

ratitor's corner
22 September 2004

September Equinox, 9:30pm, PDT

Moving Toward Thinking "like a mountain"

Today, the Sun, appearing to travel along the ecliptic, reaches the point where it crosses the equator into the southern celestial hemisphere. Today day and night are of equal length.

Today rat haus reality completes its ninth revolution around the Sun and begins its tenth cycle. In July 2004 I moved back to Santa Cruz with the love of my life, Nina, to grow into our lives together at the home I "bought" in 1991. Living the last two years outside Boston has been illuminating in a multitude of dimensions. I grew to know and feel close to many of Nina's dearest friends and further developed piano teaching skills, working mostly with children in elementary school. Now Nina and I start over again, finding our way together, and exploring the dream we've both carried throughout our lives of letting love transform and expand us.

I had wanted to make this ratitor's corner be a recounting of Nina's and my attendance in the Daniel Pennock Democracy School. The School is dedicated to the memory of Daniel Pennock, a 17 year old Berks County, Pennsylvania boy who died in 1995 after being exposed to land applied sewage sludge. For three days in March 2004 we experienced a program conceived, designed, and implemented by The Community Environmental Legal Defense Fund (CELDF, www.celdf.org) and Richard Grossman, co-founder of the Program on Corporations, Law, and Democracy (POCLAD, www.poclad.org). The program presents a systemic historical and legal analysis of corporate power and democracy. We examined the limits of conventional regulatory organizing and learned to reframe single issues to confront the rights used by corporations to deny the rights of communities, people, and the earth. (For a summary of some of the rights corporations have won through the United States Judicial system see "Section III. Over the Past 150 Years, the Judiciary Has 'Found' Corporations Within the U.S. Constitution, and Bestowed Constitutional Rights Upon Them" of Model Amici Curiae Brief to Eliminate Corporate Rights, by Richard Grossman, Thomas Alan Linzey, & Daniel E. Brannen, 9/23/03.)

I received permission to make audio recordings of the weekend and last spring completed a text transcript of the presentations and discussions. I will write about our experience of this at length in a future editorial. (I used to call these writings ratitorials. A ratitor is an editor who likes rats. Today my goal is to be as accessible as possible to the widest range of people.)

I urge everyone to make the time to attend one of these weekends. See www.celdf.org/misc/democ_dates.asp for the list of future Democracy Schools taking place in a number of states. It was a significant and illuminating experience for Nina and me. Thomas Linzey, Staff Attorney for the Community Environmental Legal Defense Fund, and Richard Grossman are developing a vision that is relevant to creating a transformative series of teachable moments. These moments extend genuine democratic processes that confront the

unaddressed issue of how corporate rights trump the rights of people and the earth we share in all of our communities and localities. These moments are all about making our own law.

In "Confronting the Corporate Constitution in Pennsylvania" (June 2004) Richard Grossman details the effect on representatives of corporate power that CELDF's ferment is helping to create. Tom Linzey is representing the Friends and Residents of St. Thomas Township (FROST) who,

have turned a conventional defense against a giant quarry-asphalt-cement corporation into a confrontation over corporate claims to constitutional rights. . . . FROST chose not to focus on proper quarry configuration, or on the asphalt/cement factory's potential for ravaging public health. FROST members do not debate state officials over how many feet this corporate project should be from the elementary school. Having analyzed this corporation's invasion of their community in historical and constitutional contexts, FROST concluded that the Pennsylvania legislature enabled corporate directors to violate their privileges and immunities guaranteed in the US Constitution. Learning from Abolition and Anti-Segregation struggles that exposed how law and government helped a few deny rights of many, FROST designed its research, demonstrations, speeches, publicity, actions and lawsuits to dramatize government complicity in the corporation's 'legal' violations of citizens' rights.

The quarry corporation's directors do not like FROST's attitude. They are not only pressing United States District Court Judge Yvette Kane to throw out FROST's case. They are also demanding that the Court punish FROST's attorney, Thomas A. Linzey, of the Community Environmental Legal Defense Fund (CELDF) in Chambersburg PA by imposing "severe monetary" sanctions. They claim that Linzey's representation to the community and to the Court of FROST's constitutional interpretation is "outlandish," "pernicious," "nonsensical," "specious" and "frivolous." There "is no reasonable or even rational basis for asserting, as Mr. Linzey does, that corporations, such as St. Thomas Development, possess 'no legal authority under the Bill of Rights to the US Constitution or under the Pennsylvania Constitution . . .'"

So the quarry directors instructed "the law" to silence Linzey -- and send a message to other lawyers who might be thinking about representing people organizing to challenge the nation's corporate constitution. . . .

FROST members can envision citizen groups in other communities moving -- as FROST has moved -- beyond endless argument with regulators and corporate directors armed with their corporate constitution. They understand that people's strategies have always had to evolve . . . for example, that after the Supreme Court declared "No argument as to woman's need of suffrage can be considered," women drove their rights and liberties into the male constitution.

They understand that for FROST to have a snowball's chance in St. Thomas, hundreds of communities must join them in picking up the nation's unfinished struggle for a liberty constitution -- a struggle first obstructed by slavemasters, then by corporate directors . . . and always by the long arm of the law.

The quarry corporation's attempt to silence Linzey is a clear indicator of the success of CELDF's support of community organizing to resist corporate domination and rule.

In 2004, the work to revoke corporate rule is focused exclusively on the human world. On the Saturday afternoon of the Democracy School weekend, Tom Linzey spoke to us about CELDF's engagement in building momentum in Pennsylvania to challenge the authority of corporate hegemony throughout the state, including state officials in the legislative and judicial branches of government that champion corporate rule. During a break he told me he was most interested in framing rights that include everything not represented in our current structure and system of law. Tom posed the question, "Who will stand up for and represent

the rights of trees, animals, the air, and rivers?"

I recently came across an interview of Thomas Berry entitled, "The Mystique of the Earth." Dubbed an eco-theologian by some, a cultural historian by others, Berry labels himself a geologist. In this interview he emphasizes the division that has been created between humans and the rest of the earth and how the U.S. Constitution furthers this separation:

The American constitution is a disaster for everything that is not human. It may be wonderful for humans to have all these rights, including rights of property without restriction on the part of government as to what they own or what they do with it, but if there are no rights and no protections for anything that is not human, then we establish a predator relationship. And so humans in this country are just devouring everything -- because that's what this constitution stands for -- for humans to devour, to manipulate, to use. So the whole idea of humans being human is gone. We've been caught up in a mechanistic world, because what we make, makes us. We make the automobile, the automobile makes us. We make an industrial economy, the industrial economy makes us. We are now in a weird dream world of industrial technological imagination. Who would be so destructive to the very basis out of which we exist, that we spoil our water and our air? For what? To invent an industrial economy. We are so brilliant scientifically and so absurd in any other way. We are into a deep cultural pathology -- in ordinary language, we are crazy. To think that we can have a viable human economy by destroying the Earth economy is absurd. . . .

The basic idea of what I have written should be in the prologue of every constitution. Instead of 'We, the people of this country ordain this and that . . .', it would be a question of: 'We the people, recognizing ourselves as a member of this great Earth community, hereby do this and that, with responsibility not only to ourselves but to the integral community of the planet Earth'. This would be the prologue, the basis of everything that follows. . . .

We can never go back to being pre-industrial. But we can think of being post-industrial. The way to look at it is to have human technologies that are coherent with Earth technologies. It's the coherence -- that is, the proper interplay and their mutual interaction -- that fosters both the natural systems and the human systems. We need to work out patterns of interaction where the human and the natural world interact creatively. We need a mutually beneficial mode of human presence on the planet Earth. For instance, we should improve the fertility of the land rather than disimprove it by exploiting it. That's the criminal aspect of our whole chemical cultivation of the soil. . . .

Indigenous people still live in a universe, but we don't; we live in an economic system. We've got all kinds of scientists but we don't have a universe. There is an Earth out there, but for us it's just a collection of resources to be exploited. It's got no dignity. But really it is a communication of wonder.

Let me recite a poem I wrote about children. It expresses what I mean about 'cosmology':

The child awakens to the universe
The mind of the child to a world of wonder
Imagination to a world of beauty
Emotions to a world of intimacy

It takes a universe to make a child
Both in outer form and inner spirit
It takes a universe to educate a child
It takes a universe to fulfil a child

And the first obligation of any generation to its children
Is to bring these two together
So that the child is fulfilled in the universe
And the universe is fulfilled in the child

While the stars ring out in the Heavens

Author of many books, Berry has written *The Great Work: Our Way into the Future*, published in 1999. The following excerpts describe ways in which humans can go on to recreate the kind of intimacy and relatedness with the earth that humans experienced in our collective aboriginal past.

Our ethical traditions know how to deal with suicide, homicide and even genocide; but these traditions collapse entirely when confronted with biocide, the extinction of the vulnerable life systems of the Earth, and geocide, the devastation of the Earth itself. (p104)

Perhaps a new revelatory experience is taking place, an experience wherein human consciousness awakens to the grandeur and sacred quality of the Earth process. Humanity has seldom participated in such a vision since shamanic times, but in such renewal lies our hope for the future for ourselves and for the entire planet on which we live. (p106)

The universe must be experienced as the Great Self. Each is fulfilled in the other: the Great Self is fulfilled in the individual self, the individual self is fulfilled in the Great Self. Alienation is overcome as soon as we experience this surge of energy from the source that has brought the universe through the centuries. New fields of energy become available to support the human venture. These new energies find expression and support in celebration. For in the end the universe can only be explained in terms of celebration. It is all an exuberant expression of existence itself. (p170)

This story of the emergent universe is now our dominant sacred story. (p170)

The crises humans have created and are confronted by demand that we change course in numerous and elemental ways. I am very interested in the perspective articulated by Thomas Berry as expressions of possible and positive changes we can make. Andrew Angyal's essay, "Thomas Berry's Earth Spirituality and the 'Great Work'" explores more of what this work will include in terms of expanding the language and framework of rights for everything in the universe.

Berry recognizes how difficult it will be to establish a conceptual foundation for legal rights for the nonhuman world, but we have to reframe our thinking, as Aldo Leopold has said, and learn "to think like a mountain" (*A Sand County Almanac* 140). We have to expand the resources of our language and find new conceptual expressions for nonhuman rights. Berry's articulation of the nonhuman world's fundamental right to exist reflects both a "Deep Ecology" perspective and his theological training in Thomistic philosophy, since he often makes recourse to natural rights arguments. His outline of "The Origin, Differentiation and Role of Rights" (1/1/01) provides an important conceptual foundation for environmental law, based on his assumptions that the right to exist is innate for the nonhuman world because it is grounded in the universe, not in any act of human law. There are ten basic precepts in Berry's original "Rights" statement, and although he has recently published a shorter version of "Rights of the Earth" in *Resurgence* (2002), I am presenting the original, more comprehensive version:

1. Rights originate where existence originates. That which determines existence determines rights.
2. Since it has no further context of existence in the phenomenal order, the universe is self-referent in its being and self-normative in its activities. It is also the primary referent in the being and activities of all derivative modes of being.
3. The universe is a communion of subjects, not a collection of objects. As subjects, the component members of the universe are capable of having rights.
4. The natural world on the planet Earth gets its rights from the same source that humans get their rights, from the universe that brought them into being.

5. Every component of the Earth community has three rights: the right to be, the right to habitat, and the right to fulfill its role in the ever-renewing processes of the Earth community.
6. All rights are species specific and limited. Rivers have river rights. Birds have bird rights. Insects have insect rights. Difference in rights is qualitative, not quantitative. The rights of an insect would be of no value to a tree or a fish.
7. Human rights do not cancel out the rights of other modes of being to exist in their natural state. Human property rights are not absolute. Property rights are simply a special relationship between a particular human "owner" and a particular piece of "property" so that both might fulfill their roles in the great community of existence.
8. Since species exist only in the form of individuals, rights refer to individuals and to their natural groupings of individuals into flocks, herds, packs, not simply in a general way to species.
9. These rights as presented here are based upon the intrinsic relations that the various components of Earth have to each other. The planet Earth is a single community bound together with interdependent relationships. No living being nourishes itself. Each component of the Earth community is immediately or mediately dependent on every other member of the community for the nourishment and assistance it needs for its own survival. This mutual nourishment, which includes the predator-prey relationships, is integral with the role that each component of the Earth has within the comprehensive community of existence.
10. In a special manner humans have not only a need for but a right of access to the natural world to provide not only the physical need of humans but also the wonder needed by human intelligence, the beauty needed by human imagination, and the intimacy needed by human emotions for fulfillment. (1/1/01)

Thomas Berry's vision of a mutually enhancing Earth community in which the rights of all subjects are respected involves an enormous paradigm shift from the present anthropocentric, mechanistic, reductionistic, and exploitative ways of thinking about the nonhuman world. Berry envisions the Earth as an ultimate good in itself, irrespective of how humans may benefit or profit from it, not merely as a collection of raw materials or natural resources to be exploited. His vision will entail fundamental changes in human ethics, law, and government. The difficulty will be in translating these general principles into more specific policies and programs. "Governance at all levels occurs within a framework established by laws," notes Cormac Cullinan, because "laws are embedded in society and reflect the perspectives of the dominant societies that made them" ("Justice for All" 37). The American Constitution was designed to protect personal human rights and private property rights, not to protect the natural world. It reflects an outmoded eighteenth century view of the natural world and hence has helped to legitimize the continued exploitation of the world. As Cormac Cullinan notes, "Fundamentally changing our governance systems will require more than reforming existing laws or making new ones. We need to take a long hard look, not only at our legal systems, but, more importantly, at the legal philosophies that underlie them. Only by creating a vision of an 'Earth Jurisprudence' will we be able to begin a comprehensive transformation of our governance system" (Ibid 37).

By framing rights in terms that "the right to exist is innate for the nonhuman world because it is grounded in the universe, not in any act of human law," we can envision and explore the dimension of being and belonging that supersedes the human-centric universe we have fashioned for ourselves in recent millenia. In a college computer graphics course I learned how to fully define and understand three dimensional graphics models by using a four dimensional matrix that we had first studied about in Linear Algebra. We expanded our calculations to include one dimension greater than what we were operating in, enabling us to

fully describe the system we were seeking to model and display. By stepping outside of the limits of the world of thought solely created and defined by humans, and by embracing our inter-relatedness with all that we share this unique, irreplaceable home, we can regain our honorable place of belonging to the universe.

Oren Lyons is the Faithkeeper of the Turtle Clan, Onondaga Council of Chiefs of the Haudenosaunee, known in white culture as the Six Nations. In a 1991 interview he describes the significance of what his people call the Great Law, the common law, the natural law.

The law says if you poison your water, you'll die. The law says that if you poison the air, you'll suffer. The law says if you degrade where you live, you'll suffer. The law says all of this. If you don't learn that then you can only suffer. There's no discussion with this law. . . .

That's really a spiritual law. That's a very important thing for people to understand. When you transgress, there's a time . . . People don't operate in the world time or say the time of the mountain. They operate in the time of the human being. And that's probably not a good idea. Because the time of the human being is rather short.

And yet, when you're dealing in the time of an oak tree or a time of one of the great Sequoias and you kill that tree [with] your technology today. You can take a chainsaw and in 10 minutes kill a tree that's 400 years old. There's no way that you can make that tree grow. You'll have to wait another 400 years for it to get to that position.

So the technology has overtaken the common sense of human beings and the understanding of time. And just as the time of the ant is very, very short, the time of the mountain is very long, the rivers. The time of the human being has to be passed along. And if you don't have a reference point, if you don't have a good understanding of what this time is, then you can get yourself and your people and your generation into a whole lot of trouble. I think that's where we are right now.

As humans in post-industrial culture, we are losing our reference point to life's center and our place in life. We have many options and means to address this imbalance. (See "Living On The Creative Edge" and "The New Myth For Our Species: The Creation of Consciousness".) We can re-engage our intuitive and instinctual intelligence to rebalance our emphasis of the rational and reliance on the intellect. Near the end of his autobiography, Carl Jung distilled the work of a lifetime into the following observation:

Our age has shifted all emphasis to the here and now, and thus brought about a daemonization of man and his world. The phenomenon of dictators and all the misery they have wrought springs from the fact that man has been robbed of transcendence by the shortsightedness of the super-intellectuals. Like them, he has fallen a victim to unconsciousness. But man's task is the exact opposite: to become conscious of the contents that press upward from the unconscious. Neither should he persist in his unconsciousness, nor remain identical with the unconscious elements of his being, thus evading his destiny, which is to create more and more consciousness. As far as we can discern, the sole purpose of human existence is to kindle a light in the darkness of mere being. It may even be assumed that just as the unconscious affects us, so the increase in our consciousness affects the unconscious. (*Memories, Dreams, Reflections*, p326)

I urge you to explore what fulfills the universe through your existence.