

# RIVERS AND NATURAL ECOSYSTEMS



In a historic preliminary agreement between the Whanganui Iwi (Maori people) and the New Zealand Crown (Elizabeth II) announced in August 2012, the Whanganui River is being granted legal personhood rights. The river is a major commercial route on the North Island and is sacred to the Iwi. The proposed agreement, which has taken decades of negotiation, assigns shared guardian responsibilities for the river to the Iwi and officials representing the Crown. This landmark move is a first for New Zealand but not for the world.

Across the Pacific, Ecuador's Vilcabamba River has also been recognized as a rights bearing subject of the law. In 2008 Ecuador became the first country in the world to include Rights of Nature in its Constitution. The Constitution states that Nature “... *has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and evolutionary processes.*”

Furthermore, the people of Ecuador have the legal authority and responsibility to enforce these rights on behalf of ecosystems including rivers. In 2011, a major development project impacted the flow of the Vilcabamba River. Local residents filed a suit against the developer on behalf of the river. At the conclusion of a court trial, the river won. The judge awarded damages to the river and restoration is currently in process.

Granting legal standing to natural ecosystems is not isolated to these two cases. Recognizing Rights of Nature and natural ecosystems is the focus of a global grassroots movement. In 2010 in Cochabamba, Bolivia over 35,000 climate justice, indigenous rights, human rights and other civil society activists came together at the Peoples Conference for Climate Change and the Rights of Mother Earth and acclaimed the Universal Declaration for Rights of Mother Earth. A copy of the declaration with 120,000 supporting signatures was presented to UN Secretary-General Ban Ki-moon at the Rio+20 Earth Summit in June 2012. Also in 2010, the Global Alliance for the Rights of Nature was formed to provide a global hub for empowering the movement.

The premise of recognizing Rights of Nature has been advanced for decades through the writings of Thomas Berry<sup>1</sup>, Cormac Cullinan<sup>2</sup>, Christopher Stone<sup>3</sup> and others. Nonetheless, nature as a rights bearing subject of the law took root in 2006 in the small rural community of Tamaqua Borough, Pennsylvania, USA.

In less than a decade almost three dozen communities in the United States have passed local laws that recognize Rights of Nature. In addition to the United States and Ecuador, Rights of Nature laws are being implemented in Bolivia and proposed in other countries.

The story of Tamaqua Borough is an example of one of the ways communities from Maine to Washington State and California are organizing to assert Rights of Nature. Coal has provided the economic base for the Borough of Tamaqua for much of the last century. As coal mining in the region declined, mining companies began to look for other sources of profit by using their abandoned mine pits as toxic waste dumpsites. Industrial waste and agricultural sludge or “biosolids” were being dumped into the large unlined pits. In time, toxic waste began to leach into the surrounding rivers and aquifers. When residents learned the coal companies planned to fill the pits with fly ash—the poisonous dust residue from coal mining—they rallied together. Attempting to protect their community, the Borough Council had an abrupt awakening as they began to understand that the environmental regulatory systems did not provide protection they so desperately wanted and needed. Because the rivers and aquifers had no standing in the law and the contaminating pits were owned by the mining corporations, the community had no recourse for protecting themselves or their local ecosystems under the current laws and regulatory system. The permit process permitted the contamination.

With the assistance of Community Environmental Legal Defense Fund (CELDF.org), Tamaqua Borough passed a rights-based ordinance that recognized the rights of the natural ecosystems that were being polluted and the rights of the community to decide on issues affecting them. The ordinance declares that “It shall be unlawful for any corporation...to interfere with the existence of natural communities or ecosystems or to cause damage...Ecosystems shall be considered to be ‘person’ for the purpose of enforcement.” The Borough of Tamaqua and its residents are granted standing to represent natural communities and ecosystems.<sup>4</sup>

Other communities are driven by a variety of galvanizing issues. The City of Pittsburgh, PA has passed a local ordinance recognizing the rights of the local ecosystems and natural communities while limiting corporate personhood rights, so as to prevent hydrofracking within the City. For Santa Monica, CA a resolution including recognition of the Rights of Nature is part of the City’s overall Sustainability Plan. In Shapleigh, Maine, the City Council moved to protect the city’s ground water resources from corporate extraction and exploitation, to bar companies such as Nestle from bottling its water. Food sovereignty, the Tar Sands pipeline, threat of toxic contamination, and other emerging issues are uniting communities to stand for the rights of both their human and natural communities.

The move is a fundamental change from the current position of most modern legal systems, which treat nature as property to be bought, sold, and consumed often under commerce laws. The underlying Rights of Nature premise recognizes our human interdependence with the natural ecosystems we are a part of. These interrelated values are integral to ancient indigenous wisdom around the world but are ignored by modern law's anthropologic framework.

This is a movement that transcends political values and ideologies. If you are inclined to assume the movement is the work of a bunch of left winged progressive tree huggers, think again. Many of the cities and townships in the US who have embraced Rights of Nature are conservative, right wing communities. Citizens across diverging political ideologies are emboldened to take a stand once they fully understand that the U.S. Constitution and/or current environmental protection laws do not protect the natural communities which sustain healthy, human life or our rights as communities to make the quality of life choices that are ours to make.

The time has come to recognize that *We the People* are an integral part of the natural communities that sustain us. It is time to recognize the rights of our natural ecosystems not only to exist, but to sustain their natural, healthy balance for the benefit of all life.

Source: <http://readthedirt.org/rivers-and-natural-ecosystems-as-rights-bearing-subjects>