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Pittsburgh Council Votes to Ban Upstream Poisoning of City Residents and the Environment Caused by Corporations Fracking for Shale Gas

“It’s not okay to poison residents of our city, even if you have a permit issued by the State to do it.” – Councilman Doug Shields

MEDIA RELEASE

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FOR IMMEDIATE RELEASE

(Monday, December 19, 2011- Pittsburgh, PA) Following hours of business before the Pittsburgh City Council, a measure introduced by Councilman Doug Shields on November 14th to ban municipal and state governments from licensing and permitting corporations to dump toxins from fracking activities into the environment that result in violations of rights recognized in City law by the new ordinance and by the Community Bill of Rights Ordinance banning corporate gas drilling on November 16th, 2010, came to a vote today, and gained the majority.

The ordinance was adopted by a 5-4 vote and now goes to the mayor. He has 10 days in which to act with a veto, or barring that action the measure will become law on December 29, 2011. The law, known as Chapter 619 of the City Code, Article VI, under CONDUCT: “Toxic Trespass Resulting from Unconventional Natural Gas Drilling” makes it *illegal to deposit toxic substances or potentially toxic substances within the body of any resident of Pittsburgh, or into any natural community or ecosystem...as the result of activities prohibited by...Ordinances of the City, or through negligent actions which result in a violation of any provision of this ordinance...[such actions are] declared a form of trespass, and [are] hereby prohibited.*

The ordinance further legislates that “*Corporations and persons using corporations to engage in natural gas extraction or to support the activity of natural gas extraction, in a neighboring municipality, county or state shall be strictly liable for the violation of rights recognized by this ordinance, and for all harms consequently caused to natural water sources, ecosystems, human and natural communities within the City of Pittsburgh and its jurisdiction. Government agencies and municipalities that issue permits or allow unconventional extraction of natural gas within their municipality shall be held liable for the violation of the rights of Pittsburgh residents, ecosystems, and natural communities if a toxic trespass results.*”.

As did the November 16th 2010 Pittsburgh Ordinance banning extraction of gas by corporations, this Toxic Trespass Ordinance subordinates the legally bestowed privileges of corporations to the

inalienable, infeasible rights of people and living systems. The newly adopted ordinance makes law these provisions:

Corporations in violation of the rights of human and natural communities, and ecosystems, within Pittsburgh shall not have the rights of “persons” afforded by the United States and Pennsylvania Constitutions, nor shall those corporations be afforded the protections of the First or Fifth amendments to the United States Constitutions or corresponding provisions of the Pennsylvania Constitution, or the commerce or contracts clauses within the United States Constitution or corresponding sections of the Pennsylvania Constitution.

And....

Corporations in violation of the rights of human and natural communities, or ecosystems, within Pittsburgh shall not possess the authority or power to enforce State or federal preemptive law against the people of the City of Pittsburgh, or to challenge or overturn municipal ordinances adopted by the City Council of Pittsburgh.

To clarify the supremacy of rights-as-law over corporate privilege and over state authority to license corporations to violate rights and empower them to act “legally” against the consent of the governed, the Toxic Trespass Ordinance asserts that:

No permit, license, privilege or charter issued by any State or federal agency... to any person or any corporation operating under a State charter...which would violate the prohibitions of this Ordinance or deprive any City resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Pennsylvania Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Pittsburgh.

Persons, corporations, and other entities engaged in the manufacture, generation, sale, mining, distribution, application, transportation, use or disposal of toxic or potentially toxic substances used in unconventional natural gas extraction and detected within the body of any resident of Pittsburgh or within any natural community or ecosystem within the City shall be strictly liable for the deposition of toxic substances and potentially toxic substances into the bodies of residents of the City and within natural communities and ecosystems within the City.

Persons, corporations, and other entities...shall be deemed strictly liable if one of their toxic or potentially toxic substances is discovered within the body of a City resident or within any natural community or ecosystem within the City. The municipality’s showing of the existence of that substance within the body of a resident living in the City or within a natural community or ecosystems within the City, and the municipality’s showing that the Defendant(s) are responsible for the manufacture, generation, sale, mining, distribution, application, transportation, use or disposal of that substance within the City or migrating into the City, shall constitute a prime facie showing of causation under a strict liability standard. Current and future damages resulting from the these parties’ trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the substance could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the parties are not responsible for the trespass of that particular substance into the body of residents of the City or within a natural community or ecosystem within the City.

The bill was drafted by the Community Environmental Legal Defense Fund at the invitation of Council members.

Ben Price, Projects Director for the Community Environmental Legal Defense Fund, said he applauds the Council members for again taking a stand on behalf of community rights. “There is nothing more important for a municipal government than to step in and protect rights that the State cavalierly assumes it can negotiate away.”

Price further commented that “the struggle for civil rights has moved again to the community level. When the State licenses our abusers and our oppressors, it’s time to go local and assert our rights right here where we live. What a historic moment to see the City of Pittsburgh embrace and stand up for the will and movement of the People once again.”

The Community Environmental Legal Defense Fund, located in Chambersburg, has been working with people in Pennsylvania since 1995 to assert their fundamental rights to democratic local self-governance, and to enact laws which end destructive and rights-denying corporate action aided and abetted by state and federal governments.