

COMMONSENSE

Community Rights Organizing



What is CELDF? The Community Environmental Legal Defense Fund (CELDf) brings public interest law, grassroots organizing, and community education together in a unique legal and organizing strategy to build a movement for Community Rights and the Rights of Nature.

CELDf has partnered with close to 200 communities across the U.S. to establish Community Rights and ban practices – including shale gas drilling and fracking, factory farming, sewage sludging of farmland, and water privatization – that violate the rights of people, communities and nature. To protect those rights, CELDF is working with communities and groups to address the key barriers to local self-governance and sustainability – such as corporate constitutional “rights” – and has assisted the first communities in the U.S. to eliminate corporate “rights” when they interfere with Community Rights. Further, CELDF has worked with the first U.S. communities to establish the Rights of Nature in law.

CELDf is now bringing communities and groups together to form statewide Community Rights Networks and the National Community Rights Network to drive change from the grassroots upward to the state and federal level.

The System is Fixed and We Need to Break It

The system is broken! At CELDF we hear this all the time from communities asking for our help. Yet, to our eyes, the system is actually working just fine for those who created it; it's been fixed to work on behalf of corporations that are protected by our state and federal governments (see “The Box of Allowable Self-Government” on pg 4). Because it is fixed,



most in-the-box “solutions” that we're taught to pursue, as well-behaving citizens, will never actually get us the intended outcomes that we desire. Some examples:

■ Signing on-line 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.

■ Writing comments to regulatory agencies:

There is a reason that commenting on permits and proposed projects is called “public com-

ment.” The public's comments are simply public venting. *The comments have no legal bearing on whether or not the project is approved.*

■ Hiring environmental organizations to represent our community:

Most major environmental organizations are well-meaning, but the strategies they pursue will not *stop* the harm (see “The Box” on pg 4). Instead, most environmental organizations work with you to get the best permit possible. Rather than stopping the harm, it's about begging to get harmed a little less.

■ Writing to our representatives:

Even if you have a sympathetic state or federal representative, their voice is just one in a sea of

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GONG SHOW POLITICS: WHAT'S BEHIND THE THREE DOORS?

When it comes to making governing decisions that will affect you, your family, your quality of life, local ecosystems, property values and the future livability of your community, who makes those decisions? Is it you and the people who will be directly affected in your community, or is it somebody else?

If you answered “somebody else,” then there's only one conclusion to draw: You are being denied your right to local community self-government. And there's only one question left to answer: What are you going to do about it?

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Crime Can't be Regulated – It Has to be Outlawed!

Media coverage of murder, rape, fraud, and larceny sends the message that crime doesn't pay. Law-breakers are supposed to face consequences. But when you compare how crimes against persons and property are reported to how crimes against nature are reported, we don't hear about criminal actions, we hear about regulations that were not followed. The criminal is barely mentioned, much less punished. If there are to be fines, they are negotiated between the prosecutor and the errant corporation.

Why does our society treat one kind of crime with punishment and another kind of crime with complicity? Because federal and state governments issue permits that legalize a certain amount of otherwise criminal behavior.



Having given an inch, the mile that's taken seems all but moot.

Society doesn't ask government to regulate the number of robberies that will be allowed in any given neighborhood during a month's time, nor allow robbery of items worth less than, for instance, a hundred dollars. Yet when corporate management claims it must commit environmental crimes in order 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 tops off 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

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If you plan to build walls around me know this: I will walk through them.”
 — Richelle Goodrich

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others in the legislature. In addition, the legislature itself operates within a broader structure of law and governance designed in such a way that we can't get what we want, where we live (see "The Box" on pg 4). 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, and so even having the best people possible in our legislatures and courts ensure that their actions are defined and orchestrated within a broader system of law and governance (see "The Box" on pg 4). Until the structure of law itself is changed, our legislators and judges find themselves with their hands tied.

In addition, note that all of the above options assume that the power lies somewhere else. These options have nothing to do with governing our communities. They've got everything to do with appealing to someone or something else to help us get the best deal we can within the existing structure of law and governance.

Past people's movements in this country – including Abolitionists, Suffragists, worker rights, and civil rights – found themselves with a fixed system of law that provided them with no real remedies. And that's where our communities find themselves today. Abolitionists were not attempting to "get a better deal," or institute a slave regulatory agency. Suffragists were not okay with working through their legislatures to be able to vote in odd-year elections, or have their votes count for 5/8 of a vote.

And so, as long as our activism remains confined within a fixed system that we didn't create, using tools that were never intended to help us win, we will be left pursuing disempowering tools that, at best, regulate the rate at which our communities are harmed.

The system is fixed. And we need to break it – and create something new in its place that secures and protects rights, and that finally legalizes our communities' pursuit of sustainability.

"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

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There are three options:

1. Do Nothing

... and get fracked, or sludged, or water-mined, or poisoned, or otherwise converted into a corporate resource colony.

Because it's your right to make self-governing decisions, this is a decision you are free to make. But with that freedom comes responsibility for the consequences. The question is: Although you have the freedom to decide for yourself, do you have the liberty to surrender your community today, to the detriment of future generations?

2. Try to Use Existing Law to Protect Your Community

... and get fracked, or sludged, or water-mined, or poisoned, or otherwise converted into a corporate resource colony.

The stacked-deck of regulatory law offers no protection for your community from corporate assaults. And most states have teamed up with the corporations to stop you from deciding for yourself what is and isn't good for your community, by enacting preemptive laws forbidding you from protecting your family and environment. And

there's the knee-slapper of corporate "rights" that says it's unconstitutional to violate the rights of corporations by governing their behavior in your community (see "The Box" on pg 4).

3. Act on the Knowledge That You Have an Unalienable Right to Local Self-Governance

... and challenge the illegitimate doctrines that make it illegal to create long-term livable communities, by enacting local Community Bills of Rights that assert the primacy of people, community, and the natural environment, over the profit of corporations that are chartered by the state, in the name of the people.

By choosing to do nothing (option 1) or trying to use existing law (option 2), you surrender your rights without a fight, by never even claiming them. Getting fracked or sludged or mined or poisoned is a certainty, because these corporate activities have been legalized and "permitted" by your state. Through local law-making, communities are putting in place bans on corporate activities that violate fundamental rights, and are challenging existing structures of law that override local democratic decision making.

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politically controlled by regulatory agencies that issue permits legalizing all of it.

Media reporting on ecosystem destruction and harms caused by industry that impact the health, safety, and local economic and general welfare of entire neighborhoods, are often written in ways that sympathize with the perpetrator. We don't see headline stories about stabbings, robberies, or slayings softened in ways that make us feel sorry for the killer or the thief. The crimes against communities are somehow assumed as necessary and unavoidable in order to maintain the level of convenience and comfortable lifestyles that we've 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, media kicks in to say, we can't have progress without damage.

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

The state orders its regulatory agencies to "facilitate the permitting of business and industry," as agency spokespeople explain decisions that were already made before the first public hearing. We are told that all resulting harms will be "mitigated," and no constraints on corporate actions will be imposed in the absence of proof that harm will occur.

Chartered corporations planning to engage in what would otherwise be criminal activities have been empowered to use law against us. Corporations who want to do something 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.

Corporate managers don't want to incur financial responsibility for poisoning community members and ecosystems. Liability for these kinds of crimes does not fit into the corporate business model. They have invested strategically in a system of politically controlled regulation that now redirects the responsibility for those damages back to the communities where they occur – for example, when a fracking well leaks and contaminates local drinking water, residents have to 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.

Either denied completely or shrugged off as inconsequential, criminal corporations are so seldom brought to account that municipalities and community members despair of any remedies. Corporations have liability protections built right into the system of law that permits them to legally engage in activities that are certain to do harm and violate rights.

Most corporate crimes that take place in our communities are either "legalized" in advance or they go unprosecuted by 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. Federal policy creates the recipe, state agencies legalize the poisoning, and community members have no legally recognized civil and political power to refuse. Manipulation of our legal system through the creation of legal theories that have placed corporate power and privilege above the rights of human and natural communities across the planet has been used over the past 150 years to build a calloused attitude toward corporate crimes. To add insult to injury, it is usually the state that comes into the legal argument on behalf of the company – not to protect the residents or the environment.

Municipalities may have other ideas about how to produce energy but the federal government does nothing to promote or support local projects. Passing a local law that does not allow an unsustainable energy producer to operate 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.

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 it is the *people* who are sovereign – not corporations or government.

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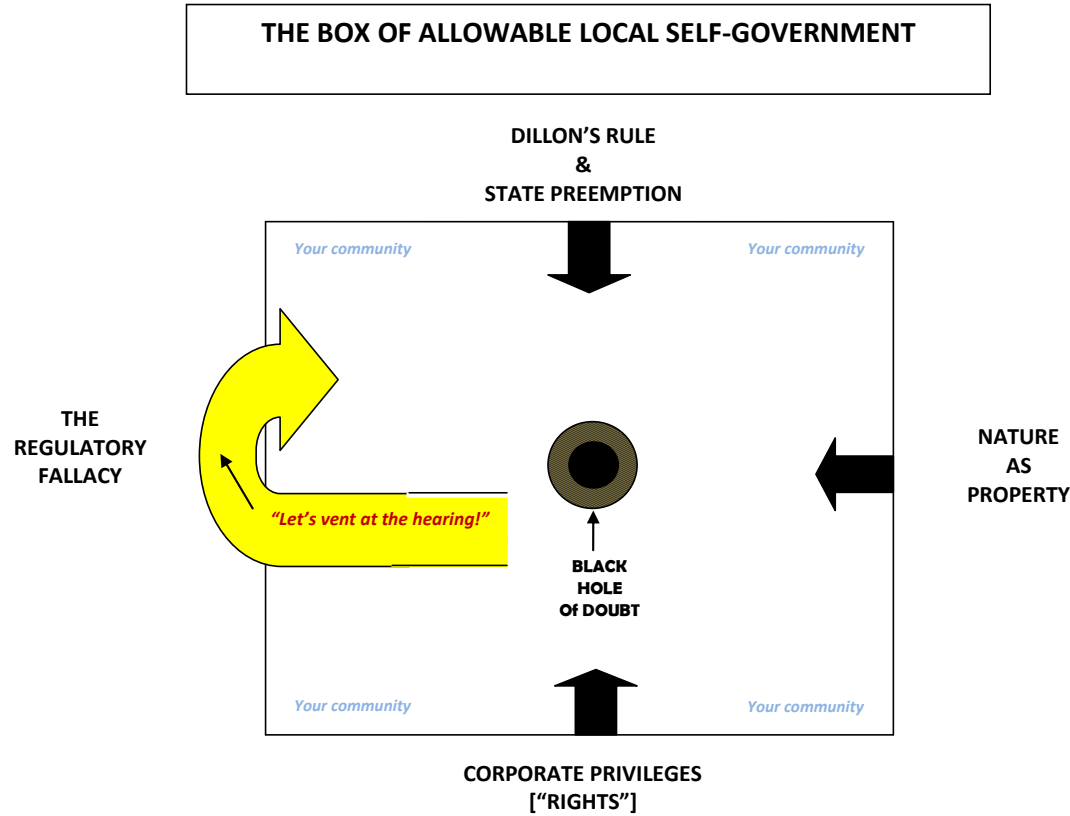
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"A culture is no better than its woods."

— WH Auden



Is it Really ILLEGAL to Think Outside the Box?

The legal doctrines that keep us boxed in and make sustainable communities illegal

What is it that keeps us from getting what we want in our communities? Why can't we say, "No!" to harmful activities?

The short answer is: THE LAW. A handful of legal doctrines make it illegal for communities to govern on important issues like fracking, factory farms, large-scale energy infrastructure projects and commercial water extraction. Many people work hard to create sustainable communities, but these legal doctrines keep us "boxed in" by a system of law that routinely restricts local law-making and tells us that "We're beyond our authority," or "It's a state issue, not a local issue."

We'll use the issue of fracking (although you can insert almost any issue that your community is concerned about) to illustrate how these legal doctrines preempt our decision-making, legalize the harms that come from fracking, and protect the industry from citizen opposition.

Looking at the diagram above, you'll 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 on a particular issue.

Dillon's Rule compliments state preemption by defining the legal relationship between the state and the municipality as that of a parent to a child. In the case of fracking, the (abusive) parental state has slapped the municipal child's hand and told them not to touch decisions about fracking. In doing this, the people living within the municipality are deprived of the right to protect their own rights.

Looking at the legal doctrine of "Nature as Property" on the right side of the diagram, we see that nature is considered property under the law. Anyone with a title to property has the legal right to destroy it. With a permit from the state, the harms to ecosystems and the commu-

nity members who rely on those ecosystems are legalized. Nature and human beings who do not have a title to the land, or a financial interest in that land, lack legal standing to argue in court to protect the ecosystem. With fracking, title of ownership – or a lease with a drilling company – trumps the health, safety, and welfare of the community and the viability of the ecosystem. It's the same for GMO's, water mining, sludge dumping, etc.

At the bottom of the diagram is Corporate Privilege. Often referred to as corporate "rights," or "personhood," it means that corporations claim "rights" to protections of free speech (1st amendment/money as speech), protections from search and seizure (4th amendment), due process and lost future profits (5th amendment Takings clause) and equal protection (14th amendment). Contracts clause protections, civil rights laws, and commerce laws, further amplify corporate power to override local decision-making.

The fourth legal doctrine on the left side of the diagram above, entitled the "Regulatory Fallacy," suggests there is a way out of the Box. The permitting process, and the regulations supposedly enforced by regulatory agencies, are intended to create a sense of protection and objective oversight. By working through regulatory agencies such as the Environmental Protection Agency (EPA) and our state agencies, we're told we can protect our community. We can challenge permit applications and demand regulations be enforced. Except, by their very definition, regulatory agencies *regulate the amount of harm that takes place*. When they issue permits, they give cover to the applicant against liability to the community for the legalized harm.

We're encouraged to come to the hearing at 7 pm Thursday evening if we're opposed to fracking. No one bothers to tell us that no matter

how harmful fracking is, municipalities cannot ban anything permitted by the state (see State Preemption at the top of the diagram). We present our three minute, impassioned oration about the risk to community health – but in the end, nothing we say must be taken into account by the agency in the decision to issue the permit. If the application is clerically in order and complete, the permit is given. The harms are legalized. The permitting agency is in business to facilitate the issuance of the permit, not to protect people or the ecosystem. The idea that regulations protect us is a fallacy; by their very definition, they permit harm and we're taught that our best option is to regulate just how much of it we are required to accept.

You might argue: But zoning let's us stop harms, right? Well, not really. 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.

While our legal system creates the illusion that we have a democracy, State Preemption and Dillon's Rule, Nature as Property, Corporate "Rights," and the Regulatory Fallacy all funnel us into a trap where we're told, when it comes to actual governing and creating sustainable communities, "We're beyond our authority."

The final blockade to community self-government is the Black Hole of Doubt – that black spot in the middle of the diagram above. We think we're not smart enough, strong enough, or empowered enough – we literally do not believe we have the inalienable right to govern. Sally Kempton, author and feminist, says, "It's hard to defeat an enemy who has outposts in your head."

In a Democratic nation, self-government should not be a foreign idea. **We are the ones we've been waiting for.**

Your Community's Right to be Poisoned: It's a Matter of Economics

A Class II injection well. Doesn't sound so bad, does it? Just check out injection well permits issued by the federal Environmental Protection Agency (EPA), which include nice language like, "in compliance with provisions of the Safe Drinking Water Act." No worries, the EPA has got this.

But, you still might wonder, just what is an injection well? A little further down in the permit is language like, "...an injection well for the purpose of injecting fluids produced in association with oil and gas production operations." In other words, it's a well for injecting fracking wastewater, or as they call it in the industry, "brine," as if you might soak a turkey in it before roasting. Fracking wastewater can contain cancer-causing chemicals, including benzene, toluene, and xylene, among others. Is that the only thing that's bad?

No. You'll also find in your research that Class II injection wells have been linked to earthquakes from Ohio to Oklahoma to Texas. Emergency shutdowns have been ordered in California. And according to a recent federal Government Accountability Office report, the "EPA is not consistently conducting two key oversight and enforcement

activities for class II programs," mostly due to underfunding.

Uh oh. With all these problems, why are Class II permits being issued? And why are they being issued at an increasingly frequent rate, especially with all of these known problems?

An email to the EPA provides perspective. Notes an EPA employee: "There has been increased interest in brine disposal, over the last 3-5 years, since there have been a number of changes in the acceptance of the brine as surface water disposal. It is a matter of economics. When it was less expensive to truck to a surface water treatment plants [sic], there was no need to invest in more costly treatment and disposal options that have been used for many years in other states."

Translation: The poison being permitted for injection into your community is a "matter of economics." Surface treatment plants have become more expensive; therefore, injection wells are the next most economical means of dealing with the waste. Sorry, folks, earthquakes and injection of cancer-causing chemicals near your town's water supply are simply efficient byproducts of a regulatory scheme that part-

ners with industry to find the most economical method of getting rid of the wastewater.

If it's not already clear, here's the gist: Our "environmental protection" agencies are not prioritizing the protection of our communities; rather, their interest, as a matter of economics, is to find ways to permit and regulate harm.

Fortunately, a growing number of communities across the U.S. are rejecting this system by asserting their right to local, democratic decision-making and banning injection wells. These communities include Grant and Highland Townships in Pennsylvania, who have been targeted for injection-wells. Determined not to be sacrifice zones, these communities adopted Community Bills of Rights Ordinances prohibiting injection wells as a violation of their community rights.

Communities across the country have stopped believing that "environmental protection" agencies are interested in protecting the environment, and are taking action locally to create a new structure of law that's not based on economics, but rather on community rights to health, safety, and welfare. They're inviting you to join them.

On "Feelings and emotions."

"It is paradoxical that although the GNP is invisible, and pollution is most visible, the abstraction is taken for concrete reality and the sensuous experience dismissed to the margins of society, where it is picked up by such marginal elements as artist, philosophers, and the generally disaffected."

— William Irwin Thompson, *Gaia and the Politics of Life*.

Perfecting Rebellion with the Right to Govern Your Community

In rural communities across the northeastern U. S., corporate plans to expand unsustainable energy projects offer no local benefits, only local harms, and they are uniting residents in opposition. Numerous corporations have proposed large scale rail, pipeline, industrial wind, and power line projects to cut through pristine mountain forests and rural communities. The sudden rush to tap every domestic source of fossil fuels, and to ensure corporate control over alternative energy sources, has industry managers obsessing over the transportation of tar sand oil from Canada, and propane and frack gas from Pennsylvania, to coastal ports where much of it is destined for export. Massive transmission lines for electric energy produced by privately owned and controlled hydro and industrial wind are mapped out to cut across mountain tops and through peaceful hamlets. All of these corporate dreams of power have brought residents together to talk about alternatives.

The talk in today's communities in New Hampshire echoes local voices from 1772, where loggers gathered at the Pine Tree Tavern in Weare, openly protesting the King's rule about only harvesting pine trees for local use that were under twelve inches in diameter. These Pine Tree (Mast Tree) Riots ignited sparks for a revolution well before the famous Boston Tea Party that led to the Declaration of Independence. If you compare the language heard in colonial New Hampshire from 1640 - 1776 to the statements made at hearings across the State on any one of these energy-related issues, you'll think you've taken a step back in time.

The right to make decisions about all projects that impact us, and the right to change government when it no longer serves the people, are phrases that are gaining ground, from the southern most town in the State, across to the seacoast, and into the North country.

The New Hampshire State constitution declares a Right of Revolution in Article 10:

"Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind."

It is no accident that growing numbers of communities in our State are enacting local Community Bills of Rights Ordinances that assert the right to make changes in a government that denies rights. **continued on pg 6**

COMMUNITIES AND PIPELINES:

Proposed fossil fuel transmission pipelines have recently popped up around the country with stunning frequency and force. The Keystone XL – probably the most infamous pipeline project – is proposed at 36-inches in diameter. Many of the new pipelines being proposed clock in at 42-inches in diameter – all under high pressure.

Despite the flag-waving rhetoric (jobs! energy independence!), many people are now realizing that those are just empty promises. We hear almost daily about pipeline explosions, about how land will be taken by eminent domain, about how the gas will be shipped to foreign countries, and about how the so-called jobs will mostly be given to specialists who invade from out-of-state.

And, the hardest part to hear: that our communities can't do anything to stop them.

Knowing When to Fold 'Em When the Game is Rigged . . . And Dealing a New Hand

Why? Because the Federal Energy Regulatory Commission (FERC), a federal agency, is the primary permitting agency, regardless of the desires of communities in the proposed pipeline's path. Why else? Because pipeline corporations have been granted constitutional "rights" and privileges that allow those corporations the power to run over those in the pipeline's path.

Seriously?

With those being the legal cards our communities have been dealt, more and more are refusing to play by those rules. From New Hampshire to Pennsylvania to Ohio to Oregon, folks are waking up to the fact that we don't live in a democracy, and are reclaiming their communities so that the people hold the trump cards, not the corporations.

Communities have stopped writing to FERC in the hopes of getting a better hand or getting harmed a little less. They've stopped asking the corporate pit bosses for a fairer deck.

Instead, they're refusing to gamble on their future, and are reclaiming their right to collectively decide that the future of their community shouldn't be divided by a dangerous fossil fuel pipeline.

"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

PERFECTING REBELLION continued from pg 5

Individuals engaging in peaceful, municipal disobedience through local lawmaking are not members of any special, radical organizations or extreme right or left wings of any political parties. They are community residents who have found themselves in the midst of a struggle to preserve a way of life. Large, well-financed commercial entities have targeted the State for numerous energy projects and the residents who live here are feeling squeezed.

The relevance of our revolutionary history is growing ever more apparent as we revisit the problem of deposing an illegitimate king faced by American colonists through a modern lens. What every community resident faces, when corporate managers apply for state and federal permits to site, is a complete and utter disregard for the civil and political authority of the people to use their local governments to govern the behavior of corporations when they arrive, permits in hand. **We're told we live in a democracy, but for the life of us we can't find it when we try to protect our families and environment from the injuries imposed by the corporate class.** The legal barriers to accessing those protections are concrete, "well settled," and difficult to challenge. Research that shows how communities are ruined by industrial take-overs is dismissed as NIMBYism (not in my backyard), selfish, and unrealistic as responses to modern and advanced methods of agricul-

ture, energy extraction, waste disposal, water extraction, voting, education, or any other issue now regulated and administered by political bureaucracies and ultimately controlled by the corporate class.

In order to successfully secure our right not only to weigh in on corporate decision-making, but to govern corporate behavior in our communities, we need to provide people with the right framework for discussion.

Part of the problem is that rebellion against privilege gets a bad rap for being "anti-capitalistic" or "unpatriotic" or not "progressive enough" and even "too unrealistic" to meet the needs of the country. But the opposite is true. Until we identify the causes of our maladies, and refuse to be censored in that pursuit, we will discover no solutions.

Conventional activism chases after cures for each separate ailment. Well-intentioned people organize to support research into alleviating this disease and that one. They wear colored ribbons to show their hearts are in the right place. Corporate sponsors often cover the cost of running such campaigns. They are "good corporate neighbors" and run TV ads saturated with sympathy and pathos. "Science will find the cure," they intone "...if you help." Curiously, organizing around stopping the

causes of those diseases are met with hostility, denial of science, and accusations of bad faith. Censorship of inquiries into the harms caused by resource extractors and the causes of diseases, contaminations, poisonings, and die-offs is the norm, from municipal town meetings where public comment is curtailed, to government bureaucracies where state employees are issued gag orders backed by subtle threats to their livelihoods. This is a recipe for disaster in any democracy. That disaster will not be announced on the nightly news. Nor will there be a petition circulated for people to sign who want to stop it.

Escaping the private-public partnership of wealthy corporations and government that is aligned against we, the people, demands a new activism. One that rejects the false choices presented as best management practices. One that rejects the compromising of our right to create sustainable communities and settling for the best deal we think we can get. It is a new activism that is rebellion, and it drives communities to challenge and change our structure of law and governance. People have the right to do so when that government no longer protects the rights of the very people who created it, and in whose name it acts.

Ohio: Fighting for Local Democracy

Over 11.5 million people call Ohio home. Of those residents, 5,680,042 live in townships – meaning approximately 49% of the State’s population are residents of communities with no ability to make local laws. This is a shocking statistic, with disturbing implications for people and the communities in which they live.

If we turn to the **Ohio Constitution, Section 1** clearly states:

1.01 Inalienable Rights (1851) **All men** are, by nature, free and independent, and **have certain inalienable rights**, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

1.02 Right to alter, reform, or abolish government, and repeal special privileges (1851) **All political power is inherent in the people**. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary.

If all power is inherent in the people, then how is it that Ohio townships have no authority to local self-governance?

The state justifies that residents of *municipalities* can propose laws in the communities where they live, but residents of *townships* cannot, based on Section 2 of the Ohio Constitution. A separation is created between people who live in municipalities and those who live in townships:

2.01f Power of municipalities. The initiative and referendum powers are hereby reserved to the people of each **municipality** on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action.

When an industry wants to extract or dump a waste product in a *municipality*, residents can propose a law to stop it with an initiative petition to place it on the ballot for a vote by the people. However, residents in a *township* cannot use the same democratic process to protect themselves and their communities from harm.

We have entire counties in Ohio made up of only townships. Many of these counties become targets for injection wells, waste processing plants, factory farms, and other harmful industries, because corporate representatives know that these communities are stripped of their law-making authority to protect themselves – no matter their inalienable rights.

This is hardly the democracy we learned about in government class.

So what can we do to protect ourselves? What can we do to change the unequal protection



of law regarding the right to local self-governance, so that ALL Ohio residents have that right, no matter where they live?

The first step, which is happening today in communities across the state, is to organize and educate in our municipalities about Community Bills of Rights Ordinances and Charter Amendments. Today, residents in Yellow Springs, Broadview Heights, Mansfield, Oberlin, and Athens, have adopted CELDF-drafted Community Bills of Rights that establish community rights to clean air, water, and local self-governance – and ban those harmful corporate activities, such as fracking, that would violate those rights. Currently, residents in many communities across the state are working to do the same.

As we work in municipalities to advance community rights there, we are also grassroots organizing and providing education countywide, working with both townships and municipalities to advance Community Bills of Rights initiatives that will ensure all residents have the same democratic right to petition for local self-governance, wherever they live.

As our work grows across the state, communities are coming together to begin the work of advancing community rights to the state level. The **Ohio Community Rights Network**, launched by these communities in November 2013, is forging an alliance, county-by-county, to protect our communities from environmental and economic harms and secure our rights to local self-governance, regardless of where we live.

We the people will work together to change our state constitution so that **all** communities are guaranteed the right to local self-governance that cannot be stripped away by any legislature or court. State laws that deny the authority of residents and local governments to protect their own health, safety, welfare, and quality of life, violate fundamental rights of people in their communities.

To become part of the grassroots movement for community rights for all Ohioans, contact info@ohcommunityrights.org.

Spokane Addressing Worker Inequity with Rights-Based Law

Today, a coalition of citizens, labor union locals, churches, businesses, and social justice advocates are advancing a Worker Bill of Rights campaign in Spokane, WA, to place the initiative before the voters in the November 2015 election.

This rights-based initiative is heavily shaped by the economic and workplace inequity and injustice prevalent across the U.S., including Spokane:

- Stagnant wages since the 1970’s
- Women and other marginalized peoples earning 77 cents on the dollar as compared to white men
- Employers wielding the power to fire workers for no cause, labeled in classic propaganda as “at-will” employment
- No worker rights protections in the U.S. or state Constitutions

The Spokane Worker Bill of Rights addresses these inequities by securing the right to a family wage when working for a large employer, the right to equal pay for equal work, and the right to be protected from wrongful termination. These three rights would also be protected from corporate “rights” being used to suppress or reject worker rights.

In short, Spokane’s Worker Bill of Rights would ensure people are paid adequately and justly, and fired only if they are not doing the job. Spokane’s Worker Bill of Rights is about recognizing and protecting rights – recognizing that every human being has a right to work and to be paid enough to meet their basic human needs. The rights-based proposal is grounded in justice, equity, sustainability, and common sense.

The Coalition driving this effort goes by the name Envision Worker Rights and is a project of Envision Spokane – a local community rights group that has been partnering with CELDF for eight years to expand democracy in order to protect rights and create sustainability in Spokane.

“Civil disobedience is not our problem. Our problem is civil obedience. Our problem is that people all over the world have obeyed the dictates of leaders...and millions have been killed because of this obedience...Our problem is that people are obedient all over the world in the face of poverty and starvation and stupidity, and war, and cruelty. Our problem is that people are obedient while the jails are full of petty thieves...(and) the grand thieves are running the country. That’s our problem.”

— Howard Zinn

Hydro-Quebec (HQ), a Canadian crown corporation, is well into the process of re-routing over a dozen rivers to create one of the largest hydroelectric projects in North America.

HQ managers' enthusiasm to make it one of the world's largest hydroelectric power providers drove them beyond national borders to bring electricity to the densest population center in the region – the northeast U. S. New Hampshire communities first became aware of the project, known as the Northern Pass, in 2010, when the first murmurs about “clean energy solutions” from Canadian hydropower found their way into local media.

According to the company's website, HQ produces 36,608 megawatts of electricity annually with 99% of that satisfying the clamor for “clean energy” in Canada. The company's claims of “clean” and “renewable” were apparently conceived without taking into consideration the submergence of boreal forests and the amount of fossil fuels used to construct and maintain the gargantuan project. Any possibility of carbon-footprint relief from these large projects would take over a decade to be realized.

Municipalities in the southern tier of New England, across Massachusetts and Connecticut, will be the final destination for the electricity. But 32 New Hampshire municipalities will not receive any of the electricity. **They exist solely as the sacrifice zone for the power lines.**

The federal policies for reducing greenhouse gases mandate state regulation and monitoring of energy policies to reduce carbon emissions by 25% by 2030, paving the way for the media to talk about the huge hydropower project in a positive light.

The issue in New Hampshire, however, is not focused around whether or not the project is “clean” or “renewable,” but whether or not people who live in New Hampshire have a right to protect their community and deny the company access for the electricity.

The single most important aspect of the project that media outlets and state representatives are ignoring is that siting an industrial project in the middle of some of the most pristine landscapes in the State violates the rights of community members to determine what kind of towns they live in. The attitude of company representatives and state legislators consider the project a “done deal,” so we should all work toward the “best permit possible” and be willing to compromise.

Destruction of breath-taking mountain views, bulldozer scars across the White Mountain National Forest, the industrialization of rural landscapes, and the usurpation of the civil and political rights of community members to let



New Hampshire: Where Does the Power Lie? Towns Challenge Northern Pass

HQ build access roads and industrial towers, violates our heritage, undermines tourism, is a disgraceful abomination to the National Forest, and is a dam shame. Pun intended.

Search the internet for photos of the project and you'll find stories of the many Cree peoples who have been forced to sacrifice their fishing grounds, villages, and their way of life for the project shareholders. In fact, these people and other tribal nations have been sacrificed since settlers arrived in the 1600s. A profitable outcome for the few does not justify the harm of the many, particularly when the many are those who lack the financial backing to defend themselves against the few – the corporate elite, who use law to destroy the lands and people who stand in the way of their profits.

This is not a new story. It is another example of how expansion of Empire serves those at the top through a sacrifice of communities and nature. The industry claims honest efforts to “reduce our carbon footprint” by adding industrial-scale hydropower to the energy mix. However, corporations are less interested in solving the current energy crisis or steering us away from climate disaster. Like every other chartered entity, the interest is purely in profit-making.

Elected officials have maintained that there is no way to stop the project, because the State and federal governments preempt local decision-making. In their words, “We'd like to side with you against the project, but our hands are tied.”

Arguments for compromise to bury the large-scale transmission lines that will carry the electricity to the Massachusetts border have been met with replies from the company that “it is too expensive.” However, stripping community members of fundamental rights and sacrificing our land and local economies, losing farmland,

forests, and our way of life, are the true costs of such a project. New Hampshire communities would have a difficult time recovering from loss of landscapes and local tourism, which are the core of the economies of many small towns along the route.

The discussion is not where the power lines go – it's who gets to decide if they go anywhere. Right now, the Site Evaluation

Committee – the state's regulatory agency for all energy projects – believes they have the power to approve all energy projects in the State. Residents of the 32 towns along the 180 mile proposed route see themselves as the decision makers.

The ultimate discussion is about answering this question: Where does the power lie?

Pre-Revolutionary New Hampshire settlers were loyal to the King in exchange for protection and trade. The towns of Exeter, Dover, and other settlements were self-governing in 1640 and met regularly to draft laws for security, organization, and to answer the exigencies of the community. Since it would take up to two months for a community's law to gain assent from the King, folks on the ground adopted laws to meet their daily needs – without caring what the King thought. They were known to protest most definitely against any pushback from the King against local laws.

So, today, with our energy needs destined to outweigh supplies, and the pressing reality of global climate change, the laws we adopt must serve the people who are impacted directly. Answering to any king – or any corporation that's chartered in the name of the people of New Hampshire for that matter – is as ridiculous today as it was in 1640. Yes, we all need energy. But the We, who live in our communities today, must be the ones who make the decisions about how we're going to fulfill our future energy needs and what we're willing and not willing to sacrifice in order to so.

For the growing numbers of towns in northern New Hampshire who have worked with CELDF and have adopted Community Bills of Rights ordinances, the power lies with the people.



Oregon: An Inalienable Right to Local, Sustainable Food Systems

The Willamette Valley in Oregon contains rich and fertile land to grow food. In fact, it is one of only five places on Earth where certain varieties of organic seeds can still be grown without threat of contamination from genetically modified organisms (GMOs).

Today, that status is threatened on a number of fronts, mostly by large corporate agriculture, with the introduction of GMO sugar beet seed crops, GMO corn crops, and proposals for the introduction of canola – most of which is GMO tainted – and GMO wheat, which is currently being field-tested in the Valley and elsewhere in Oregon.

Communities in the Valley are deeply concerned about protecting their right to seed heritage as agribusiness uses patents and preemptive lawmaking to advance corporate interests in GMOs and strip rights of communities to make the decisions about heritage seeds and what crops are grown in the Valley.

Over the last two years, farmers, residents, and local organizations have come together in Benton and Lane Counties. **In partnership with CELDF, they are working to stop corporate agriculture's threat of GMOs and to claim their inherent right to local self-governance – including their right to protect and sustain healthy local and regional food systems.**

In Benton County, community members formed the Benton County Community Rights Coalition. Through their campaign organization – Benton Food Freedom – they qualified the CELDF-drafted Benton County Local Food System ordinance, which is a **Food Bill of Rights**, for the May 2015 ballot.

In Lane County, community members formed Community Rights Lane County. Their campaign organization – Support Local Food Rights – is planning to circulate a CELDF-drafted local food system ordinance similar to that in Benton County.

Both County government and corporate interests have thrown up roadblocks through administrative challenges. However, rather than discouraging the community and their allies, these deliberate actions have revealed to the community even more clearly how our structure of law and governance serves corporate interests over community rights.

Residents are galvanized by County and corporate efforts to thwart their community rights, and are engaged in legal battles to overcome those efforts in order to qualify their Food Bill of Rights initiative petition for the ballot.

They stand strong with their allies and CELDF, continuing to move forward to challenge and change our structure of law by protecting their right to local, sustainable food systems.



Ohio: You Don't Lose Unless You Quit:

Youngstown - A history of fighters that continues today

There is a fighting spirit in Youngstown, OH. Boxing champions Ray "Boom-Boom" Mancini, Kelly Pavlik, and Earnie Shavers all herald from this city. Today, their legacy of persistence and tenacity has been passed on to less well-known fighters: the residents of Youngstown. They are in a battle for themselves and their community to protect their clean air and water, and their right to local self-governance, as they face off against the oil and gas industry's shale gas drilling and fracking.

These residents formed Frack Free Mahoning (FFM) in early 2013, and they are as fierce as any of their boxing predecessors. In partnership with CELDF, FFM completed the 4th Round of an impassioned battle to prevent toxic waste and potentially cancer causing chemicals from being dumped into the Mahoning River, to prevent particulates polluting the air, and to prevent radioactive waste dumping into their landfills. **FFM is standing up for residents' right to local self-government, placing the rights of people and ecosystems to live and thrive above the claimed "rights" of corporations to make a profit, no matter the cost.**

After the shock of experiencing a 3.9 earthquake on New Year's Eve 2011, residents literally woke up to the threat of fracking and wastewater injection wells. There had been no recorded earthquakes in the Youngstown area prior to this. FFM heard about CELDF's work helping communities facing a range of issues, including fracking, by asserting communities' rights to clean air and water, a healthy environment, and to local self-governance.

Residents partnered with CELDF to create a **Community Bill of Rights (CBOR) charter amendment banning fracking as a violation of those rights.**

And thus began the 1st round. The CBOR was placed on the May 2013 ballot and was defeated 57% - 43%. They faced fierce opposition: Local elected officials, local media, the Chamber of Commerce, and the Pipefitters Unions all came out against the measure. The opposition let loose their propaganda machine to provoke fear and confusion about the CBOR, and FFM and other allies were well outspent.

Disappointed but not discouraged, FFM stepped in for Round 2, placing the CBOR on the November 2013 ballot. It proved to be even more grueling as they faced a protest at the Board of Elections. They prevailed in the protest, and although they lost at the polls, the gap decreased. They had reached more people who understood that their community's rights were at stake.

Tired, disappointed, and simultaneously discouraged by their second loss and inspired by their gain, FFM and their allies determined to go again. Round 3 of this fight began in one of the coldest winters in decades. Determined to place the CBOR on the May 2014 ballot, this group of dedicated community members successfully secured the necessary qualifying signatures in bitter temperatures, while enduring tremendous pro-industry pressures.

Another loss – but the gap narrowed to only a few hundred votes. In each round of this epic fight, FFM and the voters have gained ground.

And while most people may have conceded defeat after three rounds, Youngstown residents, FFM, and their allies, rallied and collected signatures for Round 4.

Local elected officials, local media, the Chamber of Commerce, and Pipefitters Unions put forth tremendous effort to defeat their own community's Bill of Rights charter amendment – a law that would have protected everyone's rights to clean air and water, to local self-governance, and to a sustainable energy future. Youngstown residents, FFM, and their allies revealed their grit and tenacity, and refused to give up. Despite being outspent in each campaign by 10:1, they refused to give up. Despite personal attacks against individual residents, they refused to give up. And despite pro-industry's smear campaigns and cash expenditures, they refused to give up.

Youngstown residents are learning. They're learning about their rights. They're learning that the jobs they've been promised by the City and industry have not materialized. They're learning about plans to test radioactive fracking waste in their community. They're learning that they continue to live on shaky ground as more earthquakes occur due to fracking and its related activities.

They're also teaching us. They're teaching us grit and tenacity. They're teaching us endurance and commitment. And, like the Youngstown fighters who share their hometown – they're teaching us that you don't LOSE, unless you QUIT!

Washington: Fighting for Community Rights In Spokane The Right to Vote on Trial

In 2008, with assistance from CELDF, a community group called Envision Spokane pioneered the idea of legalizing a municipal level bill of rights. **Because of that first attempt in Spokane, three dozen communities in eight states have since adopted a local or community bill of rights law to protect the health, safety, and welfare of people and nature.**

Though the first initiative campaign to adopt the Community Bill of Rights in Spokane lost by a substantial margin in 2009, thanks to nearly a half million dollars in corporate lobbyist money against it, Envision Spokane came back in 2011 with a revised Community Bill of Rights that ended up within a half percent of becoming law.

With each initiative campaign effort there has been a **growing recognition by the people of Spokane that their community rights must supercede those of corporate “rights” if they are going to have any chance to create and maintain a just, healthy, and sustainable city.** That increasing community consciousness clearly alarmed corporate powerbrokers and the elected officials who do their bidding. In 2013 Team Corporate Privilege filed a legal challenge to keep the Community Bill of Rights off the ballot after it had qualified for the third time. In court, the corporate attorney representing business associations, realtors, corporations, and city council members said that the challenge



was necessary because it was likely that if the people were allowed to vote on the measure, they would vote to adopt the Community Bill of Rights.

The judge in the lower court agreed with the corporate powerbrokers, and the Community Bill of Rights was yanked from the ballot. Envision Spokane retained CELDF to appeal that decision, and won. In January 2015, the appeals court ordered the initiative back on the ballot.

The Community Bill of Rights, if enacted by the people, would empower neighborhood residents as decision-makers for certain development proposals, provide greater legal protections for the Spokane River and aquifer,

recognize constitutional rights on the job for workers and collective bargaining rights for unions, and subordinate “rights” claimed by corporations to community rights when they come into conflict.

Worker rights have been a main tenant of the community rights work since the beginning of the fight for community rights in Spokane. For instance, **workers do not have federal bill of rights protections when they cross the threshold into the private workplace.** On the flip side, corporations, because the law sees them as “persons,” do have those rights – plus additional legal privileges. This is why corporations can squash attempts by workers to unionize. Corporations’ “right” to free speech is protected, while the workers’ is not.

The campaign continues as members of Envision Spokane have partnered with CELDF to draft a **Worker Bill of Rights.** The measure is proposed as a citizens’ initiative. It would secure rights for workers, including the right to be paid a family wage, the right to receive equal pay for equal work, and the right to not be wrongfully terminated from a job. As well, the initiative establishes that corporations may not wield their corporate “rights” and powers to weaken or override any of the rights secured in the Worker Bill of Rights. If adopted, this would be the first such Worker Bill of Rights in the country.

“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

Colorado: Local Rights Constitutional Amendment Clears Supreme Court Challenge

The Colorado Community Rights Network (COCRN) is a coalition of communities across the state working to advance community rights to the state level. In February 2014, they proposed a CELDF-drafted Community Rights state constitutional amendment. In June 2014, they cleared the last hurdle – a corporate challenge to the proposed amendment – with scant time left for collecting signatures to place the amendment on the ballot. If enacted, it would guarantee the right of citizens and local governments to enact rights-protecting laws free of state preemption or corporate challenge.

CELDf assisted COCRN proponents of ballot initiative #75, commonly known as the Local Self-Government Amendment, to successfully navigate the measure through the state legislative review process and the state title board review. COCRN was then hit with two corporate challenges in an attempt to block the initiative, which sent the measure back to the title board for appeal. The amendment language was approved by the board, but

another industry challenge sent the measure to the Colorado State Supreme Court. Finally, on May 22nd, the Court gave the green light for a vote by the people in November, once enough signatures are collected. But the frivolous delays imposed by corporate challenges made completion of the petitioning in time for a November vote all but impossible. Still a small army of petition circulators gave it their best shot. On July 13th organizers decided to suspend the effort and try again at the next election opportunity.

The ballot title designated by the State asks voters:

“Shall there be an amendment to the Colorado constitution concerning a right to local self-government, and, in connection therewith, declaring that the people have an inherent right to local self-government in counties and municipalities, including the power to enact laws to establish and protect fundamental rights of individuals, communities, and nature and the power to define or eliminate the rights and powers

of corporations or business entities to prevent them from interfering with those fundamental rights; declaring that such local laws are not subject to preemption by any federal, state, or international laws so long as the local laws do not weaken any fundamental rights or protections for individuals, communities, or nature found in federal, state, or international law?

The amendment has passed muster at all levels and is ready for another try. Meanwhile, COCRN continues to organize for enactment of local Community Bills of Rights for cities and towns, as well as empowering county residents with initiative and referendum powers to make and reject county laws and amend county charters. By creating home rule commissions and, eventually, county rights-based charters, people in unincorporated areas of Colorado counties can gain democratic self-governing rights unjustly denied them. The people’s struggle for democratic rights has just begun, with a bang, in Colorado.

Broadview Heights, Ohio's Battle Over Rights

Broadview Heights is a typical residential suburb in Northeast Ohio, twelve miles south of the shores of Lake Erie. What is not typical are the ninety oil and gas wells and storage tanks that started appearing in backyards, next to schools, picnic pavilions, and playgrounds, beginning in 2007.

At first, the promise of extra cash from royalties or free gas in the winter, along with assurances that the state was closely regulating the drilling process, enticed some residents and city and school officials into signing leases. However, in a few years, problems began to surface. Two hundred gallons of oil leaked into a local creek. A well at an elementary school started spewing an oily liquid onto the playground while students were at recess. A neighborhood was evacuated due to odors coming from a well. More news articles started circulating on the dangers of open frack waste pits and other chemicals used in the fracking process in Pennsylvania and other states, which were being fracked long before Ohio. Homeowners began seeing their property values drop, and encountered difficulty selling their homes due to the proximity of oil and gas wells. Toxic waste was being produced, and corporate honchos were targeting other communities for its disposal.

How did these once typical, residential neighborhoods get turned into industrial sites without the residents having a say? And why, when residents became alarmed by the foul reputation of the fracking industry, were they told by their local elected officials that, "Our hands are tied," and, "These decisions are made at the state level. That's where change has to occur?"

While the City Council and Mayor were shirking their obligations to protect the health, safety, and welfare of the community, they weren't lying about the state making it illegal for them to do so. In 2004, the Ohio legislature enacted preemptive law giving all authority to regulate oil and gas drilling to a state bureaucracy, the Ohio Department of Natural Resources (ODNR). When community members asked their state representatives why they had been stripped of local governing authority over oil and gas corporations, they were told that it was good for the state's economy, and that it would create jobs. Besides, they were also reassured, the ODNR would monitor fracking and *limit* the harm.

What about wanting no harm? And what about the risk of explosions or the air pollution that children were being exposed to? What about reduced property values and increased insurance rates? No answers were given to these important questions.

Residents of many neighborhoods came together and organized. They founded Mothers Against Drilling in Our Neighborhoods, Inc. (MADION) and they started speaking to more of their neighbors. Along the way, they learned about CELDF and the use of



Community Bills of Rights (CBORs) laws to protect residents and ecosystems from harmful corporate activities. They resolved to adopt a Community Bill of Rights to stop fracking and safeguard their clean air and water, and their rights to local self-governance, by circulating an initiative petition to place a Bill of Rights Charter Amendment before the voters.

Residents faced tremendous opposition from their own elected local officials. They were told that the Bill of Rights was illegal, unenforceable, and that the city would be sued for millions of dollars if they voted for this charter amendment. Residents were incredulous. "If we live in a democracy," they asked, "shouldn't we get to decide what happens in our community?"

Their Community Bill of Rights won a landslide victory, garnering 67% of the vote. Residents overwhelmingly banned any new drilling as a violation of their rights to clean air, water, and local self-governance. This was democracy in action, just as they had been taught.

While Broadview Heights once averaged 10-20 new wells a year, since the CBOR was adopted, not one new permitted well has been drilled. In addition, the city was forbidden from purchasing road de-icing products derived from fracking waste. Residents reminded the electeds that their CBOR prohibited the use of such products. The people's law has been working just as the residents of the community intended.

In June 2014, two drilling companies filed a lawsuit against the City of Broadview Heights, claiming a corporate right to frack. The corporate plaintiffs asked the judge to nullify the democratically enacted Community Bill of Rights Charter Amendment. They say it is illegal.

How can a community rights law, protecting people's health, safety, and welfare, be considered illegal?

The corporate attorneys justify their request by citing the 2004 preemptive law stripping communities of their right to govern the behavior of gas extraction corporations. If they succeed, they will come into the community, extract the resources, make their profits, and leave the community to clean up their mess, all against the consent of the governed.

The residents filed to intervene in the case and were denied based on the judge's ruling that the residents don't have standing or a stake in the case. In order to protect their rights and their law that was passed by the majority of people in the city, they filed their own lawsuit.

In December of 2014, the residents of Broadview Heights filed a first-in-the-state class action lawsuit against the state of Ohio, the governor, the state oil and gas association, and the two drilling companies for violating their right to local self-governance.

The question that residents of Broadview Heights are asking are the same questions communities are asking across the country: Who gets to decide what happens in our communities? The people who live here, and who will be directly impacted by the corporate harms? Or do corporate directors and government officials get to decide what happens here – when they often live hundreds or even thousands of miles away?

The people of Broadview Heights have made their answer clear: We The People, govern our community and we will fight for our right to do so.

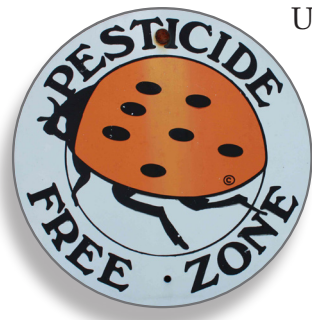
Oregon: A Right to be Pesticide-Free

In 2013, Josephine County, OR, residents partnered with CELDF and formed the Freedom from Pesticides Alliance to advance community rights to protect themselves from state and corporate pesticide use.

Timber is a dominant industry in Oregon. Both private (mostly corporate owned) and public lands are being logged. A common but deadly practice by the industry is the use of toxic pesticides.

Shielded by the state's Right to Farm and Right to Forest Act, and other regulatory protections, heavy pesticide use has been ongoing for more than three decades. Their use continues unabated despite mounting evidence of local harms and growing research about the toxicity of these chemical cocktails. Josephine County, located in southern Oregon and bordering California, is comprised of a patchwork of mostly small farms, one small city in Grants Pass, and forested mountains, with significant logging underway. For years, many folks in the County have opposed the use of pesticides in aerial spraying by the timber industry and roadside weed control spraying by counties and the State.

In the last few years there have been high profile poisonings of people from the timber corporations' aerial spraying in two Counties.



Undeterred, the corporate timber industry has continued spraying. The State has begun investigations into the incidents – but representatives have taken no action to stop the spraying.

To the folks in Josephine County, it has become crystal clear: The people must take the lead in eliminating pesticide harms and protecting their community rights – including the right to protect their health, safety, and welfare.

With CELDF's assistance, the Freedom from Pesticides Alliance qualified a Freedom from Pesticides Bill of Rights for the November 2014 ballot. The ordinance contained language protecting residents' right to be free from toxic trespass; the right to clean air, water, and soil; and prohibited the use of the most toxic pesticides in order to protect those rights.

Although the Freedom from Pesticides Bill of Rights did not pass in November, it has changed the tenor of the conversation in that County around "who decides?" And, it has sparked an energy to re-group and re-qualify for another ballot. In addition, Josephine has inspired community rights groups in two other counties, Lane and Lincoln, to follow suit with their own Freedom from Pesticides Bill of Rights ordinance. All three Counties are looking to qualify for the May 2016 ballot.

"My elders have said to me that the trees are the teachers of the law.
As I grow less ignorant I begin to understand what they mean."

— Brooke Medicine Eagle

A Zombie Frackpocalypse:

The Dysfunctional Family Activities Harming Your Community

The phone call to CELDF is always the same: "There is [insert nasty fracking-related activity here] slated for our community. It's going to turn our community into a resource-extraction colony that will harm our health and take property values, and we're being told there's nothing we can do to stop it!"

Those [insert nasty fracking-related activity here] seem to be conjured up right out of a horror film, descending upon your community like a zombie apocalypse and all you've got is a pen to defend yourself, futilely writing letters to regulatory agencies demanding some relief. And yet you soon find that those regulatory agencies are actually working in lockstep with the industry to legalize and issue permits for those very fracking-related activities that you're trying to stop, including:

- fracking (the process of injecting chemicals, water, sand, and other materials into shale formations under high pressure to release natural gas)
- injection wells (for 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)

- wastewater storage and processing facilities (temporary storage and treatment of fracking wastewater before its disposal)
- export terminals and facilities (to export fracked gas to other countries)
- silica sand transfer stations (providing the sand used in fracking operations)
- gas-to-liquid facilities (for converting natural gas to gasoline that goes in your car)
- ethane cracker plants (for converting natural gas to plastics)

And those are just *some* of the activities related to the fracking *itself*. Not to mention that communities where fracking is happening are seeing other associated harms, including 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. And, that the promises of jobs for local residents have been severely overstated, with many workers coming in from out-of-state to hold the fracking-related jobs. There are also damages to air quality, damages to roads, and on and on.

The list of fracking-related activities and harms seems to grow daily. The only thing that is *not* predictable about the phone calls we receive is whether it's some *new* harmful fracking-related activity that's been invented in the past few weeks. The zombie apocalypse continues

unabated, and we're taught that the only tools we can use to fight are things like zoning and regulatory hearings, where we attempt to minimize the harmful effects, or decide which part of our communities we want to sacrifice.

And yet, as everyone knows, the only way to stop a zombie is to go for its brain. When it comes to fracking-related activities, the brain is the structure of law that legalizes and legitimates the activities to occur...and that denies your communities the remedies you need to stop the harm.

Rather than continue to live in this nightmare, communities in Pennsylvania and across the U.S. are waking up to this reality: The only way to beat the frackpocalypse is to challenge it frontally, and create a new and more just system of law - *a new brain* - in its place. That's why cities like Pittsburgh, PA; Athens, OH; and numerous other communities across the U. S., are banning 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 brains – new constitutional structures – at the state and federal level as well.

For as long as we continue to live under a brainless structure of law that legalizes harmful activities, our communities will continue to remain under siege, reminiscent of the worst zombie movies that you've ever seen.

Initiating a Rights-Based Campaign

The Three G's of Organizing

Wondering how to get started on the road to local self-government in your community? You'll need:

1. **A Goal,**
2. **A Group,**
3. **and Get out of "The Box" (see pg 4) – by asserting your Right to Local Self-Government**

Old community organizing models are like your Uncle Jim at Thanksgiving: tiresome, annoying, and filled with assumptions that will never get you what you want (see "The Box" on pg 4). 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, and impress all your friends with your new expert knowledge and vocabulary. Note: 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 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 for 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. Most people think that their neighbors are a little slow 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...post flyers at the library or post office...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 a CELDF organizer and we'll begin working with your community to draft a rights-based ordinance that asserts your community's rights, and protects your community's health, safety, and welfare.

On False Memory: "Let the people think they govern, and they will be governed."
— William Penn, *Some Fruits of Solitude* (1693).

What's in a Community Bill of Rights (CBOR)?

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 types of local government and the tools for exercising local government allowed by your state constitution. There's no need to dwell on all these 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 inalienable rights over other laws, and the necessity for challenging legal obstacles to the real-time enjoyment of those rights. Because there are well-established legal barriers to the exercise of the right to local self-government in defense of inalienable rights, 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.

Definitions: Particular terms and words that are intended to have meaning specific to the CBOR are listed and defined, in order to avoid misunderstanding and to be precise about the intention of the law.

The Community Bill of Rights: A section enumerating specific rights to be secured by the law is included. This is the heart of the CBOR. Each right listed is individually enforceable.

Prohibitions Necessary to Protect the Enumerated Rights: This section identifies rights-violating corporate activities and the government actions that enable them, and both are banned as violations of the local bill of rights. The violation of the rights secured is also prohibited, and permits or licenses issued by governments that purport to legalize rights-violating activities are voided.

Enforcement: There are civil and criminal enforcement provisions included in this section, including municipal enforcement of both, as well as citizen enforcement of the law via the courts. In addition, enforcement of violations of ecosystem rights is spelled out.

Corporate Powers: Constitutional protections of corporations are preserved except for corporations in violation of the rights or prohibitions of the CBOR. Those outlaw

corporations forfeit any such legal privileges. In this way, the rights of the community and its members are elevated above the legal powers of corporations in violation of the CBOR.

Existing Permits: Permits that would legalize the violation of rights are voided as of the effective date of the CBOR, regardless of the date of their issuance.

People's Right to Self-Government: Challenges to the CBOR require the local government to convene public meetings to determine a strategy for restoring rights stripped by the challenge.

State and Federal Constitutional Change: Each CBOR calls for constitutional change at the state and national level that will recognize and enforce the right to community local self-government, free from state preemption and corporate interference when local laws are enacted to protect community rights.

Severability: This section provides that if any section of the CBOR is determined by a court to be illegal and is thus overturned, the rest of the CBOR will remain in effect as though enacted without the stricken section.

Repealer: This section repeals sections of prior local laws in conflict with the CBOR.



After reading several articles in this publication, you may be asking yourself, “Where is all of this work headed?”

In 2010, as growing numbers of communities began calling for state-level change, CELDF brought together residents from communities across Pennsylvania to launch the first statewide Community Rights Network (CRN). The Pennsylvania CRN was then followed by statewide organizations forming in New Hampshire, New Mexico, Oregon, Washington, Colorado, and Ohio. The governing boards of the state CRNs consist entirely of representatives from the communities directly engaged in rights-based organizing.

The CRNs are focused on several goals, including:

- (1) formalizing statewide networks of active communities for information sharing and organizing assistance;
- (2) hosting statewide Democracy Schools and drafting state-based curricula in the Democracy School model – called Community Rights Workshops – for organizers in those states (for more information see page 19); and
- (3) drafting and introducing state-

wide legislation and state constitutional amendments to protect rights-based local laws adopted by communities in those states.

Here is a sampling of what each CRN is doing across the country:

The **Colorado Community Rights Network (COCRN)** is the first CRN in the country to introduce a CELDF-drafted state constitutional amendment to secure the community right to local self-government. If enacted, it would guarantee the right of citizens and local governments to enact rights-protecting laws free of state preemption or corporate challenge. A series of corporate hurdles – which the COCRN overcame – left the Network with scant time to collect signatures to place the amendment on the ballot.

Despite the failure to place this question before Colorado voters in November 2014, the amendment has passed muster at all levels and is ready for another try in 2016. Meanwhile, COCRN continues to organize for enactment of local Community Bills of Rights for cities and towns, as well as empowering county residents with initiative and referendum powers to make and reject county laws and amend county charters. By creating home rule commissions and, eventually, county rights-based charters, people in unincorporated areas of Colorado counties can gain democratic self-governing rights unjustly denied them. The people’s strug-

gle for democratic rights has just begun, with a bang, in Colorado.

For more information on COCRN, contact Merrily Massa at merrily.mazza@comcast.net.

After several years of community rights advancing in the state of New Hampshire, in 2013 a coalition of communities across the state joined together with CELDF and launched the **New Hampshire Community Rights Network (NHCRN)**.

From corporate water withdrawals for resale, to unsustainable energy development and distribution projects, communities that are saying, “Enough,” through local Community Bills of Rights Ordinances are now laying the foundation to drive those rights to the state level.

NHCRN members and partners draw on language from the New Hampshire State Constitution, which declares that the authority of the government rests with the people, and the government is responsible to serve the people.

“Whenever the ends of government are perverted,” it continues, “the people may and of right ought,” to alter their form of government to one that serves their interests.

“Live free or die,” is on New Hampshire license plates. But with NHCRN working to advance community rights, the new message is, “Live free and build.” Build the Community Rights Movement from the grassroots, then on to the state level. That is the work of NHCRN.

For more information on NHCRN, contact info@nhcommunityrights.org.

Over 11.5 million people call **Ohio** home. Of those residents, 5,680,042 live in townships – meaning approximately 49% of the State’s population are residents of communities with no ability to make local laws. This is a shocking statistic, with disturbing implications for people and the communities in which they live.

If all power is inherent in the people, then how is it that Ohio townships have no authority to local self-governance? State laws that deny the authority of residents and local governments to protect their own health, safety, welfare, and quality of life, violate fundamental rights of the people in their communities.

As community rights grows across the state, communities are coming together to begin the work of advancing those rights to the state level. The **Ohio Community Rights Network (OHCRN)**, launched by residents of more than half a dozen counties in November 2013, is forging an alliance, county-by-county, to protect our communities from environmental harm and secure our rights to local self-governance – regardless of where we live.

We the people, are working together to guarantee that the right to local self-governance cannot be stripped away by any legislature or court.

To become part of the grassroots movement for community rights for all Ohioans, contact info@ohcommunityrights.org.

In September 2013 the **Oregon Community Rights Network (ORCRN)** was formed by a coalition of communities working on community rights at the local level, who were determined to accelerate their work to the state level. ORCRN is based on the Corvallis Declaration of Community Rights. Since its founding, the Network has been establishing resources for local community rights groups. The purpose of the Network is to connect the various community rights efforts, regardless of the driving issue; provide resources for those local efforts; and help to bring about a state level effort to recognize the right to local self-government.

As more and more Oregonians face GMOs, pesticides, unsustainable development projects, oil trains, corporate water withdrawals, and more, they are not only organizing locally to stop the immediate harm – but also statewide, to establish the right to local self-governance at the state level. That inalienable right will allow them to protect the health, safety, and welfare of people and nature – and is superior to corporate “rights.”

That statewide effort is being carried out today. Representatives from communities in ORCRN drafted amendment language and have filed to begin gathering signatures for the initiative. A two-year working plan has been developed for education, signature gathering, and campaign work to bring the amendment to the vote of the people in November 2016.

For more information on ORCRN, contact info@orcommunityrights.org.

Pennsylvania’s first state constitution, established in 1776, is widely regarded as the most radical and most democratic of any of the first state constitutions written during the Revolutionary era. Since that time, however, corporate interests have eroded many of the self-governing principles that Pennsylvania, and the rest of the country, were founded upon. In its wake is a sad history of exploitation that has snaked across Pennsylvania’s landscape, with entire communities being sacrificed by state-licensed harms for the benefit of a privileged minority. And even though the issues may change over the years – from predatory whiskey taxes in the 1790s, to coal mining in the 1800s, to the importation of toxic waste, factory farms, sewage sludge spreading, fracking, and more in the past century – the story has almost always been the same: Community self-government is being overridden by a governing structure that protects and enriches a privileged few.

Yet Pennsylvanians are beginning to reclaim the liberating principles that their state, and country, were founded upon. Over the past dozen years, over 100 Pennsylvania communities have been pushing back against an illegitimate legal and political structure (see “The Box” on pg 4) by adopting local laws asserting their right to community self-government, and banning State-licensed corporate harms from factory farms to fracking.

These communities are now uniting together under the banner of the **Pennsylvania Community Rights Network (PACRN)**, with this mission:

“To organize a people’s constitutional convention of delegates, representing municipal communities, to secure the inalienable right to local self-government free from corporate and state preemption.”

In short, to re-claim and assert the vision that was codified in the original 1776 Pennsylvania constitution: the right to self-government that recognizes the rights of communities to create laws that establish economic and environmental sustainability, and that can never be overridden by state or corporate interests.

For more information on PACRN, contact info@paccommunityrights.org.



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Why Existing Law Won't Stop Corporations from Harming Your Community

SOME HISTORIC CONTEXT

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

That’s what Pennsylvania attorney general Thomas Corbett¹ said to the Commonwealth Court as he tried to overturn a municipal ordinance banning the dumping of urban sewage sludge on farm land.²

Was he right?

When the Declaration of Independence was signed on July 4th, 1776, it was the work of many hands. Thomas Jefferson gets the credit, but the people of more than ninety 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 thirty 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 gener-

al. 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 26th, 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.”³

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.”⁴

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,⁵ 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 toto the existence, in the absence of special constitutional provisions, of any inherent right of local self-government which is beyond legislative control.”⁶*

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.⁷

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.”⁸

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, thirteen and one-half million arrived, and between 1900 and 1930, almost nineteen million crossed the Atlantic, for a total of thirty-seven and one half million people between 1820 and 1930.⁹

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

“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.

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, hiding behind the corporate shield of limited liability and personal immunity from prosecution, with the legal ability to 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, found that their rights had 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.”¹⁰

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

Historic context

continued from pg 17

*be lodged in some governmental agency directly responsible to the constituency affected.”*¹¹

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.

- 1 Elected Pennsylvania governor in 2010.
- 2 Legal brief filed by the Attorney General in response to a CELDF motion to dismiss in *Corbett vs. East Brunswick Township* January 31, 2008.
- 3 Schiesl, Martin J., *The Politics of Efficiency: Municipal Administration and Reform in America: 1880-1920*, University of California Press, 1977, p. 9.
- 4 Smith, J. Allen, *The Growth and Decadence of Constitutional Government*, Henry Holt and Company, New York, 1930, p. 190.
- 5 “Expectant immigrants arrived with aspirations for democratic participation, and found that they were the least welcome of Americans except in as much as their bodies could become extensions of corporate industry.” Trachtenberg, Alan, *The Incorporation of America: Culture & Society in the Gilded Age*, Hill and Wang, 1982, p. 169.
- 6 Dillon, John F., *A Treatise on the Law of Municipal Corporations*, New York, 1872, p. 156.
- 7 The rule was fully adopted for nationwide application to local governments by the U.S. Supreme Court, by reference to Dillon’s book, in *Merrill v. Monticello*, 138 U.S. 673 (1891), and reaffirmed in *Hunter v. Pittsburgh*, 207 U.S. 161 (1907), in which the latter case upheld the power of Pennsylvania to consolidate two cities into one, against the wishes of the majority of the residents in the smaller city.
- 8 Burns, Nancy, *The Formation of American Local Governments: Private Values in Public Institutions*, Oxford University Press, 1994, p. 52.
- 9 Hays, Samuel P., *The Response to Industrialism 1885-1914*, The University of Chicago Press, 1957, p. 95.
- 10 Kazis, Richard and Grossman, Richard, *Fear at Work: Job Blackmail, Labor and the Environment*, New Society Publishers, 1991, p. 76.
- 11 Smith, J. Allen, *The Growth and Decadence of Constitutional Government*, Henry Holt and Company, 1930, p. 195.

Identifying the Outsiders

Since 1995, CELDF has been providing communities with free and low-cost legal services to protect communities and local eco-systems from unwanted, harmful, corporate activities.

We’ve heard the gamut of name-calling – an art that political parties have practiced ad infinitum for time immemorial. Calling someone a “rogue” or an “extremist” or an “outsider,” and getting the media to repeat it often enough, results in a slander that sticks in the minds of folks – even when it isn’t true.

But who, really, are the “outsiders?”

In the late 1990s, agribusiness corporations such as Smithfield Foods brought factory farms into south central Pennsylvania. Farmers recognized the threat these large concentrated feeding operations posed to their livelihood. They recognized the industry representatives as outsiders, and wondered why the Pennsylvania Department of Environmental Protection (DEP) protected *them*, through state laws and regulations, rather than the communities and small, family farmers.

People got involved to protect their community, their livelihoods, and the environment. In the process of attending permit hearings and pleading with their township supervisors, they heard from their elected officials that they would like to help, but their hands were tied; and, that every issue – when it concerned a commercial operation – was a state issue, not a local one; and that folks should contact someone in the permitting agency and work within the system to get the best permit possible.

None of those was satisfactory. They didn’t want the factory farms at all. And so residents contacted CELDF and asked for help to stop factory farming in their community.

We’ve been working with communities ever since, on a range of issues – including hydro-fracturing for gas and oil, commercial water extraction, coal mining, gravel mining, chemical waste dumps, toxic landfills, genetically engineered food crops, and more. We assist communities across the country to assert their right to protect their communities through local self-government, and the right to change government when it denies rights.

While such rights are the foundation upon which this country is built, sometimes folks are uncomfortable, or feel threatened, when communities assert those rights. When a CELDF representative is invited to speak at a public meeting about the harmful corporate activity, people react by throwing around the “outsider” label. This is an obvious attempt to divide the community against itself. It also derails them from asserting the same rights our ancestors asserted – and that over 200 municipalities in the U.S. have asserted to stop harmful corporate activities.

So, what’s going on? CELDF is asked to visit the community and begins their presentation by revealing the structure of law that we live under, which guarantees that the permit gets issued to legalize the harm, and strips communities of their right to say “no.”

CELDf’s message about not living in a functioning democracy is hard 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 industrial 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 stay in.

The representative from CELDF explains that under our structure of law and governance, the state can preempt all local decision-making. If you want to stop the project from going forward, the only way to expose the project as a symptom of the lack of democracy, rather than just a single issue problem – e.g. fracking – is to frontally challenge the structure of law.

Challenge the law? What does that mean? What interest does a non-profit law firm have in a community, anyway? Aren’t they just outsiders?

The real outsiders are the representatives from the corporation who want to exploit towns for the communities’ resources. They have self-interests to protect. The only reason they have come into the municipality is to extract something they can sell for profit.

After all is said and done, the corporation managers understand that, under our structure of law, they have more rights in your community than you do. But they don’t want you to make them say it out loud – it ruins the mirage of democracy.

When considering who the outsiders are, consider who benefits by successfully making that label stick. Corporations have an interest in siting in communities in order to extract resources and make a profit. To achieve that end, they work to gain residents’ trust, using propaganda promises such as the creation of jobs and of being a “good neighbor.” They also use propaganda to cause residents to mistrust anyone who is opposed to the industry’s siting, such as labeling anyone assisting the community to protect themselves, as “outsiders.” When they are successful in their tactics, they divide the community, which allows them to more easily take whatever they want. Silenced opposition leaves communities vulnerable to become corporate resource colonies.

Residents who are able to discern the motives behind the propaganda machinations, and understand what it is they want to protect and why, will be most able to take action in the best interests of their family, home, and community. At CELDF, our work is to help communities do just that.

How to Tell Your Municipal Attorney to Sit Down and Shut Up!

Why does everyone from the mayor to the trustees or city council to the law director, the newspaper editor and the state legislator agree that we can't say "no!" to the frackers, water miners, sludgers, privatizers, union-busters, Franken-fooders, and all the rest of the corporate schemers ready to turn our towns into sacrifice zones and resource colonies? Are they for real?

They tell us, "We can't have a patchwork quilt of regulations," and, "Businesses require certainty before they'll invest locally and create jobs." They also tell us that the state has passed laws that make it illegal for our local government to limit what out of town corporations can do in our communities. Then the corporate PR teams tell us they want to be "good neighbors," and their lawyers tell us that they'll sue our municipality into bankruptcy if we don't let them be... "good neighbors."

Telling you and your neighbors the bad news – that it doesn't matter what you've seen or read, you've got no choice but to live with whatever harms the state has legalized – usually falls to the municipal attorney – the solicitor or law director. By whatever name you call your resident bad news lawyer, the proclamation of community powerlessness is a dog and pony show familiar to many.

You and your neighbors, who recently formed the "Concerned Citizens of My Town," or the "Clean Air Breathers of Home Town, USA," swap phone calls and e-mails, gather around someone's dining room table to make poster board signs, and pack the 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. If you don't like the law, then talk to your state representative and get it changed."

He's followed by the member you helped get elected last fall. "You know my opinion; I agree with you. But my hands are tied...."

And the old curmudgeon has a say. "We've done all we can. We have an obligation to protect the financial interests of the municipality. We can't afford a law suit."

And then you ask, "What about our rights?"

Chirp. Chirp.

Meeting over. Nothing accomplished. Unless you press on with another question.

"But what about our rights? What about our kids? What about our property values, and our drinking water?"

The attorney waves her hand to indicate she'll take this one. "Those are issues properly handled by the state legislature. The Council cannot ban what the state has legalized."

"Can't or won't?" you venture more boldly, frustration and courage rising simultaneously.

"That's not fair," says the attorney. "If Council did what you want them to do, we'd have a lawsuit filed against the municipality before the ink was dry on the ordinance."

"Then let me ask you this," you ask. "Are you saying the Council won't risk a lawsuit to protect our health, safety, and welfare? Because they took an oath to do that."

"But if we ban what the state says is legal, the municipality will be sued, and we won't win. That is not something you can afford," the Chairperson interrupts.

"So you are telling me it's illegal under state law to live up to your oath of office? Or is the town attorney telling you that?"

The Chairperson's eyes widen. "We aren't lawyers and we rely on our municipal attorney for legal advice."

"And who does the municipal attorney represent? Whose interests? Who is the client?" you ask.

The attorney responds to this one. "I am hired by the Council and I serve the municipality and its interests."

"So you do not represent the people and their interests. You represent the concerns of the municipal corporation and give advice about how to avoid litigation, to protect its financial interests. What about the people? What about our rights? Can public funds be used to protect the rights of the people who live in this community? Who represents our interests?" you ask.

"The Council members represent you," says the attorney.

"Not when they listen to you and protect the municipality instead of us," you reply. "Now, we are trying to have a conversation with our elected public servants. We'd appreciate not having third party interests interfere with that conversation."

There is at first a scattering of laughter and applause throughout the room. And then people rise to their feet and cheer.

Host a Democracy School Today

Are your elected officials constantly telling you that their hands are tied when making important decisions in your community about your health and safety? Have you wondered how corporations constantly overrule the will of people and communities? Democracy School walks you through why as well as how communities across the U.S. are pioneering a new form of organizing that asserts local control to protect the rights of their residents, communities, and nature.

At Democracy School, you will learn how communities 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 that 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 for passing laws to expand protections for workers, neighborhoods, and the environment.

For more information, or to host a school, contact Stacey Schmader at 717-498-0054 or stacey@celdf.org.



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, we really have no choice but 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?

Additionally, municipalities have NO REPRESENTATION as such in the state legislature. Voting districts are drawn by political parties and do not allow voters to elect representatives or senators who have a direct responsibility to protect the interests of municipal communities.

Q: Dozens of local governments and citizens have adopted Community Bills of Rights (CBOR) 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 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.

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 citizens do to get local officials to adopt a Community Rights Ordinance?

A: Whether or not our local officials are personally in support of the ordinance 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 adopting the ordinance is higher than the cost of adopting it. It is part of your work to show them that residents of the community understand the risks and that, as a community, they are willing to stand behind their elected officials in support of the ordinance. CELDF works with communities to explore the options and to help people understand how Community Bills of Rights are designed to overcome the violation of community rights by corporations empowered by the state.

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. No matter what the courts say, it is time to mount a Community Rights Movement to subordinate state-chartered corporations 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 to violate them.

In his inaugural address, Abraham Lincoln stated, "The 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 Ordinance?

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, and they won't. 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. Still, they do not have the authority to dictate local government policy. They are not elected officials, and have no authority to make a decision not to adopt the ordinance. 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 officers are quite different and sometimes at odds. The attorney is required to convey knowledge of state law regarding the interests of the municipality 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, and attorneys for wealthy corporations frequently threaten law suits they know they can't win,



Frequently Asked Questions About Community Bills of Rights



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? 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.

Q: Would passage of a Community Bill of Rights violate corporate property “rights?”

A: This question presumes that corporations – which are property, by the way – 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. 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 government – not federal, state or local – has authority to empower itself or chartered corporations to violate inalienable rights of people.

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 of 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. Despite the fact that 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, perpetuate 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, CBORs assert an already existing right to local self-government on issues with direct local impact, and they assert and protect the inalienable 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 inalienable 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 therefore they make no attempt to regulate corporate activities. Rather they assert and protect the inalienable 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 inalienable 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 communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second....”

— Alexander Hamilton,
June 19, 1787 at the
Constitutional Convention
in Philadelphia.

Extract, Exploit, Export – When Federal Policies Fuel Destruction

Under our present system of law there are no guarantees when it comes to human rights or protections for the environment – especially if you live in a coal or oil rich community, or one that has other hidden resources like shale gas, or pristine sources of water stored in aquifers underground. Large corporations have research maps to show them where to go in search of the latest profit well. If you believe you have the power to stop them from using your community as a resource colony, read on.

The Community Rights Movement well underway across the nation was started by people just like you – people who believe they should have the power to refuse destructive projects like hydro-fracturing (fracking) for shale gas, mining for tar sands oil, drilling for petroleum products, and mining for water. Most of us are aware of the nation’s policies around oil and gas production and have heard in the news about permits to drill on public lands that threaten the preservation of national forests. But few of us really understand the pairing of these policies with federal subsidies (our tax dollars) that wed corporate benefit to the inevitable destruction of our communities. This destruction is brought to us courtesy of state and federal permits that legalize the harms caused by gas drilling, mining operations, injection wells for storage of hazardous wastes, and commercial water extraction, on both public and private lands.

Extraction-based industries seek out accessible lands with resources for one reason only – to exploit the land for profit. Federal environmental laws, as well as the state-mandated implementation of these federal laws, like the Clean Water Act, serve as the floor for environmental protection. We’ve been told those laws are in place to protect the planet, but these regulatory laws serve a more devious purpose.

When corporations submit a permit application to engage in a commercial activity, their charter affords them rights and privileges that allow them to exercise federal and state pre-emption over any decision made by the community members where that activity is going to take place. Large-scale energy projects like fracking for oil and gas, hydroelectric dams, and sites for industrial wind, are the result of federal energy policies that mandate how the industry is going to generate fuel or electricity for consumption. Communities are prohibited by preemptive laws from saving local resources for local use and from stopping local resources from being exported outside the community. Such laws place a priority on commercial profit and subordinate community rights to that agenda.

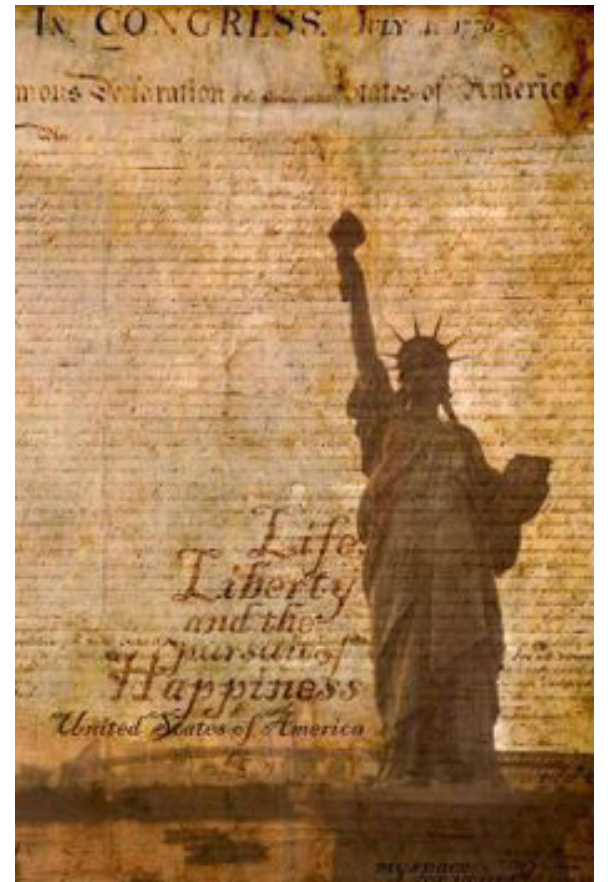
While it is generally accepted that the federal government can set standards for interstate commerce, there are consequences arising out of this marriage of government policy and

The Declaration of Independence

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, – That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government”

corporate control, especially when protective standards are set aside to enable and protect the most destructive industries from community governance. Communities and local ecosystems can suffer from toxins, chemicals, and poisonous fumes that result in irreparable harm. Communities suffer as well from the lack of civil and political protections. Real lives are at risk with no legal remedy for harms. Exploitations are legitimized, profits safeguarded, harms are assumed and legalized, and the community is summarily dismissed.

For human and natural communities to exist with clean air, water, food, and local economies that will sustain them, residents need to be the decision-makers on how local needs are met. Residents are the experts who understand what their regions can support and what kind of



energy is most efficient. If the federal government would provide municipalities with the same level of subsidies they currently bestow on business corporations, we would be able to build, maintain, and sustain a quality of life that would rejuvenate our neighborhoods and our families – with food, energy, transportation, local jobs, and a society that supports itself through cooperation and adaptation. We comprehend our level of dependence on fossil fuels, a policy we had no part in making. We are smart enough to pull away from that dependence by seeking alternatives, and create community in the process.

The present system that guarantees the biggest profits to the most privileged landowners and provides artificial persons with rights and privileges that give them special status, is one that cannot coexist within a government of right. Government of right originates in the people and operates by consent. While the Supreme Court might care to interpret the ancient language of the constitution to allow total corporate control over commerce, our communities experience firsthand the downfall of this unholy marriage and believe – despite what the courts say – that the sole power and authority to change government rests with the people. The fundamental right of alteration to obtain justice is written into every state constitution and into a system of law that allows, for example, “nullification of the law” in certain jury trials, in order to “deliver justice.”

When people ask us if this Community Rights Movement is legal, the answer lies in the words of the Declaration of Independence and the over ninety such assertions, called “Resolves,” that erupted out of disgruntled laborers and

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The Spirit of '73

and the Right to Local Self-Government

After much debate by the people of the town, Colonel John Ashley, moderator of the Sheffield, MA, Town Meeting, decided it was time to call for a vote. He then watched as every person in the hall raised their hand. The Sheffield Declaration – declaring control by England over the people of Sheffield null and void – was adopted unanimously.

To the south, Richard Barry watched a similar scene unfold in Charlotte, NC, as his neighbors proceeded to adopt the Charlotte Town Resolves (also known as the Mecklenburg Resolves for the county in which Charlotte sits) by unanimous vote. The Resolves declared that “all laws derived from the authority of the King or Parliament are annulled and vacated.”

And so it went, as people in towns, villages, and counties – over ninety in all – collectively realized that the system of government under which they lived (which protected the rights of a few) had to be replaced by a system of government which served a much different purpose.

It was not yet 1776

Town by town, village by village, **the people of the colonies began declaring their independence from England over three years before the lofty words of the U.S. Declaration of Independence were penned** by the fledgling Continental Congress. They had decided that they could not wait.

Those local Declarations shared two things in common.

First, they laid out what they believed to be the basic purpose of government and declared that English rule of the colonies failed to measure up.

The Sheffield Declaration, for example, stated that “the great end of political society is to secure. . . those rights and privileges wherewith God and nature have made us free.” Those rights included the “right to the undisturbed enjoyment of our lives, liberty, and property.” Finding that **the system of English rule violated – rather than protected – those rights**, the people of Sheffield recognized that only their own homegrown, democratically-elected governments could “constitutionally make any laws or regulations.”

The second and perhaps more surprising commonality shared by the Declarations was that they weren't drafted by those named

Adams, Warren, or Hancock – but rather by the Bernards, Roots, Fellows, Austins, Alexanders, Harrisons, and Smiths.

In other words, it wasn't the Boston-based patriots who brought them forward – to whom historians tend to ascribe the moving of revolutionary heaven and earth – but rather **they were advanced by regular people responding to a crisis by taking matters into their own hands**. That collective local lawmaking then forced an emerging nation to choose between the old and the new.

“People have rights and corporations don't. What we're looking for is individual liberty and local control.”

No longer waiting for nothing to happen

Today, political, environmental, and labor activists primarily work at the state, national, and international levels in attempts to solve the many crises that we face.

Unfortunately, institutions at those levels have failed to take any real steps to solve the big crises because doing so would diminish the power that those institutions hold, as well as stop the largest economic actors from advancing their own interests through the use of those institutions.

And so we wait for the international community to stop global warming. We wait for our state legislatures to stop fracking communities for oil and gas.

We wait for Congress to protect employee rights in the workplace and ban assault weapons. We wait for the president to stop Keystone XL. We wait for the USDA to stop legalizing genetically modified foods.

We wait for someone else to protect nature against an economic engine that demands (indeed, requires) the endless production and consumption of more stuff. We vent through endless editorials, while appealing endless permits and testifying in front of microphones that aren't even turned on.

We wait. Because that is what we have been carefully trained to do. It is what big environmental, labor, and political organizations have trained us to do. It is what the corporations and our culture have trained us to do. Wait for others to come to realizations that we've already arrived at, and wait even longer for solutions in the face of a system that cares very little for the rest of us.

Isn't it time to stop waiting for something that's never going to come? In the words of Derrick Jensen – author of *Endgame* and *The Culture of Make Believe* – “when we stop hoping for external assistance, when we stop hoping the situation will somehow not get worse, then we are finally free – truly free – to honestly start working to resolve it. When hope dies, action begins.”

Some have now grown tired of waiting for nothing to happen. And what they've begun to do bears a remarkable similarity to the colonial townspeople who finally gave up hoping that England would leave them alone.

Like the colonists, people in communities across the country aren't waiting for permission from any “higher” authority. And, perhaps not surprisingly, their work shares those two other common threads that joined together the ninety-plus villages and towns that adopted those early Declarations.

First, communities are calling out the current governmental system for what it is – a system that only protects the rights of a few – and are organizing to establish a new system, beginning at the local level, which operates differently. Second, those driving this new system are people you've probably never heard of – they're not the Clintons, Feinsteins, or Reids – but rather names like Olivas, Norton, and Martin.

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The Spirit of '73

and the Right to Local Self-Government

Mora County, NM: Establishing a Community Bill of Rights

In 2013, the people of Mora County, NM, became **the first people at the county level in the U.S. to ban oil and gas extraction through the adoption of a new law – a “community bill of rights” – which protects their right to clean air, clean water, and a sustainable energy future.**

In adopting their ban, the people of Mora joined nearly 200 other communities across the country that are using their cities, towns, counties, and villages to create a new system of government – one that protects the rights of everyone to an economically and environmentally sustainable community. It is one in which the people of a community have more rights than corporations and their managers, where ecosystems have rights of their own, and where local governments possess the power to protect health and safety even in the face of state legislatures whose interests lie in other directions.

And just like their colonial forebears – who didn't seek independence through special English courts, like boards of trade – today's communities, while hoping for courts and judges to side with them when challenges to those local laws come, are not counting on it.

Occupying the law: Driving change from the grassroots to the state and federal level

In places where a critical mass of these laws have been adopted, people are now gathering across different issues to launch state organizations focused on creating this new system through state constitutions, and eventually, through the federal constitution.

Some have described this as the next big social movement – one which “occupies the law” by turning municipal lawmaking into a vehicle of social change. A movement engaged in nonviolent civil disobedience against a governmental system that increasingly cannot be distinguished from our economic system – a system in which most of us lose, and only a very few ever win.

But those who are doing the work see it more simply. As Mik Robertson, chairman of the first local government to adopt a law directly challenging corporate powers, has said – **“People have rights and corporations don't. What we're looking for is individual liberty and local control.”**

Perhaps that's the “Spirit of '73” we hear echoing across the centuries. It's time we listen. It's time we act.



Extract continued from pg 22 settlers in villages, town meetings, and counties across the thirteen colonies before the Revolution. People create governments. When those governments no longer serve them, people have a right to change them. When government aligns itself with corporate privilege, in support of extraction, exploitation, and exportation, and against the consent of our local communities, it's time we say “Enough!” The speed at which corporations are destroying both rural and urban communities worldwide, through extraction, exploitation, and exportation of local resources, will ensure that everything of value will soon be sucked up and sold, if we do not challenge the law that permits it to happen.

The crown corporations of the English Empire are the ancient cousins of the corporate empire that operates today worldwide. Just as the English King approved laws that reinforced colonization around the world, so today, courts protect the assumed legal powers that allow expansion of and exploitation by extraction-based industries for export, reinforcing the idea that our communities serve as mere resource colonies of the state.

States have had a long history of abuses – through mining, dumping, burning, and clear-cutting – and we have come to the conclusion that it is time to challenge that history and set a new course. The extractions have devalued our futures to cold market values set by Wall Street and the World Bank. Extraction fueled exploitation of nature has peaked and we are clearly head-to-head with our own inevitable destruction.

In communities across the country, people are locking arms to hold onto what we have. Our homes, families, communities, and our way of life can be saved through an assertion of the right to change government. Ordinary workers, students, children, and nature need a government that protects them. It's already too late. What are we waiting for?

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