



# Civil Liberties Defense Center

1430 Willamette Street, #359, Eugene, OR 97401  
Phone: 541-687-9180 • [www.cldc.org](http://www.cldc.org) • [info@cldc.org](mailto:info@cldc.org)

FOR IMMEDIATE RELEASE

January 16, 2020

Contact: Lauren Regan

(541) 687-9180

## **CLDC SEEKS TO ASSERT CLIMATE NECESSITY DEFENSE IN RESPONSE TO EXTINCTION REBELLION PORTLAND PROTEST CHARGES**

### **Oregon Jury to Hear Climate “Choice of Evils” Defense for the First Time**

Portland, OR — Yesterday CLDC attorneys, joined by co-counsel and Portland attorney Kenneth Kreuzer, filed a brief in the Multnomah County Circuit Court on behalf of our clients, a group of Extinction Rebellion (XR) Portland activists, to put the State of Oregon on notice that we intend to present an affirmative defense known as the “necessity” or “choice of evils” defense.

The defendants’ criminal charges of trespassing in the first degree resulted from their alleged role in an April 2019 action intended to disrupt or halt Zenith Energy Management’s (“Zenith’s”) essential role in the global production, movement, and burning of fossil fuels, specifically, tar sands oil—a particularly egregious source of carbon emissions and climate change.

Our clients challenge the material and existential threats posed by Zenith Energy and the fossil fuel industry activities, as well as the failure of federal, state, and local governments to adequately address the imminent harms posed by global warming. As this is so, the defendants assert that their alleged criminal act is justifiable, and therefore not criminal, pursuant to the Sixth Amendment of the U.S. Constitution and Oregon law.

As the local and global climate justice movement grows and deepens, non-symbolic direct action protest has become an increasingly important way for people to attempt to stop grave harm to their communities and to draw attention to polluting extractive energy companies who place their own profits over health, clean water, and a livable planet.

“Legal battles led by the CLDC in Washington and Minnesota have expanded the law regarding the necessity defense and will be important tools for activists for many years to come. With catastrophic climate change looming, it is time for the people to be able to decide who the real criminals are: the greedy corporate profiteers poisoning the water and destroying the planet or the regular people who are willing to stand up to defend our communities. The necessity defense places that power in the hands of jurors, where it belongs,” said Lauren Regan, lead attorney for the activists and Executive Director of the Civil Liberties Defense Center.

CLDC attorneys also represent Valve Turner Ken Ward, who faces his third trial in Skagit County, WA in February after his first trial resulted in a hung jury and his second trial resulted in a Washington Supreme Court ruling in his favor. That CLDC-led victory won the right to present the climate necessity defense to a Skagit County jury and created important Washington State precedent. Additionally, CLDC represented the acquitted Minnesota Valve Turners, Annette Klapstein, Emily Johnston, and Ben Joldersma, creating precedent in that state after the Minnesota Supreme Court affirmed their right to use the necessity defense despite corporate interests' efforts to use "critical infrastructure" laws to criminalize nonviolent civil disobedience targeting fossil fuel pipelines.

Both Washington and Minnesota continue to face grave threats from the fossil fuel industry, and frontline climate defenders will benefit from these precedents in the future. Leonard Higgins, the Montana Valve Turner, is awaiting a ruling on his appeal also based upon the trial judge's denial of his climate necessity defense. The CLDC, in coordination with invaluable local counsel from each state and additional cooperating attorneys from Climate Defense Project, is committed to expanding the application of the necessity defense throughout the country.

Humanity is on the precipice of irreversible destruction of the planet. XR and other climate justice activists seek to interrupt this tragedy throughout the world. They risk arrest in hopes of reversing the current climate emergency. They see that time to act is now, and that the necessity of direct action is clearer than ever. It will be up to a jury of their peers to determine whether their actions in defense of the public interest are justified.

###