

Curry County residents sprayed by herbicide sue challenging constitutionality of Oregon's right-to-forest law

Curry County herbicide spray helicopter

The Bell OH-58A helicopter used by pilot Steven Owen that sprayed Curry County residents in October 2013. (*Oregon Department of Agriculture*)

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Curry County residents who were sprayed by a helicopter carrying herbicides meant for timberland last year are headed to court.

Seventeen residents of Cedar Valley, north of Gold Beach, have filed suit challenging the constitutionality of parts of Oregon's right-to-farm and right-to-forest laws, which they say prevent them from seeking legal redress for the spray's damage.

The residents near the southern Oregon coast were sprayed in mid-October by a helicopter pilot flying to apply herbicides to treat clear-cuts, an incident that they say caused dozens of health problems.

The state laws they're challenging were adopted in the mid-1990s to give Oregon farmers and foresters legal protections to do what they do. Move into an agricultural community, and you **can't sue farmers** because you don't like the way the air smells or because they drive their tractors too slow on the road. Live next to an active forestry site, and you can't sue because chainsaws are too loud.

The law also grants legal immunity for accidental pesticide spraying of residential properties, unless it is done illegally or causes death or grave injury.

Cedar Valley residents say that legal threshold is too high to seek compensation for the doctors' bills and veterinary bills they incurred after being sprayed. They say they have the right to keep people -- and pesticides -- from trespassing on their land.

"You can keep people off your property even though they're not trying to kill you," said Chris Winter, a Crag Law Center attorney representing the residents.

The pilot in the incident, Steven Owen, and the White City-based company he owns, Pacific Air Research, **were each fined \$10,000 Tuesday** and had their spraying licenses revoked a year for providing false and misleading information to the Oregon Department of Agriculture about the case.

John Burns, 67, assistant chief with the local volunteer fire department, was working in his yard when he was sprayed. He said he struggled to breathe for days afterward. Burns said he still feels tightness in his

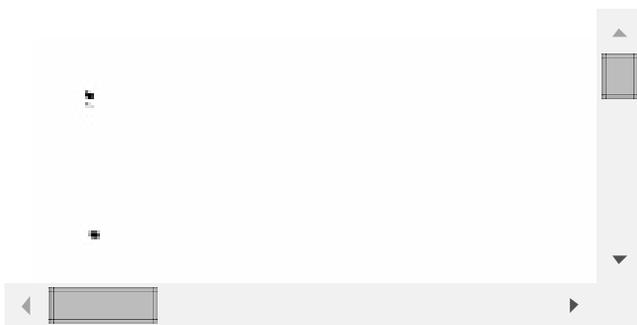
chest when he takes deep breaths. Over the winter, he buried two dead deer he found on his property. A neighbor buried three.

"We are not against the timber industry," Burns said. "We need the jobs. But no one has the right to poison other people."

The suit, filed in Curry County Circuit Court, names Owen's company, Pacific Air Research, as well as Crook Timberlands and Joseph Kaufman, which owned land being spraying. Defendants also include two other companies, Pro Forestry Consulting and Barnes & Assoc.

Representatives for the companies either declined comment or couldn't be reached Wednesday.

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