

April 27, 2020

Dear Columbus City Council Members,

The abrupt suspension of the Columbus Community Bill of Rights (CCBOR) campaign due to the coronavirus crisis compels this letter regarding the hazards of fracking byproducts and waste that are as dangerous as COVID-19. We are grateful for the science-based approach Ohio is taking with COVID-19. We now ask you to apply this approach to the other public health crisis that looms within our city and water supply, namely that of radioactive waste. In light of the renewed global recognition of the need for preventive measures to avoid disaster, **CCBOR respectfully requests that Columbus City Council members place the CCBOR charter amendment on the November 2020 ballot to protect Columbus from a potential fracking waste crisis.**

To put it plainly, catastrophic destruction of our natural resources is certain unless Central Ohioans act now to contain the threat. Inaction will yield the regrettable scenario of a city mired in toxic and radioactive water, soil, and air. So real and well-documented are the dangers of fracking and its byproducts that they beg the question: **Must disasters strike before we take them seriously?** Our federal government's irresponsible response to COVID-19 has demonstrated the need for local governments to intervene and take decisive action before it is too late, before people get sick and die. To see the damage that unusable water can do, just look to Toledo in 2014, when 400,000 people were told to not even touch the water, or to the still on-going lead-contaminated water crisis in Flint, Michigan. Even lower quality water will harm the residents directly, and of course, be bad for economic development. If the water supply were to become unusable, replacing it would be impossibly expensive, and the city would die. **Protection, and prevention of crises, are crucial.** As our local elected representatives, you have the responsibility and authority to place the CCBOR bill on the ballot. Please use it. It is imperative that the voters of Columbus be given a voice and the right to decide our fate in the face of such peril.

What are the risks of fracking waste to Columbus?

1. **Oil and gas "brine" marketed as a deicer and spread on the public roads.** Two rare cancer deaths of residents from Licking County have been traced to heavy metals contamination caused by breathing in dust that contained contaminants from brine spreading on their unpaved road. (Since Ohio does not track health effects from oil and gas operations, we do not know how many more illnesses this "brine" has caused.)
2. **Fracking waste, packaged as AquaSalina, for sale to the public and touted as an effective deicer.** Several tests performed on this product, including by the state itself, reveal that such products are highly toxic and radioactive. When applied to roads, the runoff enters drains and infiltrates the soil. Nevertheless, the state has approved this product and then introduced legislation defining it as a commodity. In nearby Gahanna, a company secured approval from the Franklin County Commissioners to spread brine on the driveway of its facility. AquaSalina, the conventional oil and gas waste brine product that ODOT uses on state roads in 28 counties, has been shown to contain radium levels as

high as 9451 picocuries/liter. This exceeds the Ohio EPA environmental discharge limit of 120 picocuries/liter by a factor of 78! The people of Columbus must have a say on whether we approve the spreading on our roads of this toxic product that leaches into our water supply. Note that no wastewater treatment plant can filter out the radium.

- 3. Loosened state regulations that leave open the dumping of radioactive drill cuttings from oil and gas activities in our city landfills.** Research and lawsuits are pending in Allegany County New York, where two landfills that have a legacy of accepting radioactive drill cuttings from fracked wells are showing measured levels as high as 1 million picocuries/liter of deadly radon gas (as a reference, if your basement reads higher than 4 picocuries/liter, remediation steps must be taken). This would extrapolate to between 2,500 and 275,000 picocuries/gram of radium in the landfill dirt. These levels translate to being up to 3000 times the Ohio EPA environmental discharge limit for radium. Landfills are becoming more concentrated in radioactive materials, not more diluted, which makes them increasingly unsafe. Radium-226 will continue to radioactively decay and produce radon for thousands of years, an issue that recently gained national attention in Rolling Stone Magazine.
<https://www.rollingstone.com/politics/politics-features/oil-gas-fracking-radioactive-investigation-937389/>
- 4. Thirteen injection fracking waste wells which are located in our watershed pose an incontrovertible danger to all of us downstream.** Since 1982, more than 14.6 million barrels (613,369,000 gallons) of oil and gas waste brine have been injected in these wells located in Morrow County, all within the watershed that supplies Columbus's public water. The science does not know where all of this radioactive liquid sits and where it migrates 3000 to 4000 feet below the surface, or if it will find pathways to water aquifers. At least one brine tanker has tipped and spilled its 3200 gallon load in the watershed in the past few years. In 2015, a large operator in the county had an oil spill from their injection facility that spilled into Big Walnut Creek near Marengo. Currently, there are permits pending for three additional oil and gas waste injection wells in Morrow County. Many rural Morrow County residents cannot use their water wells because of legacy contamination from the 1960s oil & gas boom. Although diluted, this same contamination eventually makes its way to our Hoover Reservoir. Currently, there is nothing to prevent injection wells being drilled in Columbus.

Since 2014, CCBOR has relentlessly sought to safeguard our city from fracking operations only to have our first campaign derailed by legislation enacted *after* our rollout and our third campaign kept off the ballot by the Board of Elections and an illegitimate court ruling. Our current campaign has been rendered impossible due to the current pandemic. This effort, our fourth, was well on its way to the ballot when, on March 12, Governor Mike DeWine announced the first wave of shutdowns to lessen the spread of the coronavirus. That evening, CCBOR made the difficult but responsible decision to suspend our signature-gathering efforts. Having painstakingly collected almost 9,000 of the required 9,870 valid signatures in preparation of our early-summer deadline, we then requested from City Council an extension of the one-year rule. City Council declined this reasonable request based on counsel from the City Attorney's office. Consequently, even though three of our four campaigns were on paths to success, CCBOR is no

closer to the ballot than it was six years ago. Do not let democracy by the people be one more victim of COVID-19. To quote Governor DeWine, the people should not have to choose between their health and their constitutional rights. You as City Council are in a position to make sure the people of Columbus do not have to make that choice.

Meanwhile, the fracking industry's devastating health hazards continue to increase alongside its growing political strength. Illustrating the influence of profits before people, the Ohio Legislature consistently favors the gas and oil industry over the wishes of local persons, including your constituents in Columbus. Here are just three of many such examples:

- After CCBOR met every requirement in 2018, the Franklin County Board of Elections, citing state legislation from a “Christmas tree” bill during the December 2016 lame duck session, voted to keep our initiative off the ballot. In less than an hour, four unelected Franklin County officials squashed a hard-fought year’s campaign by rejecting the approvals of two city attorneys, seven Columbus City Council members, and over 18,000 voters who signed the petition to place it on the ballot. With CCBOR comprised of just ten core volunteers, this was truly a herculean effort by concerned citizens, and yet one that apparently matters not.
- Over vast popular opposition, the Ohio Senate and House passed SB 33. An ALEC bill being pushed through in several states, SB 33’s intent is to severely penalize actions—whether real, perceived, or constitutional—that protest fracking sites by defining them as “critical infrastructure” facilities. See link here: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>)
- Ohio legislators also seek passage of HB 545. Though carcinogenic brine is horrendously harmful, HB 545 would exempt it from standard health regulations meant to safeguard the public by establishing in Ohio “conditions and requirements for the sale of brine from oil or gas operations as a commodity.” See link here: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-545>

CCBOR members understand that in 2004, the Ohio Legislature preempted local communities from passing laws on oil and gas activities and took away home rule on this issue. This was possible only through a highly gerrymandered, pro-fracking state legislature willing to thwart the constitutional rights of local citizens. Thus, just as the aforementioned SB 33 seeks to prohibit people from exercising their rights to freedom of speech, so have these preemptive bills sought to prohibit local lawmakers from protecting their constituents and our environment from the harms of fracking. Columbus needs local representatives who see through the charade in order to safeguard our local rights to protect our communities. There is precedent for this. In 2010, Pittsburgh passed a community bill of rights that has since prevented fracking activities in the city despite the fact that Pennsylvania state law also preempts local communities on regulating oil and gas activities. Similarly, the U.S. Constitution, the Ohio Constitution, and the CCBOR bill provide the necessary foundations for local officials to counter undemocratic forces that seek to silence local communities. Collectively, these documents recognize our right to local self-government and our authority to prevent the harm fracking poses to our lives, property, and

to natural resources which violates our unalienable rights to life, liberty, and the pursuit of happiness.

CCBOR would also like to make you aware of a recent win by a local community challenging the state. In Pennsylvania, Grant Township elected officials have been attempting since 2014 to protect their community's water from a fracking injection well. They passed a local law prohibiting the injection well because their job and oath is to protect the health, safety and welfare of the community. The risk to their water supply was too great. The Pennsylvania Department of Environmental Protection (DEP) sued Grant Township for passing a law that violated state law by invalidating the permit for the injection well. A few weeks ago the DEP withdrew its lawsuit against the community because it recognized Grant Township's local law and, as a result, realized that the state's permit for the well violated this law. This is a small rural community standing up to protect its residents. Imagine the influence a city the size of Columbus could have. Laws are meant to be changed when they no longer serve the good of the people. All we are asking is that you give the people of this community a voice in determining their own fate.

CCBOR members understand in part your hesitance to pass CCBOR yourself or put it on the ballot, but, as has been shown above, the citizens cannot trust the legislature to protect their environment or their constitutional rights to initiative. We need you to stand up to protect our environment and our right to initiative. Because the pandemic forced the suspension of our current campaign, because the Board of Elections voted against your ordinance to put our previous initiative on the ballot, and because the people of Columbus have a right to be heard on an issue that is at least as serious as COVID-19, CCBOR members request that you put our CCBOR bill on the November 2020 ballot.

Thank you for taking the time to read this letter and addressing these urgent concerns regarding the health of the people, our environment, and democracy in Columbus.

Sincerely,

The Columbus Community Bill of Rights
<https://columbusbillofrights.org/>