



# Susquehanna

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## Communities Say “Hell No” to Corporate Claimed “Right” to Inject Wastewater

Two small, rural Townships in Pennsylvania are not backing down from two multi-million dollar oil and gas corporations that are claiming a corporate “right” to dump frack wastewater within the Townships. Residents insist their right to clean water is elevated above any corporate claimed “right” to inject toxic waste that would threaten their water.

Over the last two years, both Highland and Grant Townships adopted CELDF-drafted Community Bills of Rights that establish the rights of human and natural communities to water and a healthy environment – including the rights of ecosystems to exist and flourish – and ban frack wastewater injection wells as a violation of those rights.

In January 2013, with strong community support, Highland Township adopted their bill of rights banning wastewater injection wells. Recently, Seneca Resources made good on their long-standing threat to file a lawsuit in an attempt to overturn the people’s ordinance. The Township

*(Hell No - pg. 2)*

## Affirmed: Spokane Residents’ Right to Vote on their Community Bill of Rights

Envision Spokane, a community rights group in Spokane, WA, collaborated with CELDF, local groups, and City residents to develop a comprehensive Community Bill of Rights citizen initiative amendment to the Spokane City Charter. The initiative was first on the ballot in 2009, receiving 25% of the vote. The corporate opposition laughed it down, expecting it never to return.

Envision Spokane narrowed down the Community Bill of Rights to four substantive provisions, and ran it again. In November 2011 almost half the voters in the City of Spokane approved it: 49.1%.

*(Spokane- pg. 9)*

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*(Hell No- from pg. 1)*

Supervisors, with near unanimous backing of residents, voted to defend the ordinance, recognizing the greater threat posed to their water than that posed by a lawsuit. They retained CELDF to defend their ordinance.

In June 2014, Grant Township adopted a similar bill of rights. Pennsylvania General Energy Company (PGE) was threatening to dispose of frack wastewater within their Township, endangering the local aquifer and water ecosystems.

Not only did Grant Township Supervisors vote unanimously to defend their ordinance and retain CELDF, but the community made history as the **Little Mahoning Watershed** – represented by CELDF – filed to intervene in the case. It is the first time in the U.S. that an ecosystem filed a motion to intervene in a lawsuit to defend its own rights to exist and flourish.

Determined to protect their water, both the people and their Supervisors in Highland and Grant Townships refuse to be intimidated by corporate lawsuits filed to overturn their Community Bills of Rights.

For more information on our community rights organizing in these communities and elsewhere across Pennsylvania, contact Chad Nicholson: [chad@celdf.org](mailto:chad@celdf.org).

## CELDf's Common Sense Publication

Check out CELDF's Common Sense, which we are updating and expanding from our original publication in 2011.

In Common Sense, we explore the structure of law and governance we live under that makes it so difficult for us to get what we want in our own communities. And we take a look at what CELDF and our partner communities are doing about it, both locally and at the state level, across the U.S.

Common Sense is coming soon on our website at [www.celdf.org](http://www.celdf.org), or order copies by contacting us at [info@celdf.org](mailto:info@celdf.org).

## Community Rights Expands in New Hampshire



In March, Alexandria, NH, residents voted overwhelmingly to expand their community rights by adopting a second Community Bill of Rights ordinance prohibiting wind resource extraction, including exploratory data collecting activities. The ordinance was adopted 280 to 118.

Like many other communities in the Newfound region, Alexandria is threatened with wind turbine projects that would harm pristine ridgelines, local economies that rely on tourism, and the purity of the Newfound Watershed – a local source of drinking water. The rights-based ordinance secures community and nature's rights to clean air and water, a healthy local economy, and the right to local self-governance.

Since 2013, Alexandria residents have been working with CELDF to help protect the Town.

In 2014, Alexandria residents passed a Community Bill of Rights ordinance banning unsustainable energy projects by a 3-to-1 vote. Over the last year, they have faced continued pressure from industrial wind developers, and determined to strengthen their local protections through a second rights-based ordinance. They join an increasing number of New Hampshire communities that are coming together – through the New Hampshire Community Rights Network – to secure the rights of communities to local, democratic self-governance.

This includes residents of Barrington, NH, who also took up community rights at Town Meeting for a second year. Threatened with gravel mining and water withdrawals, residents proposed the CELDF-drafted *Community Bill of Rights to Protect the Waterways of Barrington* ordinance. While the ordinance did not gain a majority of votes, residents understand this work is part of a longer-term effort to ban activities and projects that would violate the rights of natural persons and ecosystems to exist and flourish. They are determined to bring the people's Community Bill of Rights forward again in 2016.

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## CELDF Grows Rights of Nature Internationally



In late 2014, CELDF staff traveled to India and Nepal, continuing our work in both countries to advance Rights of Nature legal frameworks.

### INDIA:

In Rishikesh, India, CELDF's Mari Margil attended a conference of women and faith leaders, held on the banks of the Ganges River, that focused on clean water and sanitation.

CELDF has partnered with civil society organizations in India – Ganga Action Parivar and the Global Interfaith WASH Alliance – to draft the National Ganga River Rights Act. The Act would, for the first time, recognize rights of the river and the rights of the people of India to a healthy river ecosystem. We are now collaborating on a campaign to advance the legislation. The campaign slogan is “Ganga’s Rights are Our Rights.”

### NEPAL:

In Nepal, Margil traveled to Kathmandu where CELDF is partnering with civil society groups to advance the Rights of Nature in Nepal's new constitution. One of the world's most mountainous nations, Nepal has seen the U.N. climate change negotiations fail to make progress. In 2009, the Nepalese government held a cabinet meeting at base camp at Mt. Everest, to highlight the significant impacts of global warming on the Himalayan glaciers. The glaciers provide much of the country's water. As one Sherpa told CELDF, the “mountains are turning black” as rock is being exposed with the melting of ice and snow.

CELDF met with members of Nepal's Constituent Assembly – charged with drafting the new constitution

– on the Rights of Nature and addressing climate change. With our partner organizations, CELDF met with drafting committees within the Assembly, key political party leaders, environmental attorneys, as well as indigenous and environmental groups. Going forward, we are drafting constitutional provisions and continuing to work with the Assembly and civil society to advance a rights-based framework in the new constitution.

## Ohio Residents File Class Action Lawsuit Against State and Fracking Industry

In December 2014, CELDF assisted residents of Broadview Heights, OH, to file a *first-in-the-state* class action lawsuit against the State of Ohio, Governor John R. Kasich, and the gas and oil industry. The lawsuit was filed to protect the rights of the people of Broadview Heights to local self-governance, including their right to ban fracking.

This is the second class action lawsuit in the U.S. that challenges state government and the oil and gas industry regarding the denial of communities of their rights to democratic, local self-governance to protect themselves from harmful corporate activities and to make the decisions about those things directly impacting them. CELDF assisted Colorado residents to file the first suit in June 2014.

In Ohio, Broadview Heights residents overwhelmingly adopted a Community Bill of Rights Charter Amendment in 2012 that bans fracking as a violation of rights. Two years later, two energy corporations filed suit to have the people's democratically adopted Charter Amendment overturned, claiming their “right” to frack superseded people's community rights to not be fracked.

When residents involved in drafting and proposing the Community Bill of Rights attempted to intervene in the lawsuit in order to defend their right to self-governance – including their right to say “no” to fracking and other threats – the court denied their motion to intervene, ruling that the residents did not have a direct “interest” in this case.

*(continued on pg 7)*

## Oregonians for Community Rights



### Food Fight in Benton County

Oregon once again is the national focal point for the people's battle to preserve local food production, free from corporate control and corporate pollutants. On May 19th, voters have an opportunity to take a historic stand against the industrial food complex by voting "Yes" on Measure 2-89, a Food Bill of Rights for Benton County. CELDF has been working with Benton county residents, farmers, and community groups to advance sustainable food rights since 2012.

Benton Food Freedom's motto is, "Our Food-Our Farms-Our Future-Our Decision," which is articulated in their CELDF-drafted ordinance. If adopted, the bill of rights would protect the right of the people to a viable local food system, including saving seed without fear of corporate reprisals, and the rights of nature to exist and flourish. Violations of those rights – such as the planting of GM seed, are prohibited.

Show your support and track the latest on the campaign at [www.bentonfoodfreedom.org](http://www.bentonfoodfreedom.org).

### Fossil Fuel Invasion Runs Up Against Community Rights

The corporate fossil fuel industry is looking to run roughshod over many parts of Oregon, affecting people, communities, and nature with liquid natural gas (LNG) pipelines, export terminal proposals, and expanding the transportation of coal and oil by rail along the Colum-

bia River.

CELDF has been assisting Coos and Douglas Counties in the face of these threats over the last year. Today, residents of both Counties are moving forward Community Bills of Rights ordinances that would establish and protect community rights to a sustainable energy future, banning LNG pipelines and a proposed export terminal as violations of that right. Columbia County residents are advancing a similar rights-based law that would prohibit coal and oil trains, and other unsustainable energy projects.

More on each community can be found at:

Columbia County Sustainable Action for Green Energy: [www.ccsage.org](http://www.ccsage.org)

Coos Commons Protection Council: [www.cooscommons.org](http://www.cooscommons.org)

Pipeline Awareness Southern Oregon: [www.facebook.com/pipelineoregon](http://www.facebook.com/pipelineoregon)

## 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 right-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 person 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.*

## **Communities and Pipelines: Knowing When to Fold ‘Em When the Game is Rigged... ...And Dealing a New Hand**

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. Why? Because the Fed-

eral 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 which 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.





*(Ohio Class Action – from pg. 4)*

With the court's denial of intervention, residents decided to move forward with the class action lawsuit. In filing the lawsuit, Broadview Heights residents argue that the Ohio Oil and Gas Act violates the constitutional right of residents to local self-government.

The state's Attorney General filed a Motion to Dismiss the residents' lawsuit, claiming in the motion that the residents have no standing and are "mere interlopers interfering in affairs of the state." No rulings have been made to date on this case.

Meanwhile, a county-level judge recently ruled against the residents of Broadview Heights, and in favor of the oil and gas industry, in the corporate challenge to the people's Community Bill of Rights Charter Amendment. The City – refusing CELDF's assistance in defending the amendment – articulated a weak defense based on Home Rule, which the state legislature and Ohio courts have consistently eroded over the last decade. Rather than arguing about community rights, the City made it easy for their corporate opponents to argue that the state preempted the people of Broadview Heights from taking action on oil and gas issues. There was no defense based on inalienable community rights to local self-governance, clean air and water, and the right to protect the community's health, safety, and welfare.

Residents and city government – separately – are considering next steps.

## **Munroe Falls v Beck Energy Corporation: It's Not About Rights**

In Ohio, much attention has been given to the recent Ohio Supreme Court opinion in the Munroe Falls v. Beck Energy Corporation case. In that case, Munroe Falls asserted its authority to *regulate* drilling activities within the city. Elected officials did *not* exercise their right to decide that fracking is too great a threat to their community's health, safety, and welfare, and therefore they have the right to *ban* it.

Beck Energy claimed that regulating oil and gas extraction falls under the jurisdiction of the Ohio Department of Natural Resources – not the City of Munroe Falls. The ruling, 4-3 in favor of the drilling company, fails to acknowledge or address the peoples' inalienable rights to local self-government, and the right to protect their health, safety and happiness.

In his dissent, Supreme Court Justice William O'Neill said, *"The Ohio General Assembly has created a zookeeper to feed the elephant in the living room. What the drilling industry has bought and paid for in campaign contributions they shall receive."*



## **Oregon Community Rights Moves to the State Level**

Since 2012, CELDF has been working with our Oregon partners to advance community rights through organizing, educating, and campaigning. In March, the Oregon Community Rights Network propelled rights-based organizing to the next level as they filed a citizen's initiative to amend the state constitution to secure the right to local, community self-government.

The constitutional amendment, drafted by CELDF, is titled, "The Right to Local, Community Self-Government," and would codify that right into law, enabling people through their local governments to protect fundamental rights and prohibit corporate activities that violate those rights.

The group is aiming to qualify for the November 2016 ballot.

More information can be found at [www.oregoncommunityrights.org](http://www.oregoncommunityrights.org)

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## Pennsylvania Democracy-In-Action: Four Corners Edition

CELDF's rights-based organizing in the Keystone State is bubbling. And more lawsuits – both actual lawsuits as well as threats – are not tamping down the activity, but instead are energizing community efforts in all regions of the state.

This has corporate officials worried, as suing rural Pennsylvania communities has long been an intimidation tactic used by various industries to scare people into not fighting back. But that intimidation no longer seems to be as effective. As an industry attorney with the Pennsylvania Independent Oil and Gas Association recently complained, “We are very frustrated with the proliferation of these ordinances, and we’re trying to figure out a way to stop this.”

Yet communities forge ahead. In Western Pennsylvania, two communities were recently sued in federal court by energy companies who are demanding a “right” to inject waste into those communities, while the people who actually live in those communities have said, “NO” (see accompanying article on Grant and Highland Townships).

In Southeastern Pennsylvania, in Lancaster County, residents of Martic and Conestoga Townships recently presented CELDF-drafted rights-based Ordinances to their Township Supervisors to prohibit harmful, massive 42-inch gas pipelines from being forced into their communities. Despite the residents’ overwhelming support, the Supervisors in both communities refused to pass those Ordinances, fearing lawsuits.

Residents, rather than being deterred, have accelerated community rights organizing, pursuing Home Rule as a legal tool which would allow them to vote on the proposed legislation in November’s election.

Unsurprisingly, legal challenges were filed in both communities in an attempt to prevent democratic votes on these issues. However, the challenges were dismissed, and residents are moving forward to advance rights and stop the pipeline.

And finally, in Northeastern Pennsylvania, residents in Mount Pleasant Township, also concerned about huge gas pipelines, are beginning their pursuit of Home Rule as well.

Increasingly, Pennsylvanians seem to be reclaiming the language and intent from the first Pennsylvania Constitution, recognizing: “[A]ll government ought to be instituted and supported for the security and protection of the community as such.”

As such, it’s shaping up to be a busy year for CELDF and our partner communities in Pennsylvania. For more information on our community rights organizing in these communities and elsewhere across Pennsylvania, contact Chad Nicholson at [chad@celdf.org](mailto:chad@celdf.org).



*(Spokane - from pg. 1)*

Envision Spokane petitioned to put the Community Bill of Rights to the people again, and qualified the initiative for the November 2013 ballot. This time, fearing the growth of community rights, the corporate opposition went to the courts. A coalition of corporations, business associations, and elected officials acting in their individual capacities, sued to keep the initiative off the ballot.

This pre-election challenge was successful, and the trial court struck the initiative from the ballot. CELDF represented Envision Spokane in an appeal, arguing the right of the people of Spokane to vote on their own Community Bill of Rights.

In January 2015, the appellate court issued its opinion, reversing the trial court on the basis of the corporate opponents' lack of standing. They ruled that the opponents didn't have a right to argue the pre-election challenge in the courts.

Unsurprisingly, the corporate opponents are leveraging legal tactics to delay the people's Community Bill of Rights from appearing on the ballot. Spokane's Community Rights story continues.

The appellate court opinion is available online: [www.courts.wa.gov/opinions/pdf/318877.unp.pdf](http://www.courts.wa.gov/opinions/pdf/318877.unp.pdf)

Envision Spokane's opening brief, which argues the right to local, community self government on pages 29 to 43, is available online: [www.courts.wa.gov/content/Briefs/A03/318877%20Appellant.pdf](http://www.courts.wa.gov/content/Briefs/A03/318877%20Appellant.pdf)

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