## CELDF

# SUSQUEHANNA

A Publication of the Community Environmental Legal Defense Fund

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## 2016: A YEAR IN REVIEW

What an amazing year! Working with CELDF, the people of Grant and Highland Township in rural Pennsylvania became the first communities in the nation to draft and adopt home rule charters that enshrine local bills of rights. Previously, they were the first communities in the nation to ban frack wastewater injection wells. They were also the first to have Pennsylvania's state environmental agency suspend the issuing of injection well permits based on the adoption of their local bills of rights.

Ohioans demonstrated their tenacity and grit as they refused to take "No" for an answer from the corporate state. Residents are *refus*ing fracking activities. And with CELDF's support they are standing their ground for their right to local community self-government, as representatives and the judiciary tell them they have no such right. The people of Ohio are not folding. They continue advancing Community Bills of Rights codifying clean air and water, local self-government, and rights of nature, as inalienable and indelible rights. This month, the City of Waterville became a part of the growing numbers of Ohio communities working with CELDF and adopting rights-based laws in defiance of the state and the oil and gas industry.

### RAISING THE STAKES IN GRANT TOWNSHIP, PA

Grant Township has appeared frequently in *Susquehanna* over the past few years, and the stakes continue to get higher. A quick history:

- June 2014: Grant Township passes a CELDF-drafted Community Bill of Rights Ordinance prohibiting toxic frack wastewater injection wells.
- August 2014: Pennsylvania General Energy Company (PGE) sues Grant Township, represented by CELDF, in federal court to overturn the Community Bill of Rights. PGE claims that Grant Township is violating the corporation's right to inject frack waste.
- October 2015: A federal judge overturns parts of the Ordinance, claiming that Grant Township, classified as a "Second Class Township" in Pennsylvania, lacks the authority to adopt such an ordinance.

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Communities across Ohio face harms from fracking, wastewater injection wells, pipelines, and compressor stations. At stake: clean air, pure water, healthy soil — and the people's right to local community self-government.

At the county level, residents have taken action. Twice in two years, Athens, Portage, Medina, and Meigs Counties circulated petitions to place county charters on the November ballot. The measures would ban fracking activities as a violation of Community Rights to clean air, water, and soil, and of the right of local self-government.

Residents — finding no remedy in state government for the threats they faced — leveraged their inalienable and constitutional right to citizen initiative. In good faith they attempted to place their county charters on the ballot for a vote by the people. However, with unclear guidelines and inconsistent interpretations by the courts on charter requirements, they were an easy target for the Ohio corporate state to take down.

For two consecutive years, the Secretary of State and the Ohio Supreme Court denied the people their right to alter and reform their government. They were denied their right to protect their health, safety, and welfare. There will be no county charter proposal on any ballot in Ohio in 2016. After being denied ballot access in 2015 for procedural details, the community groups made what they thought were sufficient changes to their charters based on the court's 2015 decision. Boots back on the ground,

they collected thousands of signatures. Again.

This fall, it was made clear to them: the Secretary of State and local Boards of Elections are the "gatekeepers," determining what initiatives the people will — or will not — be allowed to vote on. For residents who are unhappy with their government, it means that same government will decide whether or not the people are "allowed" to vote to alter and reform their government.

Despite the court's decision, it was not unanimous. Justice O'Neill's dissenting opinion concurs with what the people already know: They have a right to govern themselves. His decision makes clear that the people's right to create their own form of government is being unjustly quashed:

"The secretary of state does not have the power to veto charter petitions on behalf of the oil and gas industry simply because the citizens did not pick exclusively from the two forms of county government delineated in R.C. 302.02.3 This is a usurpation of power from the people that we should not indulge."

Ohio as a corporate state continues to reveal itself. Ohioans increasingly understand that a government more concerned with protecting the oil and gas industry's profits than protecting the people's right to local community self-government, will provide them no remedy.

The only remedy is in we, the people.



## RIGHT TO CLEAN AIR AND WATER UP FOR A **VOTE IN LINCOLN COUNTY**

For more than thirty years, the toxic aerial spraying of pesticides has been banned on federal forestland in Oregon because of the harm it causes to people and ecosystems. However, the practice continues on corporate timberland and state forests.

Every major watershed in Lincoln County, OR, is located on or near corporate timberland or state forests, and is susceptible to toxic pesticides from aerial spraying. This is the predominant method by which industrial logging industry mitigates the threat of competing vegetation to their commodity crop: timber trees. But not just trees are sprayed. The inaccuracy of pesticide application has even led to people being poisoned with pesticides.

Lincoln County, OR, residents are working to end this toxic aerial spraying.

In May 2017, citizens will vote on the Freedom from Aerial Sprayed Pesticides of Lincoln County ordinance, drafted with support from CELDF. In a few short weeks over the summer, the political group Citizens for a Healthy County (CACHE) qualified the measure. They obtained an exceptional validity rate of nearly 90% from over 1600 signatures gathered.

Citizens for a Healthy County and Lincoln County Community Rights, which provides education and outreach on community rights, have partnered with CELDF for over three years. Together they drafted their local community rights law, hold educational events, organize in their community, and now are training and planning for their spring campaign.

The corporate timber industry has acted swiftly to influence voters, using telephone push-polls to disseminate false information and sway residents against protecting their right to clean air and water from toxic chemicals.

However, there is growing awareness among residents of the toxicity of aerial spraying and the groundless claims that toxic weed abatement is necessary. Residents are increasingly becoming aware, as well, that they have a right to protect themselves and the places they live from harm.

For more information: lincolncountycommunityrights.org

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#### A YEAR IN REVIEW - CONTINUED FROM PAGE 1

Oregonians are steadfast and resolute: like Ohioans, their local elected officials, the judiciary, and the state told them they have no right to protect their communities and govern themselves. Oregonians assert they do, and also continue advancing CELDF-drafted Community Bills of Rights to protect against fossil fuel infrastructure, aerial pesticide spraying, and GMOs.

The people of Tacoma, WA, rolled up their sleeves last spring, gathering an astounding 17,000 signatures in less than 100 days to advance two Community Bill of Rights protecting their water from the world's largest methanol plant. While the corporate state there, as well, tells them they have no right to do so, Tacomans insist otherwise, and are partnering with CELDF to protect their water.

And for the first time in the U.S., a Community Rights state constitutional amendment received endorsements from New Hampshire house and senate representatives. While the amendment did not advance past the committee hearing, Granite Staters are looking ahead to 2017 – 2018 to move it forward again. Coloradans and Oregonians advanced similar measures with CELDF's support.

These courageous communities have emerged from two decades of groundwork laid by CELDF and other partner communities from across the country: people using their lawmaking power to ban fracking, factory farms, and corporate water withdrawals, directly challenging a system of law that recognizes corporations as having more rights than the communities in which they operate. These are people confronting key barriers to self-governance and sustainability, such as corporate constitutional "rights," in the places where they live.

What else tops off 2016? The story of CELDF and these communities is being told through *We the People 2.0* — *The Second American Revolution*, the new documentary released last month and being screened across the country.

As a companion to the film, our story is being told through a new book, We the People: Stories from the Community Rights Movement in the United States.

And our story is told by people like you, when you share

our work with others and help us grow, building a new movement for Community Rights and the Rights of Nature.

As this movement builds, so do the attacks. The oil and gas industry sued a slew of communities working to ban fracking, and has sought monetary sanctions against CELDF for defending the rights of those communities to say "no" to fracking. As of the printing of this newsletter, at least one such industry effort has been pushed back. However, we believe these attacks are indicators of the opposition to come.

In addition to suing communities and demanding sanctions against CELDF, corporations affected by Community Bills of Rights laws are now suing to keep these measures off the ballot all together. In Oregon, Washington, and Ohio, corporations are working to block citizen initiatives, preventing residents from voting on their own proposed laws. Those corporations are becoming increasingly successful in their efforts, blocking people from exercising their basic democratic rights. In Washington, they've obtained court rulings that make it exceedingly difficult for citizen initiatives to qualify for the ballot.

Even with these attacks — or because of them — the Community Rights Movement continues to grow. As people come face-to-face with a legal structure that forces harmful projects into their communities, they realize that we are caught in a system that forces us to be silent as our communities are exploited and the planet is destroyed.

Our community leaders have pledged that they will not be silent, and that they will not yield. It is CELDF's mission to help them.

It is your support that makes our mission possible! Please help us enter 2017 strong, solid, and prepared to stand with these courageous communities, and the growing numbers of other communities joining them. We - and our partners - thank you for your support!

Together, we are building a new movement for Community Rights and the Rights of Nature.

## THE PEOPLE PREVAIL IN HIGHLAND TOWNSHIP, PA

These days, it seems like The People are constantly getting stomped by the corporate state. Corporations threaten, bully, and intimidate communities into submission. They force their way in with unwanted harmful activities. Cowardly elected officials fail to uphold their oaths to protect their constituents and bow to corporate demands. Entrenched judges constantly side with corporate interests.

But that's not how it has to be: Folks like those in Highland Township are giving us a new vision for how to take control of our communities. With deep commitment, sacrifice, and an unflinching fight for their rights, they are blazing new ground. CELDF stands with them.

Highland Township is a small, rural Township in northwest Pennsylvania, with a population of less than 500.

Seneca Resources, a powerful gas corporation, has been attempting to force a frack wastewater injection well into the community. Seneca has a long history of permit violations, and injection wells have been linked to earthquakes and water contamination.

On November 8, the people of the Township spoke, and adopted a new Home Rule Charter for the community. The Charter – akin to a local constitution – prohibits frack wastewater injection wells, ensures fair taxation, and allows Township residents to democratically enact laws through an initiative process if the Township Supervisors fail to adequately represent the people.

The Charter's triumph comes after years of struggle, and there is certainly more to come. A recap:

## **Actions from the Corporate State**

## Actions from the People of Highland Township

#### 2012

Seneca Resources takes initial steps towards installing injection well in Highland Township

Residents begin organizing against injection well; contact CELDF for assistance

#### 2013

January - In response to the Ordinance, attorneys for Seneca send a letter to the Township demanding the repeal of the Ordinance; otherwise they will sue January - With majority community support, Township Supervisors enact a CELDF-drafted Community Bill of Rights Ordinance prohibiting injection well

#### 2014

January - EPA grants permit to Seneca for injection well; EPA denies appeal by Township residents

November - Seneca applies for DEP permit

June - Township residents host a picnic, attended by people from across the state. They raise awareness of harms associated with injection wells, and build a larger coalition

#### 2015

February - Seneca sues the Township in attempt to overturn Ordinance; claims the Ordinance violates Seneca's corporate "rights" to inject toxic waste

November - A new Supervisor takes office in Highland, who is not in favor of defending the Ordinance

February - Township Supervisors, with broad community support, agree to retain CELDF to defend the Ordinance against Seneca in federal court

#### 2016

April - After a death on the Board of Supervisors, a judge appoints a new Supervisor who is hostile to the defense of the Ordinance

August - Supervisors negotiate a "consent decree" with Seneca, repealing the Ordinance against the wishes of a majority of the community

September - Supervisors expend Township resources. They use the Township lawyer to launch a lawsuit in an attempt to keep the proposed Charter from being voted on

Fall - Township Supervisors and Seneca Resources campaign to defeat the proposed Charter, as the Charter would limit Supervisor powers, and also prohibit the injection well

January - Unhappy with the Board of Supervisors, and wanting more citizen input in the Township, residents initiate Home Rule proceedings

April - Township residents elect a Government Study Commission to consider writing a new Charter for the Township; CELDF assists with drafting the Charter

August - The Government Study Commission secures broad input from residents. They finalize the proposed Charter. The Charter is sent for a vote in November

Fall - Residents campaign for adoption of the proposed Charter

November - Residents of Highland Township adopt the new Charter by a vote of 132 "yeses" to 106 "nos"

Highland Township residents anticipate the corporate state will retaliate, and that future confrontations are inevitable. But The People have spoken. They have asserted their rights. They have banned toxic injection wells. They are taking control of the future of their community, and are not willing to let that future be dictated to them by a gas corporation, or by timid elected officials. They invite other communities to join them.

## **VOICES FROM WE THE PEOPLE 2.0**

Featured in the documentary We the People 2.0: The Second American Revolution, are leaders on the ground working with CELDF and advancing Community Rights including the Rights of Nature - to protect their communities from corporate harms. Their impassioned stories begin below.



Doug Shields from We the People 2.0: The Second American Revolution

"The corporate state expects obedience. They are getting defiance. Community Rights is our refusal to bow down, and our insistence on protecting our communities."

Former Pittsburgh City Council President Doug Shields led the way for adoption of the first Community Bill of Rights banning fracking in the U.S. Read his compelling story at celdf.org/2016/10/doug-shields-people-2-0-second-american-revolution.

Cathy Miorelli from We the People 2.0: The Second American Revolution



"State and local politics tried to shut me down, and I was threatened with lawsuits. But I was clear: I'd rather get sued than do nothing while my kids and my community were poisoned. I'd rather get sued than do nothing in the face of so much injustice."

For over a decade, Cathy Miorelli has been unwavering in her commitment to protect the community where she was born and raised. She is a trail blazer, leading the effort for her community to become the first in the U.S. to adopt a law recognizing the rights of ecosystems to exist and flourish. Read her inspiring story at celdf. org/2016/10/cathy-miorelli-people-2-0-second-american-revolution.



Waterville, OH, residents are threatened by the same corporation that is bull dozing through Standing Rock, ND: Spectra Energy. The 42" Nexus Pipeline is proposed to cut through this small residential City, along with a compressor station. On November 8th, 60% of Waterville residents took a fierce stand to protect themselves against this fossil fuel infrastructure, adopting a CELDF-drafted Community Bill of Rights Charter Amendment. The Amendment establishes Community Rights to clean air and water, and the right to local community self-government - and bans fracking infrastructure as a violation of those rights.

Residents learned about the pipeline and compressor station in the winter of 2016. Understanding these projects were a threat to residents and local ecosystems from the risks of leaks, explosions, and polluting emissions and noise, they worked with CELDF to educate neighbors and draft a rights-based charter amendment. They organized swiftly to place their measure on the ballot. Supporters faced the might of the chamber of commerce and economic development coalitions, including members from outside the community. Residents recognized these groups as industry allies, and sent a clear message at the ballot box: Their right to clean air and water is more important than corporate profits. Residents anticipate corporate threats and intimidation, and are unwilling to

back down to corporate "raiders" invading Waterville.

Waterville residents see that level of commitment in their neighbors to the east, in Youngstown. There, a growing community group refuses to give up their fight to protect their City from fracking activities through a Community Rights Charter Amendment they drafted with CELDF. Supporters have run their measure six times in the last four years.

This fall, record funds were spent by oil and gas industry allies to stop the growing support for Community Rights in the City. The pipefitters union alone outspent residents 10:1. Aggressive tactics and misleading language were used at the polls to steer voters against the Amendment. Although growing numbers of residents recognize these efforts as benefiting outside fracking interests at the cost of their community, the measure was defeated 55% to 45%.

Undaunted, residents promise to continue their education and outreach, and bring another measure forward in 2017. Their continued motto: "You don't lose until you quit!" They continue their fight to protect clean air, water, and future generations, joining the growing numbers of communities across Ohio who are fighting for their rights.



## HO-CHUCK NATION & THE RIGHTS OF NATURE

In September, the General Council of the Ho-Chunk Nation voted overwhelmingly to amend their tribal constitution to enshrine the Rights of Nature. This is the first tribal nation in the United States to take this critical step. A vote of the full tribal membership will be held in the coming months.

CELDF assisted members of the Ho-Chunk Nation to draft the amendment.

The amendment establishes that "Ecosystems and natural communities within the Ho-Chunk territory possess an inherent, fundamental, and inalienable right to exist and thrive." Further it prohibits frac sand mining, fossil fuel extraction, and genetically engineered organisms as violations of the Rights of Nature.

Bill Greendeer, a member of the Ho-Chunk Nation and the Deer clan, proposed the amendment at the General Council meeting. He explained, "Passing the Rights of Nature amendment will help us protect our land."

In October, CELDF's Associate Director, Mari Margil, presented at the Traditional Ecological Knowledge conference hosted by Viterbo University in La Crosse, WI. At the conference, Margil met with members of the Ho-Chunk Nation and other tribal nations to discuss indigenous rights and the Rights of Nature.

CELDF has assisted the first communities in the U.S. to enact Rights of Nature laws, with more than three dozen laws now in place. In addition, CELDF assisted Ecuador to draft provisions for its constitution, making it the first country in the world to enshrine the Rights of Nature in its constitution. Today, CELDF is partnering with indigenous and non-indigenous peoples, communities, and civil society in the U.S. and abroad to advance Rights of Nature legal frameworks, including in India where a law to establish rights of the Ganges River is being proposed to Prime Minister Modi's administration.

#### RAISING THE STAKES -**CONTINUED FROM PAGE 1**

- November 2015: Just three weeks after the judge's decision, the voters of Grant Township adopt the nation's first rights-based Charter, changing their form of government to a Home Rule Municipality; the new Charter overrides the judge's earlier decision and reinstates the ban on injection wells.
- May 2016: The ban on injection wells remains, but Township residents no longer have faith that the courts will uphold their law. Thus, a new law is passed in the Township, legalizing direct action to enforce the Township's charter if state or federal courts fail to protect residents' rights.

And now, at an industry conference, the entitled bullies behind the Pennsylvania Independent Oil and Gas Association (PIOGA) are coordinating a new front: to pursue criminal charges against elected officials who dare to uphold their oaths to protect the health and safety of their communities, including those in Grant Township.

The officials in Grant Township remain unbowed. Said Chairman of the Board of Supervisors, Jon Perry, "Passing laws that protect our community from the harmful effects of an industry that wants to dump toxic waste in our Township is my duty. We've received threats and lawsuits from this industry over the past few years, and their inability to control us, and their desperation to stop us, is leading to increasingly unhinged behavior and rhetoric. If they're ready for another round, then bring it on."

Stay tuned.

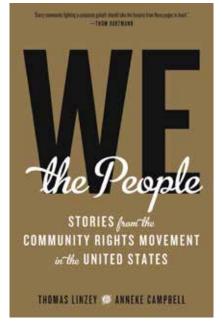
## WE THE PEOPLE: STORIES FROM THE COMMUNITY RIGHTS **MOVEMENT IN THE UNITED STATES**

As a companion to the We the People 2.0 documentary, We the People: Stories from the Community Rights Movement in the United States, is a revolutionary handbook just published from PM Press. The book portrays communities across the U.S. who have responded to environmentally destructive corporate projects by banning them locally.

These are the inspiring voices of ordinary citizens and activists practicing a cutting-edge form of organizing developed by CELDF. Instead of fighting against what we don't want, this is about creating, through local community self-government, what we do want.

Communities are refusing to cooperate with the unjust laws that favor corporate profit over local sustainability. They are leading the way forward. Across the country, they are working to drive their rights into state constitutions and, eventually, into the federal Constitution.

Order We the People: Stories of the Community Rights Movement in the United States at celdf.org/publications.



## LANE COUNTY COMMUNITY RIGHTS PROTECTS THE PEOPLE'S **DEMOCRATIC RIGHTS...FOR NOW**

For years, Lane County, OR, residents and ecosystems have been harmed by toxic aerial pesticide spraying carried out by the timber industry. The people have had enough. Today, residents are gathering signatures to place two CELDF-drafted Community Bills of Rights ordinances on the May 2017 ballot: the Lane County Freedom from Aerial Spraying of Herbicides Bill of Rights charter amendment, and the Lane County Community Self-Government charter amendment.

In response to Lane residents daring to govern and protect themselves, on the eve of the 4th of July holiday, the Lane County Commission took aim at undermining a key democratic right: citizen initiative.

The people's own commissioners, at the bidding of corporate interests threatened by the initiatives, considered altering local citizen initiative law. They intended to make themselves the gatekeeper: Any proposed measures they did not approve would not be allowed to advance for signature gathering. The commissioners would have veto power over all legislation brought forward by the people.

An immediate flood of outrage came from the commu-

nity, including the local community rights organization, Community Rights Lane County. CELDF provided organizing guidance, and the group took the lead to stop industry and commissioners' efforts.

The commission withdrew consideration of undermining citizen initiative under this tremendous public pressure. However, despite the clear message from Lane residents, the commission vowed to revisit the proposed change in the future.

Further efforts to block the current initiative continue: An ally of the timber industry who lobbied the commission to undermine direct democracy has filed a lawsuit against the county. The plaintiff contends the county failed to follow required review procedures before allowing residents to collect signatures for both initiatives. State law provides for challenges; however, they must be done within 60 days. The plaintiff, filing at the end of September, missed the deadline by three months. That case is pending.

Keep up-to-date at: communityrightslanecounty.org

# CELDF IS SPEARHEADING A MOVEMENT TO ESTABLISH RIGHTS FOR PEOPLE AND NATURE OVER THE SYSTEMS THAT CONTROL THEM.

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