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COVER STORY

Morrison & Foerster attorneys protect endangered salmon



Fiona Smith/Daily Journal

From left, Corinne Quigley, Christopher Carr, Kelly Obranowicz and Navi Dhillon of Morrison & Foerster LLP negotiated an agreement to protect endangered salmon.

By Fiona Smith /
Daily Journal Staff Writer

Before stepping into Muir Woods, a wondrous swath of old-growth redwoods about a 45-minute drive from San Francisco, you have the less-inspired task of finding parking. With the small National Park Service lot filling up early in the day, hundreds of cars park as much as a mile-and-a-half away along the side of the winding two-lane road that leads to the woods.

What visitors may not be aware of is that the road sits right above the creek that runs through the heart of Muir Woods. Cars drop toxic chemicals on the dirt which is then pushed over the side, choking and poisoning the waterway and imperiling salmon that return there each year to spawn.

Environmentalists have long advocated for parking limits along Muir Woods Road to protect Redwood Creek and with the help of attorneys at Morrison & Foerster LLP, this year they forged a historic plan that will do just that.

Representing the nonprofit Mount

Tam Task Force pro bono, a team led by firm partner Christopher Carr played a key role in hammering out a deal between the National Park Service and Marin County to phase out roadside parking and put in place a car reservation system for visitors. Firm associates Corinne Quigley, Navi Dhillon and Kelly Obranowicz also worked on the matter.

The agreement is historic and an important step toward restoring Redwood Creek and protecting salmon, Carr said.

“People have tried repeatedly over 10, 15, 20 years to address the roadside parking issue ... without success,” Carr said. “We finally have commitments in place from the National Park Service that were historically resisted.”

The parking problem and the desire by the National Park Service to encourage visitors is understandable, particularly because the National Park Service is chronically underfunded, Carr said.

“The lack of funding creates this perverse incentive in the National Park Service to increase revenue by

increasing visitors,” Carr said. “That still doesn’t excuse the need to attend to the endangered salmon.”

Salmon have been disappearing from Redwood Creek in recent years, and the situation became so dire last year that officials removed juvenile salmon from the creek and shipped them to a hatchery in hopes of avoiding their extinction.

Carr participated in a months-long negotiation to help hammer out the Memorandum of Understanding signed by the county, which is responsible for the road, and the National Park Service. The pact calls for cutting the number of cars parked along the road from the current level of about 400 to 80 by June 2016. A car reservation system will be put in place in approximately two years, and roadside parking will be eliminated in seven years.

While the timeline is not as aggressive as the Mount Tam Task Force would have liked, they can live with it, Carr said. They are now “watching like a hawk” to ensure the plan is implemented correctly. The hope is that Mount Tam Task Force will not have to sue to force action to protect the salmon, he said.

In June 2015, the Mount Tam Task Force sent the county a notice of intent to sue under the federal Endangered Species Act for the harm the parking issues are causing the salmon. It may send a similar letter to the National Park Service depending on how things play out, he said.

The threatened lawsuit is meant to “encourage the county and provide it the incentive to do what needed to be done and follow through on its obligations,” Carr said.

“The MOU commits the National Park Service to increase revenue by increasing to take actions that we believe a court would require it to undertake pursuant to an endangered species suit ... but because we want to be constructive and not be a drain on the already taxed resources of the National Park Service, we’re taking a

much more incremental approach and have not dropped a notice of intent to sue letter [on the National Park Service],” he added.

Carr first began representing the Mount Tam Task Force in 2014 to advise it as the National Park Service began to update its plans for the Muir Woods area. But hardly before it had started, the group discovered the National Park Service was in the advanced stages of plans to build a large bus depot near Muir Beach that could shuttle visitors to and from Muir Woods. The depot would be located where Redwood Creek empties into the Pacific Ocean and would threaten the ability to protect the fragile salmon habitat, according to Carr.

As the National Park Service had begun to seek bids for project contractors, they had to move fast to stop the project, Carr said. He and his team quickly prepared a lawsuit alleging that the National Park Service had violated the National Environmental Policy Act by failing to perform an environmental review. Not long after the lawsuit was filed, the National Park Service put its plans on hold and settled the case by agreeing to notify environmental advocates if it will pursue the plans in the future.

Soon after, Rep. Jared Huffman, D-San Rafael, who represents the area, convened a task force including representatives from the county, the National Park Service and the Mount Tam Task Force to come up with a traffic management plan for Muir Woods.

Carr participated in the meetings alongside Kristin Shannon, chair of the task force, helping them set out their positions and negotiate.

“The most remarkable thing is with Chris’s assistance we were able to turn a reactive process into a proactive process and have an impact for decades,” Shannon said. “He has a very respectful, consensus building attitude ... he can convert a dispute into a policy opportunity.”