



## ACLU Files Free Speech Lawsuit Against TriMet

**February 20, 2008** -- The ACLU of Oregon today filed a lawsuit against Tri-County Metropolitan Transportation District of Oregon (TriMet), alleging the public bus company has violated federal and state constitutional free speech protections in its rejection of an advertisement it deems “political.”

The lawsuit was filed in Multnomah County Circuit Court, on behalf of the Karuk Tribe of California and Friends of the River Foundation, who had sought to place an ad on TriMet buses regarding the damage done to salmon runs by electricity-generating dams, owned by Portland-based Pacific Power, on the Klamath River. The ad depicts three salmon facing a wall of electrical sockets, along with the caption, “Salmon shouldn’t run up your electric bill. They should run up the Klamath River.” The ad then directs the public to a website --<http://www.salmonforsavings.com/> -- for more information.

TriMet’s Advertising Standards Committee rejected the proposed ad on the grounds that it did not constitute an “advertisement” and that the public transit agency did not want its buses or property “to become a public forum for the dissemination, debate, and/or discussion of public issues.” The ACLU appealed the committee’s decision to TriMet’s general manager, who in a letter dated Jan. 18, 2008, upheld the rejection.

The ACLU contends that both rejections represent an unlawful restriction on speech in violation of Article 1, section 8, of the Oregon Constitution and the First Amendment of the U.S. Constitution. In filing its Petition for Writ of Review, the ACLU is asking the court to review these administrative decisions and determine whether TriMet’s advertising policies are unconstitutional.

“TriMet’s policies discriminate on speech based on its content, and we believe that is unconstitutional,” said David Fidanque, Executive Director of the ACLU of Oregon. “A public agency should not place itself in the role of deeming some speech acceptable and some speech objectionable. TriMet’s job is to transport riders, not to override free speech protections.”

The Karuk Tribe and Friends of the River seek to restore healthy salmon populations to the Klamath River. Their objective is the removal of PacifiCorp’s lower four Klamath River dams, allowing salmon to access more than 300 miles of their historic habitat.

“The Karuk Tribe has as much right to buy advertising space on publicly owned buses as anyone else,” said Leaf Hillman, Vice Chairman of the Karuk Tribe. “Our ad simply promotes a website with information about Pacific Power’s Klamath dams and how they

impact the river as well as power rates. Refusing to run this ad is discriminatory and illegal.”

The Karuk Tribe and Friends of the River cite economic studies by the Federal Energy Regulatory Commission and the California Energy Commission that show removing the dams and purchasing renewable replacement energy would save Pacific Power ratepayers about \$100 million.

“We are trying to get the word out to Pacific Power’s customers that dam removal could save them a significant amount of money,” said Kelly Catlett, Hydropower Reform Policy Advocate for Friends of the River. “It’s unfortunate TriMet thinks that is a message that needs to be censored.”

The writ demands that TriMet turn over to the court, within two weeks, its documentation of the refusal of the ad. A court hearing then would follow.

Thomas M. Christ of Cosgrave Vergeer Kester LLP is ACLU’s cooperating attorney on this case.