

# How are we going to stop Jordan Cove?

Given a FERC Final Order regarding Jordan Cove is expected in November 2019 it is good that Wim DeVriend has reminded us that local citizens who don't stand to lose their property to eminent domain enabled a foreign corporation to interfere in a local election that would have protected landowners who are threatened by the project. Unfortunately, DeVriend misspoke about the Coos County Right to a Sustainable Energy Future ordinance ballot measure from the May 2017 ballot as providing "civil liberties for trees". This is a false reading of what establishing a legal framework to protect the rights of nature would accomplish. The truth is, both in the failure of current environmental law and much more critically for our very survival, is that by acknowledging ecosystems having the right to thrive and flourish and naturally evolve its really a necessary and common sense recognition of our symbiotic relationship with nature.

DeVriend is right, leaders of the local anti-LNG group opposed the ordinance, but these same people also spread a rumor that I was personally "bought off" by Jordan Cove LNG so I wouldn't hold their opinion in too high esteem.

While many opponents of the LNG terminal have thrown all their eggs into the regulatory basket, including the local group here in Coos County, many communities across the country are thinking out of the box in order to stop harmful, non-sustainable development like Jordan Cove. Just up the coast from Coos Lincoln County has successfully stopped poisonous aerial spraying of pesticides by industrial timber since their community bill of rights ordinance passed in May 2017. The foundation they and others have worked from is that aerial

spraying or fracking or LNG terminals are really issues having to do with fundamental rights that is the rights to a healthy environment, rights to clean air and water, and the right for the community itself to be the primary decision maker on such corporate proposals like LNG terminals instead of being treated as a door mat to corporate raiders. The shorthand here is that community rights not only matter but that they are superior to that of the corporate state itself who is looking to undermine those very rights of the community, nature included.

FERC is in the business of granting permits, not denying them and the agency is funded by the very industry it is supposed to be regulating. Statistical evidence says Jordan Cove will receive its long-fought permit next year. The question then becomes what are we willing to do to stop this albatross when all else has failed?

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## **Jordan Cove wants us to trust them**

Betsy Spomer claims in a recent op-ed to want to earn our trust through “vigorous public discussion” and to demonstrate that her company, Jordan Cove Energy Partners, is a “responsible corporate neighbor”. This is an incongruous statement from the CEO of a company that just a few short months ago spent almost \$700K, almost twenty times more than any local political campaign in Coos County history, specifically to thwart public discourse. Through the artfully named “Save Coos Jobs” campaign literature and media

advertising the company even threatened Coos County with lawsuits if voters did not cast their ballots in the best interests of Jordan Cove.

Regardless of where you stood on community rights Measure 6-162, the Coos County Right to a Sustainable Energy Future Ordinance, the Canadian owned company's interference in our local democracy are not those of a responsible corporate neighbor. Heck, we Americans cannot even buy their stock. There is nothing trustworthy about a foreign special interest pretending to be a local grassroots effort and funding a covert campaign riddled with provably false statements. False claims were made about imposing vehicle checkpoints or denying fuel to neighboring counties, even though the ordinance specifically protected existing applications of fossil-fuels.

The Save Coos Jobs campaign did this all the while omitting any reference to Jordan Cove or LNG or the Pacific Connector Gas Pipeline when the measure would have specifically prohibited the use of eminent domain solely for the company's gain.

Of course, Jordan Cove did have locals willing to assist in its grassroots deception like Barry Winters and Coos Bay Mayor Joe Benetti claiming to be in-charge-of the campaign even though it was run out of Portland by a company called Prospect PDX. By way of proof, Prospect PDX which was paid more than \$212K, ran a similar albeit unsuccessful campaign against a community rights measure in Lincoln County. That measure to ban aerial spraying included a non-violent direct-action enforcement provision in the event a corporate actor attempts to violate the will of the people. Prospect spun that provision into a legalization of vigilantism which, while false, also somehow made it into the campaign here despite there being no such clause in Measure 6-162. The campaign was even able to employ a local farmer to participate in an ad spreading this falsehood.

According to OreStar, no member of the local campaign

committee contributed a cent. In fact, Benetti was paid \$433.53 by the campaign to hold the election night dinner at his restaurant.

There is no denying there will be some local profiteers, if only short term, should Jordan Cove be built. Pro-gas advocates may sincerely believe that tethering the community to 19th century energy technology and shouldering the health costs associated with burning fossil-fuels will bring long term benefits to the county despite all the empirical evidence to the contrary. This may explain, though not excuse why local politicians like county commissioners Bob Main and Melissa Cribbins and John Sweet continue to carry water for Jordan Cove and not only ignore but defend this assault on our local elections.

Spomer works in an industry that is only profitable thanks to \$5.3 trillion a year, a staggering 6.5% of global GDP, in taxpayer funded subsidies. According to a new study prepared by staff of the International Monetary Fund, not only do these fossil-fuel subsidies damage the environment they discourage investments in renewable energy and are an inefficient means of supporting low-income households.

The human health costs of fossil fuels are estimated at \$74.6 billion annually, yet the Save Coos Jobs campaign accused the measure backers of being "radical environmental extremists" for daring to want clean air and water.

Protection by the US military for overseas oil sources amounts to \$1 per gallon of what we pay at the pump.

Clearly, this is not a sustainable industry and it's no wonder the company would rather place its fortunes in FERC, where it is virtually guaranteed a permit to pollute our air and waterways, than in the voters of Coos County.

Renewable energy is now competitive with and even cheaper than fossil fuels and jobs in the renewable sector are growing at a

pace twelve times greater than the US economy.

Behind her deceptively placid smile, Spomer is asking us to put faith in her antiquated, non-sustainable, taxpayer subsidized business model and trust in a company that was willing to deceive county voters, trod all over our local democracy and wants to forcibly take land from unwilling Americans all to enrich Canadian shareholders.

If you want to help permanently stop this boondoggle and ban the pipeline send an email to [cooscommons@gmail.com](mailto:cooscommons@gmail.com)

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**“A system cannot fail those it was never designed to protect”**

One thing we learned from the recent election is Jordan Cove Energy Partners fears direct democracy. The No campaign that opposed Measure 6-162 to establish a community Bill of Rights spent almost \$50 per NO vote, most of it from the Canadian firm, to convince Coos County to vote against our best interests and in the interests of the company.

Nevertheless, the Yes on 6-162 campaign was an astonishing success. At a fraction of the cost four thousand Coos County residents said yes. They said “yes” to local decision making power over our energy. “Yes” to energy for Coos County, not Coos County being sold to a Canadian fossil fuel company. “Yes” to prohibiting eminent domain for corporate gain and to energy projects that sell-out our future for a thin promise of

short-term financial gain.

And thanks, in no small part to Jordan Cove's unprecedented spending the measure garnered international attention and demonstrated in vivid detail that corporations, even foreign corporations have privileges and governmental protections that American citizens and whole communities do not, not the least of which is the right to be the decision makers where we live.

Most chillingly the campaign illuminated just how inured society has become to the unfairness of our present system. Opponents claimed the measure would prompt expensive lawsuits costing taxpayers money when in fact it would be the company bringing a lawsuit solely responsible for any costs.



In all the campaign noise generated by the corporate opposition, our community never really got the chance to consider the fundamental question of 6-162, which is should we have the right to stand up for ourselves and protect our air, water and land and private property from clear threats such as the pipeline and Jordan Cove?

We have a system today where obedience to centralized authority is necessary for projects like Jordan Cove to exist. Jordan Cove, the federal government, and even certain activist groups want us to accept that we simply have no control and therefore cannot do anything about changing the course of events. This sense of learned helplessness disguised as democracy is deeply embedded in our society.

“A System Cannot Fail Those It Was Never Designed To Protect”  
~W.E.B. Du Bois

There are some of us out there who have been working hard to get out from under the injustice of the system and exercised the important power of direct democracy. Like direct action, direct democracy is most often a path of last resort taken when all other avenues have been exhausted and our legislators and elected officials fail to protect our fundamental rights. Mayor Joe Benetti and Commissioner Melissa Cribbins didn't speak out for landowners threatened by eminent domain or feign even the slightest interest in what the people of Coos County may really want, instead they rallied to the defense of Jordan Cove hiding behind a system of law that already sides against the average citizen. That's partly why Measure 6-162 came to be.

Measure 6-162 may not be back in front of voters in Coos County again but the question of who decides what happens in our community, what the future of the place we call home looks like, will. That question may very well be about deciding whether Jordan Cove, the pipeline, and the use of eminent domain for corporate gain is something we here in Coos County

want and will allow and what we are willing to do about it.

Jordan Cove Energy Cove Energy Partners wasn't just looking to buy a favorable ballot measure result, they were trying to send a clear message to everyone in the county and all the counties along the pipeline route not to bother trying to protect your private property. Thankfully, more challenges will face Jordan Cove not just here but along the entire length of the Pacific Connector Gas Pipeline.

The same corporate campaign group from Portland that was paid to mislead Coos County voters ran a similar campaign against a similar measure to ban aerial spraying in Lincoln County. They employed the same scare tactics and generically non-specific claims about not being "well written" but despite the rhetoric, as of this writing the Yes campaign is ahead by a paper thin 27 votes. Score one for democracy.

The Yes on 6-162 campaign would have preferred a historic underdog victory like when heavily outnumbered American forces prevailed against the British at the Battle of Sullivan's Island in 1776 or a miracle like the 1980 US Olympic victory on ice against the highly favored Russian hockey team. Regrettably, this battle, if not fairly, most squarely goes to the Canadians. Canadians, really!



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# Bob Main opposes giving power to the people

Commissioner Bob Main perfectly demonstrates some of the difficulties contained within a representative democracy. Main, as reported in The World report [“Ballot tactics target LNG plan”](#) says he will not defend, if necessary, a democratically enacted local ordinance, namely Measure 6-162. The Coos County Right to a Sustainable Energy Future Ordinance “doesn’t appear like it would pass a legal test” states Main. (Ironic that Main, who actively collected signatures to qualify a local ordinance supposedly to defend the 2nd Amendment and in direct defiance of perceived federal overreach is suddenly concerned about constitutionality.) The ordinance, according to Main, would be hard to defend.

“It may put the county in the position to defend it, which for me, and I can’t speak for the other two commissioners, but I would go ‘O.K. the plaintiff wins’,” said Main. “I mean I can’t defend this thing and I don’t want to spend a lot of money on it.”

Main has my contact information and could have discussed his concerns with me or my fellow petitioner, Pattie Gouveia. For that matter, he might have actually read the initiative before going on the radio or giving interviews. If he had [read it](#) he would have seen that under “Enforcement” any resident may enforce the rights and prohibitions through an action in any court possessing jurisdiction within Coos County with or without the County. In fact, should the County violate the ordinance, residents also called “plaintiffs” could bring suit for each violation against the commissioners or “defendants.” So yeah, I would agree, “plaintiff wins.”

Main also claimed that the language in the ordinance is too broad.

“‘Non-sustainable energy systems,’” he said. “What does that mean? Like it’s wide open; I mean the sun is going to extinguish someday.”

Admittedly, the ordinance is a whopping four and a half pages but if Main had read the section “Definitions” he would see that “non-sustainable energy systems” are very clearly defined.

*“Non-sustainable energy systems” means those systems that are controlled by state and federal energy policies, rather than community controlled energy policies; hydroelectric power and industrial scale wind power when it is not locally or municipally owned and operated; energy systems using fossil fuels, including but not limited to coal, natural gas, petroleum products, nuclear and radioactive materials and other fuel sources that are non-renewable, or which produce toxins and substances that cause injury to humans or natural communities and ecosystems, or that are in violation of resident’s right to a sustainable energy future. The phrase shall also include any energy system which violates the rights secured under this Ordinance or under other laws. The term shall not include the combustion of wood or wood products, propane, kerosene, heating oil, coal, or natural gas when those fuels is used solely to generate on-site heat or power and the energy produced is not commercially sold, transmitted, or distributed.*

So between now and when the sun finally swallows our planet in its final death throes when it will not matter anyway, the ordinance secures our right to be decision makers in our own community.

*All residents in Coos County possess a right to a sustainable energy future, and the people of Coos County have the right*

*to adopt laws and policies to secure that right. That right shall include the authority to require the development, production, and use of sustainable energy.*

To be clear, direct democracy is a tool for citizens specifically to work an end run around our elected representatives when legislators cower to corporate privilege and refuse to defend the rights of a community. Main's pet 2nd amendment ordinance was enacted for precisely that purpose as is Measure 6-162. The latter actually empowers our commissioners to stand up to state and federal preemption whereas Main's ordinance probably does not.



Natural gas infrastructure

Also worth noting in the article is Jordan Cove spokesman, Michael Hinrichs' confirmation that Veresen views Coos County as just another resource colony.

"We think that it would have negative consequences toward the resource industry in the county," Hinrichs said. "It certainly goes against the spirit and intents of Jordan Cove."

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# Time to exercise our self-governing authority

Oregon State Representative Cliff Bentz (R-Ontario) has introduced House Bill 2480 to literally take power away from the people of Oregon.

Introduced on behalf of a corporate lobbying firm and despite President Trump's inaugural promise to give the power back to the people, HB 2480 would use state preemption to strip communities of their fundamental right to protect themselves from non-sustainable energy infrastructure. "A city, county or other local government may not enact any charter provision, ordinance, resolution or other provision related to regulating the expansion of infrastructure for the primary purpose of transporting or storing fossil fuels."

This is hardly the first time our legislators have worked to supplant local control on behalf of corporations. Senators Arnie Roblan and Jeff Kruse cosponsored the so-called Monsanto Protection Act that prohibits local communities from banning GMOs. The Farm and Forest Act, forces toxic pesticides on unwilling communities. State preemption prohibits local control over minimum wage, land annexation, housing, and gun control.

In a recent tweet about his contested travel ban, Trump indicated Americans should be guaranteed, "...the security and safety to which we are entitled." Nevertheless, Trump's recent executive order limiting already inadequate government protections prove, American citizens should not expect

“security” from another Wall Street induced global financial crisis and are not, apparently, entitled to clean air and water.

Coos and Columbia counties have introduced citizen initiatives to do what state and federal legislators will not do, secure our right to a sustainable energy future. Measure 6-162, The Coos County Right to a Sustainable Energy Future Ordinance on the May 2017 ballot in Coos County will prohibit hydraulic and pneumatic fracturing, coal transportation and the proposed Jordan Cove LNG export terminal and the associated Pacific Connector Gas Pipeline.

The bill will preempt Portland’s ban on large fossil-fuel storage facilities and seeks to stop democratically enacted ordinances like Measure 6-162.

The natural gas industry contributes to Bentz’ campaign and HB 2480 effectively allows the fossil-fuel industry to do what it wants and violates a community’s local self-governing authority to protect its citizens. In a so-called representative democracy, it’s clear that all too often our legislators represent corporate interests and not the people who elected them.

It’s precisely because we live within a system, defended by our own state government, that denies local democratic rights in favor of corporate privilege that communities are turning to direct democracy to change the rules. The Oregon Constitution clearly states “... that all men, when they form a social compact are equal in right... and they have at all times

a right to alter, reform, or abolish the government in such manner as they may think proper.—“

The hotly contested immigrant travel ban demonstrates that states don't like giving up governing authority to the federal government any more than counties and municipalities like being preempted by the state. The 9<sup>th</sup> Circuit Court of Appeals has ruled against reinstating the ban proving that states can govern independently of the federal government. Local communities also have a fundamental right to self-government.

More communities are flexing their self-governing authority. The City of Lafayette, Colorado, is considering an anti-fracking ordinance which aims to preempt the state's authority in oil and gas development by legalizing non-violent direct action protests that would include sit-ins, strikes, workplace occupations or blockades.

To affirm communities' right to self-government to reject corporate fossil fuel projects or address housing access, the Oregon Community Rights Network introduced a statewide citizen initiative to amend the Oregon Constitution to recognize community responsibility and authority to protect the health, welfare and safety of citizens. The Right of Local Community Self-Government, allows communities to be the decision makers over that of corporate-backed state preemption like HB 2480.

The one-size-fits-all centralized government continues to fail the planet and the working class. In this grand, multi-generations long representative democracy experiment, the poor have gotten poorer and the rich richer. There has been a consistent, widening inequality since the 1970's such that today 20% now own 85% of the wealth. In the four decades

since we enacted NEPA and established the EPA our environment has continued to degrade and the doomsday clock has ticked forward to within 2.5 minutes to midnight.

Time to change the rules in our favor and decentralize the current power structure. As Pattie Gouveia, my co-sponsor on the YES on Measure 6-162 campaign in Coos County, stated, "The transportation, storage, and burning of fossil fuels is absolutely a local issue, whereby the local must be able to assert the greatest authority about what happens in the community. HB 2480 is just another example of the Oregon legislature advancing corporate interests by denying local democratic rights."

Vote Yes on Measure 6-162 this May and support our right to be the decision makers about our energy future.

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# We need energy democracy in Coos County

President-elect Donald Trump and Secretary Hillary Clinton share some common views, not the least of which is their mutual support for the fossil-fuel industry. Emails obtained from the US State Department by [The Intercept](#) revealed how Clinton, who received [twice as much in contributions from oil](#) than Trump, during her tenure as Secretary of State worked to promote hydraulic fracturing, or "fracking", the highly controversial method of horizontal drilling for oil and gas, across the globe.

The whole point of mentioning this is that, in-light of [Jordan Cove's recent announcement to reapply](#) with the Federal Energy Regulatory Commission and all the Sturm und Drang about the election results, opponents of the project would be in no better position to protect the environment and landowners even had Clinton won.

Unfortunately, affected landowners and environmental activists are no closer to permanently stopping Jordan Cove today than they were twelve years ago.

Trump and Clinton also agreed on something else. Along with their mutual admiration for fracking both concurred the communities affected should be able to say "no". [Clinton told reporters in Colorado during the campaign](#), "I have long been in favor of states and cities within states making up their own minds whether or not they want to permit fracking."

Trump claimed that ["voters should have a say"](#) on whether they want to prohibit fracking in their communities.



Trump's right. Democratizing local energy decisions, making up our "own minds" is at the heart of community rights efforts like Measure 6-162, the [Coos County Right to a Sustainable Energy Future Ordinance](#) set for the May 2017 ballot. The ordinance will legalize our right to be a sustainable economy. An economy not subject to or dependent upon boards of directors of foreign corporations unable or unwilling to transition beyond 19<sup>th</sup> century energy technology.

Consider that an October 2016 [report](#) produced by global banking executives, the Group of Thirty or G30, notes that the rise of affordable renewable energy along with increasingly stringent climate policies is making the oil industry obsolete. Another reason not to leave our future decision making in the hands of oil and gas executives is that the G30 report also concludes the industry is out of touch and more than half of the \$2 trillion in long term debt incurred by the industry "...will never be repaid because the issuing firms comprehend neither how dramatically their industry has changed nor how these changes threaten to soon engulf them."

The late University of San Francisco business professor, Oren Harari once remarked, "The electric light did not come from the continuous improvement of candles."

The organization [Trade Unions for Energy Democracy \[TUED\]](#) states in a [report entitled Resist, Reclaim, Restructure: Unions and the Struggle for Energy Democracy](#) that the "business as usual" approach of the fossil-fuel industry does not benefit or protect energy workers and it "opposes the idea that the commodification of nature is key to solving the profound ecological crisis we face as a species. It regards the idea of putting a price on 'natural resources' in order to make capitalism green and sustainable as plainly false and deeply perverse."

The clash in North Dakota between the Dakota Access Pipeline developers and the Standing Rock Sioux has demonstrated one

thing very clearly. Our current system of laws make saying NO to harmful, non-sustainable industrial practices that pollute air and water illegal and makes poisoning air and water perfectly legal. Protecting our own communities and homes is a crime.

Militarized police deployed to protect corporate interests from unarmed civilians trying to protect the land and water for future generations. Appalled by the unchecked use of rubber bullets, teargas canisters, percussion grenades and the use of water cannons on the Sioux in subfreezing temperatures, 4,000 US veterans arrived to act as human shields. Combat veterans remarked that even in Iraq and Afghanistan there are "rules of engagement." Organized in just three weeks, the Veteran Stand, as they called themselves, may be the largest unarmed militia in US history.

It is no coincidence that on December 4, the day of the veterans arrival to the Standing Rock camp, the Army Corps of Engineers, on a Sunday afternoon, issued a temporary stay blocking the company from drilling under the Missouri River pending further environmental review.

Indifferent to the tribe's concerns, the company behind the pipeline, Energy Transfer Partners, vows to drill anyway confident that the new administration and the law is on its side. In fact the company declares it has played by all the rules. Admirable, unless the rules are already stacked heavily on your side.

Remember, that our history is rife with citizens defying unjust laws, committing acts of civil disobedience and pushing to amend the government or revoke their consent to be governed. Thank goodness they did or there might still be no abolition or suffrage or freedom of speech or due process in this "democracy."

TUED affirms what we in the community rights movement are

fighting for across the country and here in Coos County.

*“An energy transition can only occur if there is a decisive shift in power towards workers, communities and the public–energy democracy. A transfer of resources, capital and infrastructure from private hands to a democratically controlled public sector will need to occur in order to ensure that a truly sustainable energy system is developed in the decades ahead.”*

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## **Coos County Right to a Sustainable Energy Future set for May 2017 ballot**

There were some victories November 8, 2016. Two communities, [Highland Township, PA](#) and [Waterville, OH](#) each passed a bill of rights by overwhelming margins banning harmful development in their communities.

With a new president threatening to weaken already marginal environmental safeguards, now more than ever we must exercise our fundamental right to say NO to non-sustainable energy infrastructure. Yet, amidst all the sturm und drang media analysis as to how a racist, serial sexual predator, fascist, climate denier like Trump was elected and how to reinvent the democratic party from its own self-immolation most of it revolves around the same stuck in the box thinking of trying to solve the problem with the very same thinking that created

it.

A few voices have stood out from the crowd like this from [John Schwarz of The Intercept](#).

*The people who run America have constructed a political system that's like a glitchy killer robot, one even they can't control anymore.*

*Working as designed it murders [African Americans](#) and [pregnant women](#) and [opioid addicts](#)...*

*If there's anything to learn from history, it's that elites don't dismantle their beloved killer robots on their own. Either regular people – including you reading this right now – will deactivate this one, or it will never happen at all. Not a single person knows exactly how to pull this off. But one thing's for sure: Trump's rise proves that whatever it is we've been doing isn't working.*

The community rights movement began with this same realization, that what environmentalists are doing isn't working. In the 40 odd years since the enactment of NEPA and the formation of the EPA our environment has gotten steadily worse with 40% of our waterways barely sustaining life while emissions have already topped 400PPM.

Social justice advocates are also realizing the same thing. The wealth gap has also grown steadily, even under Obama and corporate privileges are protected by the government while communities rights, the very act of protecting clean air and water are criminalized. Nothing demonstrates this more starkly than the recent protests over the Dakota Access Pipeline.

Clearly, whatever it is we've been doing isn't working.

**Any system of government that becomes destructive of the rights of the people and their communities is not legitimate, lawful, or constitutional.**

Coos Commons Protection Council has qualified a citizen initiative, The Coos County Right to a Sustainable Energy Future Ordinance, for the May 2017 ballot. Coos along with Lincoln County are set to pass countywide bills of rights to protect citizens from industrial harm like aerial pesticide spraying and non-sustainable energy infrastructure.

**Measure 6-162  
Community Rights vs Corporate Privilege**

**What the Ordinance will do.**

The ordinance will secure the right of the people of Coos County to be the decision makers about its energy future not corporations. The ordinance will protect the rights of people and ecosystems in Coos County from non-sustainable energy projects, including current corporate and government attempts to push through the pipeline and Jordan Cove LNG export terminal. It would not only prohibit the siting of such projects but also the use of eminent domain – the taking of private property – on behalf of oil and gas corporations.

**What the Ordinance will NOT do.**

The Ordinance will not affect the transportation of fossil fuels intended for residential, commercial, or industrial use for on-site power, heat consumption and vehicle refueling.

The Ordinance will NOT establish a home rule charter and is NOT affiliated with any charter.

**Where does the Ordinance get its authority?**

Its central authority is derived from the inherent and inalienable right of the people of Coos County to local, community self-government. It is a well-accepted, fundamental

principle that all political power is inherent in the people, is exercised by them for their benefit, and is subject to their control. This right is secured by the American Declaration of Independence, the Oregon constitution, and the United States Constitution. Because the right is inherent and inalienable, no government can define, diminish, or otherwise control it. Therefore, the assertion of the rights, prohibitions, and enforcement provisions in the Coos County Sustainable Energy Future ordinance come from our right exercising such decision making power.

### **Why do we need this Ordinance?**

Coos County has experienced sustained and significant economic decline in recent decades due to ill-advised and non-sustainable development policies. In addition, we have experienced firsthand the harmful effects of unchecked resource extraction and recognize that investments in non-sustainable energy systems like the LNG pipeline and export terminal will damage Coos County.

We also recognize the importance of healthy and thriving natural communities and ecosystems and that non-sustainable energy system projects would threaten those natural systems.

We must also confront the truth that our current system of municipal governance fails to recognize the self-governing authority of the people of Coos County because corporations may assert their "rights" to override our laws. Our local government also operates on the assumption that corporate rights trump those of the people, can be preempted by state or federal legislators and agencies, and are banned from adopting laws, which have not been authorized by the state.

This means that our current municipal system of governance is illegitimate and that we are adopting this Ordinance to create a new system of municipal governance which recognizes our self-governing authority and which secures and protects our

rights to a sustainable energy future.

Already, the pro-gas crowd have started polling county citizens to determine just how much they will have to spend to defeat this measure. Contribute to this campaign by following this [link](#) or you can donate via the Facebook page [here](#)

## **Coos County Sustainable Energy Future Community Bill of Rights**

**Right to a Sustainable Energy Future.** All residents in Coos County possess a right to a sustainable energy future, and the people of Coos County have the right to adopt laws and policies to secure that right. That right shall include the authority to require the development, production, and use of sustainable energy.

**Right to Scenic and Recreational Preservation.** All residents of Coos County possess a right to the preservation and enhancement of the scenic, historic and aesthetic values of the County, including unspoiled vistas and outdoor recreational opportunities, thereby improving the area's appeal to tourists and future residents.

That right shall include the right of the residents of the County to be free from activities, which threaten scenic, historic, and aesthetic values as related to the construction, siting, or operation of non-sustainable energy systems.

**Rights of Natural Communities and Ecosystems to Thrive.** Natural communities and ecosystems within Coos County, including but not limited to, forests, rivers, streams, wetlands, aquifers, near shore habitats, and intertidal zones possess the right to exist, flourish, and naturally evolve unaffected by the construction, siting, or operation of non-sustainable energy systems.

**Governmental Legitimacy.** All governments owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the

people and those communities. Any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional.

**Right to Local, Community Self-Government.** The people of Coos County possess both a collective and individual right to self-government in their community, a right to a system of government that embodies that right, and the right to a system of government that protects and secures their human, civil, and collective rights.

**Right to Assert the Right to Self-Government.** The people of Coos County possess the right to use their local government to make law, and the making and enforcement of law by the people through a municipal corporation or any other institution shall not eliminate, limit, or reduce their sovereign right to local, community self-government.

**Rights are Self Executing.** All rights delineated and secured by this ordinance are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors.

Read the initiative in full [here](#)

You can contribute to this campaign by following this [link](#) or you can donate via the CCPC Facebook page [here](#)

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**Communities battle state  
preemption and corporate**



# privilege to legalize sustainability

*"We are going to defend our property rights like any other property owner would. That means defending our rights under the state and federal constitutions."*

Those following the heroic efforts to stop the proposed Pacific Connector Gas Pipeline might attribute these words to any one of the more than 600 affected landowners along the 234-mile route.

Indeed, almost the identical words have been spoken by Ten Mile resident and second generation Marine, Frank Adams.

After serving in Vietnam, Adams spent decades fighting his government before it would acknowledge his chronic health issues are a direct result of exposure to Agent Orange. Now, that same government wants to allow a pipeline company to bisect his property with a 36" diameter pipeline and spray it regularly with herbicides all to benefit a handful of Canadian shareholders.

Those words could have been uttered by any of us in the course of a lifetime. In fact, those words came from Rob Boulware, a representative of Texas based Seneca Energy Resources. In 2013, the plucky little community of Highland Township, PA asserted its right to local self-government and democratically enacted, by a wide margin, an ordinance to prohibit Seneca from injecting fracking waste under the community. Last year

Seneca, a multibillion dollar company, sued the township, population 495, in federal court claiming the ban violates the constitutional rights of the corporation.

This week, Josephine County Circuit Court Judge Pat Wolke struck down a pro-sustainable agriculture law democratically adopted by the people of Josephine County in May 2014 banning GMO crops.



A crop duster applies chemicals to a field of vegetation.

State preemption is a judicial invention dating back more than 60 years, legalizing state control over local communities. In Oregon, preemption laws like SB-863 passed in 2013 and dubbed the Monsanto Protection Act, are written and designed to protect industrial agriculture over sustainable agricultural practices by centralizing power at the state level.

“The state law says that the localities may not legislate in this area; and the voters of Josephine County have attempted to legislate in the exact same area.” Wolke said in the May 16 ruling.

One day after Wolke's ruling Hood River County voters, again by a wide margin, passed an ordinance effectively banning Nestle Waters from bottling 100 million gallons annually from Oxbow Springs, near Cascade Locks and distributing under its Arrowhead brand.

For the moment, at least, Nestle, unlike Seneca, seems resigned to the outcome. A company spokesman said Nestle is 'disappointed' but, "we respect the democratic process." Proponents of the measure, however, fully expect Nestle to sue.

It remains to be seen whether Nestle will have a change of heart and sue Hood River County but communities across the nation are discovering that democracy holds little sway when corporations claim their constitutional rights trump the fundamental rights of the community to clean air, water and sustainability.

Therein is the essence of a struggle taking place all over America. Under our current regulatory system, communities cannot say NO to corporate harm and the courts have little judicial discretion except to side with the corporation over the community. The net effect is that corporate boards of directors are making life changing decisions for communities rather than the people who live and work in them.

Tired of being constrained within the regulatory fallacy, more and more communities are nonetheless attempting to use law to defend against non-sustainable industrial practices that

threaten their way of life. Hood River and Josephine counties are prime examples. Time and time again these efforts to determine their own fate are preempted by state and federal regulations.

These battles have become so contentious that another feisty community, Grant Township, PA, just made civil disobedience a civic duty. The township passed an ordinance that asserts “the right to participate in nonviolent acts of civil disobedience/direct action in the effort to prevent the construction of a deep injection well that’s inconsistent with the township charter that ostensibly protects its members’ right to clean water.”

The Oregonians for Community Rights qualified a citizen initiative earlier this year to amend the Oregon Constitution to confirm the right to local self-government. The political arm to the Oregon Community Rights Network, the amendment would secure decision-making authority at the community level so that visions for sustainable agriculture, energy, and economies, can be adopted and protected from state action to overturn such laws. Oregon’s Right of Local Community Self-Government amendment is currently involved in a legal challenge with the state regarding broader initiative petition circulation.

Coos County voters will have an opportunity to establish a countywide bill of rights this November that expands upon the existing Bill of Rights. Rather than leaving our fate to regulators, The Coos County Right to a Sustainable Energy Future Ordinance will affirm our right to be self-determining and will elevate the rights of the community over corporate privilege.

Visit [cooscommons.org](http://cooscommons.org)

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# Maybe it is time to revoke our consent to be governed

*“Extending standing to the real party at risk of harm – the environment – would preserve “priceless bits of Americana” before they become “forever lost or are so transformed as to be reduced to the eventual rubble of our urban environment.”*  
*US Supreme Court Justice William Orville Douglas*

During an especially heated primary debate with Senator Bernie Sanders, Secretary Hilary Clinton made an interesting admission. “The Palestinian people,” she conceded, “have a right to self-government.”

As an advocate for community rights and local self-government my ears perked up. Of course the Palestinians have the right to govern themselves, but I had to wonder if Clinton, or Sanders for that matter, or any of the presidential hopefuls would agree that Coos County, OR or Pittsburgh, PA have the right to say no to harmful projects that violate the fundamental rights of their citizens.

Last October I had a heated albeit brief debate of my own with a lawyer who, like me, opposes the proposed Jordan Cove LNG project here on the Southern Oregon coast. We disagreed on just what are fundamental or unalienable rights. A law professor might define fundamental rights as enumerated rights that have been recognized by the Supreme Court

requiring a high degree of protection from government encroachment. Fundamental rights, however, require no validation from a governmental authority.

My granddaughter has an inarguable fundamental right to clean air and water and not to be trespassed upon by toxic chemicals. So too do I have an unalienable right to my blue eyes and the ninth amendment allows for the protection of unenumerated rights. Yet, when a small rural farming community in Pennsylvania says NO to a fracking waste injection well because it risks contaminating groundwater and therefore the very health and livelihood of the inhabitants, state and federal regulations preempt these people from protecting themselves and their children.

The lawyer argued that property rights are fundamental rights rather than a privilege granted by government. However, owning property doesn't give you the right to use that property in a way that violates the rights of your neighbors. And, just like gun rights can be taken away from felons, property rights can be taken away from landowners. Fundamental rights such as due process and the right to be healthy cannot.

### **What is regulation and who writes the regulations?**

In short, industry regulation is legalized harm. The regulatory agencies permit industry to violate fundamental rights and in so doing shelter the offenders from civil liability for the environmental damage and health issues they cause.

The industry itself helps write the very regulations it is supposed to comply with. When was the last time you were consulted about how many parts-per-billion of toxins your granddaughter should breathe or drink?

The regulatory agencies effectively set a cap on how clean your air and water can be. It's like setting a maximum wage law limiting how much you can earn. Instead of setting a floor constraining industry to zero harm the regulators set a ceiling constraining the public. There is a plausible view that the only thing the regulatory agencies regulate are environmentalists.

*Governments are instituted among Men, deriving their just powers from the [consent of the governed](#) – Declaration of Independence*

Recently, The World published a story about a statewide citizen initiative of which I am involved to amend the Oregon Constitution. The amendment will confirm our right to local self-government and prohibit the state from preempting local ordinances protecting the fundamental rights of citizens.

The Coos County Right to a Sustainable Energy Future Ordinance is one such local law that when passed will prohibit non-sustainable energy projects like Jordan Cove and will run up against state and federal preemption. State and federal regulators believe they are more expert about our communities than we are and we have inexplicably empowered them to make decisions for us instead of making them ourselves.

Needless to say the industry doesn't like communities using direct democracy to say NO to corporate harm. The law firm of Davis Wright Tremaine has targeted rights based ordinances filed in Columbia and Douglas Counties. Supposedly filing on behalf of individuals willing to be the qualifying local resident affected by the initiative it is highly unlikely the firm's fees are paid by the signer and very likely they are funded by the industry.

*Section 1. Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.— Oregon Constitution*

This same firm filed a comment to the statewide initiative, this time using pro-gas booster Keith Tymchuk, Mayor of Reedsport as the qualifying resident. Anyone laboring under the false belief that we operate under a representative democracy take note that an elected official opposes direct democracy allowing communities to be self determining. Tymchuk is representing the industry, not the electorate.

State Senators Arnie Roblan and Jeff Kruse who coauthored a preemptive state law dubbed the Monsanto Protection Act are representing the industry. They are not representing their constituents who want protection from GMO and chemical encroachment on their organic farms.

Justice Douglas supported the rights of nature to thrive and flourish. He believed that an ecosystem is not a slave to mankind existing only to be plundered and exploited to the



benefit of corporate shareholders. He believed they are living breathing things independent of man and at the very least deserved standing in a court of law.

Since Douglas' time Ecuador and Bolivia have amended their constitutions giving nature rights. Italy and Ireland are also considering rights of nature as a way to protect "priceless bits" of their environment that will not survive under the regulatory model.

So what are our choices?

We can choose to do nothing which is an ethical choice and leave our children and grandchildren with the consequences. Doing nothing will not stop Jordan Cove or any other industrial harm.

We can continue to abide by and validate the regulatory fallacy. We can submit comments to the regulatory free speech zones and ignore the fact that what is regulated is allowed. Doing so will also not stop Jordan Cove, although hopefully the market has done that for us.

We can declare that a government that does not protect the fundamental rights of its people is illegitimate and revoke our consent to be governed by amending that government.

Community rights is about making corporate privileges subordinate to the rights of a community. In so doing we

legalize sustainability and make it possible to protect the health and welfare of our children and our environment.