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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

OREGON NATURAL RESOURCES COUNCIL
FUND, dba Oregon Wild,

Plaintiff,

v.

PORT OF PORTLAND,

Defendant.

Case No.: 130913593

**Petition for Writ of Review
(and Complaint for
Declaratory Relief)**

Pursuant to
ORS 21.135(1).(2)(h)

*Not subject to mandatory
arbitration*

Plaintiff alleges:

1.

Plaintiff is an Oregon non-profit corporation, doing business as Oregon Wild.

2.

Defendant is an Oregon port district, created by ORS chapter 778.

3.

Defendant owns and operates the Portland International Airport.

4.

As part of its operations, defendant allows private parties to display
advertisements at the airport.

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5.

Plaintiff submitted an advertisement to defendant, through defendant's agent, Alliance Airport Advertising, for display at the airport. Exhibit A to this petition is a copy of the proposed ad.

6.

On or about August 13, 2013, defendant, through its agent, rejected the ad because of its content, which defendant described as "political." Exhibit B to this petition is a copy of the relevant email correspondence between plaintiff and the agent. (The redacted material consists of internal messages between members of plaintiff's staff.)

7.

On September 19, 2013, plaintiff asked defendant to reconsider its decision. Defendant has declined to reconsider.

First Claim for Relief
(Writ of Review)

8.

Defendant's decision to reject the ad based on its content violates Article I, section 8, of the Oregon Constitution, as well as the First Amendment to the United States Constitution.

9.

Plaintiff has no plain, speedy, or adequate remedy other than the review prayed for in this petition.

1 Certificate of Counsel

2 Pursuant to ORS 34.030, I certify that I have examined the proceedings in this
3 matter to the extent it is available to me, and that the decision by defendant to reject
4 plaintiff's ad is erroneous, as alleged above

5 
6 Thomas M. Christ, OSB No. 834064

7 **Second Claim for Relief**

8 (Declaratory Judgment)

9 10.

10 Defendant purports to have acted under authority of its ordinances and rules.

11 11.

12 Plaintiff is affected by those ordinances and rules and is interested in a judicial
13 determination of their construction and validity, and of its rights thereunder.

14
15 **Prayer**

16 12.

17 Wherefore, plaintiff prays for:

18 (1) a writ directing defendant to deliver to this court, within the time allowed
19 by law, a certified copy of all of its records in the matters described above;

20 (2) a judgment declaring that defendant's decision to reject plaintiff's ad was
21 unconstitutional or otherwise unlawful, and that any ordinance or rule authorizing the
22 decision is, to that extent, invalid; and

1 (3) such further relief as the court deems proper.

2 Dated this 26th day of September, 2013.

3
4 Respectfully submitted,

5 [REDACTED]
6 [REDACTED]
7 Thomas M. Christ, OSB No. 834064

8 [REDACTED]
9 888 S.W. 5th Ave., Suite 500
10 Portland, OR 97204
11 [REDACTED]

12 On behalf of the ACLU Foundation of Oregon

13 Kevin Díaz, OSB No. 970480
14 Legal Director
15 ACLU Foundation of Oregon, Inc.
16 [REDACTED]

17 P.O. Box 40585
18 Portland, Or 97240
19 [REDACTED]
20
21
22



Welcome to

OREGON

Home of the Clearcut

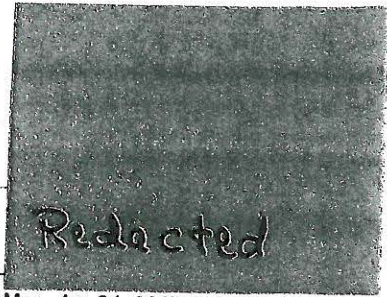
www.ClearCutOregon.com

8/13/13

Oregon Wild Mail - availability of arrivals digital network



availability of arrivals digital network



Sean Stevens <[redacted]>

To: [redacted]

Mon, Jun 24, 2013 at 10:59 AM

Doug,

I'm curious about securing an ad placement on the Digital Arrivals boards at PDX.

Is their availability in the near term? A minimum purchase?

Thanks,
Sean

Sean Stevens
Executive Director
Oregon Wild | www.oregonwild.org



Protecting Oregon's wildlands, wildlife, and waters as an enduring legacy since 1974.

doug mcnaughton <[redacted]>

To: Sean Stevens <[redacted]>

Mon, Jun 24, 2013 at 11:23 AM

Hi Sean,

Thanks for the email!

I am attaching a copy of our 2013 media kit for review.

And to answer -- we sell the Arrivals Digital Network at PDX on a monthly term -- the network includes the screens over both the north and south escalators (showing same content at same time) -- it runs a 60 second loop consisting of 15 four (:04) second spots (the units are visible for 20 seconds on the ride down -- so one spot reaches 1/3 of all arrivals).

As for rate -- we sell the spots for \$2000/mo/net -- and we charge a 1x \$100 upload fee for creative content.

Currently -- we do have available spots on the network -- although I might mention that the Port of Portland will not allow us to post anything deemed as political advertising -- not sure what you are looking to post but did want to make sure you were aware of that policy regarding political ads (every ad that is posted in PDX is sent to the Port staff for review and approval).

I hope this info helps -- please feel free to email or call me at any time if you have additional questions!

Thanks!

doug

[Quoted text hidden]

--

Doug McNaughton
Director of Sales
Alliance Airport Advertising

[redacted]
Portland International Airport
Los Angeles/Burbank Airport
Salt Lake City International Airport
Las Vegas McCarran International Airport

EXHIBIT B
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8/13/13

Phoenix Sky Harbor International Airport

Follow us on LinkedIn

Follow us on Facebook

Follow us on Twitter



PDX Media Kit 2013.pdf

3440K



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sean Stevens [REDACTED]

To: doug mcnaughton [REDACTED]

Fri, Aug 2, 2013 at 9:26 AM

Doug,

Circling back on this. I'd like to reserve a spot on the digital arrivals to run as soon as possible assuming there is still availability.

Can you send me the specs for size so that we can fine tune our image to be the correct size for the screen?

Thanks for the heads up on "political" advertising. I don't believe our ad would count as such, but perhaps you can send along the official Port of Portland policy so that I can make sure.

Thanks.

Sean

[Quoted text hidden]

doug mcnaughton <[REDACTED]>

To: Sean Stevens [REDACTED]

Mon, Aug 5, 2013 at 4:56 PM

Hi Sean,

Thanks for the email!

And good news!

Next steps are:

1. Ad Agreement. We will need to get an agreement to you for signature and return. I can use a 9/1 start date if that works for you – and just let me know how many months you want this posting to run. Also – I will need an address for invoicing as well.
2. Creative proof. If you or your creative team can send me a low res jpeg or PDF file -- I will submit to the airport for approval. There is no official port policy – rather all creative is reviewed on an individual basis by a group consisting of airport staff and airport and airline tenants – the approval process can take up to two days.
3. Once we have an ad agreement generated – my traffic and production team will reach out to you and your team to provide specs sheets and important deadlines for ensuring an on time posting.

Lastly – I should note that on a short term posting with a new client that we have never worked with in the past – Alliance will require prepayment of both the media space and upload fee prior to posting.

I hope this answers all of your questions – please feel free to let me know if you have any additional questions!

Thanks!

doug

[Quoted text hidden]

Sean Stevens [REDACTED]

To: doug mcnaughton [REDACTED]

Tue, Aug 6, 2013 at 4:04 PM

Doug,

EXHIBIT B

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8/13/13

Oregon Wild Mail - availability of arrivals digital network

If we can, I'd love to start the process and shoot for an ASAP start date rather than 9/1. We are only planning on running this for one month and getting the right window is important.

Our address (when the time comes) is:
5825 N Greeley Ave
Portland, OR 97217

Attached is a proof. Without dimension specs, I can't guarantee that some of the sizing and design won't change a little bit. But the content is mostly as it will be.

Prepaying is fine.

Thanks for helping with this.

-Sean

[Quoted text hidden]

 Oregon Billboard 5x15inches (1).pdf
1548K

doug mcnaughton <[redacted]>

To: Sean Stevens <[redacted]>

Tue, Aug 6, 2013 at 4:29 PM

Hi Sean,

Thanks for the email!

And how about 8/15? It takes at least a week to get everything signed, payed and approved – if that works for you I will submit the changes on my end!

doug

[Quoted text hidden]

Sean Stevens <[redacted]>

To: doug mcnaughton <[redacted]>

Tue, Aug 6, 2013 at 4:30 PM

8/15 works perfectly. Thanks!

-Sean

[Quoted text hidden]

doug mcnaughton <[redacted]>

To: Sean Stevens <[redacted]>

Tue, Aug 6, 2013 at 4:57 PM

Hey Sean,

I did submit this to airport for approval – but after opening the file and taking a look myself – I have reservations PDX will allow this – based on two policies:

1. It is tied to a website that is of unknown content – I tried to look at the site and it messages that it is unpublished. They will want to see the content on the site.
2. It comes across – to me at least – as political in nature. As I mentioned before – the airport – per our contract – does not allow us to accept political advertising of any kind. If this were a general awareness of your organization I think we would be ok – but this appears to be drawing attention to specific and controversial practices in the logging industry – and that makes it an issues campaign and political in nature -- at least in my opinion.

I am still passing it along for review – but I thought I would share my thoughts on how I think this will be received.

Given our tight time line -- feel free to reach out to me via phone if you would like to talk in greater detail and possibly some alternative creative we could submit if necessary.

Otherwise – I should have feedback for you within two business days.

Thanks!

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8/13/13

Oregon Wild Mail - availability of arrivals digital network

doug

On 8/6/2013 4:04 PM, Sean Stevens wrote
[Quoted text hidden]

Sean Stevens [redacted]
To: doug mcnaughton <[redacted]>

Tue, Aug 6, 2013 at 5:11 PM

Doug,

Greatly appreciate your feedback. When you first mentioned limits on political ads, I figured we would need to explore more deeply. That's why I was curious about any specific policies so I could know where the boundaries were before submitting a proof.

The website is not live yet but will be soon. I'll let you know when it is

Maybe we can chat a bit tomorrow. I'm not sure if there are any great options for changing the content of the ad that don't completely water down its intent.

Best,
Sean

[Quoted text hidden]

[redacted]

-Sean

[redacted]

[Quoted text hidden]
[Quoted text hidden]

doug mcnaughton [redacted]
To: Sean Stevens <[redacted]>

Tue, Aug 6, 2013 at 5:23 PM

Hi Sean,

I always hate turning down ad revenue -- but the airport has been very consistent over the years with denying any postings that have any hint of politics -- we leave a lot of money on the table during ad campaign seasons!

Would Oregon Wild consider a softer ad just promoting its mission statement and showing a healthy forest -- something along the lines of your About Us page on your website?

Again -- I think highly of your organization (I did not realize until you reached out that ONRC had changed its name to Oregon Wild) and would love to help you promote it -- but I just cannot see the airport changing its position on political issue campaigns at the airport.

doug
[Quoted text hidden]

Sean Stevens [redacted]
To: doug mcnaughton [redacted]

Tue, Aug 6, 2013 at 5:31 PM

<https://mail.google.com/mail/u/0/?ui=2&ik=fa28135247&view=pt&search=inbox&th=13f7756d412d95e3>

8/13/13

Oregon Wild Mail - availability of arrivals digital network

Doug,

Glad to hear you know of us (or at least know now that we changed our name!) and think highly of us. I understand the position you are in with the airport's policy.

I'm not sure if we can change our message but we'll think on it.

-Sean

[Quoted text hidden]

Sean Stevens [REDACTED]

To: doug mcnaughton [REDACTED]

Tue, Aug 13, 2013 at 11:36 AM

Doug,

Any news on the review by the airport?

Thanks,

Sean

[Quoted text hidden]

[Quoted text hidden]

Join Oregon Wild on Friday October 18th for our annual event: Call of the Wild. This camp-inspired benefit will feature delicious food, tasty drinks, great music, and the chance to bid on a wide variety of wild items during our silent auction. For tickets or to become a Tent Sponsor, click here and help us keep Oregon wild!

doug mcnaughton [REDACTED]

To: Sean Stevens [REDACTED]

Tue, Aug 13, 2013 at 11:57 AM

Hey Sean,

Sorry -- I thought I got back to you on this -- the airport has deemed this political advertising and has declined the creative,

If you want to try and soften this creative and resubmit -- I am happy to do so -- but as discussed - any mention of issues, campaigns or candidates usually does not get approved.

doug

[Quoted text hidden]