

NORTHWEST DEFENSE

The Newsletter of the Northwest Environmental Defense Center

WINTER 2017

MEET NEDC'S NEW STAFF ATTORNEY

Our student law clerk Lucy Brookham recently sat down with our new staff attorney Peter Broderick to learn a little bit more about him.



You are a rarity – a true Oregonian living in Portland – what was it like for you growing up in Oregon?

Growing up in Oregon was terrific. I grew up on the coast in Cannon Beach. I was very fortunate to have the beach, a state park,

(Continued on page 2)

WORKING TO REDUCE DIRTY DIESEL IN OREGON

We are pleased to announce that NEDC is partnering with Lewis & Clark Law School's Green Energy Institute on a new project aimed at reducing diesel pollution in Oregon. Increasingly stringent diesel engine phase-out requirements in California and Washington are resulting in dirty diesel dumping in Oregon, and we're working to make a difference..

The Oregonian recently ran a strong editorial titled, "Don't Let Oregon's Focus on Diesel Get Hazy." The piece challenges the state to do more to address diesel emissions, especially diesel from old large diesel rigs previously registered in neighboring states, delivery vehicles, construction vehicles, and school buses. The diesel soot these vehicles emit causes heart disease and cancer and can aggravate asthma in children, whose developing lungs are especially susceptible to damage.

(Continued on page 4)

IN THIS ISSUE:

Willamette Dams Litigation.....	Pg 3
Oregon Industrial Stormwater Permit Litigation.....	Pg 4
NEDC Joins Oregon Supreme Court Fight Against New Energy Facility Siting Rules	Pg 4

NEDC Has A New President!	Pg 5
Support NEDC Today	Pg 5
Volunteer Spotlight	Pg 6
4 th Annual Pedal Pursuit	Pg 7

(Meet NEDC's New Staff Attorney...Continued from page 1)

and a river right next door. I spent countless hours roaming around outside in the neighborhood with my siblings and my friends. That was probably the origin of my environmentalism.

You were an attorney at Shute, Mihaly & Weinberger for four years after you graduated from Stanford Law School - what kind of work were you doing there?

Shute Mihaly & Weinberger is a mid-sized private public-interest firm in San Francisco that represents community groups, tribes, and public agencies in a variety of environmental and land use matters, mostly in California. The firm represents forward-thinking public agencies trying to accomplish progressive planning goals, such as building public transportation infrastructure projects. It also represents community groups fighting poorly planned and environmentally harmful development projects. It was an interesting dynamic having clients from both of those groups.

The last case you worked on prior to starting with NEDC recently went to trial in California - tell us a bit about that.

For the last couple of years I've been involved with drafting local land-use initiatives in California. Monterey County voters passed one such initiative last November that restricted oil and gas operations in various ways. The oil and gas industry, led by Chevron, immediately filed six separate lawsuits to try to make it go away. I was assisting the proponents of the initiative— a group of local citizens concerned with protecting Monterey's water and natural resources from the negative impacts of oil and gas production— in defending it against these lawsuits. We're awaiting a decision from the trial court.

There are a lot of issues affecting the West and the Pacific Northwest right now. What issues are at the top of your priority list?

Water quality is obviously huge. NEDC has a long and illustrious history of advocating for clean water and I look

forward to continuing that tradition. Clean water is important for all Oregonians, not just people who work and play outdoors.

NEDC is also starting to do some really interesting stuff related to air quality and I look forward to expanding that work.

Climate change work is also on the list. Oregon needs to be doing a lot more to reduce greenhouse gas emissions in the state. As a coastal state, Oregon is especially vulnerable to the effects of climate change, but that also means we are well positioned to be a leader and a policy innovator.

Finally, protecting our beaches, estuaries, and unique coastal resources is especially dear to me. Of course, all of these priorities relate to one another.



What is one of your goals for your first year as staff attorney?

Well, I have a lot of goals! One of my immediate goals is to reacquaint myself with the environmental and regulatory landscape here in Oregon and really put the tools that I have developed over the past several years to use in my own backyard. I am also looking forward to learning from and working with the faculty, staff, and students here at Lewis and Clark Law School.

What do you like to do in your spare time?

I like to read, especially short fiction. I also enjoy riding my bike, running, and hiking. I hiked to Ramona Falls in the snow for the first time two days ago. It was beautiful. Spectacular views of Mount Hood. Anything that gets me outside is a lot of fun. I also enjoy brewing beer. I haven't done that in a while, but I brought all of my brewing equipment back up to Oregon with me, and I look forward to firing it back up this winter.

You went to law school at Stanford, but you attended the University of Oregon as an undergrad. Are you a Ducks or a Cardinal fan?

Oh, I always root for the Ducks over the Cardinal - but I'll admit to cheering Stanford on when they play anyone else.



WILLAMETTE DAMS LITIGATION

Highlighting nearly a decade's worth of missed deadlines, postponed actions, and poor communications from the U.S. Army Corps of Engineers, NEDC is partnering with a coalition of conservation groups that recently sent formal notice to federal water managers of its intent to file suit to protect threatened Willamette River Chinook and steelhead. With only 1-2% of the wild fish's historical numbers returning to spawn this year, time is of the essence.

"Nearly ten years ago, the National Marine Fisheries Service (NMFS) determined that the Corps' operation of the Willamette dams was likely to jeopardize Chinook and steelhead unless significant changes to the Willamette dam operations were made," said Mark Riskedahl, NEDC's Executive Director. "NMFS told the Corps that fish passage was a high priority, yet the Corps has dragged its feet in meeting this requirement and others set by NMFS."

Structural or operational changes to improve downstream fish passage, water temperature and dissolved gas levels at numerous dams throughout the basin have missed proposed deadlines. The groups contend that the Corps has developed a pattern of delay that can no longer be tolerated if fish are to survive.

NEDC is a co-plaintiff in this effort with the Native Fish Society and WildEarth Guardians. The groups are represented by Lizzy Potter and Laurie Rule of Advocates for the West.



Big Cliff Dam on the North Santiam River, photo by Conrad Gowell

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OREGON INDUSTRIAL STORMWATER PERMIT LITIGATION



NEDC's Clean Water Act permit enforcement work can only be effective at reducing water pollution if the permit terms that we are enforcing are adequately protective. We have long been concerned that Oregon's industrial stormwater permits are lagging behind neighboring states, and this fall we joined forces with Columbia Riverkeeper in a lawsuit to tighten up limits to protect water quality in Oregon's 1200-Z stormwater permit. We are represented in this matter by Earthrise Law Center attorneys Jamie Saul and Allison LaPlante, and NEDC board member Karl Anuta.

NEDC JOINS OREGON SUPREME COURT FIGHT AGAINST NEW ENERGY FACILITY SITING RULES

On December 5, NEDC joined Friends of Columbia Gorge and seven other conservation and community groups filed a challenge in the Oregon Supreme Court to the state Energy Facility Siting Council's (EFSC) rules for siting energy projects.

EFSC oversees the development of large electric generating facilities, high voltage transmission lines, gas pipelines, radioactive waste disposal sites, and other related projects in the state. When EFSC approves an energy project, it issues a "site certificate" that allows the project to be built. In some circumstances, project developers seek amendments to their site certificates after approval.

EFSC recently revised its rules making it much easier for energy developers to exploit this "amendment" process to expand existing projects with little public oversight. Although EFSC claims that the purpose of the revisions was "to enhance the opportunity for public participation while minimizing increases in review time," the opposite is true. The new rule revisions open the door for energy project developers to expand approved projects, for example, by increasing a facility's output capacity or footprint, while stripping away the public's right to review and comment on the changes. The new rule revisions also attempt to limit the circumstances in which members of the public can challenge EFSC's decisions in court—something that only the legislature can do. To make matters worse, EFSC failed to comply with state procedural requirements when it adopted the new rule revisions.

Large-scale energy projects have significant environmental and land use impacts, affecting the scenery, wildlife, water quality, and air quality in some of the Oregon's most treasured natural lands. Public input is crucial to ensure that these impacts aren't ignored. EFSC has come under fire from state lawmakers in the past for being unresponsive to public input, and the new rule revisions only showcase the problem. A favorable ruling from the Oregon Supreme Court will ensure that Oregonians don't lose the right to participate in energy facility siting decisions and will have important implications for transparency and accountability at EFSC.

(Working to Reduce Dirty Diesel in Oregon...Continued from page 1)

Recognizing the unlikely prospect of state legislation mandating comprehensive diesel emission reductions, we are targeting a wide range of tools and outcomes that are already available to Oregon state, regional and local governments under existing statutory authority. Though we are still early into the project, we are already identifying a remarkably wide range of compelling strategies to reduce diesel pollution. We are excited about pulling these strategies and tools together into an Oregon Diesel Reduction roadmap, and working to help steer Oregon down a more innovative pathway towards comprehensive diesel emission reduction.



NEDC HAS A NEW PRESIDENT!

Congrats to Lizzy Potter, voted the new President of NEDC's Board of Directors at our September 30th annual meeting at Camp Westwind. Lizzy was an amazing NEDC law clerk, and has played an integral role as an NEDC board member in recent years, providing invaluable support on a wide-range of organizational needs.

Karl Anuta, the longest-tenured Board President in NEDC's 48-year history, remains actively involved as the organization's Vice President. Karl's legal acumen and fighting spirit have been a remarkable resource for NEDC over the years, and we can't thank him enough for all he's done and continues to do for us.

NEDC is able to fight for the preservation of the Pacific Northwest thanks to the ongoing support of individuals like you. From protecting resources like the Columbia River, to ensuring clean air is a right for all Oregonians, to mentoring the next generation of environmental advocates, your contributions help NEDC continue our mission.



A LEGACY OF ENVIRONMENTAL PROTECTION!

Including NEDC in your will is a powerful way to leave a lasting impact on the Pacific Northwest.

To learn more about how to donate or what your donations will help support, visit us at <http://nedc.org> or email nedc@clark.edu

MAKE IT A REGULAR THING!

Show NEDC your support by committing to an annual donation in whatever amount works for you. With a monthly donation in any amount, you will provide NEDC with ongoing support to protect the natural environment.

ONE AND DONE!

By making a one-time donation today, you ensure NEDC will have the tools to continue unconditionally fighting for our environment and natural resources.

VOLUNTEER SPOTLIGHT

Ben Kirsch, who is currently wrapping up his 2nd year as a law student at Lewis & Clark Law School, has been working with NEDC since he first got to campus. He joined the team as a student volunteer, working on air toxics issues and the Cleaner Air Oregon regulatory reform effort. "It was an amazing opportunity to hit the ground running and get involved in environmental work from the beginning of my legal education," said Ben, a Cleveland-native. "I don't think I could have gotten that same active, hands-on experience with anyone else or anywhere else."

During the school year, he continued to work with the air toxics team as Cleaner Air Oregon began to take shape. Ben stayed on with NEDC during this past summer and continued to work with air toxics issues, alongside a coalition of environmental and community groups. During his work, he provided background research, joined strategy sessions, attended public meetings, and gave testimony pushing for stronger community engagement and protections during the rulemaking process. "The whole summer was an eye-opening experience. Being able to see, and participate in, each step of the process was invaluable." This year, Ben has continued to work with the air toxic project as the project coordinator.

This past October, Ben also represented NEDC in the Portland Marathon. Asked about his motivation to run the marathon, he said, "After everything NEDC has done for me, I wanted to give back in some way." Ben, along with Lucy Brookham, Pavlo Stavrou, and Carolyn Griffin, who each ran the half-marathon, raised awareness and support for NEDC leading up to race day. Much to his relief, he survived the race and reached his fundraising goal. "It feels great when you can check something off your bucket list while supporting a great cause."





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