

Our Right to Safety

Our Safety: Who Decides?

by Ruth Valdez, member People Against Chemical Trespass and Women's International League for Peace and Freedom
February, 2009

We offer an ordinance, Santa Cruz Local Control, Pesticide and Chemical Trespass Ordinance, based on *our already existing* inalienable rights. Where do those rights come from? Who should decide what's done to our bodies? And why do we need an ordinance?

First, it's instructive to honor the huge body of heroic and expensive volunteer work that's been done already: more than thirty-three resolutions, innumerable protests, meetings, videos, hours and weeks put into research, investigations and in-depth studies, lawsuits, research trip to New Zealand, legislative actions, and Representative Sam Farr's efforts. Thanks to all that work, the spray was postponed ... but only until the Environmental Impact Report (EIR) is done.

After that *they* will decide what *they* are going to do to *us*. The State is still saying the pesticide is "harmless". One has to wonder what their motivation could be for *ignoring* qualified independent scientific investigations to the contrary. That's one reason we need an ordinance: the State agencies are harming rather than protecting our safety.

But the question is not, "Are they inept or just plain untruthful?" And the question is not, "What else can we do to convince them?" The real question to ask ourselves is, "Who makes these decisions?political appointees?the corporation that's profiting?" Is that right, when it's our health and safety at stake?

And consider this: Should citizen volunteers be forced to bear and conduct these huge costly efforts every time the California Department of Food and Agriculture comes up with another questionable "emergency" eradication for another pest? *Can we?* Codifying our safety into law is another reason why we need an Ordinance.

Last June P.A.C.T. members attended a "Democracy School" training with Community Environmental Legal Defense Fund (CELDF) and Global Exchange, and we came out of it realizing that the real question is, "Who should decide about our safety?" Who has the right to

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decide? ... distant bureaucrats with their often questionable and disputed science? Or should it be us, the ones whose health and safety are directly affected by those decisions?

The California State Constitution states: "*All people have inalienable rights. Among these arepursuing and obtaining safety*". The Constitution *prevails* over California laws that conflict with the Constitution. Inalienable is defined as "incapable of being surrendered, or transferred, inviolable, can not be impeded by civil government". The Declaration of Independence also recognizes these rights: "*People are born with certain inalienable rights and governments are instituted among people to secure those rights.*" These are the rights that are cited as the authority for this Ordinance. So our constitutional right to safety prevails. And if our right to safety doesn't seem to be prevailing right now....then that's something we need to fix!

This ordinance, "Santa Cruz Local Control, Pesticide and Chemical Trespass Ordinance," is an effective way to fix that. The ordinance is based on those inalienable rights, and on California State Constitutional rights. This ordinance has teeth, it can ban this pesticide assault, and equally important, it will ban future pesticide assaultsjust as soon as we get it passed!

Will there be a legal challenge? *Did Rosa Parks ask the City or State attorney if she could sit at the front of the bus?* Wrongs must be addressed, not endorsed by our compliance.

Will it work? Ben Price of CELDF informs us that there are more than one hundred of these rights-based ordinances already enacted by other towns throughout the U.S. to protect themselves from toxic invasions by corporations. And in all of these towns, even though a few were challenged, in all of these more than 100 towns the corporations have ceased their intrusion and stopped doing damage.

So those ordinances worked, whether they were challenged or not. And they were all crafted with the help of the same environmental group that helped us write this ordinance, CELDF. Therefore this ordinance *can work* for us to stop future dangerous corporate intrusions.

Our Safety: Who Decides? (Continued)

The hardest obstacle to overcome is that many people *don't* seem to believe *with conviction* that we actually already have these rights, and that government really does depend on the "*consent of the governed*". We see them on paper, but do we have the *certainty* in our hearts? We can all think deeply about why we may lack confidence that this is so, and what brought us to this submissive mentality.

There are times when it's imperative to revive and assert these rights, and this is one of those times. When we don't assert our rights, they can get swept under the rug and denied, perhaps forever, to our great detriment. And that's another reason we need to pass this Ordinance.

And now, with this *serious* threat to our safety, with this state agency's blatant lack of regard for our safety, now is the time. Surely in a sane world, people have the right *not to be forced* to breathe air *deliberately* saturated with poisons. Having hazardous chemicals rained down on our children alerts us that *surely* it is the time to stand up and assert our Constitutional rights. If we don't stand up against *this* assault, is there anything that we will *ever* stand up against?

Two children came very near to death. If there's a next time a child could actually die. To not assert our right to safety constitutes gross negligence to our children, to each other, and to our common future.

For in-depth studies and research go to:

Our website: www.PeopleAgainstChemicalTrespass.org

Also:

www.CELDF.org

www.globalexchange.org

www.StopTheSpray.org

www.LBAMspray.com

www.dontspraycalifornia.com

Who Makes the Rules Where You Live— Communities or Corporations?

By Shannon Biggs

September 25, 2008

Article at:

<http://www.globalexchange.org/update/publications/5928.html.pf>

On a hot, sticky night in August 2006, more than 200 residents of the rural township of East Brunswick, PA (population 1300) squeezed into local physician Dr. Glenn Freed's skeletal frame barn to talk about...sludge. Despite sewage sludge's high toxicity, waste corporations have spun it as an environmentally friendly fertilizer, that they are paid handsomely to "gift" to farmers. Ever since the deaths of two children, and countless reports of illness and livestock loss, rural Pennsylvanians have opposed the dumping.

But state and federal law says that corporations don't need community permission to drop pesticides overhead from airplanes, withdraw water from local aquifers, site unwanted refineries or dump sewage in your town. So who does decide? State agencies issue "permits" to corporations, and state legislatures routinely "preempt" (usurp) community lawmaking authority on behalf of those corporations. The folks in East Brunswick began asking themselves: "if those directly affected by policy decisions are not the ones who make them, then do we really have a democracy?"

The conversation in Dr. Freed's barn was a lively debate about passing a cutting-edge law that not only asserted the rights of residents to make key decisions where they live (like banning corporations from hauling and dumping sludge)—the ordinance boldly denied and invalidated the Constitutional "rights" claimed for corporations by their lawyers. When the Board of Township Supervisors unanimously refused to pass the ordinance into law, the citizens demanded their resignations. Two eventually obliged, and by December, the ordinance was passed. But that's not the end of their story.

Who Makes the Rules Where You Live (Continued)

In passing the ordinance, East Brunswick linked arms with over 100 communities (and growing) that have challenged corporate power by passing "rights-based ordinances" drafted by the Community Environmental Legal Defense Fund (CELDF). Global Exchange is now partnering with CELDF to assist communities in California and elsewhere to assert our undeniable, inalienable right to community self-government.

Arguing that "There is no inherent right to local self government," on January 31 2008, Attorney General Thomas Corbett (a former waste management lobbyist), filed a lawsuit against East Brunswick to overturn their ordinance—representing the sludge corporations' interests over the people's. If Corbett was hoping to create a chilling effect on other communities, his plan backfired. Outraged, the Concerned Citizens of East Brunswick have taken the offensive. Corbett, who is up for reelection, has been dogged on the campaign trail by protesters carrying large signs quoting his anti-democratic words. Resident Annette Etchberger and others have become active citizens, writing OpEds, contacting other communities and traveling the state speaking at town hall meetings, asking other municipalities to stand with them.

Amidst a thunderstorm on August 7th, residents of Shrewsbury Township, PA gathered for a hearing on passing a similar sludge ordinance. Annette Etchberger and Dr. Freed spoke passionately of their experience, and CELDF Projects Director, Ben Price addressed questions about the ordinance itself. "You've got three choices," said Price. "You can do nothing, and get sludged. You can attempt to fight this using the regulatory system, which legally 'permits' sewage sludge dumping. Or you can assert your right to make this decision for your community, and adopt a law that forbids corporate waste haulers from poisoning this town." Proving that legitimate government derives from the people, and in defiance of the Attorney General, six bold municipalities — including Shrewsbury — have since passed virtually the same law.

Packer Township, PA recently published an open letter to the Attorney General advising him not to bother requesting the municipality rescind its ordinance to avoid a lawsuit, declaring that they "refuse to recognize the Attorney General has any jurisdiction within this municipality to enforce a law which runs so contrary to democratic principles." Some 25 other communities have passed resolutions supporting East Brunswick.

Aerial Pesticide Spray Over Urban Populations Violates Human Rights

Thomas A. Kerns, PH.D.

February 17, 2009

Article found at:

<http://toxipedia.org/wiki/display/toxipedia/Human+Rights+and+the+Environment>

Aerial application of pesticide compounds over populated urban environments is morally wrong. It violates several human rights norms which have been formally accepted and signed by governments around the world, including our own.

Last spring Environment and Human Rights Advisory provided a report to both the California Alliance to Stop the Spray and the California Department of Food and Agriculture.

(www.LBAMspray.com/00_Documents/2008/EHRA.pdf) This report detailed 23 specific human rights norms that would be of concern if CDFA were to implement its planned aerial spray program. Those rights, articulated in a number of treaties, conventions and declarations, including the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, the Convention on the Rights of the Child and The Nuremberg Code, are outlined at length in EHRA's report. They include

- < the right to life, liberty and security of person
- < the family's right to protection
- < motherhood and childhood's right to special care
- < the duty to protect the child
- < the right of the child to the highest standard of health
- < the right to a healthy environment
- < the right to informed consent

The modern human rights movement began in the late 1940s as a global response to atrocities that Germany's National Socialist government had perpetrated against so many of its citizens. These modern human rights norms lay down basic ethical standards of conduct citizens should be able to expect from their governments.

CDFA's plans to broadcast spray some millions of residents of nine California counties along the central coast and in the Bay Area would have violated many of these ethical norms.

Violates Human Rights (Continued)

CDFA was claiming that the end, namely, protection of crops against possible moth damage, justified the unethical means it intended to use. Human rights principles, on the other hand, do not deal with ends and means or ask whether certain ends are important enough to justify a certain set of means; they are instead simple statements of essential rights and wrongs.

Human rights principles are grounded in the fundamental dignity of the individual human person. They are rights of individuals; i.e., they apply to each single person, not just to communities or to majorities. Furthermore, they are basic ethical minimums. This means they are not considered grand virtuous ideals only to be attained by the highest and best societies, but instead constitute a moral floor below which governments should not go. The right not to be tortured by one's government, for example, is not a high and virtuous ideal, but is instead a basic minimum ethical floor. So too is the right of citizens not to be poisoned by their government.

Rachel Carson, in her 1962 classic, Silent Spring, wrote "If the Bill of Rights contains no guarantee that a citizen shall be secure against lethal poisons distributed whether by private individuals or by public officials, it is surely only because our forefathers, despite their considerable wisdom and foresight, could conceive of no such problem."

The largest and longest urban aerial pesticide spray operation ever (up till now) was that conducted by New Zealand's Ministry of Agriculture and Forestry in 2002-2004. Every few weeks for two and a half years pesticides were dispersed over 200,000 residents of West Auckland. That unfortunate program, also directed against a moth said to threaten many millions of dollars of damage, was subsequently independently reviewed, twice, in detail and at length; once by a citizen-led international People's Inquiry (on which I served as one of four commissioners) and once by an independent New Zealand ombudsman. Both reviews concluded that the spray program was ill conceived and wrong.

Violates Human Rights (Continued)

The People's Inquiry report concluded that, if the fundamental responsibility of every government is to protect its citizens from physical harm, New Zealand's Ministry of Agriculture and Forestry "failed to meet that basic responsibility. This failure was due largely to the fact that it did not include ethics and human rights considerations in its planning processes. As a result of these failures, actions knowingly undertaken by agents of the government resulted in the infliction of serious physical, social and economic injury on a significant number of West Auckland citizens."

The independent ombudsman's report concludes, in typical understated New Zealand fashion, that "insufficient attention was paid to the impact of these operations."

CDFA's planned multi-year aerial spray program was wrong both because of the large quantity and variety of injuries it would have caused citizens and because it would have violated basic human rights principles. CDFA should not fail to learn from New Zealand's lesson so recently given.

About Thomas A Kerns, PhD:

Director, Environment and Human Rights Advisory
Educator, Author of *Environmentally Induced Illnesses*

People or Profits?

Comments Prepared for the CA State Assembly Committee on Agriculture on AB2892 (Bill to Protect Citizens' Rights in Pesticide Spraying Regions)

by **John Russo**, Co-founder of StopTheSpray.org
April 16, 2008

Complete comments at:

<http://www.stopthespray.org/resources/rights/CommentsAB289.pdf>

Excerpts:

- "You cannot trade people's rights for corporate profits."
- "Not only is using people as guinea pigs without their consent immoral, it is against widely accepted human rights norms all the way back to the **Nuremberg code** right after World War II."
- "We will likely hear lots of reasons why business interests are against this bill. In the end, the choice is simple. You choose. Money. Or People."

Cities and Organizations Opposed to the Spray

by Mike De Lay, Coordinator of Coalition of California Cities

Updated February 2009

From www.ccc.stophespray.org

"Speaking with one voice for 2,447,494 California residents"

Coalition of California Cities: We are a grass roots group of volunteers who saw an urgent need to help unite the voices of Mayors and City Councils into one strong and loud proclamation to the State government to stop the spray.

Mayor Robert Lieber of the City of Albany, Council Member Tony Madrigal of the City of Santa Cruz and Mayor Dan Cort of the City of Pacific Grove have founded this Coalition of California Cities to Stop the Spray. Mike De Lay, a resident of Pacific Grove, is the coordinator of the Coalition.

33 Cities and 90 Organizations Passed Resolutions To Oppose The Spray:

<u>Pacific Grove</u> , September 5, 2007	Mayor Dan Cort
<u>Monterey</u> , October 2, 2007	Mayor Chuck Dela Sala
<u>Seaside</u> , October 4, 2007	Mayor Ralph Rubio
<u>Santa Cruz County</u> , October, 2007	Supervisor Ellen Pirie
<u>Santa Cruz</u> , October 27, 2007	Mayor Ryan Coonerty
<u>Albany</u> , January 23, 2008	Mayor Robert Lieber
<u>Fairfax</u> , February 7, 2008	Mayor Mary Ann Maggiore
<u>Berkeley</u> , February 26, 2008	Mayor Tom Bates
<u>Oakland</u> , March 4, 2008	Mayor Ron Dellums
<u>San Anselmo</u> , March 11, 2008	Mayor Ted Freeman
<u>Corte Madera</u> , March 13, 2008	Mayor Michael Lappert
<u>Mill Valley</u> , March 17, 2008	Mayor Shawn E Marshall
<u>Emeryville</u> , March 19, 2008	Mayor Ken Bukowski
<u>Sausalito</u> , March 25, 2008	Mayor Amy Belser
<u>Richmond</u> , April 1, 2008	Mayor Gayle McLaughlin
<u>San Rafael</u> , April 7, 2008	Mayor Albert Boro
<u>San Francisco</u> , April 15, 2008	Mayor Gavin Newsom
<u>San Francisco Co.</u> , April 15, 2008	Supervisor Aaron Peskin
<u>Alameda</u> , April 15, 2008	Mayor Beverly Johnson
<u>Tiburon</u> , April 16, 2008	Mayor Jeff Slavitz

<u>Larkspur</u> , April 16, 2008	Mayor Kathy Hartzell
<u>Piedmont</u> , April 21, 2008	Mayor Abe Friedman
<u>Del Rey Oaks</u> , April 22, 2008	Mayor Joseph P. Russell
<u>Pacifica</u> , April 29, 2008	Mayor Jim Vreeland
<u>Sonoma</u> , May 7, 2008	Mayor Joanne Sanders
<u>Novato</u> , May 14, 2008	Mayor Pat Ecklund
<u>County of Marin</u> , May 19, 2008	Supervisor Charles McGlashan
<u>Sebastopol</u> , May 20, 2008	Mayor Craig Litwin
<u>Capitola</u> , May 22, 2008	Mayor Kirby Nicol
<u>Belvedere</u> , May 27, 2008	Mayor Jerry Butler
<u>San Bruno</u> , May 27, 2008	Mayor Larry Franzella
<u>Fremont</u> , June 3, 2008	Mayor Bob Wasserman
<u>Belmont</u> , July 8, 2008	Mayor Warren Lieberman

90 Organizations

Albany for Environmental Health
Alameda County Conf. of Mayors
Alameda Co. Board of Education
Alameda County Sup. of Schools
American Federation of State,
County, and Municipal Employees,
Local 2428
Asian Immigrant Women
Advocates
Berkeley Unified School District
Bollinas Public Utilities District
Breast Cancer Action
Breast Cancer Fund
Butte Environmental Council
California Alliance to Stop the
Spray (CASS)
California Certified Organic
Farmers (CCOF)
California Council of
Churches/California Church Impact
California Indian Environmental
Alliance
CA NOW
California Naturopathic Doctors
Association
California Nurses Association
CALPIRG

Opposed to the Spray

Green Party of Alameda County
Greenpeace
Green Schools Initiative
Healthy San Leandro
Helping Our Peninsula's
Environment (HOPE)
Health and Environmental
Resource Center (HERC)
Kentfield School District, Marin
Learning Disabilities Association of
California
Marin Association of Realtors
Marin Cancer Project/Search for
the Cause
Marin Conservation League
Marin Farm Bureau
Marin Integrated Pest
Management Commission
Marin Organics
Monterey Bay Central Labor
Council
Natural Products Association West
Natural Solutions Foundation
North Coast Rivers Alliance
North Coast County Water District
Oakland Zoo
Organic Consumers Association

Carmel Valley Women's Network	Pacific Grove Neighbors
Center for Environmental Health	Parents for a Safer Environment
Center for Food Safety	People for Parks
Center for Third World Organizing	Pesticide Action Network of North
Clean Water Action - California	America (PANNA)
Citizens for Health	Pesticide Free Zone Campaign
Citizens for East Shore Parks	Pesticide Watch Education Fund
Citizens for the Albany Shoreline	Play Not Spray
Coalition for Clean Air	Physicians for Social
Coalition for Sustainable Action	Responsibility-Los Angeles
Commonweal	Planning and Conservation
Democratic Central Committee of	League
Marin	Rainforest Action Network
Democratic Central Committee of	Responsible Consumers of Our
Sonoma County	Monterey Peninsula
DE-Toxics Institute	San Francisco Board of Education
Don't Spray California	Santa Cruz Federation of
Eastbay Municipal Utilities District	Teachers AFT Local 2030
Eastbay Regional Parks District	Santa Cruz Women's League for
Ecological Options Network	Peace and Justice
El Cerrito Democratic Club	Save Our Peninsula Committee
Environment California	Save Our Waterfront Committee
Environmental Law Foundation	Say No To Fort Ord's Toxic
Fort Ord Environmental Justice	Burning
Network (FOEJN)	Sierra Club
Global Commons Foundation	Sequoia Audubon Society
Grassroots Leadership Network	StopTheSpray.ORG
Greenaction for Health and	Sustainable Albany
Environmental Justice	Sustainable Fairfax
	Tamalpais Environmental
	Consultants
	Teens for Safe Cosmetics
	Thimakka
	Vote Health

New EU Rules: Massive Crackdown on Toxic Pesticides and Aerial Spraying

Dec. 23, 2008

Complete report at

<http://www.commondreams.org/headline/2008/12/23-2>

Critical Points:

- Pesticides suspected of causing cancer, DNA damage, and hormonal disruption will be phased out under new EU rules, **setting a global precedent in protecting people from poisonous chemicals.**
- **Aerial spraying will be banned.**
- **Use of all pesticides in public places will be severely curtailed.**
- These new pesticide regulations are expected to **help protect bees**, whose populations have dropped alarmingly across Europe.

Rights of Nature **by the Community Environmental Legal Defense Fund**

Complete article at: www.celdf.org

“All of the major environmental laws in the U.S. ... treat nature as property under the law. These laws legalize environmental harms by regulating *how much* pollution or destruction of nature can occur. *Rather than preventing* pollution and environmental destruction, *these laws instead codify it.*

...Rights of Nature laws developed by the Legal Defense Fund for local municipalities in the U.S. ... and now part of Ecuador’s constitution – recognize that ecosystems possess the inalienable and fundamental right to exist and flourish, and that people possess the legal authority to enforce those rights on behalf of ecosystems.”