

OVERVIEW OF FISH AND WILDLIFE CASE

Read over Judge Redden's opinion (PDF 47kb)

What we have done:

During the last year CRAG worked with a coalition of groups advocating for the protection and recovery of threatened bull trout in the Willamette River Basin. The coalition has defeated five devastating timber sales that threatened thousands of acres of old-growth forest and some of the last remaining populations of the bull trout West of the Cascades in Oregon.

The Forest Service prepared five separate old-growth timber sales within the Upper Middle Fork of the Willamette River, with plans to log more than 1200 acres of forest and rebuild 115 miles of roads. One of these sales would have occurred within an uninventoried roadless area, cutting 300 year old trees on steep and unstable slopes. According to the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan (NFP), however, the Forest Service cannot implement timber sales that will degrade aquatic habitat. The US Fish and Wildlife Service (FWS) gave the go ahead in its biological opinion even though the Forest Service was in violation of the NFP as well as an earlier biological opinion issued by FWS.

CRAG helped bring together a coalition of groups consisting of the Cascadia Wildlands Project (CWP), the Oregon Natural Resources Council (ONRC), Center for Biological Diversity and Willamette Riverkeeper to talk to the USFS to redesign the sales. CRAG first tried to resolve the problem by sending FWS a courtesy notice letter. FWS pulled the original biological opinion without notice on the day it thought we were going to file suit. We waited and then watched while FWS produced an equally illegal biological opinion after some minor changes.

We finally filed a lawsuit after FWS was done posturing, and CRAG appeared before Judge Redden at the federal courthouse in Portland. Judge Redden granted the coalitions' request for a preliminary injunction and concluded that the FWS couldn't simply ignore violations of the NFP. The case set important precedent that has firmly established that the Forest Service must design its timber harvest activities in accordance with the ACS objectives in the NFP. The ACS is designed to maintain or restore properly functioning watersheds. The court stated that the balance of hardships and the public interest should tip heavily in favor of the bull trout. This precedent will have significant benefits for future land management in bull trout habitat.

The preliminary injunction placed on these timber sales was a great win for bull trout and the habitat they depend upon within the Willamette National Forest. CRAG played a pivotal role in forcing our public agencies to responsibly manage the

forest on an ecosystem scale, as dictated by the Endangered Species Act and the Northwest Forest Management Act. The case brought against the FWS and USFS set a prescient for future forest management activities in bull trout habitat that will expectantly result in more responsible management and more effective citizen monitoring. The critical habitat comments produced by our law intern are the first step in working toward a permanent designation that will keep bull trout habitat off of the Forest Service chopping block.

What is next:

Although we succeeded in stopping these 5 timber sales from being cut, the federal land management agencies responsible for the survival of bull trout have not stopped auctioning off old growth stands in critical bull trout habitat. In conjunction with the CWP, CRAG has been monitoring several new old-growth timber sales affecting thousands of acres in the Willamette National Forest that are adjacent to the Middle Fork of the Willamette. We are continually working toward a designation that will protect the critical habitat necessary for these 2 populations of trout to survive. Until that time, CRAG will be dedicated to advocating for this threatened species both informally and in the federal court system.