

THE MONDAY PROFILE A water watchdog

Karen Russell: Lawyer doggedly guards Oregon 's use of a scarce resource

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When Karen Russell was fresh out of law school, her first job called for scrutinizing water rights of ranchers, real estate developers and others wanting to drill for water along the Deschutes River near Bend . That was how the battle started 15 years ago.

She challenged state-issued permits for drilling based on a simple premise: Water pumped from increasing numbers of wells would slowly but surely reduce the above-ground flow needed to sustain salmon and other wildlife and recreational enjoyment of the river.

The battle escalated; the state pushed back. Officials drafted an elaborate system intended to offset the effect of the new wells needed to supply the arid, fast-growing region's multiplying homes, resort hotels and golf courses.

On May 18, the state court of appeals delivered a unanimous and resounding rejection of the state policy as unlawful, slamming the brakes on well-drilling.

For Russell and her Portland-based advocacy group WaterWatch, it was like hitting a grand-slam home run after being at bat for 15 years. She barely paused to celebrate. There were two children to pick up from school that afternoon and an urgent trip to the Legislature to make the next morning -- a follow-up on yet another big legal win against cities seeking long-term water rights with potential to degrade salmon-bearing coastal streams.

Dogged persistence and years devoted to the study of arcane, century-old water law have made Russell one of the most formidable environmental lawyers in the Northwest. Admirers consider her a "pit bull" fighting for the preservation of Oregon 's beloved rivers. Detractors, who are in no short supply, say her legal exploits are overzealous and misguided, doing little to restore rivers while costing people jobs and opportunity. For better or worse, Russell and her scrappy little nonprofit are changing how Oregon uses its limited and all-important water.

The achievements are more remarkable given WaterWatch's shoe-string budget -- averaging about \$450,000 a year -- and the fact that Russell works part time; the rest of the time she is primary caregiver for her 8-year-old son and a 10-year-old daughter. Her husband, Portland lawyer Karl Anuta, is the family's main breadwinner.

Making money was not what attracted Russell to the law. Standing up for underdogs - - and taking on perceived bullies -- is very much a part of what drives her. And for Russell, the environment is the ultimate underdog. In dusty tomes on water rights and procedures, far from any actual rivers, Russell has found unlikely thrills. She calls the work intricate, challenging, even, in her words, "exciting in a twisted sense," admitting a degree of obsession.

That obsessiveness is something her younger child picked up on at an early age. Russell likes to tell the story of how her son got back at her for denying a preschooler's whim. He stormed off and Russell heard the toilet flush once, twice, three times. When she went to see what the boy was up to, he explained: "I'm mad at you, so I don't want the fish to have water."

Nature beckoned

For Russell, the obsession began with a simple love of the natural world, fed by the uncounted hours she spent as a child playing on the beaches of Seattle 's Lake Washington and later wind surfing and sailing. Russell was born in Pasadena , Calif. , in 1962, but when she was 3 her family moved to Kirkland , Wash. Her father, an aeronautical engineer, joined the faculty at the University of Washington .

In college, Russell made an abortive attempt at engineering, influenced by her father. "Calculus and chemistry and physics just got in my way. I really kind of struggled around for a major," she says.

She chose a major at UW called "society and justice," the study of crimes, deciding that it could lead her to some kind of job protecting the environment. She was the first in the program to focus on environmental crimes, and she landed internships at the Environmental Protection Agency and the Washington Department of Ecology.

The government regulators made a strong impression, but probably not one they intended. People she met who wanted to make a difference felt stifled and impotent, Russell says. With a flicker of the outrage in her tone that readily surfaces when discussing environmental issues, she says she realized then that government agencies are "more hostage to politics than the law they are supposed to be enforcing."

Russell went to work for a series of environmental advocacy groups after college, not planning to go to law school. But she encountered lawyers who refused to take her seriously.

"Their tone was, 'You're not a lawyer; you don't know what the hell you're talking about,' " she says. She graduated with honors from Lewis and Clark Law School in 1990 and went to work for WaterWatch as an administrative assistant. The group, then 5 years old, was among the first to seize on water law as a potentially powerful weapon in cases involving rivers. Most groups at the time relied on the big guns of environmental law passed during the 1970s: the federal Endangered Species Act and the Clean Water Act.

Russell has managed repeatedly to zero in on obscure, long-forgotten or never-enforced sections of state water law. By bringing these legal requirements to light, she has halted development plans of even powerful municipal governments. For many years, for instance, Russell has argued that the state Water Resources Department has illegally allowed cities to hold on to water rights far beyond the five-year legal deadline for building pumping stations or other means of using the water.

In a landmark decision last April, Oregon 's Court of Appeals agreed with Russell and struck down the water development permit granted to the cities of Coos Bay and North Bend . Oregon cities began lobbying lawmakers to reverse the ruling, which they said cripples planning for water needs of homes and businesses.

Cities and WaterWatch recently reached an agreement to support a compromise bill headed for a vote in the Legislature, which the parties say will protect instream flows and give cities planning flexibility.

In the Deschutes case, Russell successfully argued that the state was issuing groundwater permits that violated river flow standards covered by the State Scenic Waterway Act, passed in 1970.

Critics decry tactics

Detractors say Russell and WaterWatch are good at finding legal flaws to stop development, but not so good at bringing people together to find solutions.

Are they a group that's easy to compromise with? No," says Neil Bryant, an attorney and former state senator from Bend who represents private water systems, irrigation districts and others affected by the Deschutes groundwater decision. He said the WaterWatch lawsuit wrecked a perfectly good 3-year-old mitigation program that protected the river and allowed for growth.

"This is a community that values natural resources," Bryant says. "Karen Russell and WaterWatch might disagree. I don't think they have any confidence that people in the basin can manage their water."

Catherine Vandemoer, a hydrologist who served as WaterWatch's executive director for six months in 2002 before starting a consulting company in Wyoming, has mixed feelings about Russell.

"There is no one better than Karen Russell as an advocate for water," Vandemoer says. "If I had a really, really awful water rights case, and no avenue but going to court, I'd hire Karen in a second. She's very good, very tough, and very smart."

But Vandemoer says court battles often are the wrong solution. In the Deschutes case, she says WaterWatch "won on principle. Great. But have you destroyed the ability of the community to come up with a solution now? That is a very real consequence of litigation. It breaks down trust among people to work together. It's just a bitter cycle."

Others say Russell has taken on a thankless but absolutely necessary job, given the perverse incentives of Western water laws, which still encourage waste and punish thrift with a use-it-or-lose-it take on water rights. Joe Whitworth, executive director of Oregon Trout, says Russell is forcing people to confront hard truths about a limited supply of water.

"You've got to have a pit bull," he says.

Russell says WaterWatch is always willing to negotiate and seek cooperative solutions. But she says, "Sometimes you have to fight before people are ready to sit around the table and come up with a solution that's really going to help protect the environment."

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