

THE UNPREDICTABILITY OF CHANGE

A special edition of the Susquehanna • Community Environmental Legal Defense Fund

By Ben G. Price

As we organize to make change while environmental and racial injustice run rampant, and as drought and a poisonous status quo threaten the conditions for life, identifying where to invest time and energy can be as complex as getting to know another human being. Nothing about forming relationships follows a straight line.

Back in February, I had a virtual meeting with Denver, Colorado City Councilor Candi CdeBaca, to explore strategies in fighting environmental racism in the Mile High City's District 9. Since then, I've communicated with her chief of staff. I had previously worked with Denver Homeless Out Loud on the "Right to Survive" ballot measure. It seemed unlikely I might get another crack at a civil rights measure in the city. Then, an article about "Why Participatory Planning Fails (and How to Fix It)" appeared in *Next Cities*, a national nonprofit news organization dedicated to "economic, environmental, and social justice in cities."

In the article, it was announced that "She [Councilor CdeBaca] wants to see heavily impacted communities use a Community Bill of Rights, a strategy promoted by the Community Environmental Legal Defense Fund, to increase local control in decision-making. And a more holistic approach to engagement in the planning process — rather than one that's project based."

This would put the community in the driver's seat and represent a stark deviation from current power relations.

The moral of this organizing microcosm is that change happens in unpredictable non-linear ways — much like the crises we face. Sometimes we can perceive the impact of our actions, other times not.

Today, national awareness of the ways the Dillon's Rule doctrine robs communities of democratic self-determination is exploding, because we've been exposing it as a tool to pacify local democracy for over 15 years. Our collective front-line organizing is helping expose the emptiness of glossy false solutions to the ecological and human rights crises. Rights for ecosystems is now a broadly popular response to rampant ecological devastation, though it is a nascent idea, still vulnerable to cooptation.

My point: the impact of our actions within these dynamic times will be unpredictable, so don't wait for immediate gratification. It matters what seeds we sow and what values animate us to act. Without integrity, the outcomes can be dismal.

This means replacing a mechanistic reductionist mindset with thoughtful non-linear strategizing as we organize to overturn a system that only benefits an elite minority, and the administrative gatekeepers who serve them. So let's keep going. We're planting seeds, and that's a loving gift to the future.

Here is a mini-newsletter, to provide you with some summer reading and updates.

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ASHEVILLE CLIMATE BILL OF RIGHTS BEGINS SIGNATURE GATHERING

With leadership from Kat Houghton, the group Community Roots has now begun collecting signatures to place the Asheville Climate Bill of Rights ordinance on the 2022 ballot. The group and a coalition of partners came up 27 valid signatures short in 2020. They need just under 11,000 valid signatures.

CELDf’s Ben Price has collaborated with the group on the ordinance language. The ordinance includes “things like the right of residents to live in a place without pollution to the air, water, or soil; the right to have sustainable energy production in the city; and the right of residents to oppose any mandated agreement with a utility company that uses fossil fuels – namely, Duke Energy, which has a near monopoly of the energy sector in North Carolina,” the *Asheville Citizen Times* summarizes. Duke Energy has tremendous political power in North Carolina.

The ordinance also includes language asserting that “Ecosystems and natural communities, including but not limited to forests, rivers, wetlands and subsurface water systems, within the City of Asheville possess the right to naturally exist, flourish, regenerate, evolve, and be restored, which includes the right to be free from all activities that threaten these rights, including but not limited to toxic trespass. Specific violations of these rights include clearing land of living flora and fauna for the siting of dwellings to be occupied either permanently or temporarily by anyone paying the owner for such occupancy.”

This ordinance also explicitly challenges North Carolina’s infamous state preemption scheme and privileges afforded private corporations.

For a copy of the ordinance and to learn how you can support the effort, contact BenPrice@celdf.org.

THE BUILDING OF A MOVEMENT IN PENNSYLVANIA

Local Organizing, State Constitutional Change, and Challenging the Courts

Community Rights organizing began in Pennsylvania over two decades ago. Since then, dozens of local laws have been adopted that ban everything from factory farms, to the spreading of sewage sludge, to oil and gas fracking and pipelines. Modern Rights of Nature laws were born in coal country in Eastern PA — Tamaqua Borough, population less than 7,000 — in 2006. The community rights and Rights of Nature movement has spread exponentially since that time, to hundreds of communities across the United States, and to dozens of countries around the world.

In Pennsylvania, the work continues to deepen and to spread at the local level. Clara Township (pop. about 200) is facing a frack waste injection well, and has initiated a democratically-elected Government Study Commission to consider writing a new local constitution for the municipality. Discussions are underway with larger cities about how to implement what are currently voluntary climate action plans and to force cities to abandon investments in fossil-fuel corporations.

In Grant Township, a trial is currently scheduled for later this year. CELDF has worked closely with the people of the Township to successfully prohibit a frack-waste injection well since 2014. The Township has been sued three times since then: twice in federal court by Pennsylvania General Energy Company (the corporation that wants to dump waste) and once in Commonwealth state court by the PA Department of Environmental Protection (DEP). Yes, the DEP is suing the Township for trying to protect its environment. The trial will be in Commonwealth Court and focus on whether the DEP has failed to protect the environment in PA, as well as whether the people of Grant Township have the authority to protect their environment.

$$1+x^{(-1)} = x p \times \Delta S = (S+c^3) \leftarrow \sin(x=K) 2\pi x E(x) = \sum \frac{\cos n}{\sin A} Y - 0 \sqrt{\frac{3}{2}} x = \alpha c$$

Additionally, and working with the PA Community Rights Network, it's expected that a state constitutional amendment regarding Community Rights will be introduced in this session of the legislature. The amendment would guarantee the right of Local Community Self-Government to all Pennsylvania communities and return power to those who are most affected by important decisions: the people of the community.

This is just a snapshot of the work happening in PA at the moment, but we think it gives a good overview of how change can happen, and how movements can build over time.

We continue to:

- Work with communities at the local level who are most affected by harmful activities;
- challenge the corporate state, whether it's the corporations that perpetrate the harm, the state that legalizes the harm, and/or the courts that justify the harm;
- build new legislative frameworks at the local and state level that ban harmful activities and set forth new thinking and visions for a sustainable world that protects nature, people, and communities.

The movement continues.

BOOK LIST

We suggest you add *The World We Need: Highlights, Stories and Lessons From America's Unsung Environmental Movement* to your list of must reads. It features a chapter by CELDF's Simon Davis-Cohen on "CELDf's Effort to Decolonize the Law," and an array of first-person stories of environmental justice organizing from across the continent.

Here's an excerpt that Community Rights activists will find interesting:

"A lot of people think, 'The EPA is so terrible. They're so bad for business. They don't let business do anything.' But in my experience, the EPA has always been hand in hand with industry. They don't stop them from doing anything. We won the incinerator fight not because the regulating agencies said 'No.' It was because the company gave up."
-Maricela Mares-Alatorre

UPDATES ON DEFUNDING VIOLENCE

The Defunding Violence Ordinance has been circulating in activist communities across the country. It continues to be a living document that both informs and is informed by grassroots efforts to defund and depower the institution of policing. Communities are using the Ordinance library as an organizing tool and a drafting template to run campaigns and bolster narratives about the insidiously harmful role of police. These campaigns range from eliminating school police officer contracts, to prohibiting Deadly Exchange programs, to gradually downsizing police departments by not hiring replacements when officers quit, retire, or are fired.

The optional, customizable provisions in the Ordinance offer a range of proposed changes that vary in the magnitude of the how much impact they would have towards reducing the violence inherent in policing. The unifying characteristic of each provision is that they are all abolitionist reforms, not performative solutions that ultimately legitimize and/or add power to the inherently oppressive institution of policing.

Get in touch if you are working on or thinking of working on a campaign in your area to defund, depower or abolish your local police department!



CIVIL RIGHTS LEADERS IN READING, PA LAUNCH ENVIRONMENTAL JUSTICE, ECOSYSTEM RIGHTS BALLOT INITIATIVE

Petitioners in Reading, Pennsylvania have kicked off a campaign to amend the Reading City Charter to outlaw “toxic trespass,” the poisoning of people and the environment within the city. The ballot initiative is in response to unaddressed toxic waste and environmental racism in the post-industrial city.

The proposed amendment launches direct public oversight through an Environmental Justice Advocate who would have authority to seat a local Environmental Justice Court made up of local residents.

It includes a “community bill of rights,” encompassing a Right to Establish a Freedom from Poisoning Policy, a Prohibition Against Toxic Trespass and a Right of Ecosystems to be Free from Toxic Trespass.

Reverend Evelyn Morrison is a lead petitioner, with the support of local multicultural/bilingual organizations and members of We the People Citizens Reading, Pennsylvania (Berks County), Abba’s Advocates and The Diana Rivera O’Bryant Civil Rights Institute. The Institute was established by the nonprofit Reading Community Housing Development Corp. The Institute’s Rev. Morrison and Sheila Perez say the ballot initiative

project is inspired by their long-time friend Diana Rivera O’Bryant, former Executive Director of the City of Reading Human Relations Commission and renowned fair housing advocate. O’Bryant, like so many of their neighbors, family and life-long friends tragically died of environmentally induced cancer.

“We can’t do anything for the people who have died, but we can try to avoid another generation of sickness,” says civil rights leader Rev. Evelyn Morrison. “This is opening up a discussion about our post-industrial environment and environmental racism in Reading.”

“Persons owning and managing corporations that manufacture, distribute, disturb, sell and deposit chemicals and chemical compounds found to be trespassing on and within the bodies of residents of the City, or into the ecosystems within the City of Reading, must be held liable for those trespasses,” the proposed amendment reads.

Proponents developed the charter amendment in collaboration with CELDF. We look forward to continuing our work with them.

MEET CELDF’S 2021 SUMMER INTERNS

Gabriella Mickel, J.D. Candidate 2023, Elisabeth Haub School of Law at Pace University

“I’m a rising second year law student at The Elisabeth Haub School of Law, from Toledo, Ohio. I was inspired by CELDF’s work on LEBOR after the Toledo Water Crisis (which I personally experienced). Particularly, I’m interested in the relationship between local law and addressing environmental issues. Right now, I’m working with the Toledo and Grant Township legal teams with CELDF, to research the application of public trust doctrine in an environmental conservation context.” - Gabriella

Jessie Gittemeier, J.D. Candidate 2023, Lewis & Clark Law School

Jessie, based in Portland, Oregon, is joining CELDF as a legal intern this summer. She is passionate about all things food and agriculture and in her free time likes to read political theory and be outside with friends. This summer she will be working on a project identifying legal barriers to achieving food sovereignty. “Food sovereignty is inherently intertwined with systemic change and requires broad and transformative change. This project aims to address the substantive goals of grassroots organizations fighting for food sovereignty and identify the legal and structural barriers that need to be changed to enable the realization of those goals,” says Jessie.

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COMMUNITY UPDATES:

NEW ENGLAND

MASSACHUSETTS

People in coastal Massachusetts are concerned about the privatization of scenic and natural walkways. These paths have been used by the public for centuries. Now, a new generation of property owners are denying access to portions of these iconic walkways and suggesting dangerous rerouting through uneven, eroded, and often flooded areas. The common benefit and public good be damned.

The politics of false solutions is also heightening in the state. Residents are blowing the whistle on large-scale industrial solar arrays that require the cutting of old growth forests in favor of destructive greenwashing.

And as the ecological crisis reaches a fever pitch, more people are waking up to the need for decisive action and thinking outside the box. For example, residents are expressing interest in pursuing rights for the Merrimack River that runs from New Hampshire into Massachusetts, before meeting the Atlantic. The Merrimack is one the most polluted rivers in the region; it continues to be used as a dumping ground for chemical runoff, sludge applications along its shores, landfills, and municipal wastewater.

MAINE

In Maine, a community that adopted a rights-based local ordinance in 2010 that stripped corporations of their personhood rights, protections, and privileges, is now facing mineral extraction for gravel. Residents have reached out to CELDF for assistance in mounting an educational campaign. The campaign will raise awareness about how townspeople can protect their human and natural community from corporate actors that seek to use them as a resource colony for profit by recognizing the Rights of Nature and banning mineral extraction as a harmful activity.

NEW HAMPSHIRE

As global carbon dioxide concentrations hit their highest level in 4 million years, New Hampshire Judge Martin Honigberg has rewarded a local corporate actor in Nottingham for opposing a democratically adopted ordinance that recognized a right of townspeople to a “climate system capable of sustaining human societies.” The Freedom from Chemical Trespass Ordinance was passed by voters in 2019 and also secured rights of ecosystems “to naturally exist, flourish, regenerate, evolve, and be restored” and banned corporate activities that infringe those rights.

The June 4, 2021 ruling could force the Town of Nottingham to pay tens of thousands of dollars in attorney fees to a resident plaintiff and his corporate shield, G&F Goods, LLC, which filed a lawsuit against the unenforced Ordinance, arguing it unconstitutionally discriminates against polluting corporations. (The courts agreed with this argument.)

This ruling is like blaming the victim. Just the mere possibility of a lawsuit against a corporation merits the nullification of the town vote in order to protect capitalism. No such proactive protections from guaranteed exploitation or poisoning are provided to the townspeople or natural environments. Clearly, we cannot look to the courts for climate or social justice.

A detailed New Hampshire Community Rights Network (NHCRN) booklet is being published to support an outreach campaign to municipal officials across the state as the NHCRN prepares to reintroduce a state constitutional amendment, the NH Community Rights Amendment. The amendment seeks to recognize, secure, and protect the right of local self-government and empower local communities to collectively recognize the rights of residents and ecosystems to not be harmed by corporate polluters.

OHIO

Ohio communities over the past decade have worked hard to protect ecosystems and their communities from various harmful projects. They did the work of



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asserting democratic rights to alter and reform their government. They collected signatures, argued in court, battled in lopsided campaigns and even won a few only to have the courts overturn their hard work. They even filed a Civil Rights lawsuit, which is currently in appeal. Slowly, the belief in the illusion of democracy has been replaced by a desire to share what they have learned with others and an anger and desire to expose the system that allows the poisoning of water, air, soil, children and all life.

When the state house and senate introduced identical bills to commodify radioactive oil/gas drilling brine for the third time, it was more than Ohio Community Rights Network members could take. They had just seen their proposed laws that would have protected people and nature from this toxic waste shot down by the courts. You see these people have evidence that this brine is radioactive, that the industry is aware of this and has been for a long time. In fact, the state itself passed a law after 9/11 to protect water supplies from being poisoned by radioactive contamination.

While denying democratic participation to protect water, the state is itself flouting its own laws. So the people decided it was time for the government to open an investigation into the corporations and the state actors violating this law. On June 21, 2021, letters and packets of information were delivered to State Attorney General Yost and eight county prosecutors laying out a case for them to start with. You can access the letters, information and media coverage at ohiocrn.org/toxic-trespass. On follow up with many of these law enforcement officials, the people were told to contact the very state agencies that the people want investigated!

Besides the obvious goal of stopping radioactive and toxic waste from getting into Ohio waterways, ecosystems and drinking water supplies, the volunteers and community members want to expose the current illusion of protection. They want people to understand that “corporate persons’ rights” and profits are being championed by the government at the people’s and nature’s expense. Once people see the illusion and fallacy, the goal is to take meaningful action, alongside the OHCRN, to change both the laws and Constitution of Ohio to recognize both rights and responsibilities of the people and their government to protect all humans and nature within the state.

WASHINGTON

INVISIBLE HAND

The preeminent film to date on community rights and rights of nature, “Invisible Hand”, was screened in Washington on July 16th. The film and discussion was hosted by Snohomish County Community Rights. The award winning documentary narrated by actor Mark Ruffalo describes the real life realities of Grant Township and its ongoing battle to keep its community from being polluted along with the growing global movement, including the work of CELDF, to move legal systems from seeing nature as a *thing*, to ecosystems having enforceable rights. The film continues to be an excellent resource for recruiting and building community rights efforts across the country.

REBIRTH OF THE WACRN

Launched in 2015 by way of the *Spokane Declaration*, the Washington Community Rights Network (WACRN) has been idle for a number of years due to the courts attack on local direct democracy. However, community rights energy from Spokane, Seattle, Bellingham and Tacoma of years past has been tapped into more recently by community rights and rights of nature advocates from other communities including Sequim, San Juan County, Kitsap County, Olympia, Snohomish County, Newport, and elsewhere. Since early 2021 the WACRN has been working on establishing itself including looking towards how it can be the most effective in recruiting and activating more people to dig into the needed systemic change as marshalled by community rights.

HOW IT IS ACCORDING TO DEMOCRACY SCHOOL

One positive outcome of the shutdown caused by the pandemic has been the expansion of CELDF’s Democracy School offerings around the country. CELDF made a very quick pivot towards offering the school online, presenting nearly 10 schools in the last 10 months. Washington is hosting its second school in October. Snohomish County Community Rights is the local sponsor and is looking to fill the school with area activists but will also have space for those wanting to attend from elsewhere. Full details including online registration can be found here: <https://secure.everyaction.com/kSJLD4ox80-0onrr7TiVrw2>

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OREGON

INJUSTICE IN LINCOLN COUNTY

In very short order the Oregon Court of Appeals punted on speaking up on behalf of people and ecosystems in Lincoln County by reaffirming the lower court's reversal of a voter-enacted law that banned aerial pesticide spray and secured rights of nature. The one-page statement issued at the end of June merely said "affirmed without opinion." In doing so, the courts denied the Siletz River watershed its right to defend itself, as well as endangered the public by siding with the state and corporate practitioners in the ongoing assault of Lincoln County by way of hazardous chemicals. After discussions between CELDF and Lincoln County Community Rights the group has decided to petition the Oregon Supreme Court. The group is actively looking for "friends of the court" to join them in questioning the power of corporate defined, state ceiling preemption.

BUILDING UNITY AND ACTION ACROSS THE STATE

A fall virtual presentation series, multi-partner state summit and taking on state ceiling preemption are just some of the activities being spearheaded by CELDF's sister organization the Oregon Community Rights Network. Coming off a successful fall 2020 and spring 2021 virtual series of presentations and discussions on topics like mutual aid, real democracy and Indigenous rights, the ORCRN is busy setting up a series of similar events on other important topics to take place in the fall. Check with orcrn.org in the coming weeks for more details.

As that work is underway so too is the formulation of a fall 2021 or spring 2022 state summit intended to bring various issue groups within Oregon together to discuss how to better support one another and come together in action in a more unified way. The ORCRN is in the process of partnering with other groups to plan and host the event.

Though the state constitutional amendment on the right of local self-government was not introduced in the 2021 Oregon legislative session, the ORCRN, with CELDF's help, is working on new legislation aimed at securing greater local democracy from state inference. The legislation, if adopted, would provide a major boost to communities looking to advance civil, economic and environmental rights without the state being able to block such actions (almost always on behalf of corporate interests). The goal is to craft the language over the summer and have it ready for introduction to legislators in early fall. The 2022 legislative session begins at the end of January.

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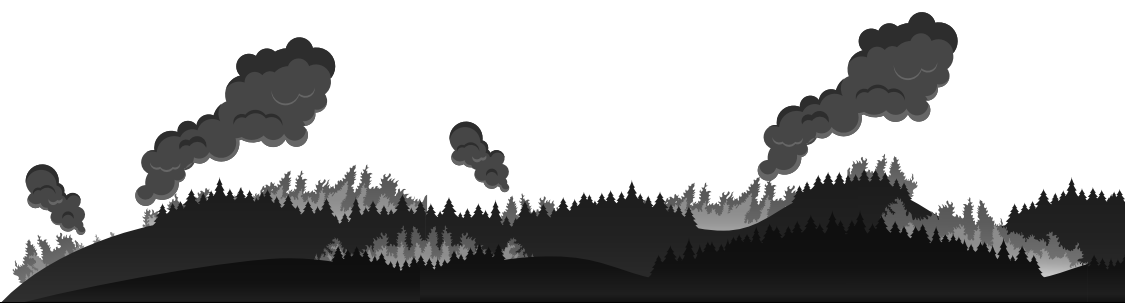
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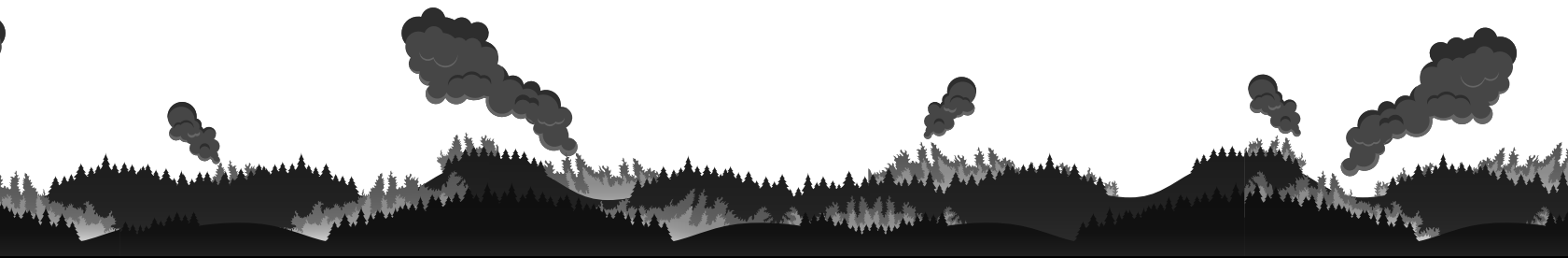


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ONLINE DEMOCRACY SCHOOL

CELDF offers a virtual version of its Democracy School. Focusing on rights-based organizing and how our current system of government undermines traditional activism, Democracy School introduces strategies for empowering local decision-making and discusses how it can create the communities we envision. This program is designed to educate and build a local community group willing to challenge the current system and work together to come up with rights-based solutions. Recent schools have been held in Ohio, Virginia, Oregon and other states across the nation. If you are interested in organizing one for your community, contact info@celdf.org.

LEGACY GIVING

Legacy giving is the ultimate gift to support CELDF's work helping communities fight for system change. We are grateful to the donors who have added CELDF to their will or estate plan. You too can leave a legacy to the generations that follow. Contact info@celdf.org if you have any questions. Solidarity forever.

NEW WEBSITE

Check out our new look at CELDF.org. Many thanks to the talented design team at HKW, out of Spokane, WA.