

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

OREGON CATTLEMEN'S  
ASSOCIATION,

Plaintiff-Appellee,

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY; et al.,

Defendants-Appellees,

v.

COLUMBIA RIVERKEEPER, Proposed  
Intervenor,

Movant-Appellant.

No. 19-35564

D.C. No. 3:19-cv-00564-AC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Michael W. Mosman, District Judge, Presiding

Submitted August 19, 2019\*\*

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Appellant's unopposed motion to submit this case on the briefs (Docket Entry No. 25) is therefore granted.

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

Columbia Riverkeeper appeals from the district court's order denying its motion to intervene under Federal Rule of Civil Procedure 24. We have jurisdiction under 28 U.S.C. § 1291 and we review de novo the district court's decision to deny intervention as of right. *See Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 896 (9th Cir. 2011). We reverse and remand.

Columbia Riverkeeper has a practical interest in the 2015 agency rule challenged in this action. That practical interest is not adequately represented by the Oregon Cattlemen's Association or the United States Environmental Protection Agency and may be impaired by the disposition of this action. *See, e.g., United States v. Alisal Water Corp.*, 370 F.3d 915, 919-21 (9th Cir. 2004) (discussing the test for determining intervention as of right). We therefore reverse and remand with instructions to grant Columbia Riverkeeper's motion to intervene as of right.<sup>1</sup>

**REVERSED and REMANDED with instructions.**

---

<sup>1</sup> We need not and do not reach Columbia Riverkeeper's arguments regarding permissive intervention.