

Inquiring Minds topic – 6 December 2019

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Property and who can do what with it.

Once upon a time one could purchase property and expect to do with it almost anything. In those "good old days" if one mined mercury or lead &c and the rain washed some of the mercury or lead from the mine waste and polluted the down stream water that was not the miner 's problem. In like fashion a farmer could establish a pig sty the effluent from which would render down stream water undrinkable.

Now governments have created rules to limit some uses of property. The more familiar ones include zoning and building codes. The government that created the rules and sometimes people directly harmed by the use could go to court and ask that the offending use be abated and occasionally seek recompense for damages suffered. Who could actually seek such relief was a problematic matter starting with the necessity of proving damage to the person seeking the relief. Thus it would not be possible for me to sue someone who has degraded the Caloosahatchee River even though I look out on its waters and observe dead fish &c.

The November 10 News-Press carried an article: "Event aims to explain why personhood might be the Caloosahatchee's best hope". The concept is to vest in the river a right to sue for damages. This concept has been tried for a portion of Lake Erie suffering from similar blue-green algae. A special referendum in Toledo passed the Lake Erie Bill of Rights. This was the product of The Rights of Nature Movement. A suit would be one on behalf of the river as a legal entity entitled to claim damages. The person filing the suit would claim a representative capacity, sort of a guardian *ad litem*.

This would be a major change in the way property use would be regulated. For instance, allowing sewage to run into the river creating the occasion for an algae bloom could result in an injunction. It would also make possible monetary damages. This would make a significant change in the way property could be used. The runoff from fields or roads that would pollute the river would be a

subject for legal action. A city that allowed sewage to flow into the river could have liability. Destroying wetlands could have liability. There are lots of other possibilities.

The Caloosahatchee River Bill of Rights is now being proposed. The proposed language is as follows:

The Calooshatchee Bill of Rights

Section 5.1 Rights of the Calooshatchee River.

The Calooshatchee River possesses rights including but not limited to, the right to naturally exist, flourish, regenerate, and evolve; the right to restoration, recovery, and preservation; the right to abundant, pure, clean, unpolluted water; the right to natural groundwater recharge and surface water recharge; the right to a healthy natural environment and natural biodiversity; the right to natural water flow; the right to carry out its natural ecosystem functions; the right to be free of activities or practices, as well as obstructions, that interfere with or infringe upon these rights, and the right to be free from state and federal preemptive laws that interfere with the enforcement of these rights.

Section 5.2. Rights of the People of Lee County

Every resident of Lee County possesses the right to a healthy, flourishing Calooshatchee River, the right to pure, clean, unpolluted water, including the right to sustainably access, use, consume, and preserve water drawn from natural water cycles; and the right to a healthy natural environment and natural biodiversity. Every resident of Lee County shall also possess the right to be free of activities and practices that interfere with or infringe upon these rights, and the right to be free from state and federal preemptive laws that interfere with the enforcement of these rights.

You too can be involved. What do you think? How important to you is a clean river? How important to you is the ability to determine what you do with your property? What limitations are reasonable to you? Should the right to enforce limitations on private property use be limited to government? Is a healthy environment necessary for survival of humans? What is your/our responsibility for any or all of the above?

To learn more you can go to www.cwn2019.org or celdf.org or rights of nature.