



# Susquehanna

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## Packer Township in Carbon County, Pennsylvania Stands Up for Community Rights

It was in 2007 that Tamaqua Borough Council Member Cathy Miorelli informed Tom Gerhart, Chair of the Packer Township Board of Supervisors, that 33 truckloads of New Jersey sewage sludge were dumped on a field about 75 yards from the Still Creek reservoir, which lies in Packer Township, Carbon County, Pennsylvania. The reservoir is the source of drinking water for Tamaqua and other communities. She took her story to the local papers, caught the state Department of Environmental Protection in an attempted cover-up, and then she explained to the Packer Township Supervisors how she had worked to pass two community rights ordinances in Tamaqua. She suggested Packer do likewise, and put the local officials in touch with the Legal Defense Fund.

*(Packer Township - pg. 4)*

## Legal Defense Fund Travels to Ireland

In May, the Legal Defense Fund's work reached the Emerald Isle – Ireland and Northern Ireland.

Earlier in the year, Dessie Donnelly, the campaigns director for a Belfast-based group known as the Participation and Practice of Rights Project (PPR), approached Thomas Linzey, CELDF's Executive Director, about speaking at a Dublin conference sponsored by the group. After each learned more about the work of their respective organizations, the two groups decided to expand the trip to include a mini-Democracy School to be held a couple of days after the conference.

*(Ireland - pg. 5)*

Building sustainable communities by assisting people to assert their right to local self-government and the rights of nature.

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## Proposed Amendment on November Ballot in Cheltenham, Pennsylvania

Cheltenham citizens have developed a proposal to amend the township's Home Rule Charter that will reduce the number of petition signatures required to place an ordinance on the ballot through initiative. The proposal will also reduce the number of petition signatures required to review and change existing



ordinances through the referendum process. Following on the heels of a strong showing in the November 2009 election, *We the People of Cheltenham* (WTPOC) began to examine strategies to make participation in community decision-making accessible to ordinary citizens.

The result is an initiative that asserts the rights of the community to propose initiatives with fewer signatures on the petitions. At present, the number of signatures required to have an ordinance question placed on the ballot is equal to 30% of the number of voters who participated in the last gubernatorial election (about 9,000 signatures).

*We the People of Cheltenham* believes that this number is too high and makes it extremely difficult for citizens to have a voice in the ordinance adoption and review process. This amendment would reduce the number of signatures required to propose an initiative measure or review an existing ordinance through referendum to 7% of the number of voter participants in the preceding gubernatorial election (about 2100). Ordinances would still be placed on the ballot either by action of the governing body or by petition of the voters.

The group gathered enough signatures to have the amendment on the ballot and on Tuesday, November 2nd, the citizens of Cheltenham will vote on whether the proposed Charter amendment will appear under Article XIV, Section C 1409. The county board of elections approved the following language for the ballot question:

“Should the Cheltenham Township charter be amended to reduce the required number of signatures on petitions seeking to propose a new ordinance, or to review and change an existing ordinance, from thirty percent (30%) of registered electors in the Township to seven percent (7%) of the number of registered electors who voted in the last preceding gubernatorial election?”

They are encouraging residents to learn about the proposed amendment by going to their website at [www.wethepeopleofcheltenham.com](http://www.wethepeopleofcheltenham.com).

## Pittsburgh Council to Consider Banning Corporations from Drilling for Natural Gas in the City

On September 7, 2010, Councilman Doug Shields introduced a Legal Defense Fund drafted ordinance that bans gas drilling within the city. At the heart of “Pittsburgh’s Community Protection from Natural Gas Extraction Ordinance” is this statement of law: *It shall be unlawful for any corporation to engage in the extraction of natural gas within the City of Pittsburgh.* Also included in the ordinance is a local bill of rights that asserts legal protections for the right to water, the rights of natural communities; the right to local self-government, and the right of the people to enforce and protect these rights through their municipal government.

Doug Shields says, “Many people think that this is only about gas drilling. It’s not – it’s about our authority as a municipal community to say “no” to corporations that will cause damage to our community. It’s about our right to community, local self-government.” He is urging all municipalities in the Commonwealth to enact similar laws “to send a message to Harrisburg,” and he insists that a temporary moratorium “will not be an acceptable consolation prize for a failure of the State to recognize this local law and these fundamental rights.”

The ordinance is in response to energy corporations setting up shop in communities throughout Pennsylvania, with plans to drill for natural gas in the Marcellus Shale formation. The frenzy of industrial gas extraction that once appeared to be confined to rural communities and state forest lands has taken residents of the city by surprise. Corporate “land men” have busily signed-up Pittsburgh property owners to contracts allowing wells to be erected on private property throughout the city. The prospect of paved-over green spaces, nights lit like airport runways, round-the-clock sounds of loud machinery, broken and pitted roads from the high volume truck traffic, and the threat of toxic trespass by a cocktail of patented chemicals and escaping methane into the ground water, has alarmed neighbors of lease-holders. They have begun to organize in opposition to the proposed drilling.

The energy corporations are using a gas extraction technique known as “fracking.” It has been cited as a threat to surface and ground water throughout Pennsylvania, and has been blamed for fatal explosions, the contamination of drinking water, local streams, the air and soil. Collateral damage includes lost property value, ingestion of toxins by livestock, drying up of mortgage loans for prospective home buyers, and threatened loss of organic certification for farmers in the affected communities.

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*(Packer Township - from pg. 1)*

On June 11, 2008, the Packer Board of Supervisors adopted an ordinance banning corporations from land-applying sewage sludge. Nearby East Brunswick Township in Schuylkill County was already in court, defending its nearly identical sludge ordinance against the state's attorney general (AG), Thomas Corbett, who was suing the Township on behalf of sludge haulers, under authority delegated to him in the 2005 "ACRE" law. Through that law, the legislature has prohibited local governments from regulating "normal agricultural operations" and empowers the attorney general to sue those municipalities. By forcing the AG to dispute the rights framing of the ordinance, the Legal Defense Fund drew this startling statement from the AG's office in Commonwealth Court: "There is no inalienable right to local self-government." It was the gaff heard across the Commonwealth.

Meanwhile in Packer Township, it took twelve days for the AG to notify the Supervisors that his office would be "reviewing" their ordinance as a possible law suit target. Then on August 21st the Supervisors sent a note to the AG, informing him that the Township was preparing to amend its ordinance to declare in law that the municipality would no longer recognize the authority of the attorney general's office to enforce any law that denied the right to local self-government for the protection of the health, safety and welfare of the community. And on October 14, 2008 they did just that.

In the meantime, the Board of Supervisors got a call from the Attorney General's team. They wanted to meet privately with the Supervisors to negotiate changes in the ordinance. Gerhart commented publicly that "We will not meet behind closed doors. We don't want to do anything

behind the backs of our residents. We are standing our ground and we will take our chances. You can either complain or you step forward and take charge and do something about it."

CELDF had offered to represent the Township at no cost if the ordinance were challenged. In August of 2009, the attorney general filed suit in Commonwealth Court, claiming that Packer's ordinance violates Pennsylvania's "ACRE" law. The lawsuit against Packer is one of about a dozen lawsuits filed by the Attorney General's office against ordinances adopted by rural Pennsylvania communities. As of this writing, the suit is still active. Here's the latest news on that front...

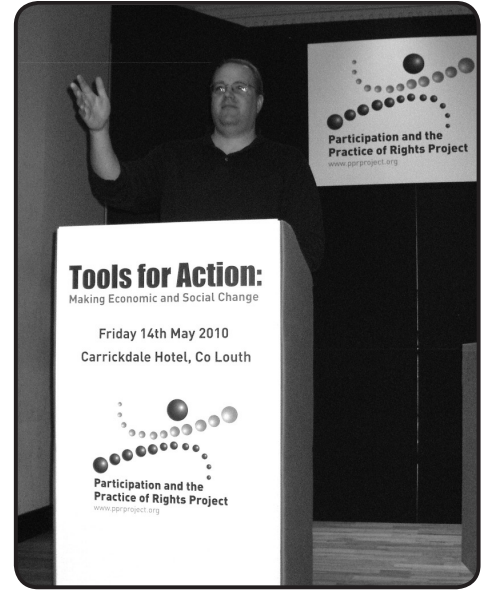
On March 17th, 2010 the Commonwealth Court of Pennsylvania denied the attorney general's motion for declarative relief in which he requested that the Court overturn the ordinance. Although the three judge panel let the ordinance proceed to trial they did overturn the amendment denying the authority of the AG. The case now moves toward trial, in which the Township and the attorney general will contest whether the land application of sludge is a "normal" practice, and whether it constitutes a direct threat to human health and safety.

Then, on May 4th, 2010, the Board of Supervisors for Packer Township voted unanimously to adopt an ordinance that enables the municipality to enact and enforce environmental protection standards exceeding those set by the state legislature. The new Ordinance asserts that the "passage of laws overriding local zoning and land use planning through the Municipalities Planning Code, laws preempting local control over water withdrawals, laws prohibiting communities from regulating or controlling genetically modified

*(Packer Township - pg. 7)*

*(Ireland - from pg. 1)*

The concept behind PPR was launched in June of 2001 by Inez McCormack, who was then serving as the president of the Irish Congress of Trade Unions. She convened a planning group, composed of the Irish Council for Civil Liberties, Community Foundation Northern Ireland, and other organizations in both Ireland and Northern Ireland, to initiate a debate around the need for greater governmental participation and assertion of people's rights. Bringing together academics, lawyers and international experts with "ordinary" people from local communities, PPR began building an organizing model focused on defining and enforcing international human rights at the community level. Known as the "human rights based approach," PPR's work seeks to "turn needs into rights," promote governmental accountability, empower people by helping them to claim and enforce rights, while including particularly vulnerable groups in their organizing.



*Tom Linzey in Dublin*

The Legal Defense Fund's work of creating local rights frameworks which can then be enforced by local communities and municipalities holds particular appeal for the group as PPR seeks to expand their rights-based work within the country. It offers the promise of strengthening the work in Ireland through leveraging municipal governments as enforcers of rights, while expanding enforceable rights to include local ones, as well as those recognized by international rights agreements.

The Dundalk (just north of Dublin) conference was attended by over two hundred people, representing groups as diverse as Sinn Fein (once the political arm of the IRA) to the Human Rights Consortium (lobbying for a Northern Ireland Bill of Rights). The keynote speaker at the conference was Mary Robinson, the former President of Ireland. Other speakers included an Indian human rights activist and an English lawyer specializing in governmental procurement as a way to advance the human rights agenda. Thomas Linzey presented for the Legal Defense Fund, giving a short history of the rights-based organizing approach in the United States and then fielding questions from groups interested in replicating the work.

Following the Dundalk conference, Thomas Linzey and the Legal Defense Fund's Associate Director, Mari Margil, delivered a five hour Democracy School in Belfast to PPR staff, members of Ireland's Human Rights Consortium, and members of Belfast's labor unions. For twelve years, groups have lobbied and organized for a Northern Ireland Bill of Rights. The drafting and adoption of a Bill of Rights was included in the Good Friday Agreement which was signed in 1998 (through which Northern Ireland was granted greater autonomy), but little progress has been made on agreeing to the content of, or timeline for, that Bill of Rights.

Given that impasse, the Legal Defense Fund suggested that the groups working on the country-wide Northern Ireland Bill of Rights begin to move community bills of rights at the local level. As they codify bills of rights within individual municipalities, they are increasing the pressure for a national Bill of Rights.

*(Ireland - pg. 7)*

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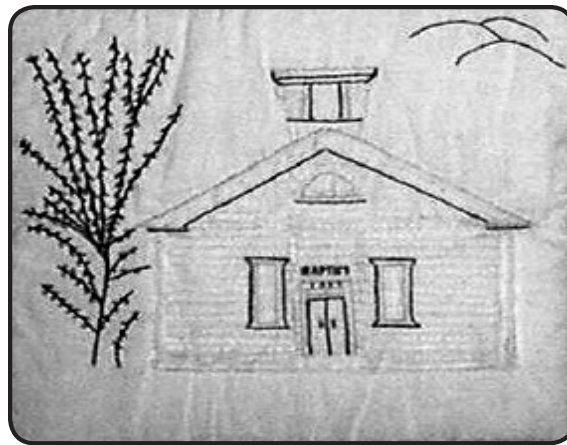
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## First Pennsylvania Community Rights Network Chapter formed in Northwestern Pennsylvania

In February 2010, the Legal Defense Fund began laying the Groundwork for a People's Constitutional Convention by launching the Pennsylvania Community Rights Network. The network was formed to organize a people's convention of delegates, representing municipal communities, who will propose constitutional changes to secure the inalienable right to local, community self-government free of state and corporate preemption.



In July, the first chapter was formed – The Northwestern Pennsylvania Community Rights Network (NWPACRN). They are a network of citizens committed to protecting their communities in northwestern Pennsylvania. The Network acknowledges the inherent rights of human and natural communities and recognizes

the authority of the people to assert local, community self-government to protect their health, safety, welfare, and environment from corporate assaults like that posed by the development of Marcellus Shale gas. The oil and gas industry has targeted Pennsylvania for Marcellus Shale gas extraction. This destructive development is destroying the drinking water of the commonwealth, polluting aquatic habitats and aquifers, and permanently altering the landscape of Pennsylvania.

The Northwestern Pennsylvania Community Rights Network understands that it is time to protect our communities through an aggressive rights-based initiative, which establishes the right to local decision-making on issues with direct local impact. The Network questions the use of “regulation” (adjusting and documenting the rate of destruction) and “mitigation” (putting Band-Aids on amputations), which negotiate away the absolute rights of people, communities and nature.

For more information on the Northwestern Chapter check out their webpage at [nwpacrn.wordpress.com](http://nwpacrn.wordpress.com).

*Packer Township - from pg. 4)*

seeds and crops, laws eliminating local control over agricultural operations, and laws eliminating local control over the land application of sewage sludge, have violated the right of Packer Township residents to govern their own community. The people of Packer Township declare that the building of a sustainable Packer Township requires not only the outright nullification of the doctrine of preemption when it prohibits the people of Packer Township from adopting higher standards than those set forth in state law, but also requires the people of Packer Township to refuse to recognize the authority of the Attorney General or the courts, when those entities attempt to enforce the legislature's illegitimate acts."

The struggle for community rights continues in Packer Township and across the land.

*Ireland - from pg. 5)*

The Legal Defense Fund's work – drafting local bills of rights within municipal ordinances across the United States – may offer a strategic model for that work.

Following an organizational strategy meeting in August, PPR will be discussing next steps with the Legal Defense Fund for both enhancing their work with local communities as well as using some new strategic organizing models to accelerate the adoption of a Northern Ireland Bill of Rights.

Our work in Ireland follows on the heels of applying the Legal Defense Fund's rights-based organizing approach in Ecuador and Canada. Additional inquiries to the Legal Defense Fund have been made from Australia, England, Indonesia, and Mexico.

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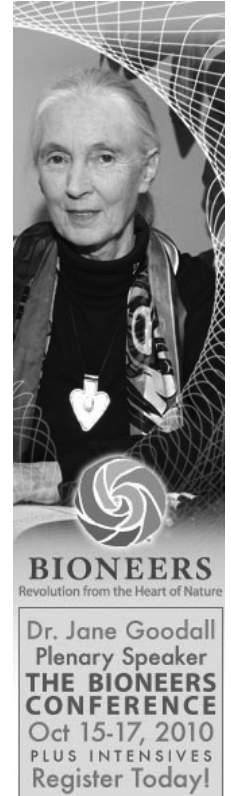
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## CELDF at Bioneers – October 2010

CELDF is excited to be participating in the **2010 Bioneers Conference** in San Rafael, California. The conference is being held from October 15-17.

The Legal Defense Fund's Thomas Linzey and Mari Margil will present on the panel *Giving Rights to Nature: Becoming a Global Movement*. They will be joined by Bill and Lynne Twist, co-founders of the Pachamama Alliance. The Legal Defense Fund is working closely with the Pachamama Alliance in Ecuador, where we assisted the country's constitutional assembly to draft Rights of Nature provisions. Ecuador is now the first country in the world to recognize legally enforceable rights of ecosystems in its constitution.

To learn more about the conference or to register, go to: [www.bioneers.org](http://www.bioneers.org).



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