

# CELDF COMMON SENSE

## Community Rights Organizing



**What is CELDF?** The Community Environmental Legal Defense Fund (CELDF) is a non-profit, public interest law firm, spearheading a movement to establish rights for humankind and nature over the systems that control them.

Since 1995, we have assisted hundreds of communities to advance rights to a healthy environment, a right to climate, worker rights to living and family wages, and sanctuary city protections. Nearly 200

communities have adopted CELDF-drafted laws that stop shale gas drilling and fracking, factory farming, corporate water withdrawals, land application of sewage sludge, and other harms.

Join us! Together, we are advancing a Community Rights movement, elevating the rights of communities and nature above the claimed "rights" of corporations, and the legal and governing structures that support them.

## IS IT REALLY ILLEGAL TO CREATE THE COMMUNITY YOU ENVISION?

**W**hat is it that keeps us from getting what we want in our communities? Why can't we say "No" to harmful practices, and "Yes" to sustainable and just ones?

### IT'S THE LAW

A handful of legal doctrines make it illegal for communities to govern on important issues like fracking infrastructure and waste, factory farms, living wages for workers, im-

migration, predatory lending, large-scale centralized energy projects, election procedures and financing, community development, and commercial water extraction—to name a few.

While many people work hard to create sustainable, healthy communities, these legal doctrines keep us "boxed in" by routinely restricting local law-making. We are told by those who champion these doctrines that

"we're beyond our authority," or "it's a state issue, not a local issue."

We'll use a select few issues (although you can insert almost any issue that your community is concerned about) to illustrate how these legal doctrines work to preempt our decision-making; legalize harms that come from varied corporate projects; and protect industry, government agencies, and others from any opposition by we, the people.

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### YOU'VE GOT A PROBLEM: WHAT CAN YOU DO ABOUT IT?

**S**orry to say, but a corporation is trying to harm your community. The corporation might be trying to frack, or dump toxic waste, or remove protections from workers, or undermine your electoral process, or thousands of other things. What can you do?

#### GENERALLY, YOU'VE GOT THREE OPTIONS:

- 1) Do nothing...and get fracked, sludged, water-mined, poisoned, or otherwise converted into a corporate resource colony.
- 2) Try to use existing regulatory law to protect your community...and get fracked, sludged, water-mined, poisoned, or otherwise converted into a corporate resource colony. The existing structure of law doesn't allow you to say "No" to harmful

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## OUR CONSTITUTION: IT'S ALL ABOUT ECONOMICS

**W**hat makes a good economic system? Many of us say it's one that is fair and just: It allows for equitable distribution of goods or money to all people such that their fundamental needs are met, while using sustainable practices to protect the ecosystems that sustain life for future generations.

### TODAY'S ECONOMIC SYSTEM

Yet today, we live under an economic system animated by people whose primary goal is to acquire and maximize nature as a resource for profit—without consideration of the needs of human beings or the environment. It is a 1790s system of law that protects the endless production of more. A system that demands infinite extraction and production on a planet with finite resources.

Further, under this system, society considers uncultivated or unextracted nature as wasted. Our culture promotes unsustainable

consumption while our legal structure protects commerce, property, and profits to feed insatiable appetites for products. The health, safety, and welfare of people and ecosystems are not part of this economic equation. There are no rights of communities to protect themselves.

### SOME HISTORY

The Industrial Age forced a nation of farmers to become wage earners. Corporations quickly learned to exploit workers' fear of unemployment. When workers began to organize they were kept "in line" by industry-hired organizers. Newspapers were bought to paint businessmen as saviors and shape public opinion in their favor. Corporations began to influence lawmakers with their wealth.

Government spending during the Civil War endowed corporations with tremendous wealth. Corporations bought legislators and judges, who granted them limited liability and

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### Problem – continued from page 1

corporate activities; rather, you're allowed to argue about how to regulate those activities. In short, you're left negotiating the rate of destruction rather than outlawing those things that you know are detrimental to your community's health, safety, and welfare.

3) Stand up, assert your rights, and refuse to be told by a corporation, or your state or federal government, that you must accept the harmful corporate activity. This requires, at minimum, the three G's of organizing:

- A Goal,
- A Group,
- A willingness to Get out of the Box (see p. 3)—by asserting your right to local self-government

Old community organizing models are like your Uncle Jim at Thanksgiving: tiresome, annoying, and filled with unfounded assumptions. They usually follow this course:

- Get educated on the minutiae of whatever issue you're concerned about: learn about parts-per-million, macro invertebrates, total daily maximum loads, etc.
- Then, submit your comments to regulatory agencies, attend regulatory hearings, go to appointed commissions, and impress all your friends with your new expert knowledge and vocabulary; note that the regulatory agencies, and the corporation that intends to engage in the harmful activity, are not impressed with your knowledge.
- Spend unlimited amounts of money and time in the regulatory system, and at the end of the fight you nearly always end up getting the activity that you were trying to stop because the regulatory system does not actually provide you with the tools you need to "Just Say No" to harm.

Your Uncle Jim and the regulatory system have a lot in common: facts don't matter, and your conversations feel like quicksand on the road to eventual condemnation.

If you've decided that conversations with

*“Stand up, assert your rights, and refuse to be told by a corporation, or your state or federal government, that you must accept the harmful corporate activity.”*

Uncle Jim (or the regulatory system) will ultimately be unproductive, and you'd like to begin pursuing a rights-based path, we've compiled some basic principles that other communities have learned on how to get started:

1) **A Goal.** Decide what you want. Have conversations with neighbors. Have drinks. Eat snacks. Read books and articles and troll around online. Or don't. But do what you need to do to help you decide on a specific outcome that you'd like to see for your community.

2) **A Group.** Bring people along. There are lots of skills required for a Community Rights campaign. Many people think that their neighbors are ignorant and would never get involved in your issue. Important: Your neighbors are not as simple as you may think they are! Knock on their doors. Or post flyers at the library or post office. Or write a letter-to-the-editor in the local paper. Get the word out about what you'd like to do, and begin bringing those folks together to further refine your goal(s).

3) **Getting Out of The Box.** Once your group has decided what you'd like to achieve, you need to decide how to get there. If you'd like to work within established channels, head back to the first paragraph and follow the old organizing models. If you'd like to begin stepping outside The Box and working on a Community Rights campaign, call us. We'll begin working with your community to draft a rights-based law that asserts your community's rights and protects your community's health, safety, and welfare.

### Our Constitution – continued from page 1

decreased government authority over them. The continued rise of corporate power and the accumulated wealth of the 1% has proven to be more powerful than the government. And the courts made protection of corporations a part of constitutional law.

The result: The governing decisions affecting every aspect of our human and natural collective existence are controlled by the economics of corporate wealth and power. Our election process is a display of monetary power rather than a forum for ideas, the media is consolidated into a few large

corporations, the environment is suffering due to legalized pollution by industry, many people are suffering by not having access to proper and affordable healthcare, minimum wages are too low for families to meet their basic needs, and jobs are outsourced to other countries to increase corporate profits.

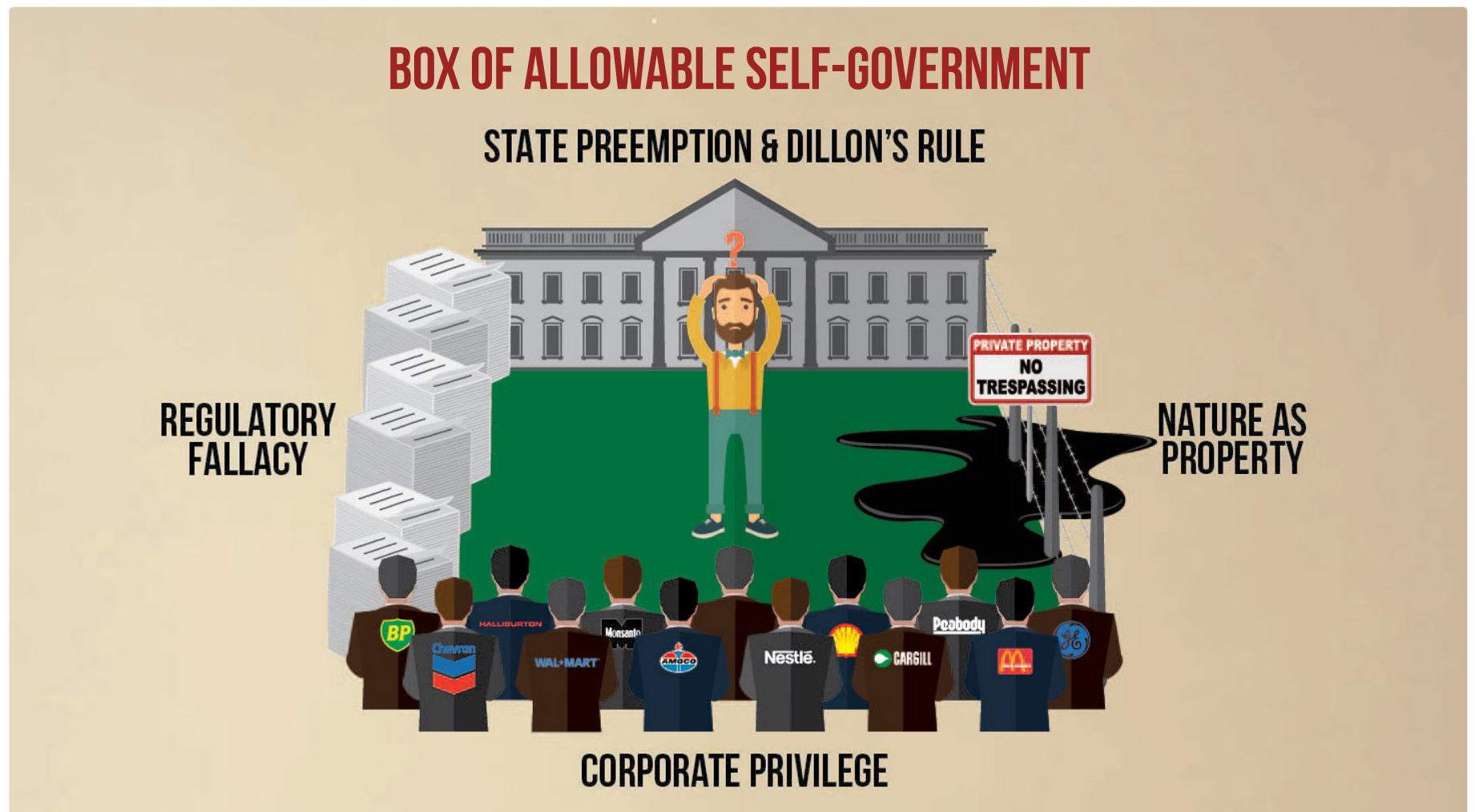
### OUR CONSTITUTION

The U.S. Constitution secures and protects this exploitive and unsustainable economic system. It centralizes economic power and authority under the federal government,

*Continued on page 8*



*Is it Really Illegal? – continued from page 1*



### STATE PREEMPTION AND DILLON'S RULE

Take a look at the “Box of Allowable Self-Government” diagram above. Notice the doctrines of “State Preemption” and “Dillon’s Rule.” Preemption means the state legislature enacts law that removes authority from the community to govern or pass a local law on a particular issue. For example, in Alabama (and numerous other states), state law preempts communities from enacting any law setting worker wages higher than the state minimum.

Dillon’s Rule complements state preemption. It defines the legal relationship between the state and the municipality as that of a parent to a child. In the case of setting workers’ wages, the parental state slapped the municipal child’s hand and told them not to touch any decisions about setting minimum or living wages for workers in their community.

### NATURE AS PROPERTY

Next, check out the legal doctrine of “Nature as Property” on the right side of the diagram. Nature is considered mere property under the law. Anyone with a title to property has the legal right to harm it. A permit from the state legalizes harm. It “permits” destruction to ecosystems and harm to the community.

Human and natural communities who do not have title to the land or a financial interest in the land lack legal standing to argue in court for protection. However, the individual(s) or corporation(s) that holds title of ownership (or a lease, for example, with a drilling company), do have standing. Their title or lease trumps the health, safety, and welfare of the community. This includes all the human residents as well as the rivers, lakes, forests, and wetlands.

### CORPORATE PRIVILEGE

Let’s move to the bottom of The Box. Corporate Privilege, often referred to as “corporate rights” and “personhood,” means that corporations claim “rights” to protections of free speech (1<sup>st</sup> Amendment), protections from search and seizure (4<sup>th</sup> Amendment), due process and lost future profits (5<sup>th</sup> Amendment), and equal protection (14<sup>th</sup> Amendment). Contracts Clause protections, as well as protections under civil rights and commerce laws, further amplify corporate power to override local decision-making. In our current fixed system, these corporate “rights” supersede the actual rights of the collective community.

### REGULATORY FALLACY

Moving to the left side of The Box, we have the fourth legal doctrine, entitled the “Regulatory Fallacy.” It looks like a way out of The Box. But don’t follow it!

We’re taught to work through our regulatory agencies (such as the Environmental Protection Agency or the U.S. Department of Agriculture) by attending hearings and appealing permits. That, we are told, is how we can protect our community.

However, by their very definition, regulatory agencies regulate the amount of harm that takes place with the associated activity. For example, we’re encouraged to come to the hearing at 7 p.m. on Thursday evening if we’re opposed to a fracking injection-well proposed for our community. No one bothers to tell us that no matter how harmful the fracking waste is, municipalities cannot ban anything permitted by the state (see State Preemption).

We present our three-minute, passionate

oration about the risk to community health, but in the end, nothing we say must be taken into account by the state in issuing the permit. Regulating the harm is legalizing the harm—not stopping it. The regulatory structure is designed so that, if the check boxes on the application are complete, the decision is made and the permit is issued. The permitting agency is in business to facilitate the issuance of that permit, not to protect people or the ecosystems of which we are a part.

Thus, the idea that regulations protect us is a fallacy; by their very definition, they permit harm. We’re taught that our best option is to regulate so many parts-per-million (in the environmental arena). An “acceptable level” of poison is okay, right?

You might argue: But doesn’t zoning let us stop harms? Well, not really. In the case of the environment, zoning allows us, in most cases, to decide *where* industrial damage can occur. In other words, we get to choose which part of our community we want sacrificed to the harmful corporate activity.

This frequently leads to environmental racism. The poorest communities—which often are diverse communities, due to systemic racism—are considered the most expendable under this system. Those with the least economic and political power are sacrificed. They are forced to accept the harm, regardless of the community’s wishes.

The irony is painfully clear: The corporate state disallows communities from “zoning out” an entire industry because that would be discriminatory against “corporate persons.” Yet the corporate state feeds racism and perpetually fragments real people within the community by forcing harm against their will.

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# THE SYSTEM IS FIXED AND WE NEED TO BREAK IT

**C**ELDF frequently hears this from communities we work with: The system is broken!

Yet, as we see with The Box on page 3, the system is actually working just fine for the elite minority who created it. That minority fixed the system to work on their behalf, as they hide behind corporations that are protected by our state and federal governments.

The elite 1% programmed “solutions” into this system. We’re taught and encouraged to pursue these “solutions” when we are concerned about something threatening our communities, e.g. attending an EPA hearing when we’re threatened with a pipeline.

As law-abiding citizens, we obediently go down the regulatory rabbit hole (see The Box, p. 3), which is “fixed” to ensure we will rarely achieve the outcomes that we desire.

Some examples:

### SIGNING ONLINE PETITIONS

While they may demonstrate some measure of public opinion, the petition signatures themselves change nothing. In order to actually change something, more action—much more action—is required than simply clicking a button online. Actually, the main purpose of these online petitions is for the initiating group to get your contact information! They can then solicit you for donations directly, or they may actually sell the emails they collect as a source of revenue.

### WRITING COMMENTS TO REGULATORY AGENCIES AND SPEAKING AT “PUBLIC HEARINGS”

There is a reason that commenting on permits and proposed projects is called “public comment” and not “public deciding.” The public’s comments are simply public venting. The comments have no legal bearing on whether or not the project is approved or denied.

### HIRING ORGANIZATIONS TO REPRESENT OUR COMMUNITY

Most major non-governmental organizations (NGOs) are well-meaning, but the strategies they pursue are attempts to work within the fixed system. For example, most environmental organizations will work with you to get the best permit possible. Rather than stopping the harm, it’s about begging to be harmed a little less. Another example: Many dedicated folks in local organizations and NGOs work hard to force police investigations and create accountability requirements when police brutality



erupts. But rather than stopping police brutality, these efforts contribute to the illusion of change, while the racist system remains unshaken.

### WRITING TO OUR REPRESENTATIVES

Are they really representing our interests? It takes tremendous financial resources to get elected to public office, and corporate donors and lobbyists are the ones holding the purse strings of most election campaigns. Those donating the most are our representatives’ real constituents. Further, even if you have a sympathetic state or federal representative, their voice is just one in a sea of others in the legislature. In addition, the legislature itself operates within the system, and legislators find themselves handcuffed by the larger constitutional structure that prevents them from enacting meaningful change.

### WORKING TO ELECT “BETTER” REPRESENTATIVES AND/OR JUDGES

See the previous comment. The system itself is fixed. We might elect the best people possible to our legislatures and courts. However, they are operating within the system, which ensures that their actions are predefined. Until the structure of law and the system itself is changed, our legislators and judges find themselves with their hands tied. It is not the Ds vs the Rs, but the 1% (regardless of party affiliation) and the 99% (the rest of us).

In addition, note that all the above options assume the decision-making power lies somewhere else or with someone else. These “solutions” steer us to look elsewhere for help—

instead of looking to ourselves in our own communities. They have nothing to do with “we, the people” governing our communities.

There are no real remedies here. And our activism—whether it be for environmental issues, minimum/living wage, immigration policies, or police accountability—is limited within this fixed system that we didn’t create. When we follow the prescribed rules, the system keeps us powerless in any real decision-making. If we stay here, we stay in The Box.

In past people’s movements in this country—including Abolitionists, Suffragists, worker’s rights, and civil rights, people also found themselves within a fixed system of law that provided them no real remedies. However, Abolitionists were not attempting to “get a better deal” or institute a slave protection agency. Suffragists were not okay with working through their legislatures, begging to be able to vote in odd-year elections. And they certainly couldn’t count on getting the “right people” elected, since they couldn’t vote.

We will not create the healthy, just communities we envision for future generations if we continue down this path. At best, we regulate the rate at which our communities are harmed, and settle for the scraps the system periodically doles out to us.

The system is fixed and we need to break it! Past people’s movements acted outside The Box. Let us learn from those who have come before us. The system is fixed and we need to break it! It’s time to create something new in its place that secures and protects rights, and that legalizes our communities’ pursuit of health, happiness, and sustainability.

*“Conflict is bad; compromise, consensus and collaboration are good—or so we’re told. Governments can jeopardize public health, human rights and the environment when they partner with industry. An important, timely reminder that common good and common ground are not the same thing.”*

— Jonathan Marks



# CRIME DOESN'T PAY — OR DOES IT?

There is little tolerance for murder, rape, theft, fraud, or similar crimes in our culture. Those found guilty often face harsh consequences to make clear that crime doesn't pay.

Or does it?

For our purposes, we offer two broad categories of crimes. One is met with punishment as (arguably) a deterrent. Another is met with complicity.

## CRIMES AGAINST NATURE

Crimes against nature are reported very differently than crimes against property, and sometimes people. In fact, we don't hear about crimes against nature. Instead, we hear about corporations that did not follow regulations. The perpetrator is barely mentioned, much less punished. If there are fines, they are negotiated between the prosecutor and the errant corporation.

## FEDERAL AND STATE COMPLICITY

Federal and state governments issue permits that legalize a certain amount of otherwise criminal behavior when it comes to crimes against nature (see p. 4).

Federal and state governments order regulatory agencies to "facilitate the permitting of business and industry" based on laws that were written by the corporations. Agency spokespeople use this to explain decisions that were made before the first public hearing was held. They also promise that all resulting harms will be "mitigated." In the absence of proof of harm, we are told that no constraints on corporate actions will be imposed.

In contrast to crimes against property, and sometimes people—no one asks the government to regulate the number of robberies that will be allowed in any given neighborhood during a month's time. We do not issue permits to allow robbery of items worth less than a hundred dollars, for instance.

The issuance of permits to corporations to carry out certain criminal activities means profits for corporate stakeholders. It is irrelevant if the permit "legalizes" activities that harm communities and the environment. After all, jobs will be created and the nation's GDP will increase. Under this criminal behavior, people and nature are treated as commodities for profit, and unused labor and resources are considered wasted.

## ENABLING CORPORATIONS

Chartered corporations planning to engage in what would otherwise be criminal activ-

ities have been empowered to use the law against us. Corporations who want to do something designated as illegal—like violating the Clean Water Act—simply apply to the federal permitting agency for a waiver.



The waiver forgives the crime of poisoning the environment and community in advance and protects the company from liability. Regular criminals don't enjoy the kind of impunity habitually demanded by and granted to corporate actors.

*So what do we do?  
Bury our heads in the sand and hope for the best? Or take a stand for our communities, our children and grandchildren, and this planetary ecosystem?*

## COMMUNITIES PAY

Corporate managers don't want to incur fiscal responsibility for poisoning community members and ecosystems. Liability for these kinds of crimes does not fit into the corporate business model. Corporate actors have invested strategically in a system of politically controlled regulation that redirects the responsibility for those damages back to the communities where they occur—for example, when a fracking well contaminates local drinking water, residents must find an alternative water supply at their own expense. Cleaning up the contaminated well, if it can be salvaged at all, is also at the community's expense.

Most corporate crimes that take place in our communities are either "legalized" in advance or they go unprosecuted by

the government. The federal government subsidizes energy companies to engage in rights-violating activities as corporate "persons"—pursuing the road to profit at the expense of real, living human beings and their natural environment. Entire communities are treated as collateral damage.

## IT'S ALL ABOUT PROFIT

Ultimately, profits determine whether a crime is either punished under our legal system, or aided and abetted by our legal system.

When corporate management claims it must commit environmental crimes to make a profit, our laws are written to allow damages like air pollution, groundwater contamination, carcinogens in

our food stream, mercury in fish populations, blowing off tops of mountains, tinkering with the genetics of living beings, and thousands of other assaults on nature and the people who depend upon it.

These "trade-offs" for corporate profit fall within guidelines negotiated between government and corporate representatives and, according to agreed upon upper limits to the harm, are politically controlled by regulatory agencies that issue permits legalizing all of it.

## CORPORATE MEDIA'S IMPACT

Corporate media reports on ecosystem destruction caused by industries that harm the health, safety, and local economic and general welfare of communities. Yet, unlike headline stories about murder or robbery, corporate crimes against communities and nature are often implicitly portrayed as necessary and unavoidable in order to provide convenience and lifestyles that we have all come to accept as "normal." When we view bulldozed and scraped farmlands, industrial towers, paved parking lots, compromised watersheds, polluted skylines, and dirty rivers, the corporate media convinces us that we can't have "progress" without damage and destruction.

## CORPORATE MEDIA ON THE GROUND

In 2016, water protectors showed up at the Dakota Access Pipeline (DAPL) construction site in North Dakota to protect sacred lands and prevent contamination of fresh water supplies for millions of people. They were criminalized as radical, violent protesters who were breaking the law. Yet the oil and gas industry, using private security

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## *Crime Doesn't Pay – continued from page 5*

forces, set dogs against people, issued verbal and physical threats, and collaborated with local and state governments to unjustly jail protectors, stage trials, and forcibly remove people from native land. Energy Transfer Partners (ETP) was portrayed as the victim of trespass, property damage, and monetary loss. The concerns of the Native Americans, farmers, ranchers, and the public about the destruction these projects will have on water resources proved real and pressing. Before ETP even fully opened the DAPL, the pipeline sprung a leak. And yet, cultural purveyors criminalized protesters and victimized perpetrators.

### OUR COMPLICITY

Divested of original outrage, society is caloused over with a kind of benign complicity, looking past every environmental crime through a haze of justifications. Why do we perceive crimes forgivable and lives dispensable when it comes to crimes against people, communities, and the natural environments we depend upon for health and wellbeing?

In August of 2015, the Colorado Gold King Mine waste spill occurred. It was triggered when a U.S. EPA contractor, who was hired to slow seepage at the century-old stake, breached a tunnel wall. This unleashed a torrent of wastewater that had built up behind the mountainside. The discharge sent 3 million gallons of water containing nearly 900,000 pounds of heavy metals, such as arsenic, cadmium, lead, and mercury, into a creek that feeds the Animas River in southwestern Colorado. But no criminal charges will be filed against the EPA contractor for fouling waterways across three states, violating the Clean Water Act, and providing false statements to investigators over the discharge from the disaster. Instead, the EPA has put the area on its Superfund site clean-up list at tax-payer expense. And we accept this.

Federal policy creates the recipe, state agencies legalize the poisoning, and community members have no legally recognized civil and political power to refuse. Over the last 150 years, the 1% has manipulated our legal system and concocted legal theories that place corporate power and privilege above the rights of human and natural communities. When those manipulations first began, there was much resistance. Today, many of us are too numb, distracted, or simply unaware, carrying on oblivious to corporate crimes.

And the state isn't protecting us. In fact, it is usually the state that comes into the legal argument on behalf of the company, rather than residents or the environment.

Municipalities may have other ideas about how to protect their community and advance rights. For example, a town may wish to produce sustainable energy, but the federal government does nothing to promote or support local projects. Passing a local law that blocks an unsustainable energy producer from operating is characterized as "unconstitutional," because corporations have court bestowed privileges, and state and federal laws preempt community authority. The government licenses the corporation to inflict harm and then strips human beings and nature of all routes of escape (see The Box, p. 3).

### TAKING A STAND

So what do we do? Bury our heads in the sand and hope for the best? Or take a stand for our communities, our children and grandchildren, and this planetary ecosystem?

Nearly 200 communities across the U.S.—and that number is growing—have chosen the latter. Through local municipal lawmaking, they are outlawing those activities that cause harm; codifying their Community Rights to clean air and water, to a healthy environment, and the Rights of Nature; and insisting that the people are sovereign—not corporations or government.

## *Is it Really Illegal? – continued from page 3*

Community members fight against each other over whose neighborhood should be sacrificed—rather than joining together to protect the entire community as they insist no part of us will be sacrificed.

### THE MYTH OF DEMOCRACY

We live in a culture that propagates the myth and perpetuates the illusion that we live in a democracy. Instead, when it comes to practicing democracy in order to govern and create sustainable communities, we are told we are "beyond our authority." State Preemption and Dillon's Rule, Nature as Property, Corporate "Rights" and the Regulatory Fallacy keep us locked in this Box.

### BLACK HOLE OF DOUBT

Greater than any side of The Box, however, is the Black Hole of Doubt—our own self doubt—in the middle of The Box. We think we're not smart enough, strong enough, or empowered enough. We do not believe we have the unalienable right to govern.

However, nearly 200 communities have come together to lift each other out of the Black Hole of Doubt. They have chosen to challenge The Box and lay the foundation for the communities they envision by codifying Community Rights. They have elevated people, communities, and nature above commerce, property, and profit.

Will you join them?





# COMMUNITY RIGHTS: STATE-BY-STATE

## OHIOANS FIGHT FOR THEIR RIGHT TO “ALTER AND REFORM” THEIR GOVERNMENT

**T**he right to alter and reform our government is not only in the Declaration of Independence—a founding document of our nation—it is also in Ohio’s state constitution.

And yet, when Ohio county residents seek to alter their government to protect their communities’ health, safety, and welfare, that same government denies them access to do so.

What gives?

### CODIFYING CITIZEN INITIATIVE: HISTORY IN BRIEF

The right to alter and reform Ohio state government was given teeth in 1912. For several years leading up to the vote, a number of courageous people fought to place it on the ballot. They persevered through enormous pushback by state government and big business. They made tremendous personal sacrifices. Ultimately, they succeeded: Residents of Ohio voted to amend the state constitution, giving people in municipalities the right to propose laws by initiative and repeal laws by referendum. They also recognized the people’s right to create their own municipal charter, or local constitution.

The people were determined to codify initiative and referendum because their state government was corrupt, working on behalf of big business rather than the people. They knew they needed a check and balance on the state legislature. The people reformed and altered their government system to protect their rights.

In 1933, the people voted again, this time to extend the right of county residents to create their own charters.

In 1978, the people yet again expanded their county level rights, codifying the authority of residents to propose their own charter form of government, placing it directly on the ballot without going through a special commission.

This is what they achieved, in Article 10, Section 3 of the Ohio Constitution:

*“The people of any county may frame and adopt or amend a charter as provided in this*

*Ohioans started out thinking they needed to protect themselves from the oil and gas industry. Today, they understand they need to protect themselves from their own government—a government that is thwarting every effort the people make to realize their rights and protect their communities.*

*article but the right of the initiative and referendum is reserved to the people of each county on all matters which such county may now or hereafter be authorized to control by legislative action. Every such charter shall provide the form of government of the county and shall determine which of its officers shall be elected and the manner of their election. It shall provide for the exercise of all powers vested in, and the performance of all duties imposed upon counties and county officers by law.... Any charter or amendment which alters the form and offices of county government or which provides for the exercise by the county of power vested in municipalities by the constitution or laws of Ohio, or both, shall become effective if approved by a majority of the electors voting thereon.”*

Ohioans knew they lived in a democracy, and made it real... or so they thought.

### ACTING ON DEMOCRATIC RIGHTS

Over the last several years, communities across the state have dared to fully act on their unalienable right to local community

self-government. They are using their constitutional right to citizen initiative at the municipal and county level. Communities are being inundated with fossil fuel projects: wastewater injection wells, 42” pipelines, compressor stations, and fracking wells, among others. State government, rather than protecting communities, is instead aiding and abetting the oil and gas industry, forcing these projects into communities against their will.

Residents are responding by advancing Community Bills of Rights, including the Rights of Nature. Those rights include environmental rights to clean air, water, and soil, and democratic rights to local community self-government.

### NEGATING INITIATIVE RIGHTS

When communities exercise the right of initiative to protect their health, safety, and welfare, “our” state government tries to quash them. For the corporate state, activists’ relentless determination a few generations ago to codify our right to initiative amounts to mere words on paper.

However, they’re not words on paper to the 99%. In 2015, Medina, Athens, Portage, and Meigs Counties residents decided it was time to propose their own form of county government so that the people could directly govern and protect their counties from harms such as fossil fuel extraction. They requested CELDF’s support in grassroots organizing and education, and in drafting county charters.

Through their charters, community members declared their right to clean air, water, and soil, and nature’s right to exist and flourish. They included their right to local self-governance, and elevated those rights above corporate claimed “rights,” if corporate actions violate the rights of people and nature.

Once petitions were submitted and signatures validated, protests were swiftly filed in each county. Secretary of State Jon Husted

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# GRANT TOWNSHIP: REPORTING FROM THE FRONT LINES

**Municipality:** Grant Township, Indiana County, PA

**Population:** 700

**Designation:** Sacrifice Zone, as determined by the state Department of Environmental Protection, and Pennsylvania General Energy Company

**Community's Response:** HELL NO

In 2012, local officials learned that Pennsylvania General Energy Company (PGE), an oil and gas corporation, was planning to site a frack wastewater injection well within the Township. "Injection well" is the corporate term for a toxic waste dump, in which PGE plans to inject millions of gallons of toxic frack waste. Frack waste can contain thousands of harmful contaminants, some of which are carcinogenic, and many of which are not publicly disclosed. Injection wells threaten drinking water supplies and have caused earthquakes in Ohio and Oklahoma.

Community members were concerned, and a local nonprofit group formed to lead the resistance. The group decided upon the name East Run Hellbenders Society, in reference to a salamander native to the area.

The Hellbenders did all the things that Americans are told to do when facing a threat to their community's health, safety, and welfare. They appealed permits issued by the federal Environmental Protection Agency (EPA) and the state Department of Environmental Protection (DEP). They lobbied their state representatives and senators for help. They told PGE that its project was not needed or wanted within the community.

And still the project marched forward. In 2014, there were no other options. Permits were being issued to PGE despite citizen protest. The Hellbenders contacted CELDF,

which assisted the community to draft a Community Bill of Rights ordinance. The ordinance banned the injection well as a violation of the community's rights, and was adopted by Township supervisors unanimously in June 2014.

Just two months later, PGE sued Grant Township to overturn the law.

Determined to strengthen their protections, Grant Township residents worked with CELDF to draft a Home Rule charter. Communities that are "Home Rule" are recognized as having broader local authority, and the charter is similar to a local constitution. Residents overwhelmingly adopted their rights-based charter in November 2015, adding an additional ban on injection wells as a violation of rights.

To see how The Box of Allowable Self-Government (p. 3) works in real-time, we can see how PGE, the courts, and the "environmental protection" regulatory agencies have all acted against Grant Township:

### STATE PREEMPTION

The corporation claimed in the initial lawsuit that Grant Township was preempted by the state Oil and Gas Act from enacting such a law. In other words, laws governing oil and gas-related activities, such as injection wells, were to be made at the state level, not at the municipal level. In 2015, a federal judge agreed that Grant Township exceeded its authority when it passed the original Community Bill of Rights ordinance. Then in 2017, the DEP sued the Township, claiming that its Home Rule charter interfered with the ability of the DEP to administer state oil and gas policy, and thus is preempted. That's right, the state Department of Envi-



*Photo courtesy of Mike Belleme*

ronmental Protection has sued Grant Township for trying to protect its environment. It's the corporate state in action.

### NATURE AS PROPERTY

PGE claims that it has a right to inject because the corporation possesses the required permits it needs from state and federal regulatory agencies, and those permits themselves are viewed as property. PGE also has a contract with the landowner, which PGE claims gives it additional rights to inject. In short, the ecosystem, and the community of living things in and around the proposed well-site, are treated as property under the law. And if you own it, or have legal rights to it (such as permits or contracts), then you have a legal right to destroy it. Thus, under our current system, the right to destroy nature is given greater weight than the community's right to protect its health and safety.

### CORPORATE PRIVILEGE

In its complaint against the Township, PGE claimed that Grant Township's original or-

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### *Our Constitution – continued from page 2*

establishing that government as the supreme lawmaker of the land. The Constitution explicitly reserves unto itself the sole power to control and regulate commerce across the states.

So, when we try to make local governing decisions that protect human and natural communities from harmful corporate activities, "our" very government empowers corporations, instead, to violate our rights and the rights of ecosystems. In the name of protecting large-scale economics—the "greater good"—we are denied the right to a sustainable local economy that protects resources, voting rights, food choices, energy sources, livable wages, rights of people of color, LGBT+ and refugee communities.

We're taught that the first ten Amendments of the U.S. Constitution were writ-

ten to protect the rights of people. People fought—sometimes died—to add additional amendments to further protect rights. And yet those rights are stolen by corporations. And no economic rights of people have been secured or protected.

Why is that? It's because the amendments are not the U.S. Constitution. They don't change the foundation of the Constitution.

It's because the foundation of the Constitution is property. The document was drafted with deep roots in English common law. English common law secured the rights of property owners by protecting property at all costs. Our "founding fathers" continued this tradition, despite having a revolution.

### OUR REVOLT

A growing number of communities across

the U.S. are rejecting this system by asserting their right to local democratic decision-making. They are elevating Community Rights above corporate "claimed" rights. Determined not to be sacrifice zones, hundreds of communities across the nation have advanced Community Bills of Rights laws asserting Community Rights to local self-government, clean air and water, social and economic justice, and the Rights of Nature.

Communities across the country have stopped believing that the current structure of government and law is interested in securing and protecting their rights. They are acting locally to create a new structure of law that is not based on large-scale economics, but rather on Community Rights to health, safety, and welfare. They're inviting you to join them.



# WHY WE WILL AMEND THE NEW HAMPSHIRE CONSTITUTION

Communities in New Hampshire face myriad unsustainable projects, including industrial transmission lines, fracked gas pipelines, corporate water withdrawals, industrial wind, social discriminations, and voter suppression. The New Hampshire Community Rights Network (NHCRN) and CELDF have supported and assisted communities across the state to prohibit such assaults on human and natural communities through local Community Bills of Rights laws, which assert the right to local self-government—including the right to protect clean air and water.

Granite State residents have deep roots in local and democratic community self-government, with a strong independent streak. In fact, New Hampshire was the first state to establish a form of government separate from the British Empire. New Hampshire's first constitution, only 911 words long, was adopted by the state legislature on January 5, 1776—six months before the Declaration of Independence was signed. The current New Hampshire constitution was adopted on June 2, 1784, replacing the original state constitution with a two-part document. Part First enumerates some of the unalienable rights that are the birthright of everyone, and Part Second lays out the form of government for the state.

## NEW HAMPSHIRE CONSTITUTION RECOGNIZES SELF-GOVERNING RIGHTS

The Bill of Rights that constitutes Part First



of the New Hampshire Constitution is remarkable compared to most other modern state constitutions. It retains much of the fervor for self-governing rights that was expressed in Thomas Paine's world-changing "Common Sense," as well as the inspirational and powerful words of the Declaration of Independence.

It provides that:

*"...all men [sic] have certain natural, essential and inherent rights...(Article 2.);... all government of right originates with the people [and] is founded in consent...(Article 1.); all power residing originally in, and being derived from, the people, all magistrates and officers of government are...at all times accountable to them (Article 8.); and government being instituted for the common benefit...and not for...private interest..., whenever the ends of government are perverted...the people may, and of right ought to reform the old, or establish a new government...(Article 10.); that every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he [sic] may receive in his [sic] person, property or character, to obtain right and justice freely...(Article 14.)"*

This constitutionally-recognized right of local community self-government was codified so that we, the people, would not be at the mercy of our state government, nor at the mercy of corporate and other interests intent on exploiting our communities.

Thus, when the living generation finds that old ways and new wrongs deprive them of their unalienable rights and their ability to govern their own communities, let there be no hesitation. The people have the right and authority to change their constitution and style of government.

## BARRIERS TO LOCAL COMMUNITY SELF-GOVERNMENT

Systemic barriers block local community self-government (see *The Box*, p. 3). Our legal and governing structures at the state and national levels legalize violations of our Community Rights. The state creates corporations in our name by issuing charters. Corporations are therefore creatures of the state, and should be governable by the people. But a long train of abuses and usurpations, in which courts and legislatures have elevated corporate power, now strips us of our rights and renders hollow the powerful language of our current constitution.

These violations are real and constant. For example, communities regularly come together to stop harmful corporate activities. They are repeatedly slapped by the state for acting beyond their authority, or

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## Ohioans Fight – continued from page 7

is required to address protests and render decisions. Husted's election campaigns are well-financed by the oil and gas industry. Predictably, he acted on behalf of industry and blocked the measures from the ballot. His rationale, in part, included monarchical language: He was "empowered" by the state with "unfettered authority to determine the validity or invalidity of all petitions."

## THE HAND OF THE OHIO SUPREME COURT

Residents were having none of it. They partnered with CELDF to appeal the case to the Ohio Supreme Court. The court chastised Husted for his claim of complete authority to determine the validity of the charters outside of technical requirements. However, they then kept the charters off the ballot based on a technicality.

Undeterred, residents worked with CELDF again in 2016 to address the technicality, and advance their proposed char-

ters to the ballot. This was no small feat. Each charter meant many hours drafting the document, and then hundreds of collective hours to gather signatures—regardless of weather or fatigue. Through the process, it struck residents how much easier it is for corporations to get laws passed than it is for real people in their own communities.

Challenges came against the charters immediately—this time, from the county boards of elections. Those appointed members voted to keep the people's charters off the ballot. Residents appealed, and Secretary of State Husted again made the decision to keep the measures off the ballot. This time, he based his decision solely on the Ohio Revised Code (ORC). The ORC provides two options for county government, and residents used neither. They based their charters on Article 10, Section 3 of the Ohio Constitution, rather than choosing a statutory form of county government.

The Ohio Supreme Court—the equivalent of monarchical authority—ruled against the charters, and set a moving target. Their decision was vague and without clear direction for residents to move forward. However, one justice was quite clear in his objection to the decision. Justice William O'Neill wrote:

*"The secretary of state does not have the power to veto charter petitions on behalf of the oil and gas industry simply because the citizens did not pick exclusively from the two forms of county government delineated in R.C. 302.02.3 This is a usurpation of power from the people that we should not indulge."*

In 2017, when Athens and Medina county residents attempted to follow the vague instructions from the court's previous decisions, the court came up with yet another reason to keep them off the ballot: The Court determined that the "powers and duties" of elected officers must be detailed in the charter, rather than referencing the Ohio Revised

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# OREGON: BLAZING A TRAIL FOR DEMOCRACY AND RIGHTS OF NATURE



**P**rior to 2012, GMOs, fossil fuel projects, aerially-sprayed pesticides, and other harms pummeled Oregon communities. Residents' only recourse was to request corporate entities be "good neighbors," and beg the state legislature for further setbacks or reduced emissions. Those efforts have proven fruitless in reducing, much less stopping, the harms.

### SEIZING AUTHORITY

Corporate pesticide spraying and fossil fuel projects continue to harm and threaten communities. However, residents are no longer begging for protection. Instead, they are seizing their authority to be the rightful decision-makers regarding the issues that affect them. They are claiming their right of local community self-government, right to a healthy environment, and right to just and sustainable communities. They are advancing these Community Rights via ballot initiative—making law that protects rights of people and nature from corporate harms.

Residents are inspired by Community Rights efforts across the U.S.: from northern neighbors in Spokane, WA, to heartland communities in Ohio; from Barnstead, NH, to Pittsburgh, PA. They are frustrated by the regulatory hamster wheel, the state telling them "no," and corporations claiming greater rights than people and ecosystems (see The Box, p. 3).

Since 2012, Oregon communities have been mounting educational and political campaigns to prohibit GMO seeds that are contaminating food systems, stop dangerous pesticides that are poisoning human and natural communities, and end fossil fuel projects that are catapulting us all into an ecological cataclysm. Their campaigns drive forward environmental and democratic rights and the Rights of Nature to thrive and evolve. They aim to more deeply secure the right of local community self-government in the state constitution.

### CORPORATE BACKLASH

As Community Rights grows in Oregon, so does the corporate state response.

Residents in Lane County are fighting pro-corporate logging advocates. However, corporate timber interests, the county commissioners, and the courts have all erected hurdles, including a court ruling denying ballot access. The court's unprecedented action comes despite residents meeting all initiative review requirements and collecting nearly 15,000 signatures from local voters. Residents refuse to be dissuaded by this string of injustices launched by members of our industry-friendly government and legal system.

In Coos County, residents face a huge liquid natural gas (LNG) export terminal and accompanying pipeline. They qualified a Community Bill of Rights for the May 2017 ballot—and were outspent 50:1 by Veresen, a Canadian fossil fuel company backing the terminal. Residents are fired up about the threat from the fossil fuel projects and refuse to be intimidated by the deep pockets of fossil fuel companies or the pro-gas and oil federal government. They are regrouping for another ballot measure to ban the project and advocating for other issues to protect their community.

In May 2017, residents of Lincoln County adopted the first rights-based law in the U.S. that bans aerial spraying of pesticides. The timber industry is using the pesticides against the will of the people, contaminating ecosystems and causing health problems in county residents. The Community Bill of Rights establishes the right to clean air and water, the right to local community self-government, and the Rights of Nature. Aerial pesticide spraying is prohibited as a violation of those rights.

Industry allies swiftly filed a lawsuit against the measure. CELDF is providing legal support to assist in defending the law, including filing on behalf of the Siletz River Watershed to intervene in the case. The ecosystem is seeking to defend its right to be free from toxic pesticide spray. It is the third ecosystem in the nation to assert their rights.

### COMMUNITY RIGHTS ACROSS THE STATE

More Community Rights organizing is tak-

*Continued on page 21*

## OHIO: A HOTBED OF COMMUNITY RIGHTS ACTIVISM

**W**e have struck a nerve with the Ohio corporate state. Secretary of State Jon Husted, the Ohio legislature, the judiciary, local Boards of Elections (BOE), and other oil and gas industry allies are finding (and creating) infinite ways to keep citizen initiatives off the ballot. And yet Ohioans will not relinquish their right to direct democracy, and they are doubling down on advancing Community Rights.

Communities are taking hit after hit from the corporate state. Decision-making authority is stripped from them regarding pipelines, injection wells, minimum wages, predatory lenders, and even the sale of puppies from puppy mills. In response, they are taking their issues to the ballot box—and the corporate state is trying to stop them there, too.

It's difficult to even get initiatives onto the ballot when the corporate state creates unclear and shifting requirements on what is necessary to qualify a measure. It's difficult to get initiatives on the ballot when the legislature quietly adopts laws such as HB463, which granted local Boards of Elections and the Secretary of State the authority to block measures if the content conflicts with state law.

Imagine if Abolitionists, Suffragists, Civil Rights, and LGBT+ activists stopped their efforts because the rights they sought conflicted with state law! It's not stopping Ohio Community Rights advocates either.

So, what do courage, determination, and grit look like in Ohio? They look like this:

### THE CORPORATE STATE ATTACKS

Yellow Springs' Village Council adopted the first Community Bill of Rights in the state, prohibiting fracking in 2012. Broadview Heights soon followed, the first in the state to adopt a similar measure by a direct vote of the people. The fracking industry fought back in Broadview Heights, suing the city to overturn the democratically-adopted initiative. The state took the side of the drillers—the hell with what the people wanted.

Residents got the message loud and clear: The rights of the oil and gas corporation supersede the environmental and democratic rights of the people.

The corporate state sought to nip Community Rights organizing before it took root. Repeated losses would surely shut down the Community Rights movement in Ohio. It would surely have a chilling effect on other communities considering laws that codified people's rights to

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# COMMUNITY RIGHTS MOVEMENT THRIVING IN THE GRANITE STATE

**H**istorically, New England town meeting is where citizens legislate. Here, like nowhere else, we participate directly in governing—in practice, not just in concept. Every citizen is a local legislator at town meeting. These are legislatures operated by ordinary people who don't leave their lawmaking to someone else. Town meeting style of governing in New Hampshire dates back to the early 1600s, when Europeans first settled. The world calls it democracy. New Englanders call it town meeting.

*“Town meeting is the true Congress, the most respectable one ever assembled in the United States.”*

— Henry David Thoreau,  
Reform Papers, 1835

## WEAKENING TOWN MEETING

More recent history reveals the people's struggle to keep their local self-governing authority. New Hampshire state government is diminishing the number of issues that residents can directly legislate, denying community members their right to pass any local law that the state does not specifically authorize. National politicians, aided and abetted by the media, have changed the very meaning of town meeting from a community legislature to a public meeting and a political campaign technique. Even municipalities are turning away from the traditional town meeting practice of community members participating in open dialogue and learning from neighbors, instead limiting it to simply approving or rejecting local legislation.

## RECLAIMING DEMOCRACY VIA TOWN MEETING

New Hampshire communities are not taking democracy for granted. While efforts are made to dilute town meeting, residents are using it to challenge harmful industrial projects that would violate their right to protect the health, safety, and welfare of human and natural communities. They're using local rights-based ordinances, drafted with CELDF's support, that include a Community Bill of Rights. Bills of Rights secure rights to clean air and pure water, protect the right to local community self-government, and establish the Rights of Nature to exist and flourish. (See “Advancing the Rights of Nature,” p. 15.)

## COMMUNITY RIGHTS: PROTECTING WATER

The New Hampshire Community Rights movement began in 2006, when the people of Barnstead partnered with CELDF to draft a Water Rights and Local Self-Governance Ordinance. The rights-based law asserts their right to keep and protect water “held in the public trust,” and denies corporate claimed “rights” to withdraw water for resale. The measure also recognizes the Rights of Nature. Townspeople enacted the law at town meeting with overwhelming support. Only one resident dissented!

What inspired residents to use Community Rights? They witnessed an expensive legal battle in the nearby towns of Nottingham and Barrington. There, residents were fighting to stop commercial extraction of

their drinking water for sale overseas.

Barnstead residents were familiar with the New Hampshire Groundwater Protection Act. The Act talks about water as a local resource, and how towns should have the first opportunity to institute water protections. However, the New Hampshire Department of Environmental Services (NHDES) sets the criteria for protecting water within the state, and they legalize “Large Groundwater Withdrawals” by issuing permits to business entities. They deny towns local decision-making authority to reject those permits.

Barnstead refused to entrust their water to the NHDES or state legislators, and leveraged town meeting to enact their Community Bill of Rights to protect water sources.

Barnstead residents shared their Community Rights story with the townspeople of Nottingham and Barrington. Their story resonated: citizens standing up for liberty and freedom, and confronting the injustice of state-permitted corporate assaults taking

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*“Democracy is a process, not a static condition. It is becoming, rather than being. It can easily be lost, but never is fully won. Its essence is eternal struggle.”*

— William H. Haste

## Grant Township – continued from page 8

dinance violated PGE's claimed rights under the 1<sup>st</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments to the U.S. Constitution.

## REGULATORY FALLACY

When your own Department of Environmental Protection sues you for trying to protect your environment, what more needs to be said? Both the federal EPA and the state DEP have issued permits to PGE, a corporation with a history of permit violations, to engage in an activity that will harm the community's health, safety, and welfare. The regulatory agencies are about permitting and regulating the rate of harm—not about protecting the environment.

So there you have it. Corporations work in lockstep with our state and federal legislatures, courts, and administrative agencies to deny communities their rights. And it happens everyday, in thousands of communities across the country.

Grant Township's fight continues. Litigation is ongoing with both PGE and the DEP. And yet the people of Grant Township have prepared for the likelihood that the courts will not be their protectors. They also know that if they truly want to keep out the injection well, they'll have to do it themselves, in the streets, following in the footsteps of other civil rights movements in this country, when people have had to fight for their rights.

Anticipating this, in the spring of 2016, Grant Township Supervisors enacted a first-in-the-nation law that would protect acts of nonviolent direct action in order to protect the community from the injection well. It was an acknowledgment that if state and federal levels of government authorize activities such as injection wells, which would violate the community's rights, then the duty falls to the local people to protect their rights.

Grant Township's story has been covered in national and international media, including a feature story in *Rolling Stone*. Their fierce commitment and stand to protect their community continues unabated.

# DEMOCRACY IN THE TRENCHES: HIGHLAND TOWNSHIP, PA

Community Rights work isn't for the faint of heart. It requires work, standing up for what you believe, and constant vigilance—day in and day out, for years at a time.

Residents of Highland Township in Elk County, PA, exemplify this grit, and give us a new vision for how to take control of our communities. With deep commitment, sacrifice, and an unflinching fight for their rights, they are blazing new ground.

The Township is a small, rural community in northwest Pennsylvania, with a population of less than 500. Seneca Resources, a powerful gas corporation, has been attempting to force a frack wastewater injection well into the community for about five years. They recently applied for a permit for a second injection well. Seneca has a long history of permit violations, and injection wells have been linked to earthquakes and water contamination.

This timeline speaks for itself:

ACTIONS FROM THE CORPORATE STATE	ACTIONS FROM THE PEOPLE OF HIGHLAND TOWNSHIP
<b>2012</b>	
Seneca Resources takes initial steps towards installing injection well in Highland Township	Residents begin organizing against injection well; contact CELDF for assistance
<b>2013</b>	
<b>January:</b> In response to the Ordinance, attorneys for Seneca send a letter to the Township demanding the repeal of the Ordinance; otherwise they will sue	<b>January:</b> With majority community support, Township Supervisors enact a CELDF-drafted Community Bill of Rights Ordinance prohibiting injection well
<b>2014</b>	
<b>January:</b> EPA grants permit to Seneca for injection well; EPA denies appeal by Township residents <b>November:</b> Seneca applies for DEP permit	<b>June:</b> Township residents host a picnic attended by people from across the state. They raise awareness of harms associated with injection wells, and build a larger coalition
<b>2015</b>	
<b>February:</b> Seneca sues the Township in attempt to overturn Ordinance; claims the Ordinance violates Seneca's corporate "rights" to inject toxic waste <b>November:</b> A new Supervisor takes office in Highland, who is not in favor of defending the Ordinance	<b>February:</b> Township Supervisors, with broad community support, agree to retain CELDF to defend the Ordinance against Seneca in federal court
<b>2016</b>	
<b>April:</b> After a death on the Board of Supervisors, a judge appoints a new Supervisor who is hostile to the defense of the Ordinance <b>August:</b> Supervisors negotiate a "consent decree" with Seneca, repealing the Ordinance against the wishes of a majority of the community <b>September:</b> Supervisors expend Township resources. They use the Township lawyer to launch a lawsuit, attempting to keep the proposed Charter from being voted on <b>Fall:</b> Township Supervisors and Seneca Resources campaign to defeat the proposed Charter, as the Charter would limit Supervisor powers, and also prohibit the injection well	<b>January:</b> Unhappy with the Board of Supervisors, and wanting more citizen input in the Township, residents initiate Home Rule proceedings <b>April:</b> Township residents elect a Government Study Commission to consider writing a new Charter for the Township; CELDF assists with drafting the Charter <b>August:</b> The Government Study Commission secures broad input from residents. They finalize the proposed Charter. The Charter is sent for a vote in November <b>Fall:</b> Residents campaign for adoption of the proposed Charter <b>November:</b> Residents of Highland Township adopt the new Charter by a vote of 132 "yes" to 106 "no"
<b>2017</b>	
<b>March:</b> DEP issues Permit to Seneca to proceed with the injection well <b>March:</b> DEP sues Highland Township to invalidate portions of Highland's Charter that was adopted the previous November <b>April:</b> Highland Township Supervisors settle out with the DEP, agreeing not to enforce the provisions of the Charter that ban injection wells. <b>June:</b> Highland Township Supervisors vote to harass CELDF attorneys by filing a complaint with the Disciplinary Board, attempting to prevent CELDF attorneys from representing Highland residents who want to fight the injection well. <b>June:</b> Seneca Resources applies for a second permit to inject frack waste within the Township	<b>May:</b> A candidate who helped write Highland Township's Charter, and who is adamantly against the injection well, wins the primary for Supervisor in a landslide, on both the Republican and Democratic tickets. <b>November:</b> That same candidate is elected with 80% of the vote.

Highland Township residents anticipate the corporate state will retaliate, and that future confrontations are inevitable. But The People have spoken. They have asserted their rights. They are tak-

ing control of the future of their community, and are not willing to let that future be dictated to them by a gas corporation, or by timid elected officials. They invite other communities to join them.



*Granite State – continued from page 11*

place against the will of a sovereign people. Both towns adopted rights-based ordinances protecting their water from commercial extraction, bottling, and resale. Barrington, as if to celebrate the ten-year anniversary of Barnstead’s inaugural Community Rights law, enacted a rights-based ordinance to protect water sources in 2016.

*“If the State permits corporations to operate in your town and does not protect you from the harms they cause, you don’t live in a Democracy—you live in a resource colony.”*

– Gail Darrell, Barnstead NH

### COMMUNITY RIGHTS: PROTECTING NEW HAMPSHIRE FROM BECOMING AN ENERGY CORRIDOR

Corporate water withdrawals are not the only threat to Granite State communities. New Hampshire is slated to become a corporate energy corridor. A high-voltage direct current transmission line, ridgeline industrial wind projects, and pressurized fracked gas distribution lines are all proposed to export energy out of state. These large-scale energy sources are known to contribute to health issues and contamination of water, air, and soil. The New Hampshire Site Evaluation Committee (NHSEC) was created by the state legislature in 1989 for “review, approval, monitoring and enforcement of compliance in the planning, siting, construction and operation of energy facilities.” The mission of the NHSEC does not mention protecting public health, safety, or welfare. It functions as designed: a rubber stamp agency for all energy facilities in New Hampshire. In fact, since its inception, only two projects have been denied. One of them was resubmitted and approved three years later, the other is currently considering an appeal.

Residents recognize corporate efforts to buy them with promises of money to “improve” the quality of life for affected communities. They know this will not make up for stripping community members of fundamental rights and sacrificing land and local economies that are largely based on tourism. They also know they are living under a structure of law that elevates corporate

“rights” over those of the community. Granite Staters are changing that.

Towns across the state that are targeted as energy resource colonies have reached out to CELDF for assistance. CELDF helped them to draft rights-protecting laws that secure their right to determine their own energy futures. Sugar Hill, Easton, Plymouth, Grafton, Danbury, Alexandria, and Hebron have used town meeting to enact Sustainable Energy Future Ordinances, asserting the rights of residents to protect the places they live and to exercise their right of local community self-government. Their rights-based laws recognize and secure the Rights of Nature, and the right of residents to a sustainable energy future in which energy decisions are made by the community.

### COMMUNITY RIGHTS: PROTECTING RELIGIOUS FREEDOM

A decade after the people of Barnstead inspired the Community Rights movement in New Hampshire by enacting a first-in-the-nation local law protecting their right to water, residents took an unprecedented step at their annual town meeting in March 2016. They unanimously enacted a Community Bill of Rights law establishing the right to be free from religious identification requirements.

The first-in-the-nation law was drafted by CELDF at the Town’s request. Local representatives wanted to protect Barnstead residents from political and civil persecution based on their religious beliefs.

Community members adopted the *Right to be Free From Religious Identification* ordinance during the 2016 presidential election campaign. Republican candidate Donald Trump spoke of the possibility of requiring people of a certain religion to carry religious identification cards.

Barnstead’s adoption of this Ordinance is the most recent expansion of CELDF’s Community Rights work, which began with environmental rights, and is now expanding to include social and economic justice issues.

### COMMUNITY RIGHTS: PROTECTING VOTING RIGHTS

With over 50 voter restriction bills proposed during the 2017-2018 New Hampshire Legislative Session, voting rights are under attack. The New Hampshire Attorney General’s office and Secretary of State are united in their claim that voter fraud is virtually non-exis-

tent in the state. Yet, they and other state election officials hinder local efforts to verify an accurate count of votes submitted via voting machines, thereby preventing discovery of possible computer errors—whether intentional or not. With almost 90% of Granite State municipalities using vote-counting machines programmed with secret proprietary software, it is clear to many residents that verification is essential.

Town moderators are elected officials. They take an oath pursuant to the New Hampshire Constitution and are bound to govern the election process, openly oversee the counting of votes on election night, and make a public declaration of an accurate vote count. But town moderators have had their constitutional authority challenged by state election officials.

Election integrity activists reached out to CELDF for assistance in drafting legislation that would specifically authorize moderators to perform public and random verification of ballots cast by voting machines. They worked with local and state election officials, the New Hampshire attorney general’s office, and state representatives to support the measure. When these elected officials were given the opportunity to empower town moderators to carry out their constitutional duty to verify the accuracy of vote-counting machines, those officials refused. They would rather assume vote-counting machines are accurate than to have evidence of their accuracy.

Election integrity activists in New Hampshire are partnering with CELDF to consider the next steps. Their *Clean and Fair Elections Ordinance* asserts their right:

- to an electoral process free from corporate influence, including the use of money as speech for election purposes;
- to publicly observable and accurate vote counts;
- to access elected officials regarding legislation, free from involvement or infringement by corporations;
- and to speak freely during open forum communications with elected officials.

New Hampshire Community Rights is growing—from protecting water to protecting voting rights, and innumerable issues in between. Residents are taking action to realize the healthy, sustainable, and just communities they envision.

*“Alienated from nature, human existence becomes a void, the wellspring of life and spiritual growth gone utterly dry. Man grows ever more ill and weary in the midst of his curious civilization that is but a struggle over a tiny bit of time and space.”*

– Masanobu Fukuoka

# WASHINGTON: THE SPOKANE EFFECT AND THE RISE OF NATURE'S RIGHTS

Community Rights should be defunct in the State of Washington. For all intents and purposes, the state Supreme Court killed the right to local initiative in 2016. The decision came from a lawsuit designed to bury a Spokane Community Rights measure that was driven forward by dogged residents who refused to take no for an answer.

However, Community Rights has not ended, and Spokane residents still don't take no for an answer. In fact, residents of Gig Harbor, San Juan Islands, and Snohomish County are also working to advance rights and protect local ecosystems, regardless of efforts to silence them.

## IT STARTS WITH SPOKANE

Spokane is the birthplace of today's Community Bills of Rights, which are being advanced across the U.S. The first measure was brought forward by residents in 2008, and they didn't hold back: The initiative contained rights and protections including healthcare, neighborhood development, worker rights, economic rights, and the rights of the Spokane River.

In 2013, the nation's first Fair and Clean Elections Ordinance was put forward in Spokane in an effort to block corporate political money from affecting local elections. Community Rights activists in Youngstown, OH, picked up the torch with a similar law, aiming for the November 2017 ballot (see Ohio, p. 10). In 2014, Spokane residents worked with CELDF to draft the first Worker Bill of Rights,



which was on the 2015 ballot. The Bill of Rights included rights to a family wage, equal pay, and to be free from wrongful termination.

In 2016, CELDF supported residents in drafting a Right to Climate initiative that would ban coal and oil trains from passing through the city as a violation of the right to a healthy and livable climate. The measure provided a template for residents in Lafayette, CO, where the city council adopted a Right to Climate law banning fracking in 2017. A similar measure was on the ballot in Bowling Green, OH.

In addition, in 2017, CELDF filed a first-in-the-nation lawsuit on behalf of Spokane area residents against the federal government for violating their right to a liveable climate by preempting local bans on fossil fuel trains.

## IT'S GROWING IN THE SALISH SEA REGION

Following Spokane's lead, Bellingham residents put forward a first-in-the nation law

to ban coal trains from passing through their community in 2012. Today, residents are exploring the use of Community Rights to secure and enforce the rights of the Salish Sea. Also known as the Puget Sound, the Salish Sea is an exploited and threatened ecosystem. Joining the call to action, burgeoning Community Rights activists in Gig Harbor and San Juan Islands are rising up in the name of rights of the Salish Sea.

## THE MANY-HEADED HYDRA

Washington residents increasingly understand that surrendering to the corporate state is not an option. Growing numbers of people recognize that Community Rights is the many-headed hydra of our time—that for every effort by the corporate state to take down a community advancing rights, three more must take their place.

Our future depends on it.

*“The care of the Earth is our most ancient and most worthy and, after all, our most pleasing responsibility. To cherish what remains of it, and to foster its renewal, is our only legitimate hope.”*

*— Wendell Berry*

## Ohio: a Hotbed – continued from page 10

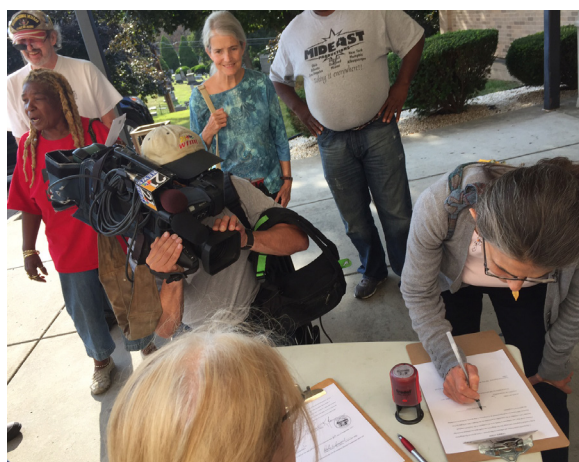
clean air, water, and soil. Folks would revert to the regulatory system (see The Box, p. 3), which in the end would allow the drilling (or other harm) to take place.

## A HOTBED OF COMMUNITY RIGHTS ACTIVISM

But it didn't work. Rather than chilling Community Rights organizing in Ohio, it's heated it up. Since 2012, there have been more than 35 Community Bills of Rights proposed by communities across the state.

Youngstown residents have worked with CELDF and advanced rights-based measures to protect themselves from fracking harms eight times. Each effort is met by government, industry, and media opposition, spending enormous funds to defeat the measures at the ballot box. In 2017,

residents not only advanced a Community Rights measure to protect their water, but also the first-in-the-state Fair Election and Access to Local Government Bill of Rights. Residents proposed non-partisan local elections, limits on campaign contributions to only registered voters of the city, and paper



ballot tracking requirements to verify electronic results. Both initiatives were kept off the ballot by the BOE and Ohio Supreme Court, although three judges dissented. Residents advanced another rights-based measure to protect their water, and the BOE again voted to keep them off the ballot. The late decision by the state Supreme Court in favor of the people resulted in an unfair election. Voting was already underway without the Bill of Rights on the printed ballots. Residents are currently collecting for their 9<sup>th</sup> attempt to pass the people's law.

In the northwest part of the state, Bowling Green University students learned about the threat to their city water supply from the proposed Nexus pipeline project. They also learned about the threat all fossil fuel infrastructure projects have to their

*Continued on page 16*





# ADVANCING THE RIGHTS OF NATURE

**C**ELDF has been at the forefront of the Rights of Nature movement since its inception just over a decade ago, developing and working to enact rights-based laws to protect the environment. Today CELDF's *International Center for the Rights of Nature* is working in the U.S., Nepal, India, and other countries, partnering with civil society, communities, indigenous peoples, and governments to advance Rights of Nature legal frameworks.

In 2006, CELDF developed the *first Rights of Nature law*, which was passed at the local level in Tamaqua Borough, PA. Today dozens of communities in the U.S. have similar laws in place. In 2008, we assisted Ecuador to become the first country in the world to enshrine the Rights of Nature in its constitution. In India and Colombia, courts have recognized that Rights of Nature exist for rivers and other ecosystems.

## ENVIRONMENTAL LAWS: REGULATING HUMAN EXPLOITATION OF NATURE

It has been more than 40 years since the passage of the major federal environmental laws in the U.S., including the *National Environmental Policy Act (NEPA)*, the *Clean Water Act*, and the *Clean Air Act*. These laws are now mirrored around the world—and nature is on the brink.

Conventional environmental laws, rather than protecting the rights of the environment to exist and thrive, instead regulate human use and exploitation of nature. Thus, *environmental laws legalize harm*, authorizing environmentally damaging acts such as fracking, drilling, and other practices.

These laws treat nature as *property*, and thus as *right-less*. People of color, women, and children have been considered right-less under the law, and were therefore unable to defend their own basic rights to life and well-being. So today do environmental laws treat nature.

The consequences of such legal systems are severe. Today, species extinction is occurring faster than 1,000 times natural background rates.<sup>1</sup> Ecosystems such as coral reefs are collapsing. And climate change is accelerating far more rapidly than most scientific models predicted, with global temperatures expected to rise at least 2 degrees Celsius by the end of the century.

Increasingly, communities, people, and even governments are recognizing that there is a need to make a fundamental shift in human-

kind's relationship with the natural world. They are placing the highest protections on nature through the recognition of legal rights.

## RIGHTS OF NATURE LAWS

Rights of Nature laws prohibit human activities that would interfere with the ability and rights of ecosystems and natural communities to exist, flourish, regenerate, and evolve. These laws transform the status of nature from being regarded as property under the law to being *rights-bearing*.

Further, these laws empower nature itself to defend and enforce its own rights, and people and their governments to defend and enforce these rights as well.

## PARTNERING WITH COMMUNITIES AND STATE NETWORKS

CELDF's organizing and legal teams are partnering with local communities and state Community Rights Networks to advance Rights of Nature legal frameworks. Communities in more than ten states have now enacted local laws securing legal rights of the natural environment.

This includes communities such as Pittsburgh, PA; Shapleigh, ME; and Lincoln County, OR. Each community enacted a local law to protect the natural environment from threats, specifically fracking, water privatization, and pesticides. They found existing environmental legal frameworks incapable of protecting the community and ecosystems from such threats. Through their City Council (in Pittsburgh), at Town Meeting (in Shapleigh), and by a county-wide vote on a citizen-sponsored initiative (Lincoln County), they secured legal rights of the ecosystems where they live.

CELDF is assisting communities to defend their laws. For example, in Grant Township, PA, an oil and gas corporation is seeking to overturn the community's law prohibiting frack wastewater injection wells and securing legal Rights of Nature (see Grant, p.8). In a first-in-the-nation step, CELDF filed motions on behalf of and in the name of ecosystems, such that the ecosystems could defend their own rights against corporations that are seeking to rescind their rights.

This evolution of the law is expanding the body of legal rights to include nature, and is pioneering a new way forward for the

environment.

CELDF is also partnering with our state Community Rights Networks to advance legal Rights of Nature, including in Oregon, New Hampshire, and Ohio. We are assisting the Networks to advance proposed state constitutional amendments that empower local communities to secure legal Rights of Nature.

## PARTNERING WITH TRIBAL NATIONS AND INDIGENOUS PEOPLES

In 2016, CELDF assisted the Ho-Chunk Nation, based in Wisconsin, to advance the first Rights of Nature tribal constitutional amendment. The Ho-Chunk's General Council approved of the amendment, with a final vote by the full tribal membership pending as of this writing. If approved by the membership, the Ho-Chunk will be the first to amend their tribal constitution to recognize legal rights of the environment.

With the steps taken by the Ho-Chunk, CELDF is now working with other tribal nations and indigenous communities to explore how to advance the Rights of Nature and protect indigenous rights.

## MOVING FORWARD

CELDF invites you to join the growing people's movement for nature, drawing on the strong tradition of other movements that have fought for rights.

In 2016, Colombia's Constitutional Court declared that the Rio Atrato has legal rights, explaining:

*"(P)olicies and legislation have emphasized access to economic use and exploitation to the detriment of the protection of the rights of the environment and of communities... It is a question of understanding this new sociopolitical reality, with the aim of achieving a respectful transformation with the natural world...as has happened before with civil and political rights... Now is the time to begin taking the first steps to effectively protect the planet and its resources before it is too late."*

To learn more, please visit our website: [celdf.org/rights/rights-of-nature](http://celdf.org/rights/rights-of-nature).

1. "Natural background rate" is the natural phenomena of extinction, in contrast with human caused extinction. [http://www.biologicaldiversity.org/programs/biodiversity/elements\\_of\\_biodiversity/extinction\\_crisis](http://www.biologicaldiversity.org/programs/biodiversity/elements_of_biodiversity/extinction_crisis) Accessed August 27, 2017.



## Ohio: a Hotbed - continued from page 14

future on the planet. Working with Bowling Green community members and CELDF, the students spearheaded an initiative to propose the first Right to Livable Climate Bill of Rights in Ohio.

Also unmoved by corporate state efforts to shut down Community Rights work in Ohio, the residents of Toledo are advancing their own law to protect Lake Erie. In 2014, community members learned first-hand how critical clean drinking water is to their survival. They went three days without water when Lake Erie's green algae caused dangerous levels of a toxin that made it unsafe to drink or use for bathing.

For decades, they had tried to get their representatives to fix the pollution problems in the Great Lake. They have witnessed the lake dying little by little, year after year. No

longer willing to wait for others to act, the residents decided to propose the Lake Erie Bill of Rights. It is the first Rights of Nature law being proposed in Ohio, recognizing the lake's rights to exist and flourish, free from corporate pollution.

### GROWING A MOVEMENT

The Community Rights movement is growing in cities, villages, townships, and counties across Ohio. People are realizing their communities will be sacrifice zones to corporate profit if they do not stand up for their right to live in a healthy and thriving community. The movement is growing as people realize they must stand up for clean air and water if they hope to have a future at all. It's growing as more and more people realize that every time the corporate state knocks a

community down, five more must rise.

Abolition, suffrage, civil rights, and LGBT+ rights were not "won" in a single attempt by one person or group. People repeatedly challenged those blocking them from freedom and equality. They inspired others to do the same, growing into people's movements. And so it is with Community Rights.

In Ohio, we know the challenging work and sacrifice required to create the communities we envision. We know that no one is coming to save us. We know that the Ohio legislature, governor, and judiciary want us to give up on asserting our right to propose laws and charters. They want us to give up our right to local community self-government. Despite their efforts to shut the people down, we are insisting on our rights, and growing a movement.

*"Cowardice asks the question—is it safe? Expediency asks the question – is it politic? Vanity asks the question—is it popular? But conscience asks the question – is it right? And there comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because it is right."*

*—Martin Luther King Jr*

## NH Constitution – continued from page 9

sued by corporations for infringing on corporate claimed "rights."

There is no remedy by elected representatives or the courts, as these are the very bodies that have given momentum to ever-growing corporate power. There is no one to take corrective action except we, the people. Our work is to drive constitutional change guaranteeing in specific, unassailable terms that it is the people who govern. It is the people who have the authority and right to enact and enforce laws in their own communities—including laws that prevent the state from empowering corporations to violate Community Rights under color of state law.

It is, as the Declaration of Independence advises, both our right and our duty to throw off such government, and to provide new guards for our future security.

### NEW HAMPSHIRE COMMUNITY RIGHTS AMENDMENT

The New Hampshire Community Rights state constitutional amendment directly empowers community members and local governments to make local governing decisions. This includes banning unsustainable development projects and establishing stronger social, economic, and environmental protections than in place at the state and federal level.

A peaceful remedy for the injustices inflicted on our communities is possible with our state legislature. They have the power and duty to approve the proposed language of the

New Hampshire Community Rights Amendment, and allow residents to decide whether to adopt it as part of our constitution.

### GROUNDBREAKING LEGISLATION

For the first time in the U.S., a state legislature expressed support for a Community Rights state constitutional amendment. The proposed amendment received a historic affirmative vote from one-third of the state House of Representatives during the 2018 legislative session.

The amendment, Article 40. Right of Local Community Self-Government, was drafted by the New Hampshire Community Rights Network (NHCRN) in partnership with CELDF. The proposed amendment was sponsored by a New Hampshire House Representative and received bi-partisan support from eight additional representatives. One third of the House of Representatives voted to advance the amendment!

We know from prior people's movements that fundamental change comes from persistent, unrelenting pressure. As more corporate threats grow in the Granite State, more communities are inspired to join the Community Rights Movement.

The NHCRN continues a state-wide educational campaign, preparing to reintroduce the New Hampshire Community Rights Amendment again. We welcome your support!



A compilation of our popular Community Rights papers, printed 2014 - 2017. Explore the reframing of contemporary and historical events through a Community Rights lens. The Papers offer a vision of what is possible when using a rights-based legal framework. To order, visit: <https://celdf.org/publications/>





# BUILDING A MOVEMENT FOR COMMUNITY RIGHTS

## GOVERNMENT POLICIES: FAST-TRACKING SUBJUGATION AND EXTINCTION

**F**ederal and state policies treat people and nature as commodities. Human labor and natural resources are the raw materials exchanged for the highest market price available. The value of our existence has been reduced to what can be produced from us, while economic, social, and environmental systems that support our well-being are destroyed and/or exported outside of our communities. We're told it is for the "greater good." Our communities are viewed as mere resource colonies to be auctioned off to the highest bidder.

### ENVIRONMENTAL SUBJUGATION

We are approaching 50 years since the passage of major federal environmental laws such as the Clean Water Act and the Clean Air Act. And yet, not only is environmental degradation advancing, but we are headed toward ecological catastrophe.

This is because our environmental laws only slow the rate of destruction. They do not prevent harm. When corporations submit a permit application to engage in a commercial activity, they are "requesting" the state or federal government give them permission to legally pollute or otherwise cause harm, within the limits authorized by law. (Those limits are, of course, defined by the corporate lobbyists writing the laws.)

However, the permitting process isn't about "requesting" anything. If the permit application meets legal requirements, it must be approved. Residents have no decision-making authority as to whether the project sites in their community.

### THE ROLE OF THE EPA

What about environmental regulatory agencies? Government agencies such as the federal Environmental Protection Agency (EPA) are presented as, well, *protecting us*. Instead, the EPA *shields corporations* from local and state laws that attempt to provide real protection for human and natural communities. The agency does this by setting national standards for how much pollution is acceptable in our air, water, and soil.

This means that when a community attempts to enact a law that affords greater environmental protections than EPA standards, the corporation can 1) sue the community for violation of its "right" to pollute, and 2) override the local law with the permit that was

granted in accordance with EPA standards, and that legalizes the polluting activity.

cies only apply to environmental decisions? They don't. Consider civil rights. Like the Suffragists and Civil Rights movement, more recently, the LGBT+ community has strived for recognition of the same rights and privileges enjoyed by the cisgender community—free from discrimination. At the local level, communities have recognized their LGBT+ neighbors as equals by enacting local anti-discrimination laws.

But just like local environmental laws, local civil rights laws are preempted by state and federal laws—even when local laws afford greater protections than state and federal laws. For example, in 2016, the North Carolina legislature exercised its preemptive powers, overriding community law-

making by legalizing discrimination against the LGBT+ community. State representatives belittlingly dubbed the legislation the "bathroom bill."

The federal government withdrew equal protections for transgender students to use the bathroom that aligns with their gender identity. Local laws seeking to afford greater protections for the LGBT+

community do not have the backing of state and federal governments, which are refusing to enforce civil rights for all people. Real lives are at risk with no legal remedy for harms.

### WORKER SUBJUGATION

How about labor and workers? It's not any different in this domain. Income and wealth inequality is expanding. Economic sustainability is questionable when 1% of the world's population is wealthier than the other 99% combined.

### CIVIL SUBJUGATION: LGBT+ COMMUNITY

Do you think these federal and state poli-



*Continued on page 25*

## FURTHER BACKGROUND READING

## WHY EXISTING LAW WON'T STOP CORPORATIONS FROM HARMING YOUR COMMUNITY

## SOME HISTORICAL CONTEXT

***“There is no unalienable right to local self-government.”***

That’s what Pennsylvania attorney general Thomas Corbett<sup>1</sup> said to the Commonwealth Court as he tried to overturn a municipal ordinance banning the dumping of urban sewage sludge on farm land.<sup>2</sup>

Was he right?

When the Declaration of Independence was signed on July 4, 1776, it was the work of many hands. Thomas Jefferson gets the credit, but the people of more than 90 towns and counties throughout the colonies had sent instructions to the Continental Congress calling for separation from England and enumerating a list of grievances to justify independence from the empire. Among the 30 or so listed complaints, the very first mentioned in Jefferson’s Declaration of Independence is the preemption of local laws:

“HE [the king as symbol of the empire] has refused his Assent to Laws, the most wholesome and necessary for the public Good....”

One thing we know for sure: The revolutionaries were not talking about state or federal laws. There were no “states” and there was no nation. It was the usurpation of the people’s right to enact and enforce local community laws that had them up in arms.

Today we find ourselves in a situation at least as dire as what the American Revolutionaries faced. State agencies routinely issue charters and licenses to wealthy corporations and then “permit” to legalize industrial damage to our communities. The permit is necessary because the “regulated” activity is self-evidently harmful to communities and nature, and the corporations need a legal shield against liability for the damage. In this way, the state makes it legal for corporations to violate unalienable rights. What it cannot do directly, it does indirectly through the corporate actor.

None of this is accidental or unintended, nor to be remedied by a quick fix, an enlightened court decision, or better regulations. It’s taken time and clever manipulation of the law for the privileged minority controlling corporate property to pin unalienable rights to the mat. To understand how the right to local community self-government has been disrespected, cordoned-off by procedural barriers, subordinated to the privileges of wealth, and nullified by judicial fiat, we need to look into the hidden history of the United States of America.

James Madison, author of the blueprint for our current U.S. Constitution, distrusted

local governing authority and democracy in general. He worked with a minority of state delegates to snip the people’s right to community self-government out of the federal system they were assembling. Madison had this to say at the secret convention in Philadelphia on June 26, 1787:

“The landed interest, at present, is prevalent; but...will not the landed interest be overbalanced in future elections, and unless wisely provided against, what will become of your government? If the elections were open to all classes of people, the property of the landed proprietors would be insecure. An agrarian law would soon take place. Our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests, and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority.”

We see the federalists’ and Madison’s attitude of condescension toward the self-governing rights of the less affluent a century later in the disdain for general local self-governing rights expressed by corporate industrialists. According to Martin J. Schiesel, in his book *The Politics of Efficiency: Municipal Administration and Reform in America: 1880-1920*:

“Simon Sterne, a reform lawyer and member of the Tilden commission [formed in 1875 to investigate the Tweed ring in New York], argued in 1877 that the ‘principle of universal manhood suffrage’ only applied to ‘a very limited degree’ in municipal administration because the city was ‘not a government, but a corporate administration of property interests in which property should have the leading voice.’ In the same vein, Francis Parkman saw the notion of ‘unalienable rights’ as an ‘outrage of justice...when it hands over great municipal corporations... to the keeping of greedy and irresponsible crowds.’ E.I. Godkin, founder-editor of *The Nation*, one of the country’s most influential organs of political criticism, pointed to unrestricted suffrage as the main source of misgovernment in major cities.”<sup>3</sup>

It was the expansion of voting rights to white men who were not property-holders that began the retraction of local self-governing authority as a national and state policy. Historian J. Allen Smith wrote of the times:

“The attitude of the well-to-do classes toward local self-government was profoundly influenced by the extension of the

suffrage...the removal of property qualifications tended to divest the old ruling class of its control in local affairs. Thereafter, property owners regarded with distrust local government, in which they were outnumbered by the newly enfranchised voters. The fact that they may have believed in a large measure of local self-government when there were suitable restrictions on the right to vote and to hold public office, did not prevent them from advocating an increase in state control after the adoption of manhood suffrage.”<sup>4</sup>

As the suffrage was extended further to black males and then to women, the ruling class of wealthy citizens focused more purposefully on disenfranchising from meaningful local self-government those newly attaining the suffrage. And as corporate-controlled policy makers supported an unparalleled influx of immigrants during the period of rapid industrialization, farmstead divestiture, and relocation of the dispossessed to the cities and larger municipal communities,<sup>5</sup> this trend was accelerated.

Iowa Supreme Court Justice John Dillon ably Americanized the English hierarchical tradition of condescension toward community self-governance. Before taking his place on the state bench, and later on the U.S. circuit court, he represented railroad interests against the claims of municipalities.

“Dillon’s Rule,” not a law but an opinion that bears its inventor’s name, maintains that each county, city, borough, town, and all political subdivisions of a state are connected to the state as a child is connected to a parent. Under this usurping concept, community governments are administrative extensions of the state, rather than elective bodies representing the right of the people to local self-governance. It is derived from one of Dillon’s decisions (*Clinton v. Cedar Rapids and Missouri River R. R.*, 24 Iowa 455), handed down in 1868, and expanded upon in his 1872 book, *A Treatise on the Law of Municipal Corporations*.

Dillon wrote: “It must be conceded that the great weight of authority denies in total the existence, in the absence of special constitutional provisions, of any inherent right of local self-government which is beyond legislative control.”<sup>6</sup>

Dillon’s Rule was adopted years later without discussion or argument, by the U.S. Supreme Court, to define the legal relationship between all American municipal and state governments.<sup>7</sup>

It is from this legal theory that the power of state preemption over local laws has



been concocted. To the continued chagrin of the friends of democracy, the legal establishment at the same time rejected the opinion of Michigan Supreme Court Judge Thomas Cooley (one of the era's leading scholars of constitutional law), who argued that cities received power directly from the people and thus they had a kind of limited autonomy:

"The sovereign people had delegated only part of their sovereignty to the states. They preserved the remainder for themselves in written and unwritten constitutional limitations on governmental actions. One important limitation was the people's right to local self-government."<sup>8</sup>

For the people to create the legislature and then subordinate themselves to its dictates, contradicts the principle espoused in the Declaration of Independence, which says, "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

European immigration to the U. S. was integral to the transformation of American communities into corporate colonies. Between 1820 and 1860, approximately five million people entered the country. Between 1860 and 1890, 13.5 million arrived, and between 1900 and 1930, almost 19 million crossed the Atlantic, for a total of 37.5 million people between 1820 and 1930.<sup>9</sup>

With the growth of the immigrant population, efforts to disenfranchise minority voters and to strip property-less people of authority to use their municipal governments to make decisions of consequence became the political project of the age.

Following the dismantling of the slave-labor plantation system, upon which the U.S. economy was built, the meteoric rise of wage-slavery fueled corporate wealth. So did the transfer of more than 180 million acres of federal lands to the banks and railroads, as payment for Civil War debt. When corporate lawyers were likewise sent to occupy Congress and the U.S. Supreme Court, part of the corporate settling of accounts with the federal government was that they managed to deliver the Constitution's Bill of Rights to legally birthed "corporate persons" in 1886. A cascade of court decisions followed, with one right after another handed over without precedent to corporations. These were topped off most recently with the Citizens United and the Hobby Lobby decisions.

The effect has been to empower a wealthy minority. This minority hides behind the corporate shield of limited liability and personal immunity from prosecution. They wield the U.S. Bill of Rights against people who, using local law in attempts to govern corporate behavior when the industrialists and their lawyers came to town, find that their rights have been subordinated to these privileges.

Progressive era "reforms" at the end of the nineteenth and beginning of the twentieth century attempted to placate those who organized and complained about the corporate monopoly of people's lives and livelihoods. Among the measures adopted to deal with this criticism was "the regulatory system."

You only need to peek into the development of the first federal regulatory agency, the Interstate Commerce Commission (ICC), to gain a sense of the intent and effect on local self-governing authority of such agencies. In 1893, when this first of many regulatory agencies was established, then Attorney General Richard Olney assured the president of the Burlington Railroad that there was nothing for those protective of corporate prerogatives to worry about:

"The [ICC]...is, or can be made, of great help to the railroads. It satisfied the popular clamor for a government supervision of the railroads, at the same time that the supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be to take the business and railroad side of things. It thus becomes a sort of barrier between the railroad corporations and the people and a sort of protection against hasty and crude legislation hostile to railroad interests."<sup>10</sup>

Regulatory agencies established after the ICC are no different. They have been erected as "a sort of barrier between the corporations and the people and a sort of protection against [local] legislation hostile to [corporate] interests." They protect corporations from local democracy and against being governed directly by the people with laws that would clearly subordinate the powerful minorities, commanding them to community majorities. The regulatory system has, in fact, erected a nearly impenetrable barrier between the people and their legal creations, the mighty corporations of today, which are chartered by state legislatures in their name. And it has guaranteed that so long as citizens play along and seek relief from corporate assaults in their communities by turning to regulatory agencies, the privileges conferred on the corporate class will continue to go unchallenged.

Not everyone was immediately conned by this bait and switch. In 1930, J. Allen Smith wrote:

"Satisfactory regulation is not, as seems to be implied in much of the discussion favoring the substitution of state for local control, merely a question of placing this function in the hands of that governmental agency which has most power and prestige behind it. The power to exercise a particular function is of little consequence, unless there is an adequate guaranty that such power will be exercised in the interest of the local public for whose protection it is

designed. It may be regarded as a well established principle of political science that to ensure a satisfactory and efficient exercise of a given power, it should be lodged in some governmental agency directly responsible to the constituency affected."<sup>11</sup>

If the average community activist understood that removing community control over corporate behavior is the basis on which the corporate state has built its regulatory structure of law and silences the rights of people, they would begin to organize differently.

And so it is that people have begun adopting Community Bills of Rights using their municipal and county governments, which are the phantom limbs of the American Revolutionaries' cherished right to local self-government. The task has fallen to us or to our children if we shrink from it, to directly confront the legal protection of the special privileges of wealth against the fundamental rights of people, communities, and nature.

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# IT DOESN'T MATTER WHERE YOU LIVE: YOU'RE NOT FREE FROM THE HARMFUL EFFECTS OF FRACKING

**H**ere's an incomplete list:

## FRACKING

The process of injecting chemicals, water, sand, and other materials into shale formations under high pressure to release natural gas.



## INJECTION WELLS

For the disposal of fracking wastewater.

## PIPELINES

Up to 42-inches in diameter for transportation of fracked gas.



## COMPRESSOR STATIONS

To pressurize the pipelines for transportation of fracked gas.

## WATER WITHDRAWAL OPERATIONS

To provide the millions of gallons of water needed to frack a single well.

## ETHANE CRACKER PLANTS

For converting natural gas to plastics.

## WASTEWATER STORAGE AND PROCESSING FACILITIES

Temporary storage and treatment of fracking wastewater before its disposal.



## GAS-TO-LIQUID FACILITIES

For converting natural gas to gasoline that goes in your car

## SILICA SAND TRANSFER STATIONS

Providing the sand used in fracking operations.



## TRUCKS

To transport equipment for all of the above.

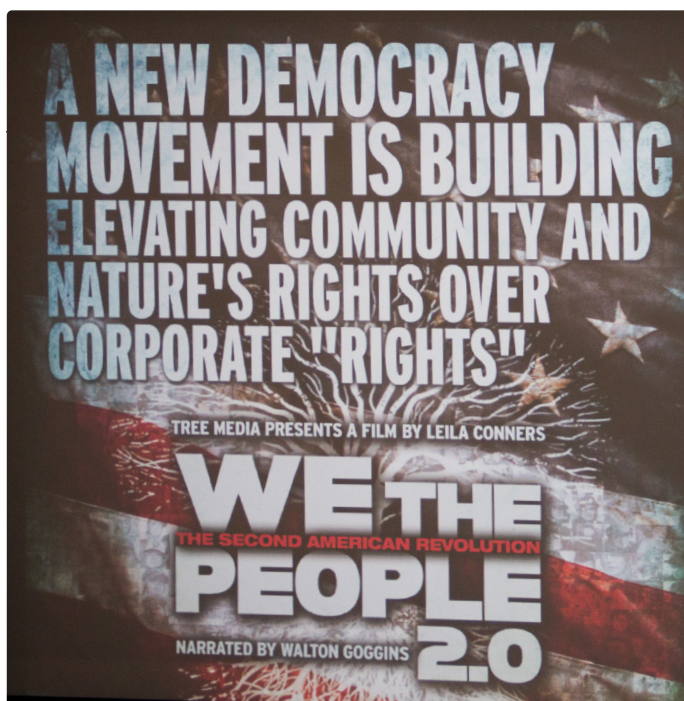


Those are just some of the activities related to the fracking itself. This list doesn't include other associated harms suffered by communities, such as severe decreases in housing and hotel stock as the workers move in, with sharp increases in price for local residents vying for the lodging options that do remain. Further, the promises of jobs for local residents are severely overstated, with many workers coming in from out-of-state to fill the positions. There are also damages to air and water quality, damages to roads, damages to property values, and on and on and on.

The list of fracking-related activities and harms seems to grow daily. We fight them individually, community by community. But at some point, we need to go for the brain. And that brain is the structure of law that legalizes and legitimizes the activities to occur and that denies your communities the remedies you need to stop the harm.

Communities in Pennsylvania, Ohio, New York, Maryland, Washington, Oregon, Colorado, and others are waking up to this reality. The only way to free ourselves from these harms is to challenge the structure of law that currently legalizes these activities. Then, we create a new and more just system of law in its place. That's why cities like Pittsburgh, PA; Broadview Heights, OH; and numerous other communities across the U.S. have banned fracking-related activities, and putting new rights-based structures of law into place at the local level. These local laws are providing the DNA for new constitutional structures at the state and federal level as well.

As long as we continue to live under a structure of law that legalizes harmful activities, our communities will continue to remain under siege, helpless in the face of the devastating effects of fracking.



## WE THE PEOPLE 2.0

Tree Media presents *We the People 2.0*, a film about CELDF's work with communities to mobilize the Community Rights movement across the country. *We the People 2.0* shares stories from communities across the country who are organizing against fracking, sludging of farmland, and other threats, and are confronting our structure of law, which elevates the rights of corporations over the rights of people, communities, and nature. What we do about it is up to us.

**JOIN THE MOVEMENT.**

**VISIT [WWW.WETHEPEOPLE2.FILM](http://WWW.WETHEPEOPLE2.FILM).**



## WHAT'S IN A COMMUNITY BILL OF RIGHTS?

Community Bills of Rights (CBoR) come in a variety of forms, including municipal or county ordinances, home rule charters, charter amendments, state legislation and state constitutional amendments. The community decides which form to use, depending largely upon the type of local government allowed by the state constitution. There's no need to dwell on all CBoR options just now. No matter what the form, there are important elements common to all of them.

A Community Bill of Rights takes nothing for granted except the supremacy of unalienable rights over other laws, and the necessity of challenging legal obstacles to the real-time enjoyment of those rights. There are well-established legal barriers to the right of local self-government when exercised in defense of unalienable rights. Therefore, each CBoR enacted addresses those obstacles specifically and challenges their legitimacy.

### THE ANATOMY OF A CBOR

**Preamble:** CBoR ordinances generally begin with a statement of principles and grievances that explain why the local law is being adopted. The principles of law and ethical, legitimate government that introduce the CBoR ordinance can be found in the Declaration of Independence, and often in your state constitution's enumeration of fundamental rights. The grievances listed in the preamble include the practice, projects, or proposed "development" with which the community is at-odds because it violates basic rights of the people individually, the community collectively, and/or the natural environment. The preamble generally presents the ordinance as the community's intended correction of some error in existing law.

When a community has a home rule charter and wishes to amend it, the form

of the amendment is often streamlined and forgoes preamble material.

### STATEMENTS OF LAW

This is the heart of the ordinance. It consists of a Community Bill of Rights enumerating specific rights to be secured by the local law and whether they apply to human residents of the community, ecosystems, or both. In addition to specifying a list of rights, certain activities that would violate each right are included within the text defining the rights, such that engaging in those activities is clearly identified as a violation of the specific right. Particular terms and words that are intended to have meaning specific to the ordinance and the rights it secures, as well as activities it recognizes as violations of rights, are defined within each statement of a right, under the first appearance of the term in the ordinance. These definitions are included to avoid misunderstanding and to be precise about the intention of the law.

### ENFORCEMENT

This section specifies monetary and other penalties for violations of rights secured by the local law. It assigns liability for damages and specifies the amount of damages caused by a violation. In the case of ecosystems, damages are determined by the cost of restoring the ecosystem to its state prior to injury. Those damages are assigned to be paid to the municipality exclusively for the full and complete restoration of the ecosystem. In this section, ecosystems are recognized to have legal standing to enforce or defend this law through an action brought in the name of the ecosystem as the real aggrieved party. Any resident of the municipality may enforce or defend the provisions of the local law in court, and any resident can represent the interests of the ecosystem in court.



### Ohioans Fight – continued from page 9

Code. Currently, there are two county charters in Ohio: Summit and Cuyahoga. Neither specifically list each power and duty of every elected officer.

### WE DON'T LOSE UNTIL WE QUIT

Ohioans started out thinking they needed to protect themselves from the oil and gas industry. Today, they understand they need to protect themselves from their own government—a government that is thwarting every effort the people make to realize their rights and protect their communities. A government that is obstructing every effort of the people to alter and reform that very government.

Residents understand they have two choices: give up, and let corporate projects destroy their communities, or continue to challenge and break this corrupt, fixed system, creating a new one that protects communities for future generations. "We don't lose until we quit!" And the corporate state is finding that out. Today, counties are again advancing their charters, refusing to take no for an answer.

Ohioans don't give up.

### Oregon – continued from page 10

ing place in Lane County to secure the right of local self-government, in Columbia County to confront fossil fuel projects and industrial logging, and in Portland to explore the rights of the Willamette River, which has been exposed to multitude corporate practices affecting the health and viability of the ecosystem. At the state level, residents and CELDF are working with the Oregon Community Rights Network (ORCRN), which is advancing a Community Rights state constitutional amendment to secure the right of local community self-government for all Oregon communities.

In less than five years, Oregon residents have shifted from "what can we get?" to "what do we and nature demand?" They have shifted from trying to survive corporate assaults, to insisting on controlling corporations and thriving in their own communities.

*"If you plan to build walls around me know this: I will walk through them."*

*— Richelle Goodrich*

# FREQUENTLY ASKED QUESTIONS ABOUT COMMUNITY BILLS OF RIGHTS

**Q:** *Shouldn't we be pursuing change at the state level instead of enacting controversial local laws?*

**A:** The problem is, though government is supposed to be “by and for the people,” residents don’t have the same access to power at the state level that corporate and industry lobbyists do. On just about every issue you can think of, the state has policies in place—policies communities were not consulted on, and policies corporations and industries generally helped to write. When state policies place our communities in harm’s way, our most viable choice is to act locally to assert our rights and protect our health, safety, and welfare. It makes sense for the people living in the community to make decisions about issues that will directly affect their quality of life in the places where they live. Is there anyone more qualified to make these decisions? And is there anyone more concerned and committed to the well-being of a community than the people who live there?

Additionally, municipalities have NO REPRESENTATION in the state legislature. Privately controlled political parties draw (gerrymander) voting districts. This blocks voters from electing representatives and senators who have a direct responsibility to protect the interests of municipal communities. Voting districts represent calculated partisan advantages in electoral mathematics, not communities seeking representation of their interests.

**Q:** *Dozens of local governments and citizens have adopted Community Bills of Rights banning harmful corporate behavior, but my municipality is different!*

**A:** Whether you live in a Pennsylvania Township, a town in New York or Maryland, a county in West Virginia, or a city or village or township in Ohio, Colorado, New Mexico, Washington, or any other place, the people living in those jurisdictions have the same fundamental rights as the people in communities that have already adopted Community Bills of Rights. And they faced the same obstacles to enjoying those rights as you do. Every community is unique, but we all share the same rights and deserve equal protection of the law. Some states make it more difficult for people to enjoy those rights. That’s all the more reason to change the way things are in your town.

**Q:** *Are we setting up our community to get sued if we adopt a Community Bill of Rights that bans corporations from doing harmful things the state legalizes?*

**A:** We hear this question all the time. The more appropriate question is: What will it cost us, our communities, the natural environment, and future generations if we do not assert our rights and stop corporations from doing irreparable damage?

Challenging unjust law does not come without some risks. At first it seems scary, until we consider the alternative. The bigger loss if we don’t secure and assert Community Rights to govern corporate behavior locally is that our communities will become sacrifice zones and occupied resource colonies. Our elected officials surrender the rights of community members under corporate lawyers’ threats of filing a lawsuit—and residents are told there is nothing that can be done. Their rights, and the rights of their children’s children, are forfeited forever to save some money.

Provoking fear about lawsuits works to divert our attention from what is at risk if we fail to assert our rights. To be sued by a large corporation could result in liability for the municipality, or a reduced bond rating. What’s the price of liberty, of our health, of our community? How many thousands of dollars would we sell them for?

**Q:** *What should residents do to get local officials to adopt a Community Rights Ordinance?*

**A:** Whether our local officials are personally in support of the Community Bill of Rights is immaterial. They have an obligation to protect the health, safety, and welfare of the community. It is part of your work to educate them that the cost of not asserting our rights is permanent, and will harm the rights and liberties of our children and theirs. It is part of your work to educate and organize residents of your community and to help them and your local officials understand the risks of inaction. As a community, you and your neighbors are willing to stand behind the elected officials in support of a Community Bill of Rights, but unwilling to accept fearful inaction on their part. CELDF works with communities to explore the options and to help people understand how Community Bills of Rights are designed to overcome the errors of laws and court rulings that violate rights of people and nature while licensing an opulent corporate class to do the same.

**Q:** *How do we answer lawyers and critics who say Community Bills of Rights that govern corporate behavior are “illegal and unconstitutional?”*

**A:** In a democratic republic, it must be possible for the people to change law, especially unjust law. And it must be impossible for the state to abridge or violate rights. It was once legal for one class of people to own another. The constitutional rights of slave owners were once considered by the courts to be superior to the human and civil rights of slaves. Women were once considered to have no personal rights; they were chattel, owned by fathers or husbands. Today, instead of people being treated as property and slave owners being empowered by laws that trump human and civil rights, we have corporate property being treated by the courts as “persons” with constitutional protections used to subordinate the rights of human beings. Courts lip-sync the bigoted and classist opinions of long-gone judges and call it “precedent,” which they refuse to overturn. As a result, we are governed by the hidebound decisions and prejudices of dead men. That’s not democracy. That’s ancestor worship.

No matter what the courts say, it is time to mount a Community Rights movement to subordinate state-chartered corporations and the naked power of wealth to the governance of the people, and to overcome state laws that make it “illegal” for people to assert their rights and “legal” for corporations and rich politicians to violate them.

In his inaugural address, Abraham Lincoln stated: “[T]he candid citizen must confess that if the policy of the Government is to be irrevocably fixed by the decisions of the Supreme Court...the people will cease to be their own rulers.” We aren’t looking for enlightened judges to rule that our Community Bills of Rights are legal. We are looking to the people to rule and to elevate rights beyond the reach of legislatures, courts, states, nations and yes, local governments, too.

**Q:** *Why has the municipal attorney advised our local officials not to adopt a Community Rights law?*

**A:** Let’s remember who the municipal solicitor, county attorney, or city law director works for: the municipal corporation—not the people. It is not the job of the local government’s attorney to defend the rights of the members of the community. They just don’t do that. They are hired to advise the officers of the



municipality or county about how to avoid lawsuits—not to protect the human and civil rights of the municipal residents. They represent the interests of their client, which is the municipal corporation or county. When those interests conflict with the interests of the people living in the local jurisdiction, they side with the local government and advise your local officials against representing your interests.

Still, they do not have the authority to dictate local government policy. They have no authority to decide not to adopt your Community Bill of Rights. They do not represent the people; they represent state law at the local level. That's their job.

And so, if the residents have any hope of being represented by their community government, their elected local officials must take seriously their oath of office: "to protect the health, safety, and welfare" of the community. If they fail to do this, and instead accept the legal opinion of the municipal attorney as their only option, then the people will have been abandoned, and their rights orphaned—including their right to a representative form of government. The job of the municipal attorney and the obligations of the elected officials are quite different and sometimes at odds. The attorney is required to convey knowledge of state law regarding the interests of the municipality or county as a subdivision of the state. The elected officials are duty-bound to exhibit personal integrity and ethical judgment in service of the health, safety, and welfare of the community. Sometimes that means listening to the advice of the Solicitor or Law Director, but acting against that advice to secure the interests of the people.

**Q:** *Can the local officials be sued individually if they adopt an ordinance that their attorney says is "illegal?"*

**A:** Anyone can sue anyone for anything at any time, and attorneys for wealthy corporations frequently threaten law suits they know they can't win, because they think they can intimidate people who have fewer resources. Elected officials are generally protected by sovereign immunity when acting in their official legislative capacity. And so the real questions are these: if the local officials honor their oath of office to protect the health, safety, and welfare of the community by adopting a Community Bill of Rights, would they be putting their community at risk? Would they be violating the rights of community members? Can the state legitimately make it "illegal" for them to honor their oaths? And wouldn't a lawsuit accusing them of "illegally" honoring their oaths be frivolous?

**Q:** *What about personal property rights of residents looking to make a buck by contracting with a corporation to frack or site a toxic landfill? What about the vineyard that wants to spray toxic pesticides from an aircraft to protect their crops? Don't their rights count?*

**A:** The right to own and enjoy property and home is part of what a Community Bill of Rights is all about. Lease holders for frack wells, for instance, have exactly the same right to the peaceful enjoyment of their property as each of their neighbors. But no one in the community has a "right" to use their property in a way that threatens or harms the rights of their neighbors. It is misleading and dishonest to argue that there is an unalienable right to use property any way that the owner desires. And it is unjust and undemocratic for legislators to preempt and courts to overturn local laws that protect the community at-large from abusive uses of property. When that occurs, the legal privileges vested by governments in property are erroneously elevated above the unalienable rights that are the birthright of all the people in equal measure. No such aristocracy of wealth was envisioned by those who fought for freedom from the British empire.

**Q:** *Would passage of a Community Bill of Rights violate corporate property "rights?"*

**A:** This question presumes that corporations—which are property—have rights themselves. It presumes that privileges, bestowed in the name of the people upon corporations (which are also chartered in the name of the people), must be respected by community majorities above their own rights. The better question is, do the privileges vested in corporate property convey with them the right to do harm?

But if we're going to compare rights, isn't it common sense to say that the rights of people in a community are superior to the court-bestowed "rights" of a corporate minority? This is a question of fundamental rights—not state regulations and corporate law. As stated in the Declaration of Independence, governments are instituted to secure rights, with which all people are equally endowed at birth. We do not receive our rights from governments or constitutions. Their preservation is the justification for the establishment of government, and no govern-

ment—not federal, state or local—has authority to commandeer the power to violate unalienable rights of people nor to delegate that power to chartered corporations.

**Q:** *Won't stripping constitutional protections for corporations in the Community Bill of Rights hurt small business owners?*

**A:** With adoption of a Community Bill of Rights, business owners large and small maintain all their legal protections under the state corporate codes and their individual charters. The only time the privileges of any corporation are stripped is when managers of that corporate entity seek to use the corporation's constitutional protections to violate the provisions of the local rights and prohibitions that were enacted to protect the health, safety, and welfare of residents of the municipality. So-called corporate "rights" have been routinely used to override community decision-making when those decisions run contrary to corporate interests. Even though many corporate-run activities harm people and the environment, permits from the state protect them from liability for violating the rights of community members. Justice demands a remedy, but constitutional protections for corporations, which are used to violate rights, perpetuates injustice. The Community Bill of Rights eliminates constitutional privileges for harmful corporations—not all corporations.

**Q:** *Don't state laws preempt municipalities from regulating most corporate activities?*

**A:** Community Bills of Rights do not regulate any activity. To regulate means to allow, under specific conditions. Instead, Community Bills of Rights assert an already existing right to local self-government on issues with direct local impact, and they assert and protect the unalienable rights of the people and the natural environment, upon which all life depends. Community Bills of Rights use the general legislative powers of the municipality to protect the health, safety, and welfare of the community. The state has no authority to regulate unalienable rights, or to prohibit the people from using their local government to protect those rights.

The Community Bills of Rights do not recognize a corporation as having any rights that can be used to deprive the rights of community residents, and

*Continued on page 25*



# INSIDERS AND OUTSIDERS: OUR THINKING IS INSIDE OUT

**W**hy do so many people agree that we can't say "no!" to the frackers, water miners, sludgers, big box retailers, school privatizers, union-busters, franken-fooders, and all the rest of the corporate schemers ready to turn our towns into sacrifice zones and resource colonies? These naysayers include our mayors, township trustees, city councils, law directors, newspaper editors, and state legislators.

## WHAT THEY SAY

Initially, they try to reason with us when we raise our concerns and present facts on why the project or proposed law would not be good for the community. They tell us, "We can't have a patchwork quilt of regulations," and, "Businesses require certainty before they'll invest locally and create jobs."

If those don't shut us up, they pull out the big one: "It's THE LAW." And then they accuse us of being "negative" and holding back "progress" in the community.

Next, the corporate public relations team comes to town. Those friendly folks tell us they want to be "good neighbors." They sponsor community picnics with food and free giveaways, like water bottles. (Maybe because they know we'll need those later on?)

However, if we're still not won over and we continue pursuing our efforts to prohibit the project, see how fast their "good neighbor" lawyers are sent to town to let us know that our municipality will be sued into bankruptcy if we don't let them be "good neighbors."

## COMMUNITIES IN ACTION

You and your neighbors take action and form the "Water Protectors of My Town," or "Living Wages for Home Town Workers." You swap phone calls and e-mails and gather around someone's dining room table to make signs. You pack the next local public meeting where the folks who asked for your vote last November sit at a table facing you, flanked by the town secretary and attorney.

The Chairperson frequently warns that no outbursts will be tolerated. Sometimes a police officer stands quietly in the back of the room. Public comment is limited to a few minutes per speaker, if allowed at all. When your issue comes up on the agenda, members of the board or council recite a predictable litany of reasons why the health and safety of your family is important, but it's not a local issue. It's up to the state and that's where you should direct your comments.

The Chairperson says, "This isn't a local matter. It's state law. If you don't like the law, then talk to your state representative and get it changed."

## A NATION OF LAWS, NOT OF RIGHTS

We, the people, hear this all the time: "We are a nation of laws" and "We are law-abiding people." But do we ever stop to think who is writing those laws, which we so obediently follow? Do we have any input into the laws governing us?

When the Chairperson tries to end your participation by sending you to the state legislator, you might persist and ask, "What about our rights?" The response may be silence, but then the city attorney might say, "We've done all we can. We

are often forced in against the will of the people who live there. And yet corporations aren't usually portrayed as "outsiders."

These are the same corporations whose lobbyists write the laws that legalize these harms being imposed on our communities. They're "insiders" with our supposed state representatives.

It gets better.

When we stand up for our rights to protect ourselves and bring in a public interest law firm to assist us, we're accused of working with "outsiders."



have an obligation to protect the financial interests of the municipality. We can't afford a law suit."

There you have it. We're a nation of laws, and those laws protect corporations. They do not protect the rights and interests of the people. The law director represents the interests of the corporate municipality, NOT the people who live there.

Who would have thought? Once understood, however, residents begin to understand there is no one else who is going to stand up for their rights, property values, wages, air, and drinking water—the very future of the community—except them.

This is when many of them request CELDF assist them in doing so.

## INSIDERS AND OUTSIDERS: OUR THINKING IS INSIDE-OUT

We don't ever hear about community groups asking corporations to come in with low minimum wages, predatory lending practices, fracking projects, and pesticides (to name just a few). In fact, these harms

## ARE THEY FOR REAL?

Perhaps this inside-out thinking is because corporations are present in every aspect of our lives, while public interest law firms helping communities to protect and enforce their environmental, economic, and democratic rights are not.

## TOUGH MESSAGE

CELDf's message is not an easy message to hear. We want to believe that our form of government is democratic and that the people we elect are accountable to the people on the ground. Instead we learn that the people we elect are accountable to the state to carry out state law—regardless of the communities' health, safety, and welfare.

State law protects the permit and the private property of the corporation involved in the harmful activity. It says that the municipality has no authority and must succumb to whatever state law allows.

It says the "outsider" gets to come in, and legally stay. *Continued on page 25*



*FAQs – continued from page 23*

therefore they make no attempt to regulate corporate activities. Rather, they assert and protect the unalienable rights of members of the community.

**Q:** *Isn't the municipality just an administrative subdivision of the state? It has no right to local self-government, does it?*

**A:** That is partially true. The municipality has no rights, nor does the state. The people, however, do. They have the fundamental right to a republican form of government, according to the U.S. Constitution. And they always have had, and never surrendered, their right to self-government in the communities where they live, with the authority to protect their fundamental rights from encroachment or violation.

However, municipal residents have no representation in state or federal government for their communities. Representatives to the legislature do not represent the municipal populations of the state. Yet the state claims the authority to use municipalities to impose state law on the residents of municipalities, without their consent and without representation in the state government. This is a denial of fundamental rights.

The people legitimately may use the government closest to them to overcome this injustice. To do so, they enact community-level laws that protect and assert their unalienable rights.

**Q:** *Are state regulatory agencies the proper venue for protecting the local environment?*

**A:** Regulations set the legal level of harm; they do not stop the harm. "Permits" issued by state agencies are licenses to do harm, and they are legal shields that protect the permit holder from liability to the harmed community. The regulations that legalize the harms are too often proposed and written into bills by agents of the regulated industries. It is absurd to pretend that the regulatory scheme of law can be used by citizens to protect their rights and interests. To demand enforcement of the regulations is to admit that the people have no right to prohibit the harm to themselves, their families, and communities. It is to admit that the corporate interests lobbying the legislature are the actual governing power in our communities. It is to pretend that administrative agencies of the state have legitimate authority to empower state-chartered corporations to violate the rights of community members. They have no such authority.

*"All human constitutions are subject to corruption and must perish unless they are timely renewed and reduced to their first principles."*

*— Thomas Jefferson, copied into his Commonplace Book.*

*Insiders and Outsiders – continued from page 24*

Such straight talk from CELDF leads to accusations of "extremism." It is confusing sometimes to community members. How can it be extreme to want to make the decisions about what happens in the places where we live? To want to protect our community? To believe in the rights we were taught we had?

Yet when people in the community insist on those rights and stand up to protect their community, the "naysayers" emerge. Those local elected officials, municipal attorneys, newspaper editors, perhaps even your own friends and neighbors. Often, they're alarmed at such "radical" talk as communities having more rights than corporations. "You can't do that," or "You'll never be able to fight that and win."

**MOVING FORWARD**

Yet you keep moving forward. You begin

to realize that whatever specific issue or project you're addressing is a symptom of a much larger problem. It's much more than an injection well, aerially sprayed pesticides, minimum wages, or predatory lending. It's a lack of rights for the people themselves.

No wonder those benefiting from the current legal and governing structure come out so vocally, calling both the community group members and CELDF "extremists," "eco-terrorists," or "outsiders." When you propose a Community Rights law, you're challenging the very structure that supports and enables harms that profit the 1%.

Sometimes doubt emerges. Can we do this? Can we dare protect ourselves from harm? Can we really propose a law reflecting what we envision for our community?

We can, and we must. No one else can—or will—do it for us.

*Government Policies – continued from page 17*

We have the National Labor Relations Act—doesn't that protect the 99%? Nope. The purpose of the law is to prevent the interruption of the flow of commerce resulting from strikes and other forms of workplace unrest. It supports the exploitation of human labor for the greatest profit, while restricting workers from making decisions about policies that directly affect them.

A wealthy few make the decisions about workplace safety, family leave benefits, wages, and affordable health-care benefits, legislated outside the purview of workers. It is a twisted irony that these folks are making the decisions about what constitutes a livable wage for those who actually labor for a living.

**FROM SUBJUGATION AND EXTINCTION TO FREEDOM AND THRIVING**

We could simply vote to change the laws that subordinate people and nature to a corporation's "right" to exploit them for profit. But that would require living in a real democracy—a government in which the supreme power is vested in the people and exercised by them directly. Instead, we have what many refer to as a "corporate state"—a marriage of government lackeys and a corporate oligarchy.

Our present legal and governing system guarantees the greatest profits to the most privileged. It provides artificial persons with rights and privileges that give them special status, elevating corporations over real people and ecosystems. And it cannot coexist with a legal and governing structure based on human and ecosystem rights. Such a government of rights originates in the people and operates by consent.

Corporations are destroying both rural and urban communities worldwide through exploitation, extraction, and exportation of local resources. Their swiftness will ensure that everything of value will soon be sucked up and sold if we do not challenge the policies that fuel our extinction.

People create governments, and when those governments no longer serve them, people have a right and duty to change them. Our homes, families, communities, and our way of life can be saved through an assertion of that right. We, as ordinary workers, students, children, and nature, need a government that serves us, moving from subjugation and extinction to freedom and thriving. Will you help create that government in your community?

## WHAT'S NEXT? COMMUNITY RIGHTS NETWORKS ACROSS THE COUNTRY

The Community Rights movement is picking up steam as more communities in a growing number of activated states take up the rights-based strategy. There is a need for those communities to work together. More people are using their municipal and county governments to answer the question “who decides?” about what happens in their communities. Their answer is an unequivocal, “The people directly affected!” Thus, it is time for them to organize toward state constitutional change guaranteeing that the people directly affected by governing decisions hold onto the power to make those decisions for themselves, indefinitely.

And that is exactly what’s going on in New Hampshire, Pennsylvania, Ohio, and Oregon. By building capacity through Community Rights campaigns, those states are creating the social and political foundation for dramatic change away from governance by the richest and greediest among us and toward real democracy at every level of government. They’ve inaugurated state-level Community Rights Networks (CRNs). They’ve begun drafting proposals for state constitutional change. Once enacted, that change will free communities and people from legislative preemption and judicial nullification of local law-making that protects local rights and natural environments from domestic corporate colonialism—the transformation of our communities into resource colonies and sacrifice zones.

Here’s an example of the kind of constitutional amendment being proposed by the state CRNs:

### RIGHT OF LOCAL COMMUNITY SELF-GOVERNMENT

(1) All political power is inherent in the people, all government of right originates from the people, and the people have the right to alter, re-

form, or abolish their governmental system whenever they deem it necessary to protect their liberty and well-being; therefore, the people of Ohio possess an inherent and unalienable right of local community self-government in each county, city, township, and village.

(2) That right shall include the power of the people, and the power of their governments, to enact and enforce local laws that protect health, safety, and welfare by recognizing or establishing rights of natural persons, their local communities, and nature; and by securing those rights using prohibitions and other means deemed necessary by the community, including measures to establish, define, alter, or eliminate competing rights, powers, privileges, immunities, or duties of corporations and other business entities operating, or seeking to operate, in the community.

(3) Local laws adopted pursuant to subsection (2) of this article shall not be subject to preemption or nullification by international law, federal law, or state law, provided that:

(a) Such local laws do not restrict fundamental rights of natural persons, their local communities, or nature that is secured by local, state, or federal constitutions, or by international law; and

(b) Such local laws do not weaken protections for natural persons, their local communities, or nature that is provided by state, federal, or international law.

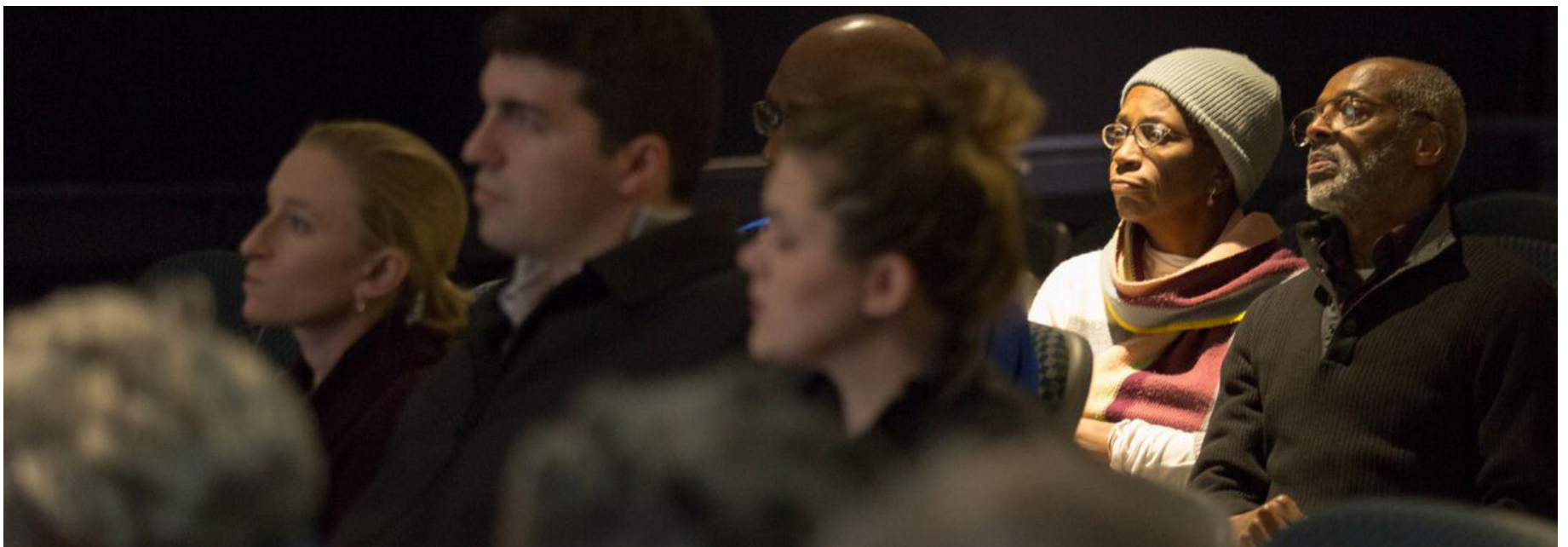
(4) All provisions of this section are self-executing and severable.

What has to happen for every American community to be democratically liberated from the dictatorship of capital? The answer is straight-forward, but it’s going to take some time and immense dedication. Communities in every state will have to become energized by vocal and unyielding demands from local people that they are the rightful source of all governing authority, as stated in most state constitutions.

To prove that this is not mere rhetoric, you and your neighbors will have to insist—and not back down for any reason—that the community will secure its collective right of local self-government and guarantee the rights of all members of the community. That means taking self-governance seriously. It means making laws locally that challenge illegitimate state “ceiling preemptions” that put a cap on how much you can protect your health, safety, civil rights, and natural environment.

And when enough communities in your state have taken up the cause of real democracy grounded in equal rights for all and special privileges and exemptions for none, then it will be time to establish a state level CRN and affiliate with the National Community Rights Network (NCRN). The NCRN’s mission is to change the federal constitution to guarantee the irrevocable right of local community self-government, equal rights for all people, and the establishment of constitutional protections for the natural environment.

If you’d like to see these goals realized, the place to begin is in your own community. Contact CELDF about organizing for Community Rights where you live. We’re waiting to hear from you.





# WHAT WE DO NEXT IS CRITICAL

Over the last years, we have witnessed an increase in involvement to resist environmental harms and social injustices. From Standing Rock to Million Women March, from Ferguson, MO, to the many airport demonstrations across the country, people are protesting in an effort to take a stand about what they want to create and protect.

It's the same activism that we've practiced for several generations. And it has not achieved what we had hoped: racism is flagrant, economic exploitation is rampant, and environmental degradation is accelerating faster than Earth can recover.

## RECENT ACTIVISM

In 2016, people from all over the country traveled many miles to Standing Rock, ND. They gave their time and energy to make the trek, showing solidarity with the Native Americans who live there, and opposing a pipeline.

People come together, unified, to protect health, safety, and welfare. The pipeline was built anyway.

On January 21, 2017, another collective action took place, albeit for one day only: the Million Women's March in Washington, D.C. People traveled from across the U.S., giving both their time and energy to make the trek, coming together in solidarity to oppose the inauguration of President-elect Donald Trump and support women's issues such as equal pay for equal work.

Again, people came together, in a collective, to speak their truth and protest an undemocratic process that gave us President Trump, gender inequality, racism, etc.

The undemocratic process remains in place anyway.

Worse, we seem to have collective amnesia. We seem to have forgotten (or never knew) that in 1989, 600,000 women marched on Washington for these same issues. They marched again in 1992. Then, in 2005, they marched again. More than a million people participated.

After almost 30 years of repeating this activism, women still don't have equal pay for equal work.

## STUCK IN A RUT

Frustration levels are high. Our own gov-

ernment, allied with corporations, is perpetrating social and environmental injustices across the U.S. People are suffering. Ecosystems are dying.



And yet we are stuck. Many of us are stuck believing we live in a democracy. Many of us, when we're faced with direct harms such as fracking, believe that if we contact our representatives or let the EPA know what's going on, someone will act on our behalf. We believe our elected officials will represent us and that the regulatory agencies tasked with protecting the environment will do so.

But they're not. And in fact, they were never designed to. What do we need to do differently? That's what *Common Sense* points to.

## PURPOSEFUL ACTION

As we gather at our protests and hold meetings to plan what's next, we must be clear, mindful, and intentional about purposeful action. We must ask ourselves, what are we going to do differently to change what is happening? If we come together to show solidarity, and then go home and do nothing, then nothing will change. Yes, one pipeline might be stopped. Yes, we may show, as women, that we can make our voices heard. But potentially stopping one pipeline while hundreds of others are constructed means our communities are still being sacrificed. And women making their voices heard is not women making decisions requiring equal pay for equal work, and protection of minorities, immigrants, LGBT+, and others from harm.

If we want to effect change, we must face these truths: we live under a corporate state, not in a democracy; our representatives represent the 1%, not the 99%; regulatory agencies—whether environmental, labor or other—are about regulating the

amount of harm, not stopping the harm.

Facing these truths means we can stop participating in processes that legitimize the corporate state. We can stop looking to others to save us.

Then, and only then, we can begin participating in a different kind of activism to challenge and change the corporate state.

## COMMUNITY RIGHTS ACTIVISM

Community Rights activism is not often televised. On screen and off, it's often ridiculed and marginalized. However, it is steadfast and relentless: the refusal to bow down to the cor-

porate state and the insistence on protecting and enforcing environmental, economic, and democratic rights.

This is what the American colonists had to do to break away from the rule of the 1% across the ocean. It's what Abolitionists, Suffragists, and Civil Rights advocates all did: change the system by challenging that system head on and, without yielding, insisting on change—community by community. Neighbor by neighbor. One person at a time.

Today, we have been stripped by a corporate state government of our authority to govern our communities and protect ourselves and the environment. Will we tacitly accept this by continuing to gather, holding up signs, and begging those to whom we've given away our power? Or will we be the change ourselves?

## THE TIME IS NOW

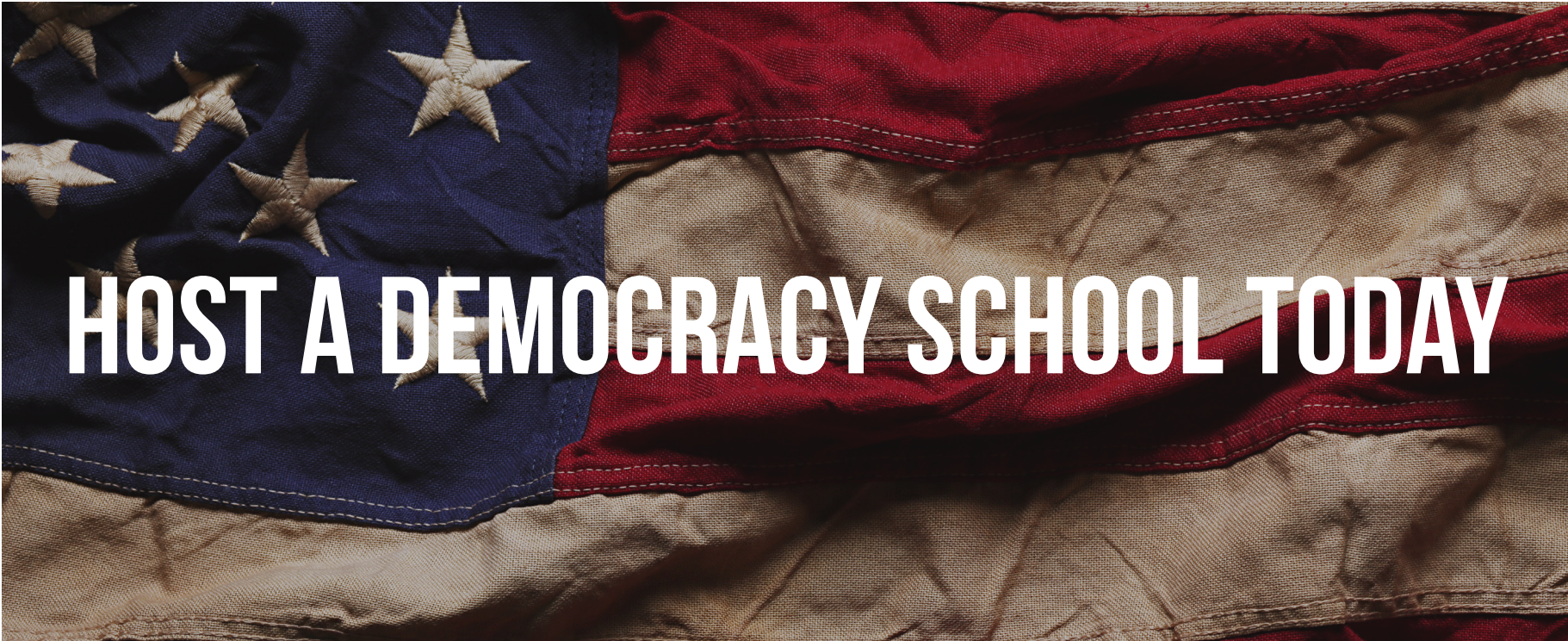
We don't have the luxury of time to wait. Too much is at stake.

Whether it's sustainable energy plans, worker rights, police accountability, fair elections, or all the above, now is the time to pull ourselves out from under the corporate state. It is our responsibility to act. It is our responsibility to make laws that govern corporations, rather than corporations writing laws that govern us. As each community does so, it is an example for the next.

And as we act, we will drive change upward to the state and federal levels.

Community Rights is a way out from under the corporate state. It is a way to express not just *what we stand against*, but a tool to *create what we stand for*: a livable and just future for our children and grandchildren.





# HOST A DEMOCRACY SCHOOL TODAY

**A**re your elected officials constantly telling you their hands are tied when making important decisions about your community's health and safety? Have you wondered how corporations continually overrule the will of the people and communities? Democracy School walks you through why and how your community is unable to make governing decisions under our existing structure of law. It also explores what communities across the U.S. are doing about it: They are grassroots organizing and pioneering a new legal structure that asserts local control to protect the rights of residents, communities, and nature.

ties across the country are using their municipal governments to drive economic and environmental sustainability into law; why large corporations seemingly possess more rights than the communities in which they do business; why communities lack the legal authority to say no to projects they don't want; what prior people's movements in the U.S. have done to challenge the system of law; and discuss the next steps for your community to establish laws expanding protections for workers, neighborhoods, and the environment.

At Democracy School, you will learn how communi-

For more information, or to host a school, contact Stacey Schmader at 717-498-0054 or [stacey@celdf.org](mailto:stacey@celdf.org).

The materials within this publication are not intended as legal advice and should not be deemed to be the offering of legal services, or of advocacy for particular legislative actions.



## CELDF IS SPEARHEADING A MOVEMENT TO ESTABLISH RIGHTS FOR PEOPLE AND NATURE OVER THE SYSTEMS THAT CONTROL THEM.

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