

PITTSBURGH BANS NATURAL GAS DRILLING¹

Mari Margil and Ben Price[©]

In a historic vote, the City of Pittsburgh today adopted a first-in-the-nation ordinance banning corporations from natural gas drilling in the city. Faced with the potential for drilling—and the controversial new practice known as “fracking” or hydraulic fracturing—within city limits, the Pittsburgh City Council unanimously said “no.” Fracking means injecting water laced with sand and toxic chemicals underground to create deep ground explosions that release the gas. It’s a technique first tried in Texas, and which is now being used in Pennsylvania, where the Marcellus Shale geological formation, a source of natural gas, is buried over a mile down. The Marcellus Shale stretches from New York, through Pennsylvania, into Ohio and West Virginia.

Fracking has been demonstrated to be a threat to surface and groundwater, and has been blamed for fatal explosions, the contamination of drinking water, rivers, and streams. Because it disturbs rock that’s laced not only with methane, but with carcinogens like benzene and radioactive ores like uranium, forcing the mix to the surface adds to the dangers. Pittsburgh sits atop the Marcellus Shale and corporations have already purchased leases to drill there, including under area parks and cemeteries. “With this vote we are asserting the right of the city to make critical decisions to protect our health, safety, and welfare.” (Councilman Doug Shields)

The ordinance sponsor, Pittsburgh Councilman, Doug Shields, led the charge to ban drilling, and was later joined by five co-sponsors. During the months leading up to today’s vote, Shields passionately advocated for the ordinance, saying that the city is “not a colony of the state and will not sit quietly by as our city gets drilled.” He sees this fight as about far more than drilling, saying “It’s about our authority as a community to decide, not corporations deciding for us.” Drafted by the Community Environmental Legal Defense Fund (CELDF), Pittsburgh’s ordinance elevates the rights of people, the community, and nature over corporate “rights” and challenges the authority of the state to pre-empt community decision-making.

As natural gas drilling expands across Pennsylvania, there’s been a debate among opponents of fracking over the best course to take. Some are arguing for “responsible drilling” and severance taxes; others want to “zone out” drilling from residential areas or around schools. Advocates and communities are finding, however, that calling on corporations to be more accountable, without changing the powers and authorities corporations have been given by state and federal government, means asking them to take voluntary steps. Even communities that adopt zoning restrictions requiring drilling pads to be located away from homes or schools find that because the drilling is horizontal, its impact still reaches into those places they are trying to protect.

Meanwhile, hopes that the state—either the legislature or the Pennsylvania Department of Environmental Protection—will help, have been similarly dashed. The state was recently found to be paying thousands of dollars to a private contractor to investigate citizens advocating against drilling. Meanwhile, hundreds of thousands of industry dollars went to candidates in the recent elections. Those monies helped elect candidates who will ensure that drilling proceeds without interference from citizens across the region. Further, the state continues to issue permits to corporations to drill despite growing community opposition.

Corporations, empowered with constitutional privileges conferred upon them by the courts, have long worked hand-in-hand with elected officials and government agencies at the state and

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federal level to pave the way for drilling. They've been successful in exempting natural gas drilling and fracking from federal regulations and they've put in place state laws pre-empting municipalities from taking any steps to reign in the industry.

Provisions in the ordinance eliminate corporate "personhood" rights for corporations seeking to drill within the city, and remove the ability of corporations to override community decision-making. Communities like Pittsburgh are coming to the conclusion that it's up to them to stop practices they disagree with. Their efforts are not just about stopping the drilling, but about who gets to make decisions for the community—corporations empowered by the state, or people and their communities. As Councilman Shields stated after the vote, "This ordinance recognizes and secures expanded civil rights for the people of Pittsburgh, and it prohibits activities which would violate those rights. It protects the authority of the people of Pittsburgh to pass this ordinance by undoing corporate privileges that place the rights of the people of Pittsburgh at the mercy of gas corporations."

Provisions in the ordinance eliminate corporate "personhood" rights within the city for corporations seeking to drill, and remove the ability of corporations to wield the Commerce and Contracts Clauses of the U.S. Constitution to override community decision-making. In addition, with adoption of the ordinance, Pittsburgh became the first city in the U.S. to recognize legally binding rights of nature. By recognizing the rights of nature, Pittsburgh is effectively protecting ecosystems and natural communities within the city from efforts by corporations to drill there—and by other levels of government to authorize that drilling. Residents of Pittsburgh are empowered by the ordinance to enforce those rights on behalf of threatened ecosystems. The ordinance now goes to Mayor Luke Ravenstahl for signature. Representatives of drilling companies have indicated they may challenge the ban in court.

The Pittsburgh City Council is now reaching out to other communities facing drilling, encouraging them to take similar steps including adoption of local laws that challenge state and corporate disregard for the consent of the governed, and join in the fight for community rights.