



# Chemical Trespass

A publication of the Community Environmental Legal Defense Fund

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***CELDF is supporting communities across the country as they work to prohibit chemical trespass, which occurs when people and the natural environment are harmed by chemical agents. Corporations force toxic chemicals into communities through herbicides, pesticides and industrial waste disposal.***

The Environmental Protection Agency (EPA) and Center for Disease Control (CDC) are appointed to protect people and the natural environment from such trespasses. Instead, these agencies *allow* the trespass to occur, and regulate the “legal” amounts of these chemicals.

## ***Why does it matter?***

Communities have a right to be healthy and thrive. This includes the right to be free from chemical trespass.

Today, people and ecosystems suffer the health consequences of corporate application of herbicides and pesticides toxifying air, water and soil, and industrial waste contaminating pure drinking water. Residents also suffer financial consequences when they are forced to ship in water, pay for medical treatment, and bear the burden of decreased property values.

## ***A Brief History of Trespass***

In 1938, Congress adopted the Federal Food, Drug, and Cosmetics Act, which formally articulated the risks associated with chemical use. However, Congress reversed the law in response to claims that the problem was *exposure* to hazardous materials, rather than the materials themselves.<sup>[1]</sup> Congress thereby removed culpability from the corporations using toxic chemicals, and forced residents to be responsible for minimizing their contact with dangerous chemicals.

## ***A System Designed to Allow Harms***

The EPA is an appointed government agency that is charged with “protecting” people and the environment. However, rather than protecting people, the agency regulates how much harm can occur before government action is required.<sup>[2]</sup> It’s a system designed to let corporations put toxins in our environment with no repercussions to them – but serious repercussions for people, communities, and nature.

## ***What We Don’t Know Can Hurt Us***

Cancer, thyroid disorders, reproductive issues, diabetes, and psychological disorders are common manifestations of exposure to chemical agents. The CDC regularly surveys the population for the presence of 275 specific chemicals, although scientists estimate that over 700 corporate-produced chemicals can be found in the body of every person.<sup>[3][4]</sup> There’s a lot we don’t know when it comes to chemical agents inside the human body, and the EPA would agree. As of 2008, the EPA was reported to possess “complete health data” for less than 0.25% (roughly 210 chemicals) of the 84,000 chemicals in commerce.<sup>[5]</sup>

The verdict is clear for those suffering from neurological and physical illness: what we don’t know can hurt us.



### ***Want to learn more?***

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## What Are Our Options?

When a community faces chemical trespass, they have three choices before them:

1. Do nothing. This assures chemical trespass can happen in their community.
2. Use existing law, such as zoning, to try to stop chemical trespass. Yet this only allows communities to determine how much and where the chemical trespass can occur in the community – not stop it. And as communities across the country facing chemical trespass 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 chemical trespass.

## The Bigger Problem

Facing harmful corporate activities such as chemical trespass 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, even the air we breathe – are largely in the hands of corporations instead of community members who are directly impacted. It’s no surprise that when we try to create the healthy communities we want, we hit road blocks.

## What Are We Going to do About It?

The Community Environmental Legal Defense Fund has been grassroots organizing for more than 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, communities and nature. **Today, a growing number of communities in Pennsylvania, New Hampshire, Maine, Ohio, Colorado, and Oregon have adopted CELDF-drafted laws.** These laws ban unwanted corporate activities, such as corporate drilling and fracking, factory farming, chemical trespass and water privatization, while eliminating certain legal doctrines that stand in the way of community self-government and sustainability.

## Take Action. Stand up to Chemical Trespassing

Residents working on rights-based campaigns that focus on chemical trespass assert that it is a fundamental and inalienable right of every person to be free from corporate chemicals invading their bodies and communities. Government is the people’s means of protecting rights and enforcing laws. It is the municipality’s responsibility to protect the health, safety, and welfare of the residents – and it is the people’s right to do so if the municipality does not. If you or your community is threatened by chemical trespassing, contact CELDF and learn how to take action. You and your community have rights, and CELDF is here to help you fight for them.

<sup>1</sup> Sarah A. Vogel, “From ‘the Dose Makes the Poison’ to ‘the Timing Makes the Poison’: Conceptualizing Risk in the Synthetic Age,” *Environmental History* 13 (October 2008): 669. <http://envhis.oxfordjournals.org.ezproxy.library.wvu.edu/content/13/4/629>

<sup>2</sup> (Ibid.) Richard Denison blog

<sup>3</sup> Arthur Daemmrich, “Risk Frameworks and Biomonitoring: Distributed Regulation of Synthetic Chemicals in Humans,” *Environmental History* 13 (October 2008): 685

<sup>4</sup> <http://www.panna.org/science/biomonitoring/stories-from-the-field>

<sup>5</sup> Scott Frickel, “On Missing New Orleans: Lost Knowledge and Knowledge Gaps in an Urban Hazardscape,” *Environmental History* 13 (October 2008): 648 <http://envhis.oxfordjournals.org.ezproxy.library.wvu.edu/content/13/4/629>

## Who are we?

CELDF is the only organization in the country that has assisted communities to ban corporate water withdrawals 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.

*This information is provided for educational purpose only. It is not intended as legal advice, should not be deemed to be the offering of legal services, and is not presented as advocacy in support of, or opposition to, particular legislation.*

