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6
7 IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

8 KA'ILA FARRELL-SMITH; ROWENA)
JACKSON; SARAH WESTOVER; and) CASE NO. 21CV47809
9 ROSEMARY FRANCIS EATHERINGTON,)
Plaintiffs,) PROPOSED INTERVENORS'
10 and) COMPLAINT
11 and)
12 ROGUE CLIMATE; and 350EUG ("350)
EUGENE"),)
13 Intervenor-Plaintiffs,)
14 v.)
15 THE OREGON DEPARTMENT OF JUSTICE;)
16 ELLEN ROSENBLUM, in her official capacity)
as the Attorney General of the State of Oregon;)
17 and MICHAEL SLAUSON, in his official capacity)
as Chief Counsel of the Criminal Justice Division)
18 of the Oregon Department of Justice,)
19 Defendants.)

20 Proposed Intervenors allege as follows:

21 1. Intervenors Rogue Climate and 350EUG (hereinafter "350 Eugene") support the
22 relief sought by Plaintiffs herein, based on the information and reasoning presented below.
23

1 2. Intervenor Rogue Climate organized in 2013 and is a 501(c)(3) nonprofit public
2 interest environmental justice organization that works to empower communities most impacted
3 by climate change, including low-income, rural, youth, and communities of color, and works to
4 win climate justice by organizing for clean energy, sustainable jobs, and a healthy environment.
5 This work is carried out through (among other activities), leadership development, political
6 education, fostering conversations, and campaigns for policies that benefit our communities
7 over the special interests of the largest corporations. Rogue Climate works to ensure the public
8 interest is advanced in fossil fuel permitting processes, and to enforce equity, land use and
9 environmental laws. Rogue Climate successfully intervened in the Jordan Cove Energy Project
10 FERC proceedings, and organized affected landowners and others in opposition to the project.

11 3. Intervenor 350 Eugene is a grassroots, 501(c)(3) nonprofit organization, started
12 in 2013, that works toward climate justice by organizing people to make deep system change:
13 transitioning off fossil fuels; advocating for needed strong climate policies; and fostering
14 resilient, just, and welcoming communities with creative, artful & joy-filled outreach, education
15 and events.

16 4. The Plaintiffs' Complaint in this case makes clear that Rogue Climate's interests
17 are at issue in this lawsuit, including the following allegations:

18 “Plaintiff Ka’ila Farrell-Smith is a member of the Klamath Tribes and a resident
19 of Modoc Point, Oregon. She is an internationally recognized artist, writer, and
20 environmental and indigenous rights activist. See Ka’ila Farrell-Smith, Portfolio,
21 CV/Resume, available at <https://www.kailafarrellsmith.com>. Ms. Farrell-Smith serves as
a board member for environmental justice nonprofit Rogue Climate, and previously
worked with Signal Fire, a nonprofit that connects artists and activists with nature
through educational backcountry trips.” Complaint ¶ 12.

22 “Plaintiff Sarah Westover is a resident of Phoenix, Oregon. She is a community
23 organizer and social justice advocate and, from 2016 to 2020, was an elected member of
the Phoenix City Council. Before joining the City Council, Ms. Westover worked as an

1 organizer with Rogue Climate. She also served as a coordinating organizer for the No
2 LNG Exports Coalition, an alliance of environmental groups opposed to Jordan Cove
LNG.” Complaint ¶ 14.

3 “[I]n one email, a Coos County Sheriff Deputy reports to a TITAN analyst that,
4 ‘as promised,’ he is tracking attendance at a ‘Rally and Public Hearing to Stop Jordan
Cove LNG,’ despite an acknowledged ‘lack of a criminal nexus.’ The Deputy goes on to
5 report that the event is sponsored by Rogue Climate, No LNG Exports, and Citizens
Against LNG.” Complaint ¶ 51.

6 “Plaintiffs, and the organizations and coalitions they work with, have been the
7 targets of TITAN’s unregulated, unauthorized, and otherwise unlawful intelligence
operations.” Complaint ¶ 84.

8 “The emails involving TITAN analysts obtained by the Guardian, discussed
9 above in ¶¶ 48, 51, 53, 56, 57, repeatedly name Rogue Climate, NO LNG Exports, and
other organizations, events, and coalitions with which Plaintiffs publicly associate.
10 These same emails reveal that TITAN analysts have been monitoring “groups involved”
with Jordan Cove LNG, “tribal issues,” and “protest activity” — including programs
11 organized by plaintiffs such as “Hike the Pipe” and the “Block the Pipeline” party —
since at least 2015.” Complaint ¶ 85.

12 “Defendants’ own email communications explicitly acknowledge that TITAN
engages in, and helps other law enforcement officers engage in, the collection and
13 maintenance of information about the political and social views, associations, and
activities of Rogue Climate, No LNG Exports, and other organizations the individual
14 Plaintiffs are associated with, without any evidence that these organizations are engaged
in criminal conduct.” Complaint ¶ 89.

15 “On information and belief, TITAN currently retains records that undermine the
16 reputation and legitimacy of Rogue Climate, No LNG Exports, and other organizations
and coalitions with which Plaintiffs publicly associate and in which Plaintiffs hold, or
17 have held, leadership positions. Such records, on information and belief, are available to
a variety of law enforcement personnel.” Complaint ¶ 91.

18 “As a direct result of TITAN’s unlawful intelligence operations and the absence
19 of appropriate legislative guardrails, Plaintiffs, the organizations they work with, and the
community members they seek to empower have been forced to implement heightened
20 security protocols and to adopt an attitude of hypervigilance, creating feelings of
paranoia and distress, thereby threatening the effectiveness and expansion of their
21 movement.” Complaint ¶ 92.

22 “For example, following the investigative reporting from news outlet The
Guardian revealing that Rogue Climate and other organizations opposing Jordan Cove
23 LNG were the targets of TITAN’s expansive domestic intelligence network, but lacking
24

1 further information about those operations, Ms. Farrell-Smith, Ms. Jackson, Ms.
2 Westover, and their colleagues became concerned that their phones were bugged,
3 became suspicious of any new potential supporters of the movement, and became
4 distrustful of innocuous interactions with members of their community.” Complaint ¶
5 93.

6 5. Upon information and belief (based upon investigative reporting by The
7 Intercept -- <https://theintercept.com/2020/02/12/jordan-cove-oregon-pembina-pipeline/>), 350
8 Eugene and its members were also subjected to the illegal surveillance described in the
9 Complaint.

10 6. The Intervenors wish to address common questions of law and fact, that are part
11 of the same transaction or occurrence, in support of the Complaint filed by Plaintiffs.

12 7. Intervenors assert organizational standing, based both on 1) representational
13 standing to assert the interests of their members, and 2) standing to assert their own interests.
14 Both types of interests have been harmed by the actions described in the Complaint.

15 8. Intervenors adopt, by reference, the Complaint in its entirety, including the
16 Introduction, Parties, Jurisdiction, Venue, Injuries, Claims for Relief, and Prayer for Relief, set
17 forth in the Plaintiffs’ Complaint for Declaratory and Injunctive Relief as filed on December 14,
18 2021.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Intervenors pray for judgment against Defendants as follows:

21 1. A declaration that the Oregon TITAN Fusion Center exceeds the statutory
22 authority of the Oregon Department of Justice, is not otherwise authorized by law, and therefore
23 is operating ultra vires;

24 2. An order enjoining the Defendants and their officers, agents, and employees
from their ultra vires operation of the Oregon TITAN Fusion Center;

1 3. An order enjoining the Defendants and their officers, agents, and employees
2 from collecting and maintaining information about the political, religious or social views,
3 associations or activities of any individual, group, association, organization, corporation,
4 business or partnership unless such information directly relates to an investigation of criminal
5 activities, and there are reasonable grounds to suspect the subject of the information is or may
6 be involved in criminal conduct;

7 4. An order compelling the Oregon TITAN Fusion Center to destroy and expunge
8 all records related to Plaintiffs and Intervenor-Plaintiffs that were collected and retained in the
9 course of TITAN’s ultra vires activities;

10 5. An award in favor of Plaintiffs of reasonable attorneys’ fees, costs,
11 disbursements, and expenses, pursuant to ORS § 182.090 and this Court’s equitable authority;
12 and

13 6. Such other relief, including damages, as the court deems just and equitable.

14 Respectfully submitted November 16, 2022,

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