



O.U.E. Update

A Publication of Organizations United for the Environment

Working to Spread Democratic Rights An OUE Report on How we Spend your Donations

In our "Letter from the Board," we always remind you that without your donations we would not be able to do our work. In recent years, you have donated roughly \$5,000 annually, and we have spent that money in a variety of projects that the newsletter regularly describes. For this issue, we want to focus attention on how your donations have enabled us to work in alliances with people in the area who are trying to protect their democratic rights. One of these reports, about building democracy in Snyder County, is quite long. However, we considered it well worth the extra space it would take and decided to extend the news section to the page where we usually send out our letter.

We hope that you come away from this issue thinking that we are using your donations in a way that reflects our appreciation for your generosity. We also hope that you can see fit to make a donation in response to this issue of the newsletter. Thanks! ♦

The Failure of Democracy in the Nippenose Valley

Last spring, we received a letter from a couple with a nightmarish story that they summarize below. After we got the letter, we invited the couple to a meeting, worked with them to get organized, and have allocated money for them to pay for medical records and for legal fees.

My name is John Yearick, and my wife Kristen and I have a story to share. We do so hoping that we might help prevent our tragedy from happening to another family. In August 2004, we built our dream home in a new development in Jersey Shore, PA, hoping that moving to the valley would better the lives of our family. What a gift we thought, to be living in such a beautiful place for our three children and two dogs to be able to run and play together. Our house is in a vacant field, surrounded by unsold residential lots, and we soon realized that what we thought was grass growing on adjoining lots was alfalfa being raised by a neighboring farmer. Then one afternoon in July 2005 we noticed that the farmer was spraying the alfalfa, the third time this had happened. As we watched, the spray coated our wooden swing set, our own faces, our dogs, and fell less than 20 feet from our well. As the farmer sprayed the lots, and as we exchanged smiles and waves with him, we assumed that he was applying an organic fertilizer. The farmer did not own these lots but leased them from the developers. He was growing alfalfa and, we were to discover, spraying it with pesticides, even though our contract with these developers included a strict protective covenant prohibiting the use of the lots for commercial purposes.

A week later, and nine days after the vet had found him perfectly healthy, our oldest dog, Tanner, dropped in our front yard

and couldn't get up. When our vet performed surgery two days later, he found Tanner's spleen ruptured and internal bleeding. Then Tanner died, and the vet said that he had been poisoned and that we should find out what chemical was responsible. At first, we didn't know what to think because we don't keep poisons around the house. Then we remembered the farmer's mist in our faces on that summer afternoon and also remembered Tanner eating the grass in our yard while he rolled about and played. I approached the farmer, and he told me that he had been spraying Dimethoate 4EC, an OrganoPhosphate, oil-based pesticide. I asked the farmer if he would use it around his own house, and he said, "No no no! It is not to be used near houses, only in fields." We did research and found that containers of Dimethoate 4EC carry the following warning label: "DEADLY - NOT TO BE USED NEAR HOMES, ANIMALS OR WITHOUT PROTECTIVE GEAR!" Learning this, we guessed that maybe Tanner's death had saved our own lives.

Given our continuing worries, two months later we all had blood tests. Our youngest daughter showed evidence of exposure to the pesticide, which would have been much higher had the test been done right after the spraying. Tests at that time also indicated that our well water had been contaminated. Since then, we all have suffered symptoms which we believe are related to the sprayings. All of our children have overall chronic illness; our youngest daughter has severe allergies, asthma, headaches, random fevers, and fatigue and is now being tested for a more complete diagnosis; our oldest daughter has a mass around her thyroid, fevers, allergies, headaches, and breathing issues; our son gets chronic bloody noses, has neurological issues, and fevers; my wife, Kristen, has anxiety and cognitive issues, tremors and neurological symptoms; and I have recently been sent to a pulmonologist at Geisinger Medical

Center to determine if my severe breathing problems come from repeated exposures to Dimethoate 4EC. My age, weight, and the fact that I never smoked, all indicate that strong possibility. Since the spraying happened in 2005, we have contacted the EPA, DEP, PA Dept. of Agriculture, and other environmental agencies and groups. We found out that even though EPA had worked to ban the use of Dimethoate 4EC prior to our incident, it is still used regularly on farms across the nation. We never did get any useful help from these agencies. They just sent us back and forth to each other.

Finally, we heard about OUE from a friend who told us how she and her neighbors in the Nippenose Valley had gotten its unwavering support when they fought off two corporate hog factories. During the summer, OUE helped us to get organized and focused, and later provided us funds to pay for medical records and some of our legal fees. For the first time in two years, we are beginning to have some hope because a really dedicated lawyer, to whom OUE referred us, has filed a suit for us against the developers for violating their own covenants.

We know that OUE was able to provide us funds because of donations from its generous members. We are forever grateful to each and everyone of you for those donations. ♦

John and Kristen Yearick

Montour Crossing - Development in the Wrong Place

The following article was written by Anne Harris Katz, secretary and founding member of CRGR, described at the end of the article, a group resisting a truly bizarre developmental plan in Lycoming County. Members of the group attended an OUE meeting last summer, seeking advice. Shortly thereafter, we provided the group funds for public education and legal costs.

Envision a Super-Lowe's, supplier of home building and repair materials, inaccessible when you most need it. Picture it on an artificial island plateau above flood waters with an inundated parking lot. See yourself as a local home or business owner, unfortunate enough to be flooded. Where do you get materials to repair and rebuild? That's the scenario being set up for a proposed development in Fairfield Township, Lycoming County. It's called Montour Crossing.

This development would also put the area at greater risk of flooding, because its location on Loyalsock Creek's floodplain would "convert" approximately 45 acres of floodplain into impervious surfaces - buildings and parking lots. The engineering design calls for another 47 acres to form an excavation pit proposed to serve as a flood mitigator, as long as it's kept completely empty in perpetuity. The fill from this "big pit" would be used to create an island just above the floodplain for building the retail stores - but not for their parking lots.

It will destroy 140 acres of prime agricultural land, which is how this floodplain property is currently used. The same land has documented artifacts of historic and archeological signifi-

cance. It's also adjacent to a scenic area, known locally for the much photographed and painted 1700's farm building called "The Stone Barn."

There are traffic, water supply and sewage disposal issues and the question of how to finance "Big Pit" cleanup forever. There are concerns the excavation could contaminate private and public well systems, or make them run dry. There is a question of whether a half million taxpayer dollars should have been designated by our Governor to widen a bridge just for Montour Crossing, when each day brings more front-page news about deteriorating bridges in Pennsylvania. Local businesses are concerned about their survival and jobs lost or downgraded if a Super-Lowe's comes to town. What will happen to the current Lowe's building - less than a mile from the proposed Super Lowe's? Will it be another deteriorating empty shell - another brownfield site?

The county has several designated growth corridors where tax money built infrastructure to support development and many areas of brownfields where such a commercial development could go. Some think the landowner who wants to sell his farm for Montour Crossing should be allowed to do as he sees fit for whatever price he can get. But, should the public be put at risk for such freedom in land sale? There are other ways to get a fair price for environmentally-sensitive, historically-important, agricultural land and still preserve the functional integrity of that land.

How will the regulatory agencies — DEP, PADOT, PHMC, FEMA, USACE* — respond? At present, the developers have submitted applications at each agency, and we expect they have others applications waiting to be submitted. Between late June and early July all permit review activity for the development was stopped when one of the communities affected by a predicted rise in flood height (based on the engineer's hydrology model) contested an application to FEMA. But, the developer's engineer has submitted new models that now predict no such rise. If the developer's engineers submit a plan that Fairfield Township agrees is technically valid, all actions stopped in June and July will likely be re-initiated.

Despite any statements by the developer's representatives that a new model won't cause a rise in flood height, the overall development is unchanged. There is still a "big pit" with issues for in-perpetuity maintenance that place potential tax liability on all state residents. There is still the floodable parking lot, making access to critical building supplies impossible at time when they would be most needed. There is still the question of whether any model can predict local flooding with sufficient accuracy to protect the public.

The Coalition for Responsible Growth and Resource Conservation (CRGRC), which advocates balancing economic need with environmental preservation, urges those concerned about Montour Crossing to contact elected officials who have jurisdiction, letting them know how you feel. Interested individuals can write, email or phone the CRGRC for details and information on how to take action. Contact CRGRC at P.O. Box 11, Muncy, PA 17756, by email at crgrc11@verizon.net or phone at 570.433.4681.

*These initials, respectively, stand for: PA Departments of En-

Environmental Protection and Transportation; PA Historical and Museum Commission; Federal Emergency Management Agency; and U.S. Army Corps of Engineers. ♦

A Case Study in Building Democracy in Snyder County

In 2002, several people from a township in Snyder County attended a Board meeting because a neighboring farmer sought a permit to build a hog factory. Below is the story of their resistance to this factory, with a focus on their work to keep it from happening again. OUE provided funds and counsel to this group in 2002, and two of its members, Sally Lauver and Pat Risso, have been serving on the Board for three years. Another of them, Thom Lauver, we are happy to report, recently joined the Board. Sally Lauver filed this report.

Middlecreek Twp. is a rural and staunchly Republican municipality located along the Rt. 522 corridor. Township meetings were sparsely attended until the fall of 2002 when a newspaper article announced that plans were underway to locate a hog factory in the east end. Our journey into local politics in a grassroots team effort to bring about change began with that announcement.

We took the steps that communities often do when caught off guard by unacceptable environmental insults and right infringements. A small but active concerned citizens group formed quickly and we learned that the deck is stacked in favor of corporations with power and money, and that though they may be headquartered elsewhere, they're on track to enrich themselves further at the expense of the environment and local citizens rights.

We didn't stop the hog factory, but OUE support provided us with tools to fight as we worked our way through that valuable, eye opening experience, and also the opportunity to learn about and attend Democracy School lectures. We learned the need for involvement in politics at the local level and for getting candidates of our choice elected in order to promote positive change. (The next article describes the work of the Democracy School.)

The following timeline illustrates how far we've come in a relatively short time given such a conservative township:

Fall 2002 - Our concerned citizens group was formed. We learned that all our legal system could do for us in fighting for our rights over those of a corporation was to stall the inevitable outcome: a hog factory in our midst whether we wanted it or not. By now we had started attending all township meetings.

Spring 2003 – Though finding a suitable candidate with any chance of winning was a difficult task at this early stage, we supported a candidate of our choosing to run in the primary on the Republican ticket and also as a Democratic write-in. He won on the write-in and appeared on the ballot in the fall but lost to the incumbent. Even with the loss, it was a strong confidence builder to see how much we were able to accomplish.

Winter 2004 - At each township meeting we proposed that the

board be expanded. That action was never taken, but when a vacancy occurred upon a member's resignation, a representative from our group was added to the township planning board. This time, our persistence paid off.

Spring 2005 - Our choice for Twp. Supervisor ran against an incumbent Republican in the primary and won. We ran another successful Democratic write-in campaign and his name appeared for both parties on the fall ballot. We did all the following campaign work: strategy meetings, press releases, letters to the editor, phone work, informational flyers distributed by hand and mailed, some road signs, and our candidate campaigned at the local farmers market.

Fall 2005 - We repeated all of the work we'd done in the spring and our candidate won the election. Getting these two seated in positions was a major accomplishment, especially when both were considered by a large portion of the constituency to be "outsiders" since they have resided in Middlecreek for *only* 12 years. And the planning board member is a woman!

Fall 2005 through Spring 2007 - We continued to attend township meetings regularly. Our representative on the planning board actively participated and also talked to the other board members about the pros for considering an update of the township's 1976 comprehensive plan (zoning is considered anathema in most of Snyder County). We brought up the same issue at township meetings. By spring 2007, both the supervisors and the planning board agreed that it would be good for a group of interested citizens to meet and discuss strategies. Outcome: SEDA-COG, the Bucknell Environmental Center, and the Pa. Dept. of Community and Economic Development were invited to the table and are actively helping to facilitate the process.

Spring 2007 - Primary election. Incumbent vs. candidate representing a group of residents disgruntled over steps taken to clarify a 21 year old nuisance ordinance. Our choice for candidate added her name to the Republican ballot and we also had our third successful Democratic write-in. We used the same techniques as in the previous election. In addition, being another "outsider" and a woman, our candidate worked at old fashioned door-to-door campaigning to introduce herself and her ideas. She won by one vote which held up through a recount and her name was the only one to appear for Twp. Supervisor on the fall ballot.

Fall 2007 – We repeated all the spring work plus held two "Meet the Candidate" gatherings at the homes of supporters. The opposition waged a write-in campaign of its own plus a word-of-mouth campaign regarding the outsider/woman issue. In addition to our candidate's credentials, ideas, and concerns, the message now also included answers to questions and concerns that she'd learned about during her spring canvassing. It was also pointed out that all the write-in candidate had ever articulated publicly (at a township meeting) was his outrage over clarification of the nuisance ordinance and a desire to have it, and most other ordinances, removed.

In the end, our candidate was defeated by fear-of-an-outsider-takeover and the call to arms that went with it. Down but not out, we plan to persist until the next opportunity to run. We

hope our candidate's defeat has served as a wake up call to supporters who haven't been in the habit of attending the monthly meetings. If so, we'll be holding the supervisors' feet to the fire in even greater numbers. That will be the campaign of our immediate future!

There is a silver lining. With our person on the planning board and concerned citizen support, the Middlecreek Twp Planning Commission has taken a leadership role in bringing neighboring townships together to learn about the potential benefits of working cooperatively and sharing in the effort to have an updated comprehensive plan completed for our area. One day following the disappointing election results, we were encouraged to find a good turnout at the latest exploratory meeting seeking support from additional townships. Those attending both listened and engaged in dialog on the topic. The ball is rolling—and even though our township elected a supervisor who has a problem with ordinances! It's two steps forward and one step back, but we're in it for the long haul and expect that others will follow by way of example and join us in our effort to work toward democracy with an eye on what's good for the whole. ♦

Building Democracy, One Township at a Time

Recently, Dave Laidacker, co-chair of the OUE Board, organized a presentation by Ben Price of the Community Environmental Legal Defense Fund, described below. We provided funds for Mr. Price's travel expenses and for a small honorarium. Dave filed the following report on the presentation.

On October 4th, the OUE Board sponsored an educational lecture by Ben Price, a speaker from CELDF, the Community Environmental Legal Defense Fund (CELDf) of Chambersburg, PA. The lecture was attended by township supervisors, secretaries and solicitors of four local townships, and included eighteen officials from these townships. These officials came to listen to Ben Price of CELDF, an organization of environmental lawyers and activists who work with townships to develop ordinances that provide local control over corporate actors within their communities. The founders of CELDF originally based their ideas on the laws of several western states that banned corporations from engaging in harmful agricultural practices.

Our readers will readily understand why we sponsored this lecture by Ben Price, given our frequent stories in recent years about our alliances with groups that were struggling against plans to locate large animal factories in their communities. These battles were fought in response to scientific proof that such factories degrade the soil and the water, and also the clear evidence that the factories were being permitted by township officials enforcing ordinances written

to favor corporations over citizen rights.

Presently, most township officials in the state believe that they cannot write ordinances that protect the citizens from the pollution of such operations as animal factories, the hauling and spreading of industrial sludge, the sewage from cities of neighboring states, mineral excavations, hazardous landfills and giant retail operations. It was because this regulatory system so completely favored corporate interests that led to the foundation of CELDF and, eventually, to OUE inviting Ben Price to the area. In fact, during the last two years, several members of OUE's Board had attended training by CELDF at its Chambersburg offices.

During the past eight years, CELDF has worked with local officials to create ordinances in over 100 townships. Typically, these ordinances meet the resistance of the combined power of township solicitors, the Farm Bureau, building associations, and corporate officials and their lawyers. This alliance of power brokers try to convince township officials that any ordinance that curtails corporate activity is illegal and unconstitutional, meaning that that municipal officers who introduce ones that are approved will get sued.

Some ordinances passed by townships with CELDF's help have been challenged by the corporations, claiming they have been cheated from the "Right of Future Profits." The corporations want to protect a system that, for example, will allow Hatfield Meat Company to locate a hog factory next to your house without your having legal recourse even to challenge it. When such challenges occur to township ordinances, CELDF attorneys help the township to defend it in the courts. On this matter, in October, 2006 U.S. Senator Arlen Specter told one local official that, "You're the elected officials, not [the corporations]. You figure out the right thing to do and do it. Getting sued is not so bad; it's better than getting sick." (CELDf, *Susquehanna*, Dec. 2006).

Both CELDF and OUE will make follow-up contacts with the township officials who attended the lecture by Ben Price to see if they would like to begin writing more protective ordinances to present for approval to the citizens in their townships. It can take a lot of work to do that, but the evidence shows clearly that the best way to keep out corporate polluters is a protective ordinance firmly in place on that day when polluters show up and request a building permit. ♦

OUE BOARD MEETINGS

The OUE Board meets at 7:00 p.m. on the first Monday of every month at the United Methodist Church in Watsonstown. Our meetings are open to the public, and we encourage local citizens to attend and, better yet, to join us in our work. ♦

OUE Publications Committee: Editor, Charles Sackrey; Associate Editors, Linda Godfrey, Sally Lauver, and Clyde Peeling; Distribution, Bessie Bush and Linda Godfrey.

Organizations United for the Environment

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OUE is a grass-roots organization dedicated to protecting the environment. As a non-profit, charitable organization, OUE is crucially dependent on our readers' donations to continue its work, and you can help us along with a tax-deductible contribution. Donations are used to fund efforts such as the *Ban the Burner* campaign in the early 1990s, activities of *The Task Force on Hog Factories*, alternative energy projects that will be built at local schools, and for public education. Our web site is: www.ouenews.org. Please send your comments to: editor@ouenews.org.