

The Rights of Nature

Protecting Whole Ecosystems and the Species Who Live within Them

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If we want to survive and to remember what it is to be human, then we need to establish a viable pattern of activity for the whole earth community. This community should be governed by the principle that every being has three rights: the right to live; the right to occupy a habitat; and the right to fulfill its role in the ever-renewing processes of nature.

—Thomas Berry, interviewed in *The Sun*, May 2002

The biggest threat Gaia faces today is the seemingly unlimited power of corporations. Literally every challenge we face—from addressing and mitigating climate change to the degradation of ecosystems, and overdevelopment resulting in losses of open space, agricultural land, and forests—is connected to corporations that have more money and legal power than citizens. People are shocked when they learn that local self-determination stops when a corporation comes knocking. Interstate trade laws prioritize corporate profits as do international free trade agreements and the World Trade Organization. Even if a corporation does not pull its free-trade card, it has bottomless pockets to sue. Locals are hamstrung financially, and they often cannot find a good corporate lawyer since corporations hire lawyers from several firms, a tactic that ensures local citizens won't have access to the best attorneys.

I learned how powerless communities are firsthand fighting Nestlé's bulk water extraction in my small town of Fryeburg, Maine (where much of the water for their Poland Spring brand was sourced), and then fighting their proposal for a plastic water bottling plant in 2016 that would have been located directly over the aquifer.



"Lots of Bottled Water," Wikimedia, CC-BY-SA-2.5

We lost the fight to stop or even limit bulk water extraction. Their pumping station in Fryeburg is right over the deepest part of the aquifer and pumping is ongoing 24/7

even during drought years. Citizens did everything possible, but Nestlé ultimately won in the Maine Supreme Court. There were obvious conflicts of interest that were ignored in the courts and at every level of state government. We were able to stop the bottling plant and a Tax Increment Financing (TIF) district that would have given Nestlé huge tax incentives. Each was voted on separately in a special election, and our efforts to educate citizens about the dangers of the bottling plant and the non-existent “benefits” of the TIF were successful. Unfortunately, Nestlé recently sold its Poland Spring brand and some others to One Rock Capital Partners, a global water conglomerate. Nestlé was bad. One Rock is worse.

What happened in Fryeburg and in several other small towns in Maine is occurring in communities everywhere in the United States and globally. Citizens are taken by surprise, and many fall for the lure of jobs and an increase in the tax base. Often the promised jobs fail to materialize, and tax incentives given when large corporations make a local investment ensure that the corporations do not pay their fair share of taxes for many years. In my previous life as an activist, I worked mostly at the state and national level with other organizations and coalitions. I traveled a lot, spoke at conferences, and led workshops. But I had not really gotten my hands dirty at the local level until this fight to protect the water literally under my feet. I learned a lot about tactics, strategy, and reaching people where they are. But the biggest lesson is that water itself, oceans, ponds, lakes, rivers, vernal pools, and the ecosystems of which they are a part must be granted legal rights!

Thomas spoke about the rights of nature frequently. In *Evening Thoughts* he wrote a chapter on “The Legal Conditions for Earth Survival” and in an appendix gave “10 Principles for Jurisprudence Revision.” He has had a major influence on the Rights of Nature movement. Giving nature standing in its own right in the legal system has the potential to halt much exploitation, extraction, and destruction and allow Gaia to regenerate and flourish.

The Rights of Nature movement is growing. Indigenous people have led the way with their long sense of the primacy of nature. They are fighting to include constitutional protection for nature denied by the colonial laws that were forced upon them. Today there are many success stories. For example, in 2008 Ecuador became the first country to recognize the Rights of Nature in its constitution. In 2017, the Maori people established rights for the Whanganui River in New Zealand. In Minnesota, the White Earth Band of Ojibwe passed a law giving Manoomin (wild rice) legal rights in order to protect the rice and the water it lives in for present and future generations.



Wild rice field, Wikimedia, US Fish & Wildlife Service, public domain.

The Ojibwe then sought an injunction in tribal court against a pipeline project that would have damaged the rice and its waters. Communities in several states, including Oregon, California, Ohio, New Mexico, Colorado, Virginia, Pennsylvania, New York, and New Hampshire, passed laws giving legally enforceable rights to ecosystems. These laws have been vigorously challenged but point the way to the future.

We know Earth can heal and has amazing powers of regeneration. We know that love and intention empower our actions and facilitate Gaia's healing. Piecemeal efforts, saving one place while losing many others, is not sustainable. The struggle for Rights of Nature may seem daunting. And it is! But there is no other option that would allow us to protect whole ecosystems and the species who live within them.

Resources used in preparing this article and for further application of its ideas:

CELDf (Community Environmental Legal Defense Fund), www.celdf.org, helps communities in the United States and globally draft laws that establish rights for ecosystems, as well as laws granting human rights to clean water and a livable climate, and laws to ban destructive practices like fracking, factory farming, and water privatization.

The Earth Law Center, www.earthlawcenter.org, has published *Earth Law: Emerging Ecocentric Law—A Guide for Practitioners* that describes the actions people are taking globally to protect nature.

Honor the Earth, www.honorearth.org, led by Winona LaDuke, through music, art, media, and Indigenous wisdom creates and awareness for Native environmental issues and develops needed financial and political resources for the survival of sustainable Native communities.

Bioneers, www.bioneers.org, through its Indigeneity project (one of many Bioneers projects) promotes Indigenous approaches to solve Earth's pressing environmental and social issues.