

EARTHWORKS JOURNAL

DEFENDING THIS PLACE COULD **LAND YOU IN JAIL**

A Special Defend the Defenders Issue



Criminalizing Protest
Big Win in Guatemala
Tackling Oil and Gas Waste
Giving Back through Art





EARTHWORKS

Dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions.

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EARTHWORKS
JOURNAL

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New Faces at Earthworks

Raphael Breit
Community Empowerment Project Coordinator



RAPHAEL BREIT

Raphael joined Earthworks in July 2019. He supports field staff documenting oil and gas pollution and helps engage communities to take action. He manages the project database and analyzes activities and findings to develop and expand Earthworks' Community Empowerment Project.

Before joining Earthworks, Raphael worked with Native American/Alaska Native Communities and spent a year in Israel on a program that promotes peace-building through environmental research and cooperation. He just completed a master's of public policy at George Washington University.

“ I'm very happy to have found an organization that focuses on communities and developing local solutions when tackling major environmental issues.”

Sophie Shemas
Digital Engagement Coordinator



SOPHIE SHEMAS

Sophie joined Earthworks in August 2019. She helps manage Earthworks' digital platforms, including the website, email communications, and social media accounts. Sophie's focus is growing Earthworks' membership and finding opportunities for members to engage in environmental advocacy.

Sophie has always worked at the intersection of environmental and social issues. She worked most recently in higher education on a campaign to end sexual violence. Prior to that, Sophie worked to engage communities across New Mexico to protect our public lands.

“ It's exciting to be part of an organization that has helped so many communities fight back against our climate crisis.”



ON THE COVER: Cypress Island Preserve, on the western edge of the Atchafalaya swamp in Louisiana. Louisiana is now home to hundreds of oil and gas pipelines, which have destroyed natural places like this.

Cover Photos: prisoner by fotokitas/stock.adobe.com; Louisiana Atchafalaya swamp by John Zada / Alamy Stock Photo; protest photo by Erik McGregor

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Four Wins for Clean Water, Wilderness and Communities

By Pete Dronkers and Bonnie Gestring

These days there is so much bad news – but victories are still possible.

Colorado Mining Reform

PASSED! A new mining reform law in Colorado stops any new mine from being built if it would rely on perpetual water treatment after the mine is reclaimed. Earthworks and partners throughout Colorado have worked closely with legislators, regulatory agencies, local elected officials and community groups to update the state’s mining law. **These critical updates will protect communities from mines that pollute in perpetuity, and protect taxpayers from the cost of cleaning them up.**

Democrats and Republicans agreed this bill was about common sense, decency and not pushing pollution we create now onto future generations. Colorado joins a handful of other states, most notably New Mexico, that have similar laws.

Abandoned Mines

CLEANED UP! Although uranium mining in Colorado largely went dormant decades ago, about 20 actively permitted mines – mostly in western Colorado on federal lands – still have not been reclaimed. But last month, the Colorado Court of Appeals issued a ruling that will finally lead to the cleanup of these inactive mines.

The court has made it clear that 10 years means 10 years, and beyond this, reclamation must commence. **We will now begin to see a surge in reclamation activities at dormant uranium mines statewide,** particularly in the Dolores River watershed of

Southwestern Colorado. This is a victory for wildlife, clean water, and the people who use and value these public lands.

The Van 4 Mine (at right) has been closed for almost 30 years. Pinon Ridge Mining, LLC has tried to retain its permit to avoid cleaning up the derelict mine. Now the company will be forced to clean up its act.



The abandoned Van 4 Mine in Colorado will now have to be cleaned up.

Montana Mining Permit

STRUCK DOWN! In April, a water use permit for the proposed Rock Creek Mine was struck down by a Montana District court. The permit would have permanently drained water from pristine wilderness rivers and streams designated by the state as Outstanding Resource Waters. Although the state of Montana argued that only state agencies could enforce this provision, which they had failed to do, the court disagreed. **Conservation groups now have an important tool to keep clean water flowing through our streams and rivers.**

Permit to Pollute

DENIED! In July, a Montana District court judge struck down a pollution permit issued to the proposed Montanore Mine. The ruling reaffirmed that the proposal to pollute streams with copper, chromium, zinc, and other harmful metals was illegal. **Mining companies and state agencies now know that they cannot cut corners when it comes to industrial pollution that harms our waterways.**

THE FIGHT ISN'T OVER

Pebble Mine Still Threatens Bristol Bay

President Trump’s Environmental Protection Agency (EPA) withdrew an Obama era proposal for tighter protections of Alaska’s Bristol Bay. This reversal will make it harder to protect the salmon fishery and the livelihoods of those who depend on it.

Earthworks has won landmark cases to protect clean water from irresponsible mining projects that will harm Montana’s Cabinet Mountains Wilderness and Colorado’s pristine waters – and we’ll keep fighting to protect land threatened by irresponsible mining, past, present, and future!



Dolores River, Colorado, a few miles upstream from the town of Bedrock. Photo: Charlene Anderson

Read more at: earthworks.org/mining





Activists with *L'eau Est La Vie* (Water is Life) block construction of Energy Transfer's Partners Bayou Bridge Pipeline in south Louisiana.

Speaking Up Can Land You in Jail

By Phil Dickieson

Frontline environmental defenders play a critical role in protecting our nation's most important places. Peaceful protesters work tirelessly to protect our nation's remaining wilderness from big industry and new development.

But frontline protesters face a new threat. Around the country, laws are being crafted to stop peaceful protest and silence those who dare to speak out.

Protesting pipelines in Louisiana: A Felony?

In 2018, with permission from the landowners, water protectors in Louisiana set up camp on a swampy patch of land threatened by construction of the Bayou Bridge Pipeline. The protesters were arrested by local authorities for interfering with the pipeline construction – even though they had written, explicit, permission to be on the property! It was the pipeline construction crews who were trespassing. More than 10 protesters and a journalist were arrested and charged with felonies under a new law designed to target pipeline protesters. The group, *L'eau Est La Vie*, with support from Earthworks, is challenging the law to decriminalize peaceful dissent in Louisiana.

New Law in Texas: Rampant Government Overreach

Texas HB 3557, signed into law this summer, makes it a felony to damage or destroy so-called “critical infrastructure.” The catch: Texas’ definition of “critical infrastructure” is so wide-reaching that the average person may have no idea that they are violating the law.

The definition is so broad that a peaceful protest on a driveway leading to a construction site could result in felony charges. Worse yet, the law mandates harsh penalties for non-profits involved in supporting such protests. The intentional lack of clarity is designed to in-

timidate protesters. Earthworks mobilized a rapid response and helped elevate the public’s opposition to the bill; even so, the House passed it into law.

Ohio Bill: Would Criminalize Protest

Like Texas’ bill, Ohio SB 33 increases punishment for individuals exercising their First Amendment rights near so-called “critical infrastructure.”

Earthworks Field Advocate Leann Leiter testified to the Ohio Senate Judiciary Committee in opposition to the bill:

“SB 33’s purpose is to intimidate individuals, communities, and organizations lawfully exercising their First Amendment and other fundamental rights. This bill amends Ohio’s criminal trespass and criminal mischief statutes by extending potential liability to innocent landowners, passers-by, peaceful protesters, and community organizations advocating for stronger safeguards for public health and the environment. . . SB 33 broadly declares access roads, construction sites, and even unconnected pipes as critical infrastructure.

An area we visited in Ohio in October 2018 was so replete with pipeline construction, we and 11-year residents of the neighborhood could not distinguish among small dirt roads or construction zones designed to support so-called critical infrastructure facilities from those designed for other purposes.”

You can challenge bad bills and show solidarity with environmental defenders!

New laws around the country are targeting peaceful protesters and silencing environmental defenders. Earthworks needs your help to defeat these bills and protect those who have been victimized by existing laws.



Earthworks Thermographer Leann Leiter.

The passage of the Louisiana, Texas, and Ohio laws set a dangerous precedent for other states. The rising popularity of these “critical infrastructure” bills makes it more important than ever to fight back – before more of our fundamental rights are stripped away.

Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

— The First Amendment of the United States of America

Criminalizing Protest

A Threat to Our Environment – and Our Democracy

By Phil Dickieson

The First Amendment guarantees citizens of the United States the right to free speech, the right to peacefully assemble, and the right to protest the actions of our government.

Why, then, are laws being introduced around the country that contradict these very principles?

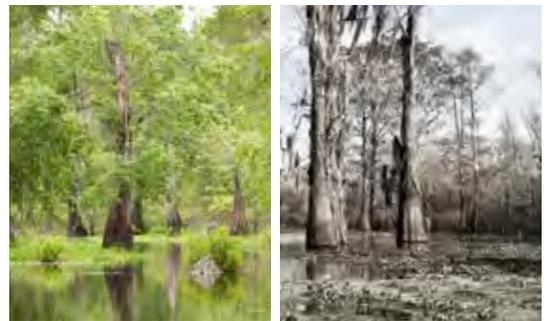
Environmental defenders stand for the voiceless, disempowered and disenfranchised. Laws infringing on our rights to free speech and free assembly threaten our ability to affect change and defend people, wilderness and our climate.

Recent legal developments have restricted peaceful protests. With the help of the American Legislative Exchange Council, an organization of conservative state legislators drafting right-leaning legislation, states have been introducing new, restrictive laws. And fossil fuel companies have been providing behind-the-scenes support. In the wake of the Dakota Access Pipeline (DAPL) and other high profile protests against new oil and gas infrastructure, industry will stop at nothing to restrict protesters.



Protesters rally at a youth climate protest in front of the White House in September.

Earthworks staff have been sued, subpoenaed and threatened. Environmental defenders have been arrested and prosecuted. It doesn't take much effort for big corporations, like Chevron or Exxon, to harass a group of frontline protesters. One court order can result in a mountain of paperwork and legal fees – discouraging and intimidating advocates who are our last line of defense against environmental destruction. **That's why we are setting up a \$10,000 Emergency Defense Fund** to support individuals harassed by SLAPPs (Strategic Lawsuit Against Public Participation), or targeted for arrest under new anti-protest laws.



(Left) Lush greenery of Atchafalaya swamp in Louisiana. (Right) Shredded remains of old growth cypress trees litter the swamplands after Bayou Bridge Pipeline work.

Introducing the **EMERGENCY DEFENSE FUND**

DEFEND THE DEFENDERS!
And defend our constitutional rights. Your gift will:

- Fight proposed bills and explore challenges to existing laws
- Support frontline defenders in need of immediate assistance
- Defend Earthworks if targeted or prosecuted

Return the enclosed envelope and check the box to give to the Emergency Defense Fund. Or give online at earthworks.org/protectdefenders.





Photo: NISGUA

Justice SERVED

in the fight against petrochemicals

By Ellen Moore

Two years ago, the Xinka Indigenous people and small-scale farmers in Guatemala, celebrated an incredible win defending clean water and the right to self-determination. The Guatemalan Supreme Court provisionally suspended the Escobal silver mine, the third largest silver deposit in the world. This landmark ruling determined that the government had discriminated against the Xinka people by not consulting with them prior to building the mine, and ordered that the mine stay suspended while consultation with the Xinka is carried out.

The suspension of a major operating mine is a remarkable occurrence in Guatemala and internationally. Thousands of affected Indigenous and farming communities demonstrated broad opposition to this project, and faced violent repression as a result. The Court's ruling validated the communities' concerns about the mine's impacts on their water, air and cultural practices, and gave communities the historic opportunity to fully participate in decision-making over the future of the project.

But now the government is excluding Xinka communities from participating in their own consultation process! And so far, Pan American Silver, the Canadian company that owns Escobal, has remained silent.

Xinka communities and the broader resistance to large-scale mining in southeastern Guatemala are doing everything they can to ensure their rights are respected. Earthworks is campaigning with them to boost technical and organizing capacity and increase international solidarity for their fight, by holding Pan American Silver and the government accountable. This work is critical, as death threats and spurious legal attacks against Xinka leaders are on the rise.

The consultation process is a critical part of a nearly decade-long effort by communities to protect their water and traditional way of life. It has the potential to impact struggles far beyond this coffee growing region in southeastern Guatemala. We are honored to fight alongside the Xinka community, standing up for the environment and paving the way for genuine application of the international standards of free, prior and informed consent.

The Xinka people are an under represented Indigenous people in Guatemala. A silver mine threatened their way of life – the government and the mining company even denied their existence. But now, the courts have intervened!



Xinka community members march in Guatemala City. Photo: Maritimes-Guatemala Breaking the Silence Network

By Ethan Buckner

On June 27th, United States District Judge Kenneth M. Hoyt concluded that Formosa Plastics is a “serial offender” of federal and state environmental laws and committed “enormous” violations at its petrochemical complex in Point Comfort, Texas. This extraordinary legal victory against one of the world's most notorious polluters didn't just happen: the groundwork for this case had been laid over the course of three decades by the visionary and relentless activist, author, shrimper, and boat captain, Diane Wilson.

Diane began her crusade against Formosa Plastics in 1989, as the company began developing its massive petrochemical complex in Point Comfort, Texas. At the time, Diane was working as a shrimp boat captain and was alarmed about impacts of plastic production on public health and marine life. Diane and her allies collected thousands of samples of plastic pollution in the nearby Lavaca Bay, documenting the billions of plastic pellets and powder dumped into the surrounding areas by Formosa.



Diane Wilson

“For the first time ever I felt justice was delivered. For a judge to come out and make those statements – it blew my mind.”

— Diane Wilson

Earthworks, Diane Wilson and many allies continue to work together to expose Formosa's corporate malfeasance as we fight a similar proposed petrochemical complex in the community of St. James, Louisiana.



Leader from San Rafael Las Flores shares information about Xinka rights and the court-ordered consultation process.



Visit earthworks.org/escobal to learn about the fight!

Oil and Gas Waste:

NO END IN SIGHT

By Melissa Troutman

In 2015, Earthworks published *Wasting Away: Four states' failure to manage oil and gas waste in the Marcellus and Utica Shale*. With 2019's *Still Wasting Away*, we've taken another look and found that regulations have barely improved or even worsened.

60% of all new oil and gas production globally between now and 2030 will be in the U.S. That's four times more than any other country. Being the world leader in oil and gas also means the U.S. leads in the production of **oil and gas waste**, which contains carcinogens, heavy metals, unidentified chemicals, and radioactive materials.

Even if new expansion stopped immediately, today's oil and gas wells would continue to produce massive amounts of waste long after the drilling ends.



earthworks.org/still-wasting-away

Today an estimated 17.6 million Americans live near oil and gas development, or associated toxic waste.

UNKNOWN DANGERS — There is no uniform federal standard for tracking oil and gas waste, making it impossible to know how much of it is being produced nationally or where it's all going. Despite the fact that much of oil and gas waste can qualify as "hazardous" by scientific standards, oil and gas companies are still exempt from federal hazardous waste laws via an enormous loophole created by the Environmental Protection Agency (EPA) in 1988. This loophole means no tracking of where oil and gas waste ends up, no analysis of how dangerous the waste is, spreading of waste on roads, discharge of waste into rivers, and even injection of waste directly into aquifers.

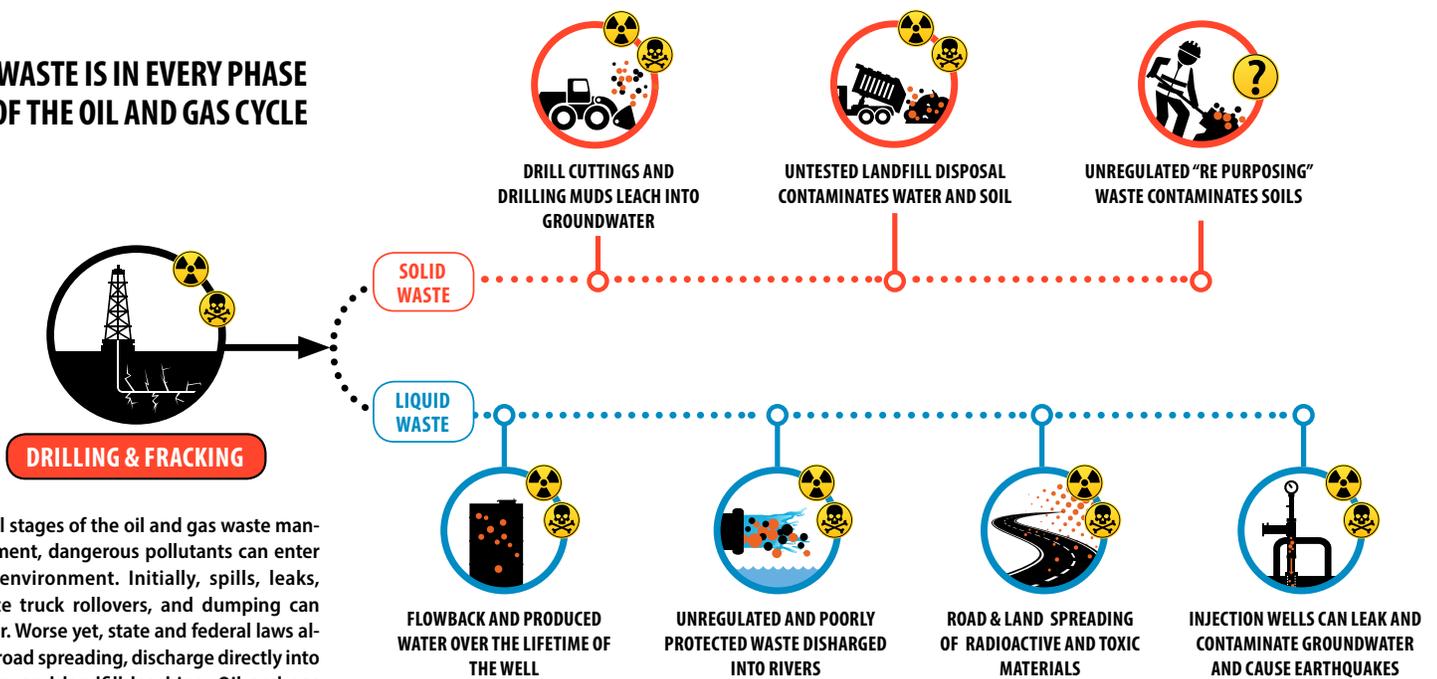
MORE WASTE IS BEING PRODUCED PER WELL AND PER UNIT OF ENERGY — More waste for less fuel means rising disposal costs for an industry that is already pushing hard for regulatory rollbacks on waste. Oil and gas companies are creating consumer products from oil and gas waste that are now on the main-stream market.

LIMITING THE HARM caused by inadequate oil and gas waste management requires action on several fronts. Earthworks is pursuing federal litigation, rule-making and community engagement in several states.



Degaweno:das (he who thunderz) of the Seneca Nation expressed opposition to a fracking wastewater facility on the Allegheny (Ohi:yo') River during a public meeting in Coudersport, Pennsylvania. Photo: Steve Rubin for Public Herald.

WASTE IS IN EVERY PHASE OF THE OIL AND GAS CYCLE



At all stages of the oil and gas waste management, dangerous pollutants can enter the environment. Initially, spills, leaks, waste truck rollovers, and dumping can occur. Worse yet, state and federal laws allow road spreading, discharge directly into rivers, and landfill leaching. Oil and gas waste contains heavy metals, radioactive materials, salts, hydrocarbons, carcinogens and other pollutants.



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JOIN IN THE CONVERSATION AND SPREAD THE WORD



Giving Back through Art for a Sustainable Environment

Earthworks is fortunate to have several artists among its donors. We are grateful for all their support, and want to share a little about some of the artists who are among your fellow Earthworks benefactors.

Michael Bates, poet, michaeljbates.com

Michael writes verse linked to a life well-lived on multiple continents. He began his career as a sales representative for the McGraw Hill Book Company's Latin American Division and later at CBS Publishing Group, before starting his own company, Interbook Marketing Services.

Recently retired, Michael resides in Florida. Writing, fly fishing, art collecting, participating in cultural activities, and serving on the board of Yellow Jacket Press, a non-profit poetry chapbook publisher, are some of his pastimes.

— "Our planet needs protection against the destructive nature of man. Earthworks is a friend in need."

Marq Spusta, visual artist, marqspusta.com

Marq's art takes a variety of forms, from concert posters to intricate paintings. He lives and works alongside his wife and two small children in California.



— "I have a division of my artwork sales set up as SpustaStash.com, and there we sell art with a percentage of the proceeds benefitting various causes. Helping protect the environment is something we are certainly passionate

about. Our earth is under attack from every direction. Earthworks is impressive in its specific focuses and goals to promote solutions as well as fight the good fight."

Luana Rubin, visual artist, equilter.com

Luana is the co-owner and president of eQuilter.com. After working in the fashion industry, she is now an internet entrepreneur, fiber artist and wildlife photographer. eQuilter donates 2% of sales to charity, and has raised \$1.6 million for a variety of organizations. She is donating proceeds from the quilt below, *Rocky Mountain Poison*, to Earthworks to support our work.

— "When my daughter was being poisoned by benzene in her public school, and people thought I was crazy trying to uncover the truth, Earthworks not only believed me but helped me to decipher what was making students and teachers ill. I have great admiration for Earthworks and their pursuit of the truth."



LEFT PHOTO: Marq Spusta at work. RIGHT PHOTO: (L-R) Lauren Pagel, Luana Rubin and Paul Jolly with Luana's wall hanging, *Rocky Mountain Poison*.