

About That Whole "Democracy Playbook"...



Corporations
see my
community
just as X's
and O's?

Believe it or not your situation isn't unique

We've seen communities in distress like yours hundreds of times, connected to dozens of issues: data centers, land development, oil and gas drilling, pesticide use, big agriculture, big timber, corporate water withdrawal, oil and gas pipelines, toxic waste disposal, sewage sludge, and so on. The project you want to stop might be different, but how to begin, the ways you're told to fight, and the corporate playbook you are up against are all the same.

The situation, in simple terms, is this: you are outlawyered, legally preempted, underfunded, and – if you play the rules like you've been told – you are very likely to lose your fight. The rules are scripted by the very industries who want to set up shop in your town. CELDF is a law firm, so believe us when we say: **you have no legal power to say no**. The best you can hope for is to delay and frustrate the corporation enough that they decide to go away. This is not a fair fight.

And, even if you get this corporation to abandon its plans, another will be knocking on your doorstep soon. There are always more of them, and all will be well-funded, in cahoots with local and often state officials, while being protected and empowered by law.

**That's unless we all get together and
force the rules of the game to change.**



Tell Us If This Sounds Familiar

CELDF speaks from 30 years of experience when we say that the powers that be will try to lead you to a hamster wheel, where your community will exhaust itself and fall short of stopping the harm threatening you. Our job is to help people like you put up a more effective resistance effort.

"Sorry, our hands are tied!"



This is a standard response from local elected officials when asked by residents why they won't say no to the thing nobody wants. *They say this because it's actually true.* The local level is the least legally empowered level of government. Most likely the state and in some cases the federal government has either explicit or implicit authority over the matter, and because of that, your local government is rendered powerless to stop harms that corporations want to inflict. Other ways this happens is when legal contracts or non-disclosure agreements (NDAs) are signed by local officials even before the community knows what's going on and even if the local electeds just want to learn more about the project. Industry will often come into a community requiring certain parties, like property owners and elected officials, to remain quiet about what they are planning — or else corporate lawyers will sue your local government.



"Let's just hire an attorney."



Lawyers are expensive. And, even if you can afford a lawyer, American law is so stacked against communities resisting corporate harm, that lawsuits are only capable of achieving so much. It's not unheard of for a permit challenge to cost a citizens group \$20,000 to \$60,000, depending on the case and how many rounds of appeals you have the stomach for. If you aren't priced out, the next question is, what do you get for \$300 an hour? In most cases, nitpicking the corporation's permit application making sure they've dotted every "i" and crossed every "t" will be the only legal argument available to you. And, if you happen to win that argument, the judge will simply order the corporation to correct the application and the project will proceed. But at no point in the process will your community have the ability to just say no to the project outright. Another industry play is to retain as many local attorneys as possible so that those attorneys will be prohibited from working with you through conflict-of-interest principles. Good old fashioned end around. Maddening, we know...

"All we have to do is change the zoning."



This is a silver bullet solution fantasy. Usually, elected officials are in favor of these projects for various reasons like the promise of jobs, tax money, or even community funding for schools, local parks or a new snow plow. This makes it very difficult to sway them to take action against the project. If you can sway them or they agree with you already, there is only so much that zoning can achieve. In most cases, it just moves the project to another location in the community, creating a sacrifice zone. And, because corporations have been granted many of the same constitutional rights that you or I have, they may use rights like due process to claim that by denying them what they want to do, you are "taking" their "rights" away. Another lawsuit.



We have
public
support, so
why are
we being
outplayed?

**"This is going
to bring jobs."**



The fastest way to green light support, weaken opposition, and divide your community is to claim that lots of well-paying jobs are at stake. How can you be against your neighbor making a decent living? Many times, promises of jobs are inflated and exaggerated, literally pulled out of the air by the industry with no guarantees that jobs will go to local residents or how long they will last. Rarely are any real calculations made about what other jobs may be lost in the community – let alone the economic, cultural, public health, and environmental costs – if the proposed project is allowed to go ahead.

**"XYZ Big
Non-Profit
has our back."**



Once local groups succeed in drawing enough attention to their efforts to stop the project and the environmental harms, big national non-profit groups show up with slick websites, action guides, bumper stickers, t-shirts, and symbolic events. They'll have great fact sheets and a whole list of things you can do, which will undoubtedly include donating to their organization and writing to your elected officials. They'll even have tough language about saying "hell no." Yet, if their lawyers talk directly with you and were completely truthful with you, they would tell you that your community can't say no to these projects; you can only challenge the issuance of the permit. These groups are not the answer. Though the people associated with these organizations may be genuine, they behave as opportunists and not as long-term community allies.

**"We've gathered
mountains of data
and evidence. They
have to listen to us."**



So much of what you are going through will defy basic logic. You can show up with a mountain of scientific evidence as to why a particular project is a bad idea and outright harmful, and it will still be disregarded as legally meaningless. Regulatory laws are typically written by the industry and therefore not surprisingly, excuse corporate actors of liability. And even when corporations are held responsible, their liability is limited. In fact, many times the data and science presented to the government for consideration is often paid for by the corporation sponsoring the project.



What the @#% &!, this can't be right?



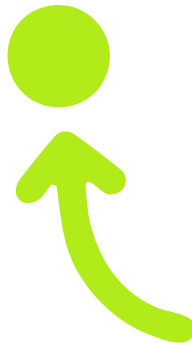
"How can a corporation have more say over what happens in our communities than we do?" "Why can't our local elected officials just say 'no,' or better yet, 'hell no!'?" "There is no way that our governments would allow this, is there?"

Without knowing it, an invisible, legal wall has been erected around your community. The wall is there to keep you, your neighbors, and your elected officials contained. That containment is not only about control, it is about shaping cultural mindsets and beliefs that have carried on for generations. No one questions or challenges this wall because it stays invisible until the community is threatened by corporate harm. When your community decides to fight that corporate harm, the wall suddenly becomes visible and rattles your beliefs in what American democracy is. You feel duped, like the rug has been pulled out from under you.

So CELDF
can get
us ready
to fight
back?

The truth is hard to face: communities across the United States are regularly sacrificed to the altar of corporate profit. Everyone needs to understand that the laws we live under are designed to limit our ability to protect our own lives and communities.

CELDf has worked for decades to help communities see through the fog of myths they've been enveloped in – and then, once the fog lifts, to help communities create real change.



**That's unless we all get together and
force the rules of the game to change.**

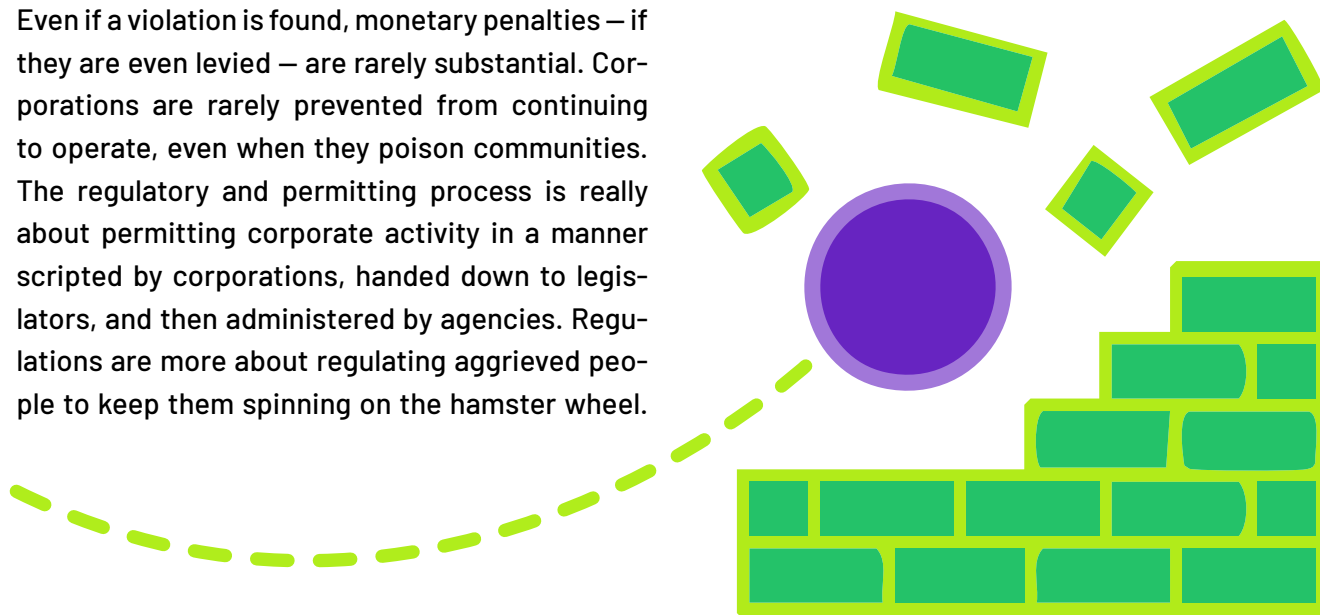
The Walls Preventing Your Community From Exercising Democracy

Regulatory Fallacy

Regulations, regulations, regulations. Nearly 60 years after the major environmental regulatory laws were adopted in the U.S., and nearly 60 years after trying to regulate the damage caused by corporations to the natural world and local communities, by almost every environmental statistic, things are worse now than ever before. This is because, for the most part, regulations do not prohibit harm; they merely regulate **how much harm** may be done. Think of the difference between the words “regulate” and “prohibit.” Do we simply want to regulate how much and how fast a corporation should be allowed to poison people or destroy habitat? Or do we want to prohibit that pollution and destruction altogether? When a corporation gains a permit, it is permitted to cause harm, legally. Even if a violation is found, monetary penalties – if they are even levied – are rarely substantial. Corporations are rarely prevented from continuing to operate, even when they poison communities. The regulatory and permitting process is really about permitting corporate activity in a manner scripted by corporations, handed down to legislators, and then administered by agencies. Regulations are more about regulating aggrieved people to keep them spinning on the hamster wheel.

Preemption

Preemption is the legal principle that grants the federal and state governments power to override the authority of people at the local level to adopt certain laws that would prohibit harmful activities like toxic pesticide spray, urban sprawl, factory farms, harmful energy projects, etc. The theory is that because cities, towns, and counties are created by state law, their powers can be changed at the whim of the state that created them. Preemption is the reason elected officials tell communities: “I wish I could do something here, but my hands are tied.” Preemption laws cover just about everything you can imagine from food, energy, workers, neighborhoods, personal safety, health, and technology.





Dillon's Rule

Never heard of this one? Don't worry, most people don't know about Dillon's Rule or what it means. The name and history behind this powerful legal doctrine (well accepted and nearly impossible to challenge) aren't as important as understanding how it affects local decision making power. In a nutshell, Dillon's Rule is what preemption is built on. Dillon's Rule defines the relationship between cities, towns, municipalities, and state governments as one of a child to parents. Cities, towns, and municipalities are seen as the children of state governments. State governments, acting as parents, can override their children. For example, if your local government passed a law to block construction of a data center proposed in your community, and your state government already passed a law preempting local regulation of data centers, your local government could be sued by the data center corporation on the grounds of Dillon's Rule and the doctrine of preemption. Corporate lawyers would argue that the state hasn't given local governments the right to make laws regarding data centers, so your community has no legal basis to restrict data centers. The court will strike down the local law prohibiting data centers in your community. If this sounds insane to you, it's because it is.

Corporate Rights

Under American law, corporations are legal persons. As such, they possess certain rights, including most of the same constitutional rights as living, breathing people. They are also afforded rights that actual people don't have. These other rights, protected at the state and federal level, include limited liability, which protects the personal assets of the individuals who run corporations, and the ability to lobby en masse. Corporate rights shape how the regulatory system functions. These legal rights are extremely powerful and protect corporations from aggrieved people, like you. Combine this legal might with the economic and political powers of corporations, and you can see why your ability to protect the health and welfare of your community is so limited.



So we get
blocked but
corporations
get to do
whatever
they want?



Your community matters, fight for it!

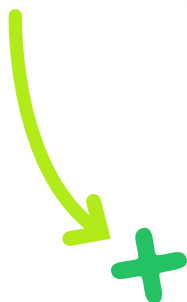
If it all sounds a bit hopeless, we're sorry. But CELDF is not here to lie to you or tell you what you want to hear. If you're going to fight and be effective, you need to know the truth. Though there are multiple ways in which you've been systematically blocked or preempted, ultimately you are not powerless. That's the point of all these restrictions: to make you waste time, energy, and money trying things that won't work while they laugh all the way to the bank.

CELDf spent years playing by the rules, challenging permits and working within these corrupt systems. It never worked. Not even once. And so, we decided to stop running on the hamster wheel, and start fighting on our own terms. Over the last twenty years, we've worked with hundreds of communities to author local laws challenging corporate power and instituting real community and environmental protections. Although we were highly effective with this approach, many of these local laws were later deemed illegal and have been struck down by the courts. Regardless, these court rulings are more proof of how American law and government actually works. Together we can leverage this proof to drive more and more people toward more and more confrontations between their communities and the structure of American law.

CELDf has sparked a global movement for rights of nature, placed legal corporate power in the crosshairs, and provoked the ire of local and state governments along with some of the nation's most powerful corporations. Our approach is not a silver bullet, but it comes out of our determination to stand alongside principled people and communities like you and say: screw this, we're not going to take this quietly anymore.



Play by
OUR
rules;
time is
now!



We are good at what we do. What we aren't, is set in our ways or oblivious to the rapidly increasing array of harms our communities are facing. We must fight to protect our communities and the natural communities who give us life. Ultimately, we must radically transform the world we live in for the better. Seeing the truth of this unjust system is step one, and what comes next is a new form of community resistance and resilience.

Principled disobedience doesn't mean engaging in mindless anarchy. It's actually about operating from a place of wisdom and grounded, collective power. **CELDF offers consultation, guidance, strategic direction, training, and legal services.** We can't guarantee you will be successful, no one can. But, we will work with you to create and implement a vision of democratic decision-making and ecological harmony in the community you call home.

CELDF will work with you on everything from how to employ radically different ways to approach public hearings, citizen law-making, and pressuring elected officials to outside-the-system approaches including citizen assembly projects, mutual aid, strikes, direct action, and building alternative institutions and systems.

You have a choice. You can play it safe, run yourself dizzy on the hamster wheel, and be certain of losing. Or, you can be part of creating a new playbook, break outside of what is permitted and what is safe and give yourself a fighting chance. If you choose the latter, get in touch with us. **CELDF is ready.**



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