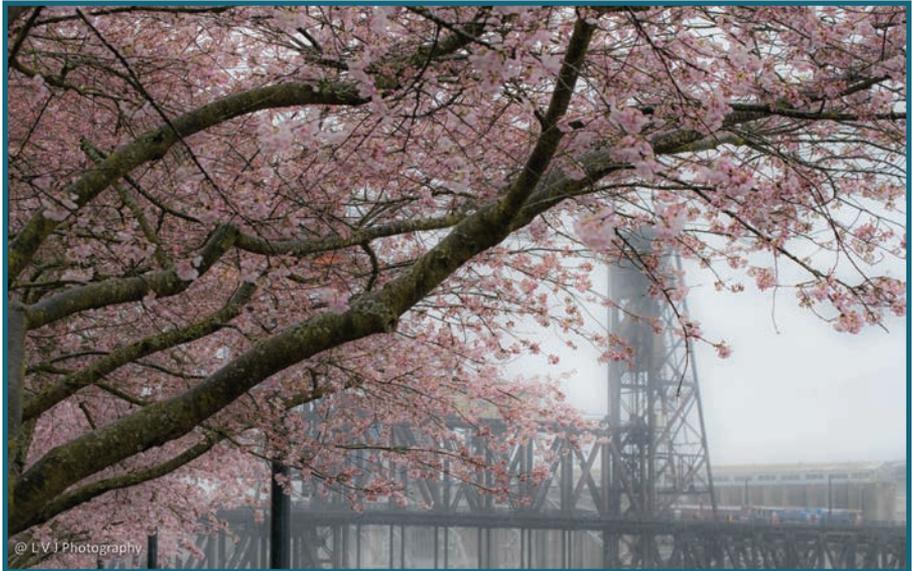




*A View of the Summit*

# C R A G

SPRING 2016 NEWSLETTER



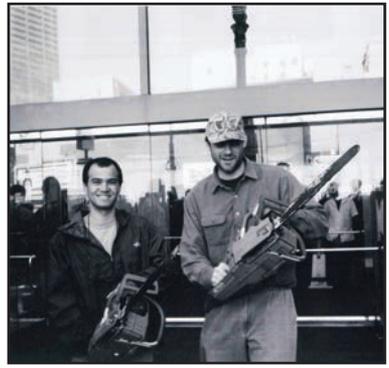
PERSISTENCE PAYS OFF

# 15 Years of Legal Aid for the Environment

## A LETTER FROM CHRIS WINTER

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It was 2001 when Ralph and I first struck out on our own as young attorneys and quite literally placed our burgeoning careers on the line in forming a new non-profit law firm in the Pacific Northwest. Our idea at the time was that our judicial system could not function unless public interest organizations and every day citizens had legal representation equivalent to the firms that represent private, for-profit special interests – equal access to justice.



*Crag founders and Co-Executive Directors  
Chris Winter & Ralph Bloemers at a 2001  
protest of clear-cut logging on public lands*

While this idea wasn't new, we saw a need for an organization dedicated to this mission in the field of environmental law. Although the largest and most well established environmental groups had lawyers at their disposal, people in communities all over the Pacific Northwest were being left behind or ignored while large, private corporations asserted their will over our shared natural resources. Thus was born our idea – legal aid for the environment.

15 years later, we are quite proud to reflect back on all that we have accomplished in partnership with our clients, Board members, volunteers, and supporters. From the Arctic Ocean off the North Slope of Alaska, to Mt. Hood in the Oregon Cascades, to the Klamath Wildlife Refuges in Northern California and Southern Oregon, we have protected some of the most iconic landscapes in North America. And throughout this time we have remained true to our core values – serving the unique interests of our clients who live, work and play in these amazing places. From day one, we have worked on behalf of the people who are most affected by

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

these issues, helping to strengthen their voices and to achieve their own unique vision for a better future.

As you will see in this issue of the Summit, we are busier than ever, and our work remains true to these core values. Ralph writes about our recent work protecting the North Side of Mt. Hood, which was one of our very first cases back in 2001. It often takes dogged persistence to nail down an important victory. Oliver highlights our work protecting the incredible rainforests of the Tongass National Forest in Southeast Alaska. Courtney explains two recent victories over liquefied natural gas projects in Oregon. And Maura provides an update on our work with members of a senior housing community who have struggled for years with the effects from an illegal asphalt batch plant in Southern Oregon. Finally, I provide an update on the unfolding air toxics crisis in Portland and recent changes at the Department of Environmental Quality.

We could not have done any of this important work without your support! Over the next year, please join us as we celebrate our 15th Anniversary. Our good friends and national recording artists, The Black Lillies, will be playing two benefit shows for us this summer. And our 15th Anniversary WildShots event is scheduled for October 1. While we will take some time this year to appreciate all of our successes, we have a lot of important work ahead and your continued support is more important than ever.



Chris Winter, Co-Executive Director

## What's inside?

Old-Growth Logging .....	3
LNG Export Projects Denied!.....	5
Cooper Spur Land Trade Update.....	7
Portland Air Toxics Crisis .....	9
Clean Air Victory for Rogue Valley.....	11
The Way We Work .....	12

# ***A Plan to Transition Away From Old-growth Logging, Focused on... Old-growth Logging?***

by Oliver Stiefel, Staff Attorney

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In November, the U.S. Forest Service released a draft environmental review of its long-anticipated plan for ending old-growth logging in the Tongass National Forest. Crag and our clients have worked for years to protect the old-growth forest ecosystems in Southeast Alaska, so a plan to end old-growth logging should be cause for celebration. This one decidedly is not: the Forest Service's plan calls for continuing logging at the current, destructive rate for at least another 15 years, and the agency has steadfastly refused to even consider options for ending old-growth logging before that timeframe.

The Tongass is America's largest and wildest national forest. The forests of Southeast Alaska, nestled between snow-capped peaks and the Pacific Ocean, form an exceptionally rich ecosystem that holds more organic matter—more biomass—per acre than any other, including tropical jungles. In the lower 48, a staggering 96% of the historical old growth forest has been logged, making the old-growth forests of the Tongass a unique and globally important relic. In fact, the Tongass represents about a third of the world's remaining temperate rainforest.

Despite their global significance, the old-growth forests of the Tongass have been under siege for the past 60 years. Since the mid-1950s, the Forest Service has authorized more than 450,000 acres of old-growth logging on the national forest. Nearly the same amount of logging has occurred on state and private lands. Thousands of miles of roads have been built, mostly to facilitate logging. Commercial timber operations have fragmented important wildlife habitat, and logging roads have scarred the landscape.

In 2010, the Forest Service announced it would be devising a strategy for transitioning away from old-growth logging. The idea was that the agency would shift the emphasis to harvesting second-growth trees, while

supporting the growing tourism and fishery industries. Over the last five years, however, the public has learned that the Forest Service is not planning for a rapid transition, but business as usual for the foreseeable future. The Forest Service has justified its plan on account of the duty to provide for multiple uses of the forest. But over the last 60 years, the scales have been significantly tipped in favor of intensive commercial timber operations. And they appear to remain tipped, as evidenced by the agency's refusal to even consider options for ending old-growth logging now and focusing resources on tourism, fish habitat enhancement, and recreational opportunities.



*Since the 1950s, the U.S. Forest Service has authorized more than 450,000 acres of old-growth logging on the Tongass National Forest. Under their proposed plan, the Forest Service would continue old-growth logging at the current destructive rate for at least another 15 years - photo by Larry Edwards.*

There is an immediate need to end old-growth logging, to protect the remnant patches of forest that are still able to support a high-functioning ecosystem, and to re-balance the multiple use scales. Crag is proud to work with a diverse coalition of non-profit groups dedicated to promoting ecotourism, sustainable fishing, wildlife preservation, recreation, and subsistence hunting—all dependent on intact old-growth ecosystems. We continue to fight against old-growth logging projects, and are watchdogging the Forest Service's so-called transition, to ensure that the remaining ancient forests are preserved.

# ***LNG Export Projects Denied!***

by Courtney Johnson, Staff Attorney

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March was a month of celebration for opponents of fossil fuel exports, because two proposed liquefied natural gas (LNG) export projects were rejected in Oregon in the span of little more than a week. Crag has worked for years with clients and partners to prevent both of these projects from being implemented in Oregon.

In northwest Oregon, a Hearings Officer in the City of Warrenton denied land use permits for Oregon LNG's terminal. In southwest Oregon, the Federal Energy Regulatory Commission (FERC) denied applications for Jordan Cove LNG and Pacific Connector Pipeline to construct and operate a LNG export facility in Coos Bay. Both projects, which propose to export North American natural gas to overseas markets, would require building hundreds of miles of new, high-pressure gas pipeline through Oregon and Washington that would cross salmon-bearing rivers and wetlands, farms, forestland, and hundreds of peoples' backyards.



*The Skipanon Peninsula, site of proposed Warrenton LNG terminal.*

## **Warrenton, Oregon**

Oregon LNG's project would require 109 acres of estuary dredging and 35 acres of wetland fill on the East Skipanon Peninsula just inside the mouth of the Columbia River. Crag worked with clients Columbia Riverkeeper and Oregon Shores Conservation Coalition to demonstrate the proposal's risks to the community and significant threat to intertidal wetland habitat critical to endangered salmon survival.

In denying the permit, the Hearings Officer found that the project would unreasonably interfere with public trust rights—namely impacts on fish, fishing, fish habitat, and on-going fish recovery efforts. Moreover, Oregon LNG had not shown that its attempts to mitigate impacts to the estuary and wetlands would be adequate or successful.

Clatsop County has already denied permits for the pipeline, and the City's decision now adds another blow to Oregon LNG's plans. Appeals remain possible, and Crag will continue working with our clients to protect the Lower Columbia River Estuary.

## **Coos Bay, Oregon**

In a monumental decision, FERC denied applications for a pipeline and LNG terminal in Coos Bay. Crag has worked for years with client Oregon Shores Conservation Coalition and a broad group of impacted landowners and conservation groups to oppose this project.

Construction would require a 230-mile long, 95-foot wide clearcut across fire-prone forests and private lands in southwest Oregon. The proposed route would impact nearly 400 waterways, including the Klamath, Rogue, Umpqua, Coquille and Coos Rivers, and threaten the continued viability of wildlife species such as salmon, northern spotted owls, and marbled murrelets.

In its review, FERC balanced the public benefits of a proposed project against the potential adverse consequences. In denying the permit, FERC found that the “generalized allegations of need proffered by Pacific Connector do not outweigh the potential for adverse impact on landowners and communities.” And without the gas pipeline to serve the Jordan Cove LNG export terminal, “authorizing its construction would be inconsistent with the public interest.”

Please visit [crag.org](http://crag.org) for more details about the recent denials of LNG projects.

# Progress! Cooper Spur Land Trade

by Ralph Bloemers, Co-Executive Director

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On January 6, 2016, Crag represented the Hood River Valley Residents Committee in Federal District Court before Judge Anna Brown on its lawsuit against the Forest Service for failing to complete the Cooper Spur Land Trade. The Residents Committee stood shoulder-to-shoulder with Mt. Hood Meadows, Hood River County, and Clackamas County in common cause to enforce the Mt. Hood Wilderness bill of 2009 that required the trade to be completed within 16 months.

We began the hearing by explaining that the Cooper Spur Land Trade was about settling a decades old dispute. The present case is about more than finalizing legal documents to complete a land trade. It's about protecting nearly 2,000 acres of high alpine wilderness and nearly 4,000 acres of the Crystal Springs Drinking Watershed. It's about resolving three separate lawsuits. And it's about finalizing an historic settlement unanimously supported by Oregon's Congressional delegation, the Counties, Mt. Hood Meadows, local citizens, and a broad coalition of conservation and recreation groups. Judge Brown listened intently and then it was the Forest Service's turn to present. The Department of Justice argued that the Forest Service had discretion to complete the trade—and that the Congressional direction was not enforceable. Judge Brown was not persuaded. She rejected the Forest Service's argument that Plaintiffs could not bring a case challenging the Forest Service's unreasonable delay in completing the land trade, stating:

*"[O]ne can't ignore the mandatory language in the statute. The agency can't. It can't put this project on a shelf and let years pass and expect that...the parties who have rights under this statute should just have to wait. The Court must enforce mandatory duties."*

With the Judge's ruling, the writing is on the wall for the Forest Service – get the trade done in a timely fashion or face an injunction from the court. Since the hearing, the Residents Committee, Mt. Hood Meadows, Hood River County, and Clackamas County have worked diligently to present a new timeline to the Forest Service to complete the trade subject to the continued supervision of the court. The Forest Service has responded to this entreaty and indicated its interest in settling the case. While we still have work to do to see the land trade completed—finalizing protections for the north side of Mt. Hood—we are making more progress now than we have in the last six years.

# CELEBRATE!

CRAG'S 15th ANNIVERSARY

## SUMMER SHINDIGS!

two special nights with

### *The Black Lillies*



**Thursday, June 30th**

The Ruins  
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Hood River, Oregon

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**INFO & TICKETS: [CRAG.ORG](http://Crag.org)**

**503.525.2724**

# ***Crisis Over Portland Air Toxics Leads to Change at DEQ***

by Chris Winter, Co-Executive Director

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On February 3, the Portland Mercury reported that Oregon DEQ was set to release alarming data on toxic heavy metals in Portland’s air. The agency had data showing concentrations of arsenic and cadmium that were 159 and 49 times above levels set to protect human health, respectively. DEQ later announced that it had identified a likely source of the toxins in one area—Bullseye Glass—a specialty glass manufacturer. Located near SE 21st Ave and Powell Boulevard, the emissions from the facility threatened a day care facility, schools, and local residences.

Over the ensuing days, this news erupted into a full-blown public health crisis that is still unfolding. Citizens quickly organized through social media, as families became outraged to learn that they may be raising their children in a toxic hotspot. The Oregonian and other news outlets soon reported that DEQ had identified several other heavy metals in our air, including lead, chromium, and nickel. Worse, DEQ has known about these problems for more than a decade and yet it never identified the sources of the pollution that plague air quality in Portland, widely considered one of the most livable cities in America. It also turns out that DEQ never required Bullseye Glass to install standard emissions control equipment and largely ignored earlier complaints about the facility’s environmental controls.

Under intense scrutiny from the public and the local media, many problems that have plagued DEQ for years were suddenly brought to the fore. Charlie Ringo, a former State Senator and current Crag Board Member was quoted by Steve Duin of *The Oregonian*—“It always appeared to me that DEQ was industry’s lapdog.” Charlie captured a sentiment that is shared widely in Oregon: DEQ is far too cozy with the industries it is charged with regulating and far too quick to dismiss the public’s concerns over pollution.

Largely written by industry, DEQ’s air quality rules allow a source like Bullseye to escape the most basic elements of effective regulation—testing



*DEQ identified Bullseye Glass as the likely source of toxins found in Portland's air. Although DEQ has known about the problem for more than a decade, it never required Bullseye to install standard emissions controls.*

of emissions from the facility, requirements to use modern technology to limit emissions, and modeling of air quality impacts on the surrounding community.

The sudden spotlight on these systemic problems has created an opportunity for change that could benefit public health. DEQ's director Dick Pedersen just resigned, opening the door to new leadership within the agency. DEQ recently announced plans to issue new regulations, creating a chance to tighten the controls that apply to industry. In addition, the Oregon public is more engaged around the issue of air toxics than ever before.

The public and our elected leaders need to come together at this moment to change course for Oregon. Governor Brown should bring in strong leadership from outside the agency to refocus its work on protecting public health and reasserting authority over the industries it is charged with regulating. We strongly encourage our elected leaders to keep a close eye on this process.

Crag will be working hard to make sure the public has accurate information and is equipped with the tools it needs to weigh in on the future of DEQ and the quality of the air we breathe. Stay tuned.

# ***A Breath of Fresh Air, Four Years in the Making***

by Maura Fahey, Staff Attorney

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For the past 15 years, residents of a senior living community in southern Oregon's Rogue Valley have been forced to confine themselves to their homes. With windows and doors closed, they must stay inside to avoid breathing noxious fumes and particulate matter, which are drifting through their neighborhood. The seniors' unwanted neighbor: a noisy, dusty, smoke-billowing asphalt operation run by Mountain View Paving. The asphalt plant has been operating in this residentially zoned area without obtaining required land use permits. After years of the residents' complaints falling on deaf ears at the County and DEQ, they asked Crag for help.

Crag has been representing local land use watchdog group Rogue Advocates and its members—including many of the nearby residents. We have successfully defeated Mountain View Paving's attempts to secure after-the-fact land use permits. Most recently, in January 2016, the Land Use Board of Appeals upheld a Jackson County decision that found the asphalt operation would not be able to obtain land use approval because of its risks of fire and explosion to the surrounding community.

Despite multiple decisions since 2012 from Jackson County and the Land Use Board of Appeals (LUBA) denying the asphalt operation land use approval, the company continued to operate and to pollute the surrounding community. Fed up with the lack of enforcement from state and local officials, Rogue Advocates decided to bring a citizen enforcement action under the federal Clean Air Act. The company's Clean Air Act permit requires the asphalt operation to be in compliance with all local land use and zoning laws. Oregon's land use and zoning laws are designed to ensure that polluting industrial uses are not sited next door to residential communities; in this way, air pollution control and land use are intertwined.

Last fall, Crag filed suit in Oregon federal court to enforce the Clean Air Act permit and its requirement to comply with local land use law. After defeating the asphalt company's attempt to have the lawsuit dismissed, on January 22, 2016, Crag secured a preliminary injunction against the

operation. The injunction requires the facility to cease its operations until the lawsuit is resolved. Finally, Rogue Advocates' members and residents of the surrounding community can breathe fresh air in their homes and neighborhood.

Crag continues to work with Rogue Advocates and local residents to ensure long-term protections for air quality and livability in the Rogue Valley.

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## ***The Way We Work: Jasmine Zimmer-Stucky of CRK***

by McKenna Ganz, DukeEngage Volunteer Summer 2015



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*In this installment of The Way We Work, we're getting the perspective of Jasmine Zimmer-Stucky, Senior Organizer at Columbia Riverkeeper.*

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*Crag has been doing a lot of work with Columbia Riverkeeper, such as efforts to enforce the Clean Water Act and to fight coal and natural gas export terminals. Can you tell us a little bit about the goals and importance of this work?*

Columbia Riverkeeper protects the Columbia River from becoming a superhighway for coal, oil, propane, and liquefied natural gas. Exporting fossil fuels on the Columbia would drive climate change and bring threats of oil spills; coal dust coating our homes, schools and lungs; and dangerous explosions from crude oil and propane trains.

Columbia Riverkeeper often takes a more visible role in organizing community members and speaking to the press, but it's Crag's legal work that forces corporations and agencies to take notice.

## **The Way We Work: Jasmine Zimmer-Stucky (continued from p12)**

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*What are your organization's other priorities, goals and projects?*

Columbia Riverkeeper works to protect and restore the Columbia River. We hold polluters accountable when they break the law. We sound the alarm when toxics make it into the fish and onto our dinner table. The solution is less toxics in the river, not fewer salmon bakes. We also clean up the river: our annual Love Your Columbia event draws thousands for clean-ups and community gatherings.

*What are your biggest concerns for the Columbia River?*

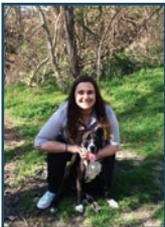
Some of the largest corporations in the world have their eyes on the Columbia River. With plans to transform critical juvenile salmon habitat into fossil fuel mega-terminals, folks fighting for the Columbia River are on the frontline. Corporations may have deep pockets, but Riverkeeper's protection of the Columbia is backed by thousands of community members and the legal support of Crag Law Center.

*What services or qualities does Crag bring to your work at Columbia Riverkeeper?*

Crag helps Columbia Riverkeeper deliver our promise to protect and restore the Columbia. While Riverkeeper members build a grassroots army of support for clean water and healthy communities, Crag attorneys keep corporations and government decision-makers from cutting corners and violating the laws that protect our river.

*What about Crag inspires you and your work?*

Crag's attorneys and staff are smart and fun. It's good to know that the folks representing you in court love what they do. And, Crag has the best fundraisers in town. They're creative, very social and the music is always great.



*McKenna Ganz is a pre-law junior at Duke University. She interned with Crag Law Center in the summer of 2015 as part of the DukeEngage Portland program. She is majoring in Global Culture, Media, and Political Conflict with minors in Economics and Global Health.*

## The Pacific Northwest's natural legacy.



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**Contact Suzanne Savell for more information about  
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503-525-2724 [suzanne@crag.org](mailto:suzanne@crag.org)**

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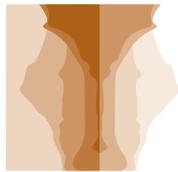
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*Legal Aid for the Environment since 2001*

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