

Fracking

A publication of the Community Environmental Legal Defense Fund

Fact Sheet • 2012 – 2013

Communities across the country are confronting the threat of shale gas drilling and the practice known as hydraulic fracturing, or “fracking.” The environmental impacts from drilling and fracking are devastating, and increasingly communities are seeking to stop them.

CELDF has partnered with communities in Pennsylvania, Ohio, Maryland, New York, and New Mexico to develop first-in-the-nation laws banning corporations from fracking and securing the rights of community self-governance.

What is fracking?

Hydraulic fracturing is the high pressure injection of water, sand, and chemicals into a well to crack the rock and access shale gas.

What are the dangers?

Despite many who tout shale gas as a “cleaner” fuel than coal or oil, research shows that fracking contributes to global warming at a rate many times that of conventional gas drilling, coal or oil¹. In addition, frack wells use massive amounts of water—between 1 – 8 million gallons. In a well using 8 million gallons of water, up to 40,000 gallons of chemicals are used—in one well. The wastewater is highly toxic, containing chemicals, metals, and radioactive material polluting local water sources and causing harm to human and natural communities².

Why can't we stop it?

Residents in Pittsburgh, PA, found out about gas corporations signing leases to begin fracking, and they began to organize against it. They learned, however, that the corporate directors of Range Resources, living nowhere near Pittsburgh, had more

rights to decide what happened in the city than the people who lived there. Part of this, they found, was because corporations have constitutional “rights” under the U.S. Constitution, which private corporations are able to wield against communities to override local, democratic decision making³.

They also found – as are other communities across the country – that their state government, with the help and at the behest of corporations, has legally authorized fracking to take place. Through legislation such as the Pennsylvania Oil and Gas Act, state environmental agencies are issuing thousands of permits to corporations to frack for shale gas.

Community Environmental Legal Defense Fund



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So, when a community contacts their state agency for help to *stop* fracking, they find that rather than helping the community to protect itself from fracking, the agency is instead *legally authorizing corporations to frack*. Not only do corporate directors wield corporate “rights” to prevent residents from protecting their communities, but the state preempts⁴ them from doing so as well.

What are our options?

When a community faces shale gas drilling and fracking, they have three choices before them:

1. Do nothing. This assures fracking can happen in their community.
2. Use existing law, such as zoning, to try to stop fracking. However, this only allows communities to determine where the fracking drill pad can be located in the community – not stop it. And as communities across the country facing fracking have found, state law regulating the practice does not grant communities the legal authority to say “no” to it.
3. Change existing law. Use their own municipality to protect their community and assert their rights by making local laws that recognize their right to say “no” to fracking.

The bigger problem

Facing harmful corporate activities such as fracking is creating a shift in understanding about how and why communities are unable to protect themselves from such threats. We live under a system of law and governance that subordinates community and nature’s rights to corporate “rights” and state preemption. And it’s no accident. Our constitution intentionally places the rights of property and commerce over the rights of people, communities, and nature. Decisions about ecosystems—soil, water, the minerals beneath us, even the air we breathe—are largely in the hands of corporations instead of community members who are directly impacted. It’s no surprise then that when we try to build the communities we want, we find that our system of law prohibits us from doing so.

What are we going to do about it?

The Community Environmental Legal Defense Fund has been grassroots organizing for almost two decades, partnering with communities to challenge and transform the existing structure of law that elevates the rights of property and commerce over the rights of people, their communities, and nature. **Today, over 140 communities in Pennsylvania, Ohio, New Hampshire, New Mexico, New York, Maine, Maryland, Massachusetts, and Virginia have adopted CELDF-drafted laws.** These laws ban unwanted corporate activities, such as corporate drilling and fracking, factory farming, and water privatization, while eliminating certain legal doctrines which stand in the way of community self-governance and sustainability.

¹ See www.sustainablefuture.cornell.edu/news/attachments/Howarth-EtAl-2011.pdf

² See www.treehugger.com/fossil-fuels/facts-on-fracking-pros-cons-of-hydraulic-fracturing-for-natural-gas-infographic.html

³ See www.celdf.org/our-work-corporate-rights and www.celdf.org/celdf-model-brief-to-eliminate-corporate-rights

⁴ See www.celdf.org/state-preemption

Who are we?

CELDF is the only organization in the country that has assisted communities to ban fracking through grassroots organizing and local lawmaking.

Through this work, CELDF has become the principal advisor to communities and municipal governments determined to transition from merely *regulating* corporate harms to *stopping* those harms by asserting their right to democratic, local self-governance.