**Crag Law Center Proposal - Restoring the North Umpqua: Applying Pressure for Removal of Winchester Dam.**

Crag Law Center (Crag) is a nonprofit public interest environmental law center providing free and low-cost legal services to people working on the ground to protect our communities, wild places, and climate in the Pacific Northwest. Crag is legal aid for the environment.

Since its founding in 2001, Crag has represented over 200 different conservation organizations, community groups, and Tribes working to protect forest ecosystems, fight against fossil fuels, and support communities most impacted by environmental injustice. In the past year, Crag provided over 11,000 hours of free and low-cost legal services with a market value of over $4.1 million. With over two decades of experience, a reputation for excellence, and respect within the environmental law and policy community, Crag’s team of attorneys is well-positioned to affect positive change.

The purpose of Crag Law Center’s project is to continue its ongoing work with a coalition of conservation organizations–including Native Fish Society, WaterWatch of Oregon, The Steamboaters, The North Umpqua Foundation, and Umpqua Watersheds, among others–to pursue various legal avenues to apply pressure to the owners of the Winchester Dam to ensure compliance with and enforcement of state and federal laws at the dam, with the ultimate objective of dam removal. Crag’s clients have been at the frontlines of fighting for native fish recovery for many years, and Crag’s attorneys plays an important and unique role providing the legal leverage to enforce water quality laws and habitat protections that can lead to voluntary dam removal.

Winchester Dam is located on the North Umpqua River, just north of Roseburg, and is the second highest ranked privately owned fish passage priority in Oregon, according to the Oregon Department of Fish and Wildlife (ODFW). The disintegrating, 17-foot-high, 130-year-old wood, cobble, metal, and concrete structure is maintained solely to provide a private waterski lake for approximately 100 surrounding landowners, but it kills, injures, or delays salmon and steelhead trying to access 160 miles of high-quality upstream habitat. Impacted species include spring and fall Chinook, summer and winter steelhead, cutthroat trout, Pacific lamprey, and threatened Oregon Coast coho listed under the federal Endangered Species Act.

Crag attorneys have been engaged in work related to Winchester Dam since 2018, when the dam owners completed a botched repair resulting in water quality impacts that harmed and killed native fish and other aquatic species. The Oregon Department of Environmental Quality (DEQ) issued penalties to the dam owners for violating state water quality standards and for completing the work without a required permit. Crag intervened in the enforcement proceeding on behalf of its clients to ensure that the laws and penalties were upheld and the dam owners were held accountable for their actions. The dam continues to be poorly maintained, presenting a risk to downstream communities, requiring regular repairs, and presenting a significant impediment to migrating native fish.

In August 2023, another incompetent dam repair effort at Winchester Dam was marked by a massive Pacific lamprey kill and concrete spills. Crag’s client WaterWatch worked closely with Native Fish Society, Steamboaters, and other groups to report violations to agencies as they occurred, while publicizing and receiving major media attention. Following this disaster, ODFW and the DEQ issued fines to the dam owners for the harm to water quality and fish caused by these botched repairs. Throughout the next year, Crag attorneys will execute a legal strategy stemming from these enforcement actions, on behalf of a coalition of clients. Their goal is to bring sufficient pressure on the dam owners through this campaign to move the project to a voluntary agreement for dam removal.

This project will initially involve two key proceedings. First, Crag will seek to intervene on behalf of its clients in a lawsuit filed by ODFW against the dam owners and contractors for the lamprey kill event. ODFW’s suit alleges that over 550,000 lamprey larvae were killed during the August 2023 repair and seeks damages in the amount of $27.5 million. Crag’s clients’ objective is to ensure that ODFW stays firm in its pursuit of the penalties and to push for a lasting solution to the persistent violations by the dam owners. Crag’s clients are also prepared to fully fund the removal of the dam and would offer to do so as part of settlement negotiations.

Second, Crag will track the DEQ enforcement proceedings for water quality violations that occurred during the August 2023 repair. When that proceeding moves forward, Crag will request to be granted party status in the case so that their clients can participate in presenting evidence and arguments in support of DEQ’s enforcement action to ensure compliance with state water quality laws.

Both of these actions seek to concentrate pressure on the dam owners, as well as state agencies, to ensure that Winchester Dam operates in compliance with all state and federal laws and that the owners are held fully accountable for their repeated violations. This is particularly important now, as the Oregon Water Resources Department’s Office of Dam Safety recently ordered additional repairs be completed by the end of the 2024 in-water work window. Thus, it is anticipated that there will be additional permitting processes, and potential violations that Crag and its clients will need to monitor later this year.

If the project is successful, the owners of Winchester Dam will be held fully accountable for their past violations and will be ordered to pay substantial penalties as a result. Some of those penalties could be directed towards supplemental environmental projects or other funds that will support restoration work in the North Umpqua River to benefit the species and habitat that were harmed by the violations. Ultimately, the greatest indicator of success will be the removal of Winchester Dam and the restoration of a free flowing North Umpqua River at Winchester.

Crag Law Center is honored to have been selected as this year’s recipient of The Flyfisher Foundation Conservation Grant, and is grateful for the efforts of The Flyfisher Foundation and the members of the Flyfisher’s Club of Oregon to protect free flowing waterways in Oregon.