

Speaking Out For the Rights of Nature

by Ruth Caplan

When was the last time you read the US Constitution—read it carefully? Did you take note of how the Constitution protects the rights of persons to own property, even the right to own slaves as property, although the "S" word is never used. Did you remind yourself that the Fifth Amendment requires "just compensation" for any taking of private property for public use and that the Fourteenth Amendment says "nor shall any State deprive any person of life, liberty or property, without due process of law."

Now search for any language referring to protection of nature. Nothing—*Nada*. This is why Congress resorted to the Commerce Clause of the Constitution—"The Congress shall have the Power ...To regulate Commerce...among the several States...."—as a justification for passing national environmental laws. A bird flies across state lines. A stream feeds a river that eventually crosses state lines.

Air knows no state boundaries. The environment as an article of commerce!

If the abolitionist movement was about driving freedom for slaves into the Constitution; if the women's suffrage movement was about guaranteeing women the vote as part of their Constitutional rights; then why isn't the environmental movement about driving the rights of nature into the Constitution? This is the logic followed by environmental attorney Thomas Linzey with the Community Environmental Legal Defense Fund (CELDF) when he asserts that there is no environmental movement in this country.

So where is this new approach taking root? In the work of the national environmental organizations? No, it began in the rural town of Tamaqua, located in the anthracite



graphic: Kjersten Jeppesen

coal-mining region of eastern Pennsylvania. On September 19, 2006, the Tamaqua Borough Council unanimously passed a law banning corporations from spreading sludge in the borough and recognizing that ecosystems in Tamaqua possess enforceable rights against corporations. Who will enforce these rights? The ordinance "establishes that Tamaqua residents can bring lawsuits to vindicate not only their own civil rights, but also the newly-mandated Rights of Nature."

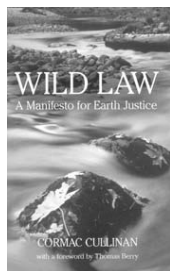
Just a week later, the Board of Supervisors in nearby Rush Township passed a similar sludge ordinance recognizing the rights of nature. Then in early December the East Brunswick Board of Supervisors passed a similar ordinance. Three towns in three months in rural Schuylkill County took this radical action. The East Brunswick ordinance goes one step further: "In the Ordinance, the Township Board of Supervisors declared that if state and federal agencies—or corporate managers—attempt to invalidate the Ordinance, a Township-wide public meeting would be hosted to determine additional steps to expand local control and self-governance within the Township."

As CELDF historian Richard Grossman notes, "East Brunswick has joined other Pennsylvania municipalities in contesting the constitutional, legal and cultural chains that bind communities to the corporate system. They have heroically nullified corporate privilege delivered from on high by exercising democratic rule of law from below."

In April, Linzey joined with *Wild Law* author Cormac Cullinan to speak at a conference on "Earth Jurisprudence: Ethics, Ecology, and Law" hosted by the Barry and St. Thomas University Law Schools. In 2006, the law schools had joined to launch the Center for Earth Jurisprudence, whose mission is to "re-envision law and governance in ways that support the well-being of the Earth community as a whole, and to foster mutually enhancing relationships among humans and nature and recognize the rights of nature."

It is time to stop treating nature as property, to stop trying to protect the environment by treating air, water and wildlife as articles of commerce. It is time to build a real environmental movement!

Ruth Caplan is the national coordinator of AFD's Defending Water for Life Campaign. She will help lead a pre-convention Democracy School in Tucson this Fall.



Wild Law: A Manifesto for Earth Justice

by Cormac Cullinan

reviewed by Alis Valencia

How did we get to the brink of environmental catastrophe? Are we up against forces too strong to overcome? Do we need to adopt different strategies to prevent the continuing destruction of nature? Or might there be more fundamental issues that we need to examine as well?

Wild Law is Cormac Cullinan's response to the last question. The crux of the matter is how we see ourselves in relation to nature. We are the source of such grievous harm to nature because we stand apart from and exploit the natural world. Earth's salvation lies in our return to an existence where we live as an integral part of nature, no more privileged than any other part.

The importance of *Wild Law* lies in Cullinan's views on how to think and behave as a member of the earth community. Because laws guide how members of society are to act, we must reconceive the purpose of our systems of governance to promote behaviors that benefit human society without causing harm to nature. In part, this means accepting the fundamental principle that "each member of the Earth Community should be at liberty to fulfill its role within the Earth Community." Cullinan's touches of pragmatism—for instance, we would need laws that keep us from taking so much water from a river that it cannot sustain its natural flow—not only ground nice sentiments but also point the way forward.