

CLEAN AIR, CLEAN WATER, AUTONOMOUS COMMUNITY

Community Rights Lane County hopes for aerial spray ban and community self-governance despite hold-ups

Voters decided on measures regarding abortion, immigration and school funding on November's ballot, but two local initiatives were left off.

Local nonprofit Community Rights Lane County (CRLC) collected enough signatures for two charter amendment initiatives, but faces legal challenges from the county as well as individuals who would keep its measures off the ballot.

The group is continuing with legal proceedings but will also be looking to new members on the Lane County Board of Commissioners for support.

Through CRLC's separate petition committees (Freedom From Aerial Herbicides Alliance and Our Community, Our Rights), the group filed two ballot initiatives. One would ban aerial herbicide spraying, mostly by the timber industry, that can result in "chemical trespass," or chemicals getting into unintended air or water.

The other is a self-government initiative looking to protect local law making from pre-emption by the state — this initiative would look to protect something like the aerial spray ban from any interference from outside lawmaking.

Those two initiatives are currently stalled in court, Rob Dickinson, a member of CRLC's steering committee, tells *Eugene Weekly*, because opponents claim that neither meets the standards of the "separate vote" requirement. They argue that the language in the initiatives contains multiple different voting issues and the public can vote on only one issue at a time.

"We don't think that has merit," Dickinson says.

He says that, to CRLC's knowledge, the separate vote requirement has never been applied to a local initiative. He also says that when this idea of separate vote is applied, it's usually done at the state level on constitutional amendments,

and it's usually applied after something has already passed.

The legal battle, specifically about the aerial spray initiative, began in 2016 when the county was sued by Stanton Long, a retired attorney and former county counsel.

Long went to court after the county originally gave CRLC permission to start collecting signatures on the aerial herbicides initiative. He alleged that the county did not review whether the initiative met the separate vote requirement.

Dickinson says CRLC believes Long's lawsuit was filed due to "timber-friendly interests," since banning aerial spraying would inevitably affect the timber industry.

That lawsuit was dismissed by Lane County Circuit Court Judge Karsten Rasmussen, who ruled that County Clerk Cheryl Betschart would have to ensure the measure complied with the separate vote requirement after signatures were collected for the initiative.

In late 2017, CRLC submitted the signatures needed to get the aerial spray initiative on the ballot, but Betschart ruled that the initiative did not meet the separate vote requirement — thus not allowing it on the ballot.

The county gave no rationale for the decision, Dickinson says.

CRLC sued the county on that decision in late 2017. Judge Rasmussen oversaw the case and upheld Betschart's decision that the initiative failed to meet the separate vote rule.

In April, CRLC appealed Rasmussen's decision to the Oregon Court of Appeals. That process is still ongoing.

The community self-government initiative faced similar legal action, and the county decided it did not meet the standards for separate vote. That initiative is currently awaiting a ruling in Lane County Circuit Court.

Dickinson says the group plans to appeal a decision on that initiative as well if it is decided it does not meet the separate vote requirement.

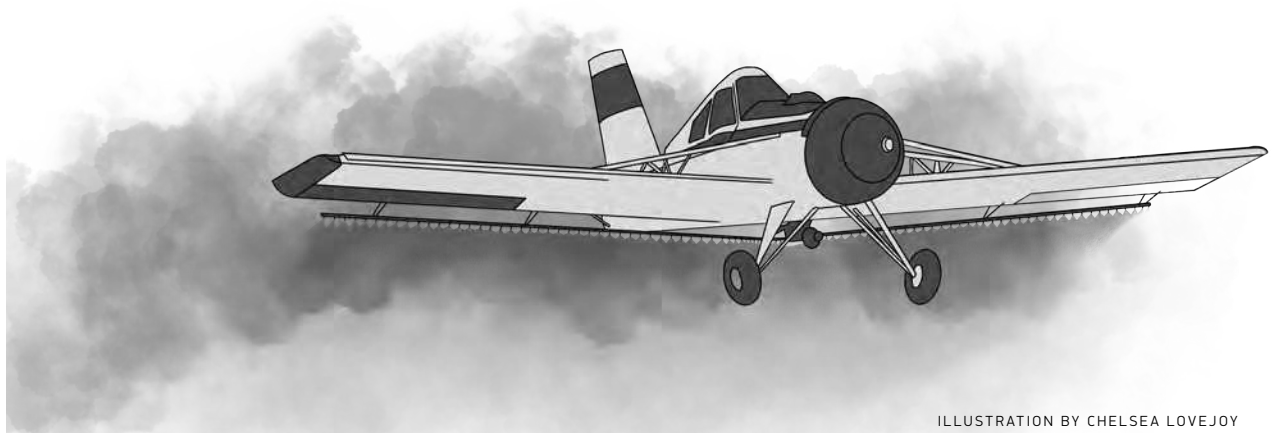


ILLUSTRATION BY CHELSEA LOVEJOY

Charter amendments, like the two initiatives CRLC is working on, must be voted on in even-numbered years, Dickinson says. So 2020 is the next opportunity for both initiatives to get on the ballot.

CRLC is also looking into a quicker route that involves the Lane County Board of Commissioners, Dickinson says.

"Even though the county was denying us access to the ballot, the commissioners have the power to put things on the ballot," Dickinson says.

He says the commissioners' conservative three-person majority prevented this from happening.

But now, with new commissioners-elect Joe Berney of Springfield and Heather Buch of East Lane County joining the board, Dickinson is hopeful for more support. Berney specifically seemed supportive of the aerial spray ban in the past, Dickinson says.

"We are hoping that they will be willing to refer our stuff to the ballot," he says. "So we will likely be back in the county commissioners' meetings asking them to follow through."

Before his run for Springfield commissioner, Berney spoke out to the Board of Commissioners about their positions on the spray ban that "appeared undemocratic" to him.

"I stated that citizen initiatives are the hallmark of democracy and that the discussion, debate and ultimate vote on initiatives is fundamental to democratic society," Berney says.

"I took the position in my campaign that I support citizen engagement. That means allowing discussion, debate and ballot initiatives on topics including this one," he says. "I did not like the way open conversation seemed to be stifled at the time."

Berney adds: "My sense is that the issue is bigger than aerial spraying alone. It involves industrial forestry, climate, public policy and public participation."

Berney and Buch join the board in January. ■

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