



GREEN AMENDMENTS FOR THE GENERATIONS

Pure Water. Clean Air. Healthy Environment.



**DEMANDING AND
DEFENDING YOUR
RIGHTS TO
CLEAN WATER,
CLEAN AIR &
A HEALTHY
ENVIRONMENT**

Our rights to free speech, to a free press, to religious freedom, and property rights are among the many fundamental rights guaranteed by our federal and state constitutions. However, across the nation our rights to pure water, clean air, a stable climate and healthy environments, are not recognized or protected — even though they are essential to our health and our lives.

Some state constitutions reference varying levels of environmental entitlement, but only two states — Pennsylvania and Montana — clearly identify the rights to a clean and healthy environment as fundamental, inalienable, and individual rights that must be protected by the government to the same degree we protect these other fundamental rights.

Article 1, Section 27 of the Pennsylvania Constitution promises: “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

Until 2013, despite over 40 years of having a Green Amendment (i.e. an Environmental Rights Amendment in the bill of rights section of a constitution) in the Pennsylvania Constitution, government officials and the courts did not give constitutional recognition or protection to the fundamental right to pure water, clean air and a healthy environment in the state. That changed as the result of a legal action brought by the Delaware Riverkeeper Network and seven towns challenging a very pro-fracking piece of Legislation.

In the case, titled *Robinson Township, Delaware Riverkeeper Network, et al. v. the Commonwealth of Pennsylvania*, the Pennsylvania Supreme Court declared constitutional recognition and protection for the rights of all Pennsylvanians to pure water, clean air and a healthy environment. The court made clear that by virtue of Pennsylvania’s constitutional provision there is a duty on all government officials to engage in informed decisionmaking with regards to the environment, to “refrain from unduly infringing upon or violating the right” to a healthy environment, and that there is a duty on government “to prevent and remedy the degradation, diminution, or depletion of our public natural resources” (with public natural resources being more broadly defined than just those owned by the state). A plurality of the court made clear that our environmental rights are not granted to us by law, but are in fact inherent and inalienable rights. And the plurality of the court said that these environmental rights belong not just to present generations, but they are rights that must be protected for the future generations yet to come.

WHY IS ALL OF THIS IMPORTANT?

Because, every day, local, state, and federal governments are granting permission to industries to pollute, deforest, denigrate, and despoil our environments, which is having serious effects on our planet and our bodies.

Often, the permission to pollute is defended by the assertion that it will create jobs, or that the near-term gain of a new energy source overshadows the need to consider environmental degradation and its harmful impacts. These kinds of excuses do not justify the harms that polluting industries create. After all, what good is a job if you don't have the health needed to take advantage of it, or if you have to sacrifice your parent, child, friend, or neighbor in order to have it?

The truth is that most goals can be achieved in a way that protects the environment, communities, jobs and economies at the same time. For example:

- Instead of drilling and fracking, which irreparably pollutes our water, air, and lands, we could shift to meeting our energy needs through clean energy technologies, such as wind, water, solar, and geothermal. The clean energy approach will meet our energy needs while at the same time creating good paying and enduring energy jobs and simultaneously avoiding the devastating pollution and climate changing impacts of drilling and fracking for gas or pursuing other dirty fossil fuel options.
- Instead of developing land by cutting down all of the trees, which creates floods, pollution, and erosion of our public and private lands, developers could use building practices that protect trees, protect the absorbency of the soils and capture rainfall in a way that allows the water to soak into the ground. Such development practices restore natural and human water supplies and do not create or exacerbate devastating floods and damaging pollution. At the same time, such strategies save on development and infrastructure costs and often increase the marketability and market value of the newly constructed buildings.

Other states offer varying environmental recognitions in their constitutions, but they are written in such a way that they can be easily ignored: they talk about environmental protection and rights as good public policy, or that should be protected by state legislatures through laws, policies, and funding, but they do not recognize them as self-executing inalienable rights that must be protected on par with other fundamental freedoms like the rights to free speech and freedom of religion. And there are many states whose constitutions don't talk about the environment or environmental protection in any meaningful way at all, just as our federal constitution fails to include clear recognition and protection of environmental rights.

By contrast, two states – Pennsylvania and Montana – do provide the highest level of protection; in constitutional language, placement and through court decisionmaking.

The time has come for communities across the nation to demand that their environmental rights be recognized and protected at the highest level under the law; in the declaration of rights section of our state and federal constitutions. It's time for us all to embrace the truth stated by Pennsylvania's Supreme Court Chief Justice, that we as people have an inherent and indefeasible right to pure water, clean air, and healthy environments and that these are rights which must be protected for those of us here today and the generations yet to come.



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