



Crag Law Center

A View of the Summit

2019 SPRING NEWSLETTER

Photo by Grant Jacobson

Springing into Action

by Courtney Johnson, Executive Director

In my first few months as Executive Director, I've spent some time getting to know more of you, our community. I'm learning that so many of you care deeply about the issues our clients are working on: tackling climate change from all angles, protecting wildlife and ecosystems, advancing intergenerational justice and much more. And that you value the legal firepower that we bring to protecting our environment. Better solutions are possible when communities have the power of a good lawyer on their side.

I have also been busy these past few months working with youth who are suing their state government to prompt critical action on climate change. In January, after waiting two years for a decision, the Oregon Court of Appeals rejected the youth plaintiffs Kelsey and Ollie's claims against the State of Oregon. The court found that the state has no duty to protect waters, wildlife, and our atmosphere from the devastating impacts of climate change. Disappointing as that decision was, Kelsey and Ollie bravely decided to move forward and ask the Oregon Supreme Court to consider the case. In March we filed this request, highlighting that the Court's decision will have lasting impacts for present and future Oregonians. I am honored and committed to supporting this movement of youth climate activists.

The youth climate case is just one example of the cutting-edge and creative approaches we are developing to help our clients reach their goals for a healthy environment. In this issue of a View of the Summit, Ralph Bloemers provides an update on efforts to protect community drinking water sources and wildlife habitat through

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



Crag's Courtney Johnson (top left) with client Kelsey Juliana (top center), youth climate activists and Multnomah County staff at a press conference in March. The County filed a brief supporting Kelsey and Ollie's request for Oregon Supreme Court review.

improved forest laws. Ka'sha Bernard highlights the impacts of the shortsighted proposal for freeway expansion in northeast Portland. Oliver Stiefel shares his perspective on the victory in the Ochoco National Forest and what it means for Central Oregon. And I share insights from the fight against Jordan Cove Energy Project's proposed gas export facility in Coos Bay. In all of this work, our staff bring not only the legal expertise, but also open minds and creativity to find outside-the-box solutions. With your support, we help our clients build collective power and drive positive change in our communities and landscapes of the Pacific Northwest.

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Fighting for Environmental Justice: Portland's Albina District

by Ka'sha Bernard, Legal Fellow



The proposed I-5 freeway expansion would increase the air pollution already impacting the Albina community.

In April 2018, Portland State University submitted a report to Portland Public Schools, concerning air quality issues at Harriet Tubman Middle School in North Portland. Harriet Tubman was recently reopened and has been an important institution to the Black Community since its original opening in 1982. The report found that air quality at the school was heavily impacted by freeway emissions, due to its location next to Interstate 5. The authors of the report recommended that students at Harriet Tubman limit their outdoor activity, especially during high traffic periods.

The City of Portland and the Oregon Department of Transportation (ODOT) are currently working on a project that would expand the Interstate in Portland's Rose Quarter district. The \$450 million project would add auxiliary lanes, highway shoulders, highway

covers, and a bike/pedestrian crossing to a 1.7-mile segment of I-5 between I-405 and I-84. ODOT claims that the freeway expansion project would bring many benefits, but a closer look at the proposal is raising more questions than answers. Construction is anticipated to start around 2023 and is expected to last between 4 and 5 years. The project would expand the freeway even closer into the backyard of Harriet Tubman Middle School.

The community where the project would occur has several notable concentrations of minority and low-income populations and a history of residents being displaced by major public infrastructure projects since the late 1940s. In 1964, ODOT constructed I-5 in the middle of Portland's Black Community, destroying more than 300 homes.

No More Freeway Expansions is a coalition of organizations, small business groups, and community members that oppose the proposed expansion of the Rose Quarter Freeway. The group asserts that the project is an irresponsible expenditure of tax dollars, which may not even achieve ODOT's stated goals. ODOT claims that if the project is not built, then there will be no improvements to safety, travel reliability, or connectedness and no community spaces provided via the highway covers. And, according to ODOT, traffic is expected to worsen.

The coalition acknowledges the congestion issues present in Portland, but believes that the city and ODOT should invest in building infrastructure that does not further harm local air quality, supports climate emission reduction goals, improves public health and traffic safety, and ensures equitable opportunities for mobility for every community in the region. The group believes that ODOT would do better relieving traffic congestion through decongestion pricing and investing in public transportation.

Crag is assisting the coalition through the public comment period following the release of ODOT's Environmental Assessment for the project. Crag and the coalition have identified several issues with the Assessment, including the lack of data relied upon by the agency for some of their claims. Stay up to date about the project and No More Freeway Expansions by going to **nomorefreewayspx.com**.

Protecting Forest Waters

by Ralph Bloemers, Senior Staff Attorney

Since Crag opened its doors in 2001, we have worked to protect the forests of the Pacific Northwest. Oregon's identity, economy, and quality of life are intertwined with our forests. Forests provide clean drinking water, homes for fish and wildlife, and places to find solitude and recharge. Oregon's old forests store vast amounts of carbon, and serve as a buffer against fire and other natural disturbances. Our forests provide Oregonians with a sense of place and draw people to visit from around the region.



Private forest lands in the Coast Range clearcut by timber industry. Whole mountains are taken at a time. Photo by Francis Eatherington.

But all is not well in our forests. In the Coast Range, we see extensive clear-cut hillsides from Astoria to Bandon. Pesticides sprayed on forest land harms local residents' health and pollutes drinking water. Leading scientists document how fish and wildlife are declining in our rivers and streams. And top experts from Oregon State University recently reported that industrial forest management is polluting drinking water sources and reducing stream flows.

For the last two years we have been examining the risks facing our forests now and into the future. Will our forests continue to provide us with clean drinking water? Will climate change make it harder to protect what we love and need from our forests? Are we succeeding or failing as stewards of our forests?

Together with our conservation allies, local communities, and experts, we are seeing how Oregon has fallen behind its neighbors in Washington and California. Water managers have documented declines in water supplies in Corbett, Rockaway Beach, Salem, Yachats and other communities around Oregon.

The timber industry holds 51 of 81 seats on Oregon's forestry boards and commissions that are responsible for regulating forest practices. The Oregonian recently reported that the timber industry is the number one contributor to elected officials. Oregon's forest laws have not been updated to keep up with science or the conditions on the ground for over 25 years. And industry has a well-funded media machine telling Oregonians that everything is just fine.

This corporate influence has left us trailing our neighbors. Washington's logging laws require a far greater buffer around streams to protect water quality and salmon habitat. And every state in the West has stronger protections against the harmful impacts of aerial pesticide spray. For decades, Oregon has largely been in a political stalemate over forest policy. Conservationists, community groups, fisherman, and local citizens have pushed for change but industry's entrenched power of the industry has stymied most reform efforts.

But there is hope, and a path forward. Oregonians overwhelmingly believe forests are central to our identity and sense of place. They feel we should be better protecting our forested waters from clear-cut logging and chemical spray. Crag is working to finding proactive solutions to protect our forest waters. With the legislature unwilling to step up, the time has come for Oregonians to decide how to protect our water resources that flow through forestlands.

Central Oregon Wildlands Protected

by Oliver Stiefel, Staff Attorney

The bugling of rutting elk. The throaty call of sandhill cranes, and the rustling of the quaking aspen in a summer breeze. The splash of a Redband trout as she sips a mayfly from the surface of a stairstep creek. The howling of wolves under a full moon. These are the sounds that visitors to the Ochoco National Forest in Central Oregon will continue to hear—uninterrupted by the piercing whine of off-road vehicles. Along with many partners, Crag secured an important legal victory for public lands, native fish, and wildlife in early 2019, protecting the Ochoco from a major destination off-road vehicle trail system.



The proposed ORV trail system would have disturbed critical wildlife habitat for species like the Rocky Mountain Elk. Photo by Byron Johnson.

When the Forest Service proposed to construct nearly 150 miles of trails through ancient ponderosa pine forests, wildflower meadows, and irreplaceable shrub-steppe habitat, thousands of local community members and quiet recreational users of the Ochoco cried foul. Undeterred, the Forest Service continued to push their unpopular proposal forward.

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SAVE THE DATE

WILD SHOTS

SAT. OCT. 5, 2019 @ THE REDD
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CRAG LAW CENTER

LEGAL AID FOR THE ENVIRONMENT SINCE 2001

Central Oregon Wildlands Protected

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On behalf of Central Oregon LandWatch, Crag went to court to hold the agency accountable. Standing shoulder-to-shoulder with representatives from Oregon conservation groups, hunters, and the Oregon Department of Fish and Wildlife, we argued that the Forest Service ignored basic scientific information about the impacts of off-road vehicles, and failed to provide legally required protections for fish and wildlife species including elk, wolves, and native trout. Off-road vehicles cause noise disturbance and erosion, spread invasive species, and damage riparian areas. Troublingly, the trail system would have been open for use during critical elk calving and mating seasons. Increased use of motorized vehicles could have cut off an important dispersal corridor for wolves travelling between northeast and southwest Oregon. And the trail system would have included more than 75 crossings through creeks containing some of the best remaining habitat for native Redband trout.

In a secluded area right in the heart of Central Oregon, the Ochoco provides countless recreational opportunities—hiking, fishing, hunting, horseback riding, and winter skiing and snowshoeing. Although there are thousands of miles of existing routes open to off-road vehicle use in Central Oregon, the proposal would have opened up off-road vehicle use throughout half of the Ochoco—nearly 400,000 acres—effectively drowning out all other uses of the forest.

LandWatch Executive Director Paul Dewey said, “There is unprecedented opposition to the proposed project because so many Central Oregonians have a special connection to the Ochoco Mountains. We are pleased that the court listened to the diverse voices of the local community who have been telling the Forest Service for years that a destination ORV trail system in one of the last quiet and serene forests just doesn’t make sense.”

The Jordan Cove Gas Project Marathon Continues

by Courtney Johnson, Executive Director



The Jordan Cove LNG project would require re-shaping the Coos Bay estuary by dredging approximately 5.7 million cubic yards to create a new ship berth and widen the navigation channel. Photo by Trip Jennings Video.

For more than a decade, Crag has been supporting our clients and coalition partners to prevent development of the Jordan Cove liquefied natural gas (LNG) project in Coos Bay. If approved, this project would double-down on investments in fossil fuels at a time when we know we need to be reducing, not increasing, reliance on oil and gas.

The project includes a 230-mile gas pipeline across southwest Oregon, which would cross hundreds of waterways including the Umpqua, Rogue, and Klamath rivers, as well as fire-prone public forests and private lands owned by rural Oregonians. If the landowners don't sign off on the project, the company will use eminent domain to take their land.

At the marine terminal, the gas would be liquefied through cooling—a process that requires huge amounts of energy and would produce significant greenhouse gas emissions—before being transferred to ships for export to markets in Asia. Those tanker ships are a serious safety hazard, even under the best marine conditions,

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Fishing Boats at the Charleston Marina. Charleston is an unincorporated community in Coos County, Oregon. Home to a large commercial fishing fleet, it is adjacent to the ocean entrance to Coos Bay. Photo by Rick Obst.

that would require recreational and commercial fishing boats to clear the way when the ships pass over the bar and into Coos Bay. If a major earthquake occurred (Coos Bay will be ground zero in the event of a Cascadia Subduction Zone event), those tanker ships would break loose and present an almost unimaginable danger to the communities of North Bend and Coos Bay.

The project would require re-shaping the Coos Bay estuary by dredging approximately 5.7 million cubic yards to create a new ship berth and widen the navigation channel. Coos Bay is central to Oregon's commercial fishing industry—especially the consistently lucrative Dungeness crab fishery. Beyond harvesting and seafood-processing, the bay supports tourism and visitors, boat building and gear manufacturing, safety, research and education. Recreational fisheries are also important economic drivers in Coos Bay. The Jordan Cove project threatens the future of these jobs and the health of the estuary.

Before it can be built, the project needs to obtain a long list of local, state and federal permits, many of which are currently under review. Crag and our client Oregon Shores Conservation Coalition secured one of the only legal victories against the project in 2016 when the Land Use Board of Appeals found that Coos County had erred in issuing permits for the project. Now those permits, and a slew of others, are pending again before Coos County, the Cities of North Bend and Coos Bay, and state agencies.

Crag celebrated with our clients in early May when Oregon's environmental agency denied a key permit for the Jordan Cove liquefied natural gas (LNG) project. The Department of Environmental Quality found that the Jordan Cove liquefied natural gas pipeline and terminal project doesn't meet state water quality standards. Under Section 401 of the Clean Water Act, projects that require federal permits, like the LNG pipeline and terminal, must also be reviewed for compliance with state water quality standards.

Crag and our client Oregon Shores Conservation Coalition worked as part of a larger coalition to write comments to help DEQ make this decision. Our comments focused on the impacts to Coos Bay from the terminal construction and pipeline installation, as well as the problems the company has had in getting local land use approvals related to protection of the estuary and its habitats. DEQ denied the 401 certificate, finding that pipeline crossings, dredging, and stormwater runoff would likely pollute rivers, streams and the Coos Bay estuary. DEQ also found that the applicant had not demonstrated compliance with land use laws, relying in part to Crag's victory at the Land Use Board of Appeals in 2016.

There are many more permits pending, including a raft of local land use permits under review right now in the Coos Bay area. Permitting in 2019 has been going at a breakneck pace, but we won't back down. Jordan Cove LNG is a bad deal for Oregon. We want to protect the places that we love – from our rugged coastline at Coos Bay, to our gorgeous rivers like the Rogue and the Umpqua. And we want to hold the line against dirty energy projects and harness a clean energy future in the Pacific Northwest.

TAKE ACTION!!!

Public comments are being accepted on FERC's draft environmental impact statement until July 5, 2019

www.nolngexports.org/write-comments



We are excited to welcome Meriel Darzen as our newest Staff Attorney! Meriel joined the Crag team in May after spending three years working on rural land use issues with Crag’s client and partner, 1000 Friends of Oregon. She brings an extensive understanding of Oregon’s land use system and a deep dedication to public interest service. At Crag, Meriel will continue her work to protect farm and forest land through Oregon’s land use system and will help advance Crag’s work to protect our federal public lands in the Pacific Northwest. You can learn more about Meriel on our website or meet her in person at our Summer Party on July 23rd. We hope you’ll help us welcome Meriel to the team!

CRAG CREDITS

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SUMMER PARTY!

Tuesday, July 23, 2019 6-9pm

Lagunitas Community Room
237 NE Broadway, Portland

crag.org/summer-party



Photo by Edward Koorey



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