

COMMUNITY RIGHTS LIVING IN THE COVID ERA RIGHTS OF NATURE

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

COVER STORY: TIMES OF SYSTEM CHANGE

*Since a national emergency was called in the United States in response to the COVID-19 pandemic, corporate interests—and politicians doing their bidding—have engaged in aggressive action to save the status quo. **They want nothing more than to return to “normal.”***

Their definition of normal, however, comes at the cost of human life. More than 100,000 people have died and more are dying. The powerful are still taking actions to protect themselves, and governments are doing their bidding.

CORPORATE AMERICA ON OFFENSE; LOCAL COMMUNITIES CAN BE TOO

Across issues like pipeline construction being pushed as essential work, lack of paid sick leave for COVID sufferers, woeful failures in basic public health policymaking, obstacles to fair elections during lock down, American people are told they have little authority to act. Judges and politicians claim residents are powerless to make decisions that infringe on the “liberty” of corporations, even while those corporations and governments fail to protect residents’ lives and health during the pandemic crisis.

Visit our website at www.celdf.org to get resources for community organizing during a pandemic.

PEOPLE’S AUTHORITY REALIZED

Across the U.S., too many people are facing the COVID-19 crisis alone. The government refuses to help, but is willing to risk the lives of thousands—perhaps millions—to save an unjust economy. As more people realize that nobody is coming to the rescue, they are forced to see and experience their own authority.

There has been a mass proliferation of mutual aid networks, and people are articulating what systems and economic players are truly “essential,” and fighting for them, and for the people those essential systems depend upon.

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CHALLENGES

Since the pandemic hit, CELDF partner communities have had petition-gathering efforts suspended or threatened in Oregon, Florida, North Carolina, and Ohio. Others have been dissuaded from commencing. Across the nation, the ballot initiative process, supposedly protected by the First Amendment, is not being safeguarded by government officials during this crisis. Too many people and community initiatives have been pressured or forced to suspend critical campaigns for change.

Meanwhile, corporate lobbies have quietly pushed through laws criminalizing fossil fuel protests. Congress approved an unprecedented and unnecessary handout to corporate America. Pipeline companies want to classify new pipelines as “essential,” including TC Energy, which got the green light and began constructing the infamous Keystone XL pipeline. The federal government effectively suspended the Environmental Protection Agency.

EXPOSING AN UNJUST SYSTEM

At this moment, many people are in shock, and for good reason. For others, however, this pandemic has not caused system failure but merely exposed it. From essential workers, whose basic needs are not being met, and whose health is treated as expendable by their corporate employers, to communities across the U.S. that know first-hand that federal and state “regulations” do not safeguard water, public health, and ecosystems, people are learning that if they don’t stand up to protect themselves, no one will—not even duly elected officials.

WHERE WILL THIS GO?

We live in a moment when multiple and radically different futures are possible. Some believe the pandemic is a once-in-a-generation opportunity to remake society and build a fair and sustainable future. Meanwhile, authoritarians and corporations are taking advantage of the moment to concentrate power and secure their future profits.

Workers are mobilizing in mass, and system-shifting

concepts like Rights of Nature are building significant momentum. Multiple Native nations and dozens of United States municipalities have passed enforceable Rights of Nature laws. Some highlights from 2019:

- The residents of Toledo, Ohio adopted the Lake Erie Bill of Rights, the first law in the U.S. to secure legal rights for a specific ecosystem.
- Residents of Exeter and Nottingham, New Hampshire enacted laws elevating the rights of ecosystems above the rights of corporate polluters.
- The Yurok tribe in the U.S. recognized legal rights of the Klamath River.
- The High Court in Bangladesh recognized legal rights of rivers.
- The National Lawyers Guild amended its constitution to include the rights of ecosystems.
- A New York assemblyman proposed a law to recognize the rights of Lake Erie.
- The Youth Climate Strike included Rights of Nature (and respect for indigenous sovereignty) in their list of demands.
- Rights of Nature bills were introduced in Australia and the Philippines.
- In Colombia, the Plata River was recognized as a “subject of rights.”

For 2020 news, check out the Community Updates on page 4.

In conjunction with new enforceable human rights to water, Rights of Nature is a “ready to go” peoples’ paradigm shift that contains a course correction whereby the authority of human communities to govern the purpose and behavior of corporations is recognized and enforced. It means changing the very purpose of the law that binds us together. It means thinking about what is really “essential,” and driving that Earth-centered ethic into the law.

Communities across the country have already begun to rethink how human law treats the ecosystems our societies depend on. This new paradigm is long overdue.

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IT'S TIME TO THINK BIG: A PEOPLE'S OFFENSE

Over the span of two decades, the Community Environmental Legal Defense Fund (CELDF) has partnered with 200 communities in the United States to advance a framework for emancipatory self-governance that subordinates corporate and monied interests to the public welfare and the protection of life-sustaining ecological systems. With our partners, we are working to change the purpose of the law—and to encourage effective self-governance in defense of what is really “essential”: life, not more commerce.

PANDEMIC: PEOPLE EXPERIENCING HOMELESSNESS DESERVE UNIQUE CIVIL RIGHTS PROTECTIONS

New legally-enforceable civil rights for those fallen on hard times is part of a fundamentally humanizing agenda.

In the middle of this pandemic, people experiencing homelessness are being swept away by police forces who view them as a public safety hazard, rather than humans in need of assistance.

Millions of people have lost their jobs and the number of people without shelter will grow dramatically.

Now is a moment to think big, and to push a moral agenda forward to advance truly transformative ideas and imbue law with the power to recognize and protect the humanity of people who have fallen on hard times.

In 2019, a group in Denver, Colorado, called Denver Homeless Out Loud, worked to advance never-before-seen civil rights for people experiencing homelessness. They gathered thousands of signatures to get the law on the ballot.

The Denver “Right to Survive” ballot initiative laid out new enforceable civil rights for people experiencing homelessness that would give them new standing in court to sue when their rights are violated. It would also overturn a city law that outlawed resting and sheltering in public spaces.

In a just society, the “Right to Survive” would not require legislation to protect the basic civil right to rest, shelter and accept free food in a non-obstructive manner on public lands. There would be no active police interven-

tion when those without shelter sleep in cars, whether their own, or with permission of the owner. The Right to Survive initiative made it a civil rights violation for police, the city, private corporations and private security to violate these rights.

This approach attaches policies like a ban on camp evictions to deeper changes in the law and envisions societal change that protects people instead of property alone.

University of Denver Sturm College of Law Homeless Advocacy Project said the law “would affirm the dignity of people experiencing homelessness, affording them basic constitutional rights such as protecting themselves from the elements and freedom from unreasonable searches and seizures.”

Corporate real estate interests and the oil and gas industry spent millions in a sophisticated propaganda campaign to defeat the proposed law. Given the potential for historic levels of financial insecurity and homelessness, laws like Denver’s proposed “Right to Survive” should be adopted nationwide, by every municipality, every state, and finally as a federally recognized and constitutionally codified right.

Though the idea lost at the polls in May 2019, this idea of a real human right to survive in the 21st century did not die in Denver; it was born—through the determination and commitment of the people who live here.

It can spread.

FLORIDA

In November 2019, communities in Florida invited CELDF organizer, Tish O'Dell, and Markie Miller, with Lake Erie Bill of Rights (LEBOR), to discuss Rights of Nature. At that time, 11 Florida counties wanted to pursue protections for Florida waterways. The historic passage of LEBOR, in Toledo, Ohio, was the catalyst for this collaboration between Florida communities and CELDF. Residents are taking steps to form a Florida Community Rights Network. CELDF is excited to foster the partnership with communities across the state.

MAINE

The New Hampshire Community Rights Network (NHCRN) is partnering with CELDF to respond with information and education about the inalienable right to self-governance and the Rights of Nature. Together we are exploring how driving Community Rights into local and state law is necessary to liberate local solutions that meet the needs of those most affected by governing decisions.

Belfast Area Community Rights group recently partnered with the NHCRN to bring Democracy School to Belfast, Maine. Democracy School, created by CELDF, is a flagship education program and a key piece of community rights-based organizing.

This educational initiative explores the limits of conventional regulatory organizing and offers a new organizing model that helps people assert local control in order to protect the rights of people, communities, and Nature. Lectures cover the history of people's movements and corporate power, and the dramatic organizing over the last decade in Pennsylvania, New Hampshire, Ohio, Colorado, Washington, and Oregon by communities confronting agribusiness, the oil and gas industry, corporate hegemony over worker rights, and others.

Residents in the Belfast region of Maine are facing an

industrial land-based salmon facility that threatens local ecosystems, the local economy, and their quality of life. The Belfast Area Community Rights group is in discussions with CELDF as they work to protect the air, water, and soil, for both community members and Nature. Area residents seek to protect the ecosystems of the Penobscot Bay off the Atlantic Coast of Maine from the dumping of toxic wastewater produced by industrial land-based fisheries.

NEW HAMPSHIRE

Corporate interests have filed a motion to overturn Nottingham's enforceable Freedom from Chemical Trespass Ordinance, which secures the right to a healthy climate and freedom from chemical trespass by business entities. The law, adopted at a March 2019 town meeting, recognizes residents' rights to a healthy climate; clean air, water and soil; and the rights of ecosystems to exist, flourish and evolve. It also bans corporate activities that violate those rights, including toxic waste dumping.

The Ordinance has not yet been enforced against any activity. However, G&F Goods LLC and its owner, a resident of Nottingham, filed a lawsuit against the town. G&F argues the Ordinance unconstitutionally discriminates against corporations, because the law "restricts the activities of corporate persons while imposing no similar restriction on similar activities undertaken by natural persons." Town officials have decidedly refused to defend the law, the rights of the ecosystems, and the townspeople they took an oath to protect.

G&F has called the concept of Rights of Nature "radical" and argues that it "should be declared invalid," ignoring the growing Rights of Nature movement across the U.S. and world. It also argues the community is "preempted" from adopting this latest Ordinance by state legislative authority, ignoring the corrupt influence over preemption, and jeopardizing basic and inalienable democratic rights.

The purpose of the Ordinance is to be proactive in protecting water and ecosystems from surrounding superfund sites, hazardous waste landfills, and new fossil fuel infrastructure. The 2019 Freedom from Chemical Trespass Ordinance builds on Nottingham's already-existing 2008 Water Rights & Local Self-Government Ordinance, which is successfully protecting the town aquifer from commercial extraction and bottling.

The local community rights activist group that petitioned the rights-based Ordinance, Nottingham Water Alliance (NWA), has turned to CELDF to represent their voice and the voice of nature in court. The judge has sided with corporate interests to silence the people and nature by refusing to allow them to intervene in the case to defend their right to a healthy climate—this despite the fact that without the NWA, the plaintiffs are litigating unopposed. The townspeople of Nottingham and a growing list of Granite State communities have passed community rights laws over the past decade. They are advancing structural legal change. And they are not backing down.

NORTH CAROLINA

The Asheville Climate Bill of Rights is an attempt by city residents to amend their municipal charter with a citizen-initiated measure to assert basic rights and highlight how they are currently violated. The Bill of Rights would not just prohibit unjust activities, it would go further, laying out plans for sustainable energy policy.

The bill opens with a summary: "Establishing a Community Climate Bill of Rights for the People of the City of Asheville, North Carolina, which Prohibits Activities and Projects that would Violate the Bill of Rights, and which Provides for a Sustainable Energy Policy and Enforcement of the Bill of Rights Against Private and Public Corporations Engaged in Prohibited Activities and Projects."

Petitioners have collected the required signatures to place the measure on the ballot, but the validity of some signatures have been challenged. Due to the pandemic, resolution of the dispute between those attempting to block the measure from the ballot, and its proponents, has been indefinitely delayed.

OHIO

PROTECTING DEMOCRACY DURING A PANDEMIC

In the midst of a petition drive to place a Columbus Community Bill of Rights on the city ballot to protect the community's water supply from the harmful effects of oil/gas waste, the COVID-19 shutdown hit. The group of local volunteers suspended signature-gathering to protect their volunteers and the public from the spread of COVID-19. They had collected over 9,000 signatures by March, and were well on their way to meeting the required threshold of 9,870 valid signatures by the June 18 deadline to get on the November ballot.

Ohio's statewide COVID-19 orders have exempted free speech exercises from their shutdown orders. That means, during social distancing, petition gathering (a First Amendment activity) is still allowed. However, as with essential workers, measures to protect the democratic process are noticeably absent. Despite the risks of petitioning, deadlines have not been extended and the volunteers want to act responsibly. That means the Columbus group's 2020 effort is in jeopardy.

They are now engaged in a campaign to pressure city electeds to place the initiative on the ballot to ensure that the democratic process is protected and prioritized during the COVID-19 pandemic.

They are determined to avoid more public health crises in Columbus by way of protecting water ecosystems from radioactive oil/gas waste and want to give the people a voice in this decision.

OHIO COMMUNITY RIGHTS NETWORK

With stay at home orders in place since March 8, Ohio Community Rights Network members have been exploring ways to stay connected with their communities. While continuing their work to advance systemic change, they have developed resources to encourage forms of practiced self-governance during the pandemic. Members are also developing outreach and strategies to connect with communities online.

LAKE ERIE BILL OF RIGHTS

A single federal judge ruled against the democratically passed Lake Erie Bill of Rights in February, and in fa-

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vor of the corporate polluters and the state. The City of Toledo had originally filed a motion to appeal the decision but quietly withdrew that appeal on May 5 without any explanation. The community group wants to stress to people how much worse this pandemic would be without water. Now, with the EPA suspended, the Governor's H2Ohio plan defunded, and LEB-OR overturned by the court, there are no protections in place for Lake Erie. Toledoans realize that it will be up to the people to protect their future and the future of the Lake ecosystem, as the state continues to side with polluters.

OREGON

Local community rights groups continue to outreach with the public as well as plan for more direct activism work. In Douglas, Lane, and Lincoln counties the CELDF-supported community rights groups have hosted community rights action meetings and speaker events using video meeting platforms. In addition, both Community Rights Lane County and Lincoln County Community Rights, longtime community partners with CELDF, are positioning themselves to introduce local laws that would protect their local watersheds in the name of local self government and legal rights of nature.

The Oregon Community Rights Network has been active in facilitating regular video meetings with community rights activists from various Oregon communities as well as hosting a virtual speaker series with their first event taking place at the end of May with Will Falk—CELDf attorney and author of *How Dams Fall*. In addition, there are active projects underway with other Oregon issue organizations focused on engaging Oregonians to work towards systemic change in the name of healthy and viable communities as well as preparing to introduce a local community self-government amendment to the Oregon constitution for the 2021 legislative session.

PENNSYLVANIA

HISTORY IN THE MAKING

For the first time in U.S. history, a community has successfully pressured a state government to enforce a local Rights of Nature law.

Seven years of community resistance forced the Pennsylvania Department of Environmental Protection (DEP) to revoke a permit for a frack waste injection well in Grant Township, Pennsylvania.

The news made headlines nationally. CELDF's Chad Nicholson, who is working with the community, said to *RollingStone*: "DEP's decision to revoke the permit is not just about Grant. It also recognizes that local laws passed by other communities, whether related to fracking, pipelines, or injection wells, would also authorize the DEP to deny permits. This is a huge step forward for local resistance to the oil-and-gas industry in Pennsylvania."

The DEP officials cited Grant Township's Home Rule Charter, which banned injection wells as a violation of the rights of Nature and the community, as grounds for their reversal.

The decision vindicates the resistance that communities like Grant have engaged in. DEP only did this because of the tenacity of Grant.

Since 2014, Township residents have faced a variety of intimidation tactics, including lawsuits, from the corporation behind the injection well (Pennsylvania General Energy), the oil and gas industry, and the DEP itself.

This is not the end of the story. Grant Township and the PA Community Rights Network (PACRN) have worked with State Rep. Danielle Friel Otten to introduce a state constitutional amendment to secure the right to local self-government into the PA House of Representatives (HB 1813). Recently, a joint letter from Grant and PACRN was sent to every municipality (2700 in total) in the state to build support and solidarity for the effort.

SUPPORT THESE COMMUNITIES: TEXT CELDF TO 44321 TO DONATE TODAY!

VIRGINIA

The pandemic has not stopped the efforts of residents in Virginia from moving forward with plans to protect their communities and nature. CELDF has been working closely with Virginia activists on laying the groundwork for exciting efforts on Community Rights and Rights of Nature work around the state. Stay tuned for updates and big announcements coming soon.

WASHINGTON

Community Rights San Juan Islands remains active with regular member meetings as well as an upcoming discussion session with CELDF organizers and community rights activists from Oregon and Ohio to discuss the path ahead in their effort to secure legal rights for the Salish Sea. In Snohomish County, Washington community rights activists are preparing for the introduction of a watershed protection law (similar to ones to be introduced in Lane and Lincoln counties in Oregon) as a means to combat the impacts of pesticide use by the Wall-Street-controlled timber industry.

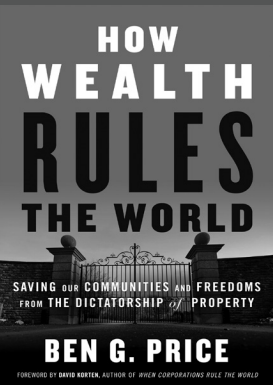
DEMOCRACY SCHOOL NOW ONLINE

Just as the civil rights movement had the Highlander Institute in Tennessee —attended by Rosa Parks and Martin Luther King, Jr.—the new community rights movement has the Democracy School.

Democracy School Online is a stimulating and illuminating course that teaches residents and activists how to reframe exhausting and often discouraging single issue work (such as opposing fracking, pipelines, GMOs, etc.) in a way that allows us to confront corporate control and state preemption on a powerful single front: people's inalienable rights.

Find all of our Democracy School resources at:

<http://celdf.org/democracy-school>



HOW WEALTH RULES THE WORLD

Ben Price reveals that our Constitution and legal system were intentionally designed to give more rights to the wealthy propertied class than the rest of us. Price exposes how this hamstrings our ability to effectively address a host of pressing social and environmental problems—and what we can do about it.

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This newsletter was prepared before nationwide protest erupted in response to the cold-blooded public murder of George Floyd. We mourn with his family and stand in solidarity with the protestors who fight for an end to this injustice/violence.

#BlackLivesMatter

TEXT CELDF TO 44321 TO DONATE TODAY!

We're all in this fight together. Every little bit counts.
Help us make 2020 the year of *Community Rights and Rights of Nature*.

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