shell intends to drill directly in the subsistence hunting grounds and migration path of the bowhead whale, the noise from the excavation would scare off the mammals and force them to alter their path by 30 miles or more. The deflection of bowhead whales would greatly increase the distance Inupiat hunters would have to travel from shore in hazardous Arctic open ocean conditions and would greatly increase the danger to their personal safety. Furthermore, the harvested bowhead whale would be much more likely to spoil before it was brought back to shore. Since the Inupiat can only hunt an allotted number of whales a year, any spoilage decreases the amount of food for the community.

The oil exploration also places the whales at a greater risk, since although hunters would have a more difficult time reaching them, the whales would likely miss feeding opportunities that they would find closer to the shore. It would

also cause the whales to expend more energy as they traveled many more miles to avoid the unrest caused by the drilling. Many young calves and calving mothers would be placed in jeopardy as they attempted their annual migration.

## **EJ Roundtable with Congressional Representatives**

Crag Law Center Staff Attorney Chris Winter recently helped organize an Environmental Justice roundtable discussion with Rep. Earl Blumenauer from Oregon's 3rd Congressional District and Rep. Hilda Solis from California's 32nd Congressional District. Rep. Solis traveled to Oregon as a guest of Rep. Blumenauer, and Crag helped to organize a roundtable discussion for Rep. Solis with many of the leaders in Oregon's Environmental Justice community. Representatives from tribes, urban communities, academics, and community health and planning advocates gathered to discuss the challenges facing Environmental Justice communities.

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## ***EJ Project Updates Continues***

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Rep. Solis has introduced H.R. 1103, the Environmental Justice Act of 2007. In recent years, the EPA Inspector General and the Government Accountability Office (GAO) have issued reports sharply criticizing EPA's management of its Environmental Justice program. H.R. 1103 would force EPA to carry out the specific recommendations set forth in those reports and to report back to Congress on its progress.

The Crag Law Center would like to thank Rep. Blumenauer and Rep. Holis for their time and especially their interest and commitment to Environmental Justice issues! For more information on H.R. 1103, please go to Rep. Solis' web site at [www.solis.house.gov/issues/environmental.shtml](http://www.solis.house.gov/issues/environmental.shtml). The reports from the Inspector General and the GAO can be found on Crag's web site at [www.crag.org/community.php](http://www.crag.org/community.php).

## **Fighting for Basic Storm Water and Sewer Services**

Crag is currently representing the NSB and the AEWC before the Ninth Circuit Court of Appeals arguing that the federal government ignored the impacts to subsistence resources. Look for updates about this work on our web site as we work to protect this indigenous community from the impacts of oil and gas exploration.

In 2003, the Rosemere Neighborhood Association (RNA) in Vancouver, Washington, decided to take action to protect its community and to obtain equal treatment from the city of Vancouver. For years, RNA believed that the city had been discriminating against poor communities by failing to provide adequate municipal services

such as basic sewer service and storm water management. While more affluent neighborhoods have been provided with updated sewer connections, Rosemere and other neighborhoods were left to deal with failing septic systems in a densely populated urban setting. The RNA filed a complaint with the Environmental Protection Agency (EPA) pursuant to the Title VI of the Civil Rights Act, alleging that the city had received EPA funding and had discriminated against "Environmental Justice communities" by failing to provide equal access to municipal services.

After RNA filed its Title VI complaint, the City of Vancouver began an unprecedented "investigation" into the internal operations of RNA. Within a few years' time, the city council revoked RNA's status as an officially recognized neighborhood association. Despite a long track record of excellent community service and strong relations with the city, RNA suddenly found itself responding to inquiries into its internal recordkeeping and its protocols for holding public meetings. RNA believed that the city was retaliating against it for filing the civil rights complaint with EPA.

After the city disenfranchised RNA, RNA filed another civil rights complaint with EPA alleging that the city had improperly retaliated against RNA for defending its civil rights. Despite EPA's professed commitment to civil rights and environmental justice, EPA simply ignored the complaint and made no effort to resolve the dispute. RNA filed a complaint of retaliation in December of 2003 and then waited for almost a year and half before finally filing suit in federal court against the EPA.

After RNA filed suit, EPA finally agreed to accept the complaint of retaliation for investigation and then moved to dismiss the federal lawsuit

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# Crafting a Vision for Oregon's Federal Forests

by *Chuck Brushwood, Summer Associate (Willamette 3L)*

In October of 2004, Governor Kulongoski called upon the Oregon Board of Forestry (OBF) to “create a unified vision of how federal lands should contribute” to sustainability. In 2005, the Oregon Legislature passed Senate Bill 1072, which mandated the creation of an advisory council to provide “a forum for interagency cooperation and collaborative public involvement regarding federal forest management.” The following year, Governor Kulongoski and the OBF appointed members to the Federal Forestland Advisory Committee (FFAC or “the committee”).

The committee was selected from a list of names provided by Oregon's congressional delegation. It is composed of 12 members including representatives from industry, state and federal agencies, local government, tribal interests, and the conservation community. The committee is focusing on achieving breakthroughs in federal forest policy. Crag staff attorney Ralph Bloemers is a committee member, and I spoke to him about his experiences. But first, I offer a bit of background.

## Background

Roughly 57 percent of Oregon's forestlands are federally managed, primarily by the U.S. Forest Service and the Bureau of Land Management. These lands are managed under a complex array of federal statutes, including the National Forest Management Act, the Federal Land Policy and Management Act, and the Oregon and California Revested Railroad Lands Act, among others. While the law generally requires that these public forestlands be managed for the benefit of the entire public, the decisions made by federal land managers regarding Oregon's federal forestlands have particular significance for Oregonians. The purpose of

the FFAC is to coordinate strategies and facilitate cooperation between federal, state, and local stakeholders regarding federal forest policy issues.

The goal of the FFAC is two-fold: (1) to provide a vision and clearly articulated goals for how federal forests ought to be managed to promote social, economic and environmental values; and (2) to make specific policy recommendations to Oregon's congressional delegation regarding potential legislation concerning management of federal forests in Oregon. The committee members have agreed to meet at least once a month through March 2008. The committee has identified a number of pressing problems, including: federal agency funding that is inadequate to permit the agencies to perform their stewardship obligations; disruption of natural processes by past silvicultural practices and fire suppression; and diminished forest industry infrastructure resulting from reduced timber harvest from federal forestlands. Committee discussions have focused on the effects of fire exclusion and global climate change on forest resiliency, the legal framework governing Oregon's federal forests, and other social, economic and environmental considerations.

The committee is soliciting information about the current conditions and trends of Oregon's federal forests from researchers and agency staff. To date, the committee has hosted several presentations from scientists and consultants on the subjects of climate change, fire ecology, biomass energy production, and general forest ecology. Future presentations may include discussions of the economics of forest-adjacent communities and the forest industry, the effects of active forest management on soils and aquatics, and federal agency funding.

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## County Payments in Limbo: The Legacy of Coupling County Service Funding with Federal Timber Output

by Chuck Brushwood, Summer  
Associate (Willamette 3L)

Oregon's historically timber-dependent counties are in a state of financial crisis. Curry County officials have considered declaring bankruptcy, while Jackson County and neighboring Josephine County have closed all 19 public libraries in both counties due to a lack of funding. In Jackson County alone this means eliminating positions for the equivalent of 80 full-time employees, and the future looks no better. Jackson County's proposed budget for 2008 will require the elimination of 92 additional positions in law enforcement, road maintenance and other social services.

Why are these counties and others like them throughout the west in such dire fiscal straights? The simple answer is that last year Congress failed to renew the Secure Rural Schools and Self-Determination Act, a bill that would have continued to provide cash payments in lieu of a percentage of receipts derived from timber sales on federal forestlands, but this simple answer raises yet more questions. Why would county governments receive a portion of the revenue derived from timber sales conducted on federal land? Wouldn't a system like this create an incentive to log in an unsustainable manner? Why are western counties reliant upon federal funding to fund local services in the first place?

The answers to these questions require a little bit of background on what is commonly known as the "County Pay-

ments Program." County governments provide many important services, including: primary and secondary education; law enforcement; fire protection; road maintenance; and other important social services. Counties raise revenue to provide these services by assessing taxes on, among other things, private real estate. However, some counties, particularly those in the western United States, contain a substantial amount of federal land from which the counties are unable to collect taxes. For example, nearly half of the land in Oregon is managed by the federal government.

Congress has provided a number of funding sources to counties containing significant amounts of federal forestland to replace the revenue which would otherwise be collected in the form of property tax. In 1908, Congress passed the National Forest Revenue Act, which gave counties 25 percent of the receipts generated by timber sales on national forests, what were then known as "for-

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*a View of the Summit*



est reserves.” In western Oregon, the lands managed by the Bureau of Land Management provided a whopping 50 percent of timber receipts to counties. During the 1970s and 80s, the heyday of public lands logging, this represented a significant economic boon to many western counties.

Unsurprisingly, this gravy train would not last forever. Demands for protection of the competing societal values and ecosystem services that forests provide (clean water and air, healthy populations of fish and wildlife, aesthetic values) eventually led to a substantial reduction in federal timber sales. The timber output from federal forests was significantly curtailed in the late 1980s due to the recognition of the impacts of unsustainable logging on endangered species like the Northern Spotted Owl. As a result, many western counties that had been beneficiaries of the timber payments program found themselves without funds for county services and schools.

In response to this situation, Congress passed the Secure Rural Schools and Self-Determination Act of 2000 “[t]o restore stability and predictability to the annual payments made to States and counties... for the benefit of public schools, roads, and other purposes.” The bill spread roughly \$400 million annually from the federal treasury among counties in 39 states. The Secure Rural Schools Act not only provided funding for schools and other services, it also provided funding for conservation projects on or adjacent to federal lands, including forest road maintenance, invasive weed eradication, riparian protection, and fish and wildlife habitat restoration.

Of all the states, Oregon was the largest recipient of these funds, receiving \$159 million in 2005. However, the Secure Rural Schools Act expired by its own terms late last year. Payments under the Act were extended for one

more year by the Iraq Accountability Appropriations Act of 2007, signed into law by President Bush on May 25, 2007. Nonetheless, the future of Secure Rural Schools funding is uncertain, and a long-term solution for the county funding crisis has yet to be found.

Certainly it is important to find a stable source of funding for social services and conservation projects in rural counties. It is equally important to resist a return to the unsustainable levels of logging of the past in order to support schools, libraries, roads, and public safety in historically timber-dependent communities. The current administration has gone even further, suggesting that the Forest Service and Bureau of Land Management sell off portions of our federal lands to replace the county payments funding. Thankfully, this proposal never gained much political traction.

Clearly, residents of rural counties need to have secure sources of funding for important social services. Exactly how and where to find this funding is the tricky political question. The conservation community can participate in the dialogue concerning county payments by insisting that stable sources of funding be decoupled from incentives to sell off or irresponsibly manage our public lands. ●



#### **OUR MISSION**

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

## FEDERAL FOCUS

# Mark Rey in the Lion's Den

by Troy Payne, Summer Intern,  
(Lewis & Clark Law School 3L)

Last spring, former timber industry lobbyist and current Undersecretary for Natural Resources and the Environment, Mark Rey visited Portland to speak to students in Ralph Bloemers' and Chris Winter's Forest Law and Policy class at Lewis & Clark Law School. Did Rey think he was stepping into the lion's den to face students hungry to point out the failures of existing federal forest policy? Or did Rey think he was the fox in the chicken coop, ready to catch the enemy in their infancy?

Rey's talk focused on the limited effect and utility of litigation as a tool for promoting environmental reform. I felt as if he was trying to convince the class that advocating for conservation groups seeking to reform federal agencies was unimportant and unnecessary. While Rey argued that a new era of cooperation on environmental policy was on the horizon; many conservation groups have challenged the agency for Rey's rule changes and a number of courts have agreed—striking down rule changes that eliminated protections for roadless areas and aquatic species.

One example of a controversial rule change is found in the seemingly innocuous rules governing the creation of new forest plans, which remove a 25-year-old collaborative practice of designing guidance for forest management with the input from local residents, scientists, and conservation organizations. The regulations also exempt cooperative planning from the disclosure, alternatives, scientific integrity, and public participation requirements of federal law.



*Undersecretary Mark Rey*

Rey justified these “categorical exemptions” for national forest plans on two cases from the U.S. Supreme Court, *Ohio Forestry* and *SUWA v. Norton*. Those cases held that a citizen challenging changes to forest plans must have an injury resulting from the implementation of a specific project “on the ground.” If one cannot demonstrate injury to a legal right, then the court will not hear the case. Yet Rey cites these cases—holding that planning changes present no legally recognized injury to a plaintiff—as the linchpin for his position that overhauling forest planning documents to remove aquatic or old growth protections will have no impact on the environment. Whether a case is ripe because of injury to people is far different than whether federal environmental law requires proper planning of impacts on the environment. To contend that these cases stand for the proposition that forest planning has no impact on the environment is incorrect and appeared to me to be likely to fail in court. So, I pressed Mr. Rey on this point and, ultimately, he conceded that he did not think the government would use this argument. As the Forest Service moves to revise forest plans in the Blue Mountains and the Mt. Hood National Forest, I suspect we will soon see a showdown in court over these highly controversial executive branch rule changes. ●

# Local Impacts of New DC Policies in Oregon

by *Ralph Bloemers, Staff Attorney*

Natural resource laws and policies often change with power shifts in our nation's capital. In the 1960s and 70s, federal legislators enacted the first comprehensive laws regarding environmental protection, laws that flushed out organic principles of multiple use and sustained yield from the end of the 1900s. Now, as we enter the tail end of the Bush years, we look over a messy battlefield with lots of defeats for this administrations attempt to sneak through rule changes.

In Oregon and Washington, the Blue Mountain forest plans are being revised. On the Mt. Hood National Forest, the most recent plan was updated in 1990. The plans for the eastside forests, which include the Blue Mountains, Ochoco, Fremont-Winema, Okanogan, Wenatchee and others, were updated in the late 80s and the 90s.

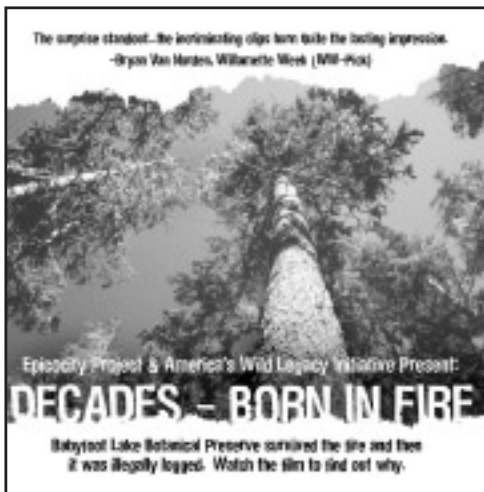
Through Mark Rey, President Bush issued new rules in 2005 that attempted to modify key protections provided by the National Forest Management Act. Just this Spring, those rules were tossed out.

The other Bush rule, described by Troy Payne, has yet to be implemented. The showdown seems inevitable at this point, unless Congress steps in to provide certainty through a political compromise. Many of our conservation clients are trying to work with the timber industry. We may see many more years of confusion as to which rules apply and which forest standards govern our lands—or perhaps the time is ripe for a breakthrough in cooperation. One thing is certain, the recent rule changes and backroom sue-and-settle deals are not models of collaborative conservation. ●

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## ***Decades – Born in Fire***

**Free DVD with \$50 donation to support Crag Law Center**



*Decades - Born in Fire* is a locally produced film that seeks to find the truth covered up by raging fires, black trees, green trees, and the players involved in post-fire logging of sensitive burned landscapes.

From interviews with key players to live footage from Oregon's wild backcountry, come enjoy the story that sprung forth as the last ember from the Biscuit fire ceased to glow. Produced by Trip Jennings, Kyle Dickman and Becky Kennedy, 35 Minutes, with special features, including over 30 minutes of deleted scenes.

**DVD also available for purchase at [www.epicocity.com](http://www.epicocity.com).**

Send a donation of \$50 before the end of this year and get this awesome scientific and political thriller.

## SAVE THE DATE!

### House Party - August 25, 2007

We would like to invite you to our annual House Party to be held at the Old Filbert Farm (Aaron and Sandy's house), about nine miles from downtown Portland. Come enjoy music, drink, good company and (hopefully) nice weather! There will be food for carnivores and vegans alike at 5909 SE Oetkin Road, Portland, Oregon, 97267. RSVP!

### Wild Shots Art Show September 29, 2007

Join us at NW 26<sup>th</sup> and NW Thurman, Portland, (Celebration Community Church) for an evening of artistic revelry. Music and drink will accompany a display of photo and photo-realist art celebrating the unique beauty of the lands that the Crag Law Center is working to protect. Support our work, and enjoy a night out!

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## EJ Project Updates Continues

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because it was "moot." The federal court in Tacoma, Washington, agreed and dismissed the case. RNA then began working with EPA to resolve the outstanding complaint of retaliation.

EPA was supposed to issue preliminary findings within 180 days of accepting the complaint. RNA worked with EPA for more than a year and half, and EPA still had not issued a decision, nor had EPA followed up on many of the witnesses and other factual information that RNA provided. After waiting as long as possible, RNA grudgingly filed yet another lawsuit asking the federal court to step in once again.

Predictably, EPA again complied with its regulations only after RNA filed suit. This time, EPA issued its investigation several weeks after RNA filed suit, and EPA again asked the court to dismiss the case as moot. In its report, EPA determined that RNA had made out a *prima facie* case of retaliation by the city but then determined that RNA had not properly responded to all of the city's inquiries and therefore refused to take any action against the city. In

court filings, EPA admitted that its case manager was improperly biased against RNA.

EPA has again moved to dismiss this case as moot and also refuses to respond to RNA's questions regarding the biased case manager. Crag Staff Attorney Chris Winter is representing RNA in its federal lawsuit, asking the court to step in and prevent EPA from again showing such blatant disregard for the Title VI civil rights protections afforded to Environmental Justice communities.

This case is symptomatic of a larger problem: EPA under-staffs, under-funds, and under-appreciates Title VI of the Civil Rights Act. EPA regularly fails to respond to civil rights complaints in a timely manner and has only upheld one complaint in more than a dozen years. In addition, EPA has recently taken action to dismantle the Office of Civil Rights in Region 10 (the Pacific Northwest). RNA and the Crag Law Center have set out to reform the Title VI process and to hold EPA accountable for ignoring Environmental Justice communities and the civil rights laws designed to protect them. ●

**Crag Law Center T-shirts**  
**\$15 for short sleeve, \$20 for long sleeve**  
**Free with \$100 donation**

three designs  
to choose from  
[www.crag.org](http://www.crag.org) or 503-525-2724

## Ralph Bloemers' Role on the FFAC

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When I asked Ralph what he sought to achieve with the FFAC, he said he hoped to learn more about the systemic and structural problems that lead to conflict on our public lands. "I also plan to share my knowledge of the conservation issues that matter to Oregonians and see if I can help the state move toward more cooperation and usher in structural changes to ensure accountability on our public lands," he said.

The conservation community has mixed feelings about participating in a collaborative process. Whether the FFAC should invest its resources to promote restoration and protection, is a topic of fierce debate. When I asked Ralph whether he felt his participation in the FFAC has been effective, he stated that it is too early to tell. "I have enjoyed being able to challenge people's assumptions and bring my knowledge of science and policy to the discussion," said Ralph. I asked him whether there is a fair balance of interests represented on the committee and whether members are receptive to input from the conservation community. He replied, "So far, I have enjoyed getting to know the diversity of people on the committee on a more personal level. Whether a particular member will serve a narrow interest or look more broadly remains to be seen."

Ralph brings a wealth of experience and expertise about federal forest law and policy to the process, yet he is always looking for people who want to get involved in the effort and who want to inform him on the issues. The committee welcomes both written and oral comments from the public at selected meetings. The next meeting August 1 is on the exciting topic of government budgets, information on future meetings will be posted on the Crag website, [www.crag.org](http://www.crag.org). ●

Summer 2007

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Thank you for keeping us rolling!***



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