

A View of the Summit

from the CRAG

Heating Up, Powering Down



Flying Murrelet by Larry Efert

On to the Supreme Court

By Ralph Bloemers, Staff Attorney

For centuries, Coho salmon made their way up the Wilson, Trask and Kilchis Rivers on Oregon's coast to spawn and rear young in the cool, clear waters of these rivers. In the late 1800s and early 1900s, Coho began to face longer odds, as loggers built roads along the rivers and clearcut the steep hillsides in Oregon's coastal rainforests. Sediment from erosion and landslides choked the fish and filled in their spawning beds. These practices continued even after the State of Oregon gained

control of much of the land that is now known as the Tillamook and Clatsop state forests. Today, very few older forests remain, and the Oregon Department of Forestry continues to authorize industrial-scale logging of your land.

The timber industry tells the public that Oregon has the most advanced forest practices laws on the books. Truth be told, Oregon lags far behind Washington and California when it comes to protections for water quality and wildlife habitat on private and state forestlands. With a lax state program in place here in Oregon, the timber industry has worked to avoid regulation under our bedrock federal laws like the Clean Water Act. Congress, through the passage of the Clean Water Act, sought to restore our rivers and lakes by ensuring that companies could no longer pollute our public waterways with impunity. We are spending billions of dollars on salmon recovery and yet the timber industry continues to evade regulation under the Clean Water Act while it pollutes our coastal rivers and streams. And fish and wildlife continue to suffer.

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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

But now, there is hope.

Staff attorney Chris Winter and our client the Northwest Environmental Defense Center thought the Clean Water Act exemption for logging made no sense. Didn't the logging operations require roads to haul out the logs? Didn't the roads channel dirty water through a series of ditches, culverts and pipes directly into the streams? Didn't the Clean Water Act require companies that discharged pollution into our rivers and streams to comply with the law? The answers seemed obvious. Chris teamed up with attorney Paul Kampmeier at the Washington Forest Law Center to bring a legal action to change the status quo. After four decades of government inaction and five years of hard work, the Ninth Circuit Court of Appeals ruled that timber companies can no longer escape the Clean Water Act. Industry and the State of Oregon sought review, and in late June, the United States Supreme Court granted it. Until the end of the year, Chris will be working hard with a team of people to present the case to the Supreme Court and to protect a significant victory for salmon, for clean water, and for a sustainable future. We'll all be rooting for him.

In addition to the Supreme Court, our work this year is taking

us to communities across the region and into a variety of settings. In this issue of A View of the Summit you'll read about Crag's continuing work to protect Oregon's coastal forests as well as our work on climate change and energy policy here in Oregon. You'll hear about a case to stop logging of old-growth coastal forest habitat for marbled murrelets, our work to prevent the Columbia River from becoming a coal super-highway, and a project to help protect ocean resources while Oregon explores wave energy. As you read on in this issue, you will see how your support is critical to Crag's ability to deliver access to justice and to take on cases of local, regional and national importance. You, as a supporter, allow us to ensure "equal justice under the law" as promised by the Supreme Court – not just for the well heeled but for all the people who care about our wildlife and our wild places on this great earth.

Crag needs your support as we head to the Supreme Court!

Please consider making a special donation to support Crag as we go to our nation's highest court to defend the Ninth Circuit Court of Appeals ruling that logging roads must comply with the Clean Water Act.

SUPPORTER HIGHLIGHT

Christian Beck

by Ralph Bloemers, Staff Attorney

Christian was born and raised on the Oregon Coast in Westlake, just south of Florence. His father, Dave, worked for the Forest Service and took Christian and his brother out to patrol the beaches of the Oregon Coast. Throughout Christian's childhood, his parents also took the boys and their friends backpacking, fishing and exploring the wilds of the Northwest. Christian attended Siuslaw High School and witnessed firsthand how much the town depended on cutting timber from the forests around his family's rural home. He knew that people relied on resource use, but he saw the devastation that unsustainable logging caused and realized the end was near.

After graduating from high school, Christian attended the University of Oregon and obtained a degree in finance from the Business School. He started his own mortgage business in 1997, helping people realize their dreams of home ownership. After a decade of work in the mortgage business, he decided to make a career change so he



Crag supporter Christian Beck camping with his sons, Warren and Maclean.

could help people manage their finances in a more personal and responsible way. He wanted to help people match their values and beliefs to their financial decisions. As a financial adviser, Christian helps people with socially responsible investments. What does he like most about the work? "I enjoy working with people and helping them plan for the future. In doing so, I follow my personal beliefs about the importance of protecting the environment and our scarce natural resources."

Christian has been a long-time Crag supporter who has donated both his time and money to the organization. Christian has do-

nated guided fishing trips on the Deschutes, McKenzie and Metolius Rivers. He gives to Crag because, "It is hard for me to personally do the things that Crag does. I support Crag so I can be part of having a broader impact on the world around us. What amazes me most is the size of the battles that Crag takes on for its clients, and how with limited financial resources and a small staff, Crag is able to accomplish so much."

Christian has many favorite places and secret fishing spots, but he is most drawn to the east side of the Cascades where the high desert meets the alpine environment. Christian enjoys family ski trips with his wife and two boys to Crater Lake and the Cascades. He is an avid trail runner who has run the Leadville 100 in Colorado and is running the 50-mile McKenzie River Trail Run in September. Christian loves to take people fishing just so he can see others enjoy the outdoors. "All I have to do is get someone hooked on fishing or floating a crystal clear river and they are hooked on wanting to see it protected," he says.

His two boys, Warren, 7 and Maclean, 10, have skis, moun-

tain bikes and backpacks – and no video games. At most, they watch about 10-15 minutes of TV a day. After school, they love tying flies, riding their bikes or playing soccer. Both his boys learned to telemark ski at seven years old. His best advice for parents who want their kids to enjoy the outdoors is to "take them out and give them the opportunity to explore and find what they like to do. Don't force it on them – let them find it. Let them lead. Let them find what moves them."



This approach has worked well so far for Christian and Carrie while raising their boys to love the outdoors. Their son Maclean went on his first multi-day backcountry ski/yurt trip this past winter and this spring joined Christian on a 35-mile fishing trip down the Deschutes! Just last month, at age 7, his younger brother Warren had his first 20 plus mile day with the family on his own mountain bike!

The Columbia River as a Coal Super Highway?

by Chris Winter, Staff Attorney

In the Powder River Basin of Montana and Wyoming, multinational companies like Peabody Coal have recently been buying rights to large coal reserves from the federal government for pennies on the dollar. At a time when our nation is facing unprecedented threats from climate change and extreme weather events rapidly accelerate across the country, our federal government is virtually giving away dirty coal from our public lands and subsidizing the mining of an outdated energy source. But here in the United States, demand for coal is declining as utility companies look for cleaner, more sustainable sources of energy. So where is all that coal going?

The short answer is Asia – to the tune of 150 million tons per year – if we let it happen. Large corporations have recently floated a total of six coal export proposals for the Pacific Northwest, which would more than double the current volume of coal exports for the entire country. And the heart of that coal super highway would be



photo courtesy of Paul K. Anderson

built straight through the Columbia River Gorge. There are three separate proposals for the Columbia River, which would involve shipping coal by rail from the Rocky Mountains to a local port, transferring that coal to barges or ships on the Columbia and then sending it half way around the world where it would be burned by China and other Asian countries. Thousands of train cars filled with coal would pass through Portland neigh-

borhoods and other local towns every year. Barge traffic on the Columbia River could double or worse. Once the coal is burned in Asian power plants, pollution in the form of mercury and ozone will come back to our air and watersheds. Ironically, the carbon emissions would set back the efforts being made by the State



photo courtesy of Paul K. Anderson

of Oregon and local businesses and governments to reduce our carbon footprint and transition to a clean energy future.

The companies that stand to profit from constructing this coal super highway want you to believe that the coal business is clean and safe. But as I write this story, news articles about a train derailment in the Columbia River gorge have gone viral on the Internet. 30 cars of a 125-car coal train derailed near Pasco, Washington, sending what locals describe as a “haze of black smoke” across the sky. At least 12 coal trains have derailed since

2000 alone. Coal dust is notorious for causing lung disease, polluting air and water, and fouling local neighborhoods.

These coal export proposals are still up in the air, and the public has a big role to play. We at Crag are working with Columbia Riverkeeper, a long time client, and a coalition of groups to protect the public’s interest in our iconic river. Over the coming months, the Army Corps of Engineers, the Oregon Department of State Lands, and other agencies will be asking for public comment on these proposals, and we’ll be working to make sure that these agencies uphold the law. Please plug in to learn how you can help.



photo courtesy of D. Dancer / artforthesky.com

OUTREACH UPDATE

by Suzanne Savell
Development Coordinator

It's been a busy spring and summer for Crag, with many outreach and fundraising efforts involving great music, food, and films. In April, we partnered with Bamboo Sushi to raise over \$800 and build public awareness of Crag's work. We were excited to partner with this local Portland establishment, renowned as the world's first certified sustainable sushi restaurant. In support of Crag's work, Bamboo Sushi ran a drink special for a week, which gave their staff the opportunity to tell every guest about Crag's work to protect our region's wild and natural places. Then, on May 1st they donated 10% of their profit to Crag. Thanks to Bamboo Sushi and to all our supporters who came out to enjoy this delicious fundraiser!



Crag supporters Anushka Shenoy, Parizad Karnik, Sunil & Sadhana Shenoy enjoyed dinner at Bamboo Sushi during the May 1st Crag Fundraiser.



The Macrae Sisters played a benefit house concert for Crag in early June.

On June 2nd, the Macrae Sisters, one of Portland's most talented old-time bands, showed support for Crag with a benefit house concert hosted by Scott Killops. About 75 guests enjoyed the gorgeous harmony singing, fiddling and banjo picking of the Macrae Sisters, who headed out for a European tour in July. The event, which raised \$800 to support Crag's work, also featured a cakewalk, which was tremendous fun and gave us all a big sugar buzz. Thanks to everyone who donated cakes and came out to enjoy this special evening. If you missed out on the music and cakewalking, never fear! The Base Camp Bash, coming up on July 28th will also provide Crag supporters an opportunity to enjoy fantastic music as well as a cakewalk. Make sure to get your tickets in advance, because space is limited!

On June 7th, hundreds of people concerned about Nestlé's proposal to bottle and sell Oregon's public water joined Crag, Bark and Food & Water Watch for a screening of the award-winning film TAPPED. The event, hosted by McMenamins Mission Theater, featured a community discussion about the challenge to Nestlé's proposal. Klean Kanteen sponsored the event



and designed a No Nestlé in the Gorge pint cup, which supporters used to get a happy hour discount on beer. Patagonia Portland and CiloGear donated over top-notch raffle items. Thanks to all these supporters, we raised \$1,200 to support Crag's work to challenge Nestlé's permits. If you missed out on getting a No Nestlé pint cup, you can pick one up at the Base Camp Bash, included free with each adult ticket. Thanks Klean Kanteen!

Don't Miss the Base Camp Bash, Crag's 2012 Fundraiser!

Saturday, July 28th ~ 4 to 9pm

<https://crag.ejoinme.org/basecampbash>

Be a Grassroots Fundraiser for Crag!

Are you passionate about Crag and want to let others know about the awesome work we are doing? Do you know people who you think would support Crag's work if only they knew about us? There are all kinds of easy, fun and inexpensive gatherings that supporters can organize to raise awareness and donations for Crag's work. Whether it's a dinner party, house concert, bake sale, back yard talent show or themed bicycle tour, you can bring people together to have fun and raise funds to support Crag's work! If you are interested in helping Crag with our grassroots fundraising by hosting a fundraising event of your own creation, get in touch:

503-525-2724

suzanne@crag.org

Shouldn't Twenty Years be Long Enough to Save a Bird?

by Tanya Sanerib, Staff Attorney

Twenty years or two decades, is a long time by any measure, except perhaps geological time. Think back on all the things you have done over the past twenty years, about all the challenges our world has faced, and everything that has evolved. Of all the things that have changed over the last twenty years, Oregon's willingness to conserve a sea bird called the marbled murrelet on state-owned forests sadly is not one of them.

While marbled murrelets spend most of their lives at sea, they come inland to nest in mature and old-growth forests near the



Nesting Murrelet by Larry Eifert

ocean. Murrelets need coniferous trees with large branches on which to crash land and moss in which to lay their single egg. In 1992, marbled murrelets were listed as a "threatened" species under the federal Endangered Species Act, because the birds are threatened with extinction. Once listed under the Endangered Species Act, murrelets are protected from any activities that harm them or their habitat. The only way around this prohibition is to get a permit or authorization from the U.S. Fish and Wildlife Service.

Marbled murrelets are threatened with extinction primarily because the habitat they need for nesting, breeding, and feeding their young has been lost to logging. In response, federal land managers – like the Forest Service and Bureau of Land Management – have set aside forest reserves of older trees for species like marbled murrelets. Washington and California changed their forest practice rules and obtained permits for the harm they cause murrelets and their habitat while managing state-owned forests.

These permits allow incidental harm to the birds in exchange for the State committing to conservation measures – i.e., generally speaking, forest reserves. But Oregon is still managing its forests in much the same way it did when murrelets were first listed in 1992.

Oregon's policy is to try to avoid harming marbled murrelets when it plans timber sales and roads in the birds' habitat. To be clear, Oregon did get a permit for marbled murrelets once. The permit only lasted for six years, only covered logging on one state forest and not surprisingly required forest reserves for birds. But that permit expired about ten years ago and now the forest reserves are open for logging subject only to the state's try to avoid harm policy.

As long time Crag supporters know, Crag has represented numerous clients and coalitions in their efforts to reform state forest management including Cascadia Wildlands, the Center for Biological Diversity, and the Audubon Society of Portland who have worked for years, if not decades,

on this issue. A key concern of these organizations has been Oregon's failure to set aside reserves to conserve marbled murrelets and other imperiled species, and the reliance on a try to avoid harm policy, which is actually causing harm.

When State officials recently decided to increase logging in key murrelet habitat – the Tillamook, Clatsop, and Elliott State Forests – it was the last straw for these organizations. On May 31, 2012, they, with Crag's help, filed a federal case against Oregon. The case alleges that the State is violating the federal Endangered Species Act by authorizing logging and road building that harms marbled murrelets and their habitat without the necessary permits.

Almost twenty years from when murrelets were first found to be threatened with extinction, their populations continue to decline and their nesting habitat continues to be lost to logging on state lands in Oregon. It is time to move beyond trying to avoid harm to a plan that will actually conserve marbled murrelets and their habitat while Oregon manages our coastal state forests.



Sharing the Ocean: Protecting Ecosystems and Fisheries while Finding Space for Wave Energy in Oregon

by Courtney Johnson, Staff Attorney

You may be surprised to learn that Oregon's statewide land use planning goals include a goal for ocean resource management.

Statewide Goal 19 is to "conserve marine resources and ecological functions for the purpose of

providing long-term ecological, economic, and social value and benefits to future generations." Goal 19 sets out a precautionary approach (i.e., look before you leap) to ocean resource management – the only statewide planning goal to explicitly include a precautionary management method.

The precautionary approach is also set out in Oregon's Territorial Sea Plan. This plan incorporates ocean management policies and goals, outlines agencies

responsible for various aspects of ocean management and applicable laws, and sets forth mandatory and discretionary provisions

applicable to regulating agencies. In 2008, in response to a flood of interest from wave energy developers in Oregon, Governor Kulongoski

directed the Department of Land Conservation and Development (DLCD) to explore amendments to the Territorial Sea Plan that would reflect comprehensive planning for wave energy project siting. Those efforts resulted in changes to the Territorial Sea Plan, which now sets out a process for decision-making regarding offshore renewable energy development proposals and requires the creation of a set of maps identifying areas appropriate for wave energy development.



Orange Rockfish image courtesy of NOAA

Currently, the state, with the help of fishermen and groups like Ecotrust and Surfrider Foundation, is completing mapping efforts to identify the existing uses and ecologically important areas within Oregon's territorial sea. At the same time, wave energy developers have begun an analysis of the areas that would be best suited for implementation of offshore renewable energy technology. The state planning agency DLCD is currently layering these data sets in a comprehensive marine map, which will then govern uses of the territorial sea for many years to come.

The next step in this public planning process will be to draft a framework that identifies areas within the territorial sea that may be appropriate for wave energy development, and other areas that will require more protection for existing uses such as commercial fishing and ecological, recreational, or aesthetic values. As these areas are identified, DLCD and

other agencies will be developing standards and criteria to be applied in each zone. For example, one zone may be an exclusion area where no renewable development will be allowed, while another area may allow development only where an applicant can demonstrate that there will be no adverse effects to protected resources and existing uses.

Crag is working with the Our Ocean coalition to ensure that the development framework and standards and criteria incorporate the precautionary approach.

Many questions remain, for example, how will cumulative effects of wave energy devices be measured and analyzed? Will the state manage testing areas differently from development areas? And ultimately, will we be able to find a way to equitably share access to the ocean's resources among diverse interests? But for now,

Oregon is making progress in a planning effort designed to both protect marine life for future generations and provide opportunities for innovation in renewable energy development.



Wave energy buoy - courtesy of NOAA

THE BASE CAMP BASH

a benefit for the Crag Law Center

SAT, JULY 28TH

4PM ~ 9PM

Join us for dinner, drinks and dancing
on the banks of the Willamette!

Featuring live music by
The Black Lillies



photo courtesy of Peter Marbach



The Black Lillies

- * Tasty Food & Beer *
- * Live Music *
- Wine Raffle * Dancing
- * Cake Walk *
- Fun for all ages!



The Flat Rock String Band

TICKETS

<https://crag.ejoinme.org/basecampbash>

\$25 Advance/\$30 Door

* 15 & younger \$10 * kids under 6 get in free! *

*Adult tickets include dinner, a No Nestlé in the Gorge pint cup
& free beer courtesy of Lucky Lab



Schedule

4pm ~ Caroline & Maggie
music & dancing for the whole family!

5pm ~ The Black Lillies
Rockin' Appalachian Indie Roots music

6pm ~ Cake Walk & Wine Raffle
win a delicious dessert or a bottle of vino to enjoy with
your dinner!

6:30pm ~ Dinner
fresh local food ~ salmon, bbq & more

7:30 ~ Square Dance Til' Sunset
with Maggie Lind & Flat Rock String Band

* INFO: SUZANNE@CRAG.ORG * 503.525.2724 *

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Crag is truly blessed with great volunteers and supporters. So many people have helped keep us going!

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Paul K. Anderson – Photographs
Daniel Dancer – Photographs
Paula Reynolds – Crag Logo
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