

# Permanent Peoples' Tribunal

## International Session on Human Rights, Fracking & Climate Change

Corvallis, Oregon 14 -18 May 2018

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Request for an Advisory Opinion

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**On the continuation and evolution of the Russell Tribunals on the Vietnam War (1966- 1967) and on the Crimes of Latin American Dictators (1974-1976). Based on the principles expressed in the *Universal Declaration of the Rights of Peoples* (Algiers, 1976).**

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### **BRIEF AMICUS CURIAE**

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MEGAN M. HUNTER, ESQ.\*

*\*Counsel of Record*

FRESHWATER ACCOUNTABILITY PROJECT

P.O. BOX 473

GRAND RAPIDS, OH 43522

UNITED STATES

Telephone: (740) 233-1934

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## QUESTIONS PRESENTED

- FIRST: Under what circumstances do fracking and other unconventional oil and gas extraction techniques breach substantive and procedural human rights protected by international law as a matter of treaty or custom?
- SECOND: Under what circumstances do fracking and other unconventional oil and gas extraction techniques warrant the issuance of either provisional measures, a judgment enjoining further activity, remediation relief, or damages for causing environmental harm?
- THIRD: What is the extent of responsibility and liability of States and non-state actors for violations of human rights and for environmental and climate harm caused by these oil and gas extraction techniques?

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## IDENTITY AND INTEREST OF AMICUS CURAIE

FreshWater Accountability Project (“FreshWater”) is a nonprofit organization with a mission to preserve and protect freshwater supplies through education and community action and is dedicated to promoting health and wellbeing by protecting the environment. FreshWater has members located throughout the state of Ohio and Pennsylvania.

Since its origins, FreshWater has served as a community advocate, helping individuals and communities impacted by fracking to organize, educate themselves, and participate in the environmental decision-making impacting their health, families, livelihoods, property, communities, and numerous other aspects of their daily lives.

In doing this work, FreshWater has repeatedly met obstacles implemented by the State that prevent ordinary citizens from accessing the information that is essential for them to understand the way fracking is impacting their lives and to permit them to fully participate in environmental decision-making. Lea Harper, FreshWater’s managing director, has connected with countless individuals whose lives have been disrupted by fracking, whose health has suffered, and who have seen the human rights violations occurring as the result of fracking on a regular basis since Lea began organizing to protect human health and the environment from fracking in 2010. FreshWater has actively engaged in administrative and court procedure and directly experienced the violations of procedural human rights experienced when challenging the fracking industry.

## SUMMARY OF ARGUMENT

Unconventional oil and gas development (“UOGD”), commonly referred to as “fracking,” as practiced in Ohio and Pennsylvania regularly results in, without limitation, the violation of the following human rights:

- 1) The right to life, liberty, and security of person
- 2) The right to a standard of living adequate to support health and well-being
- 3) The right to clean drinking water and sanitation
- 4) The right to respect for private and family life
- 5) The right to property
- 6) The right to a healthy, supportive environment
- 7) The right to freedom of peaceful assembly and association
- 8) The right to information and participation in environmental decision-making
- 9) The right to access justice
- 10) The right to a social order where all human rights may be realized

Both State and non-state actors are responsible and liable for these violations under international-accepted human rights norms. The widespread and egregious nature of these violations warrant the issuance of an Advisory Opinion by the Peoples’ Tribunal declaring that such violations have taken place, that both state and non-state actors are responsible, that a moratorium on further UOGD must be immediately implemented, and that remediation and damages should be awarded to the affected public in order to redress the human and environmental harm that has been done, to prevent further harm, and to ensure further actions uphold human rights.

## ARGUMENT

### Introduction

To discuss the human rights violations caused by “fracking” and “unconventional oil and gas development,” it is first critical that we ensure we are all working with the same understanding of the words we are using.

For those people living in communities impacted by unconventional oil and gas development (“UOGD”), the term “fracking” means much more than the method of stimulating a well by hydraulic fracturing in order to recover oil and gas that would be otherwise be inaccessible using conventional drilling methodologies. For those communities impacted by UOGD, this word “fracking” means the “invasion” and “occupation” by extraction companies that transforms their rural environment into an

industrial landscape replete with well pads, compressor stations, pipelines, high-volume truck traffic, and the noise, flaring, vibrations, lights, and noxious odors that accompany it.<sup>1</sup> The term “fracking” in colloquial use may also extend to frack waste management facilities, including injection wells, pretreatment facilities, impoundment ponds, transfer stations, solid waste disposal sites, and direct dischargers.

This distinction is critical, since representatives of the UOGD industry and political surrogates regularly belittle residents’ and activists’ concerns by limiting the definition of “fracking” to one specific well stimulation technique that has been used for decades. Communities impacted by UOGD aren’t just talking about one technique, they are talking about a web of infrastructure and operations with profound environmental, societal, economic, and personal impacts.

This amicus brief is intended to describe only some of the human rights violations suffered by individuals and communities impacted by UOGD and fracking, using the broader meaning of these terms, as described above. It also argues that these violations are taking place with full knowledge and participation by State actors, making them responsible and liable for these human rights violations.

## **I. Fracking and Unconventional Oil and Gas Development Violate Substantive and Procedural Human Rights Protected by Treaty and Custom**

### **A. Substantive Rights**

#### **i. The right to life, security of person and bodily integrity**

Article 3 of the 1948 Universal Declaration of Human Rights states “Everyone has the right to life, liberty and security of person.” Communities in Ohio and Pennsylvania that are impacted by UOGD are repeatedly deprived of this right as high-risk infrastructure regularly places their lives and safety at risk.

The following are only a few examples of the accidents associated with UOGD in Ohio that result in residents fearing for their life, security, and bodily integrity:

Residents of two Northeast Ohio counties were woken from sleep in the early morning hours of March 25, 2018 to what was described as “a huge, tremendous

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<sup>1</sup> Damien Short, et al. *Extreme energy, ‘fracking’ and human rights: a new field for human rights impact assessments?* THE INTERNATIONAL JOURNAL OF HUMAN RIGHTS (2015), p.6 available at <http://sas-space.sas.ac.uk/6367/1/Short%20et%20al%202015.pdf>.

sound, as in a jet plane in my front yard or 100 Huey helicopters” that lasted for at least a full hour and resounded for miles.<sup>2</sup>

On February 16, 2018, a subsidiary of Exxon Mobil Corp, XTO Energy, “had a loss of control” at its Schnegg well pad, resulting in an explosion and fire that caused responders to issue a 1-mile evacuation notice to approximately 100 residents near Captina Creek, Belmont County, Ohio.<sup>3</sup>

On June 28, 2014, the Eisenbarth Well Pad owned by Statoil and operated by Haliburton in Clarington, Monroe County Ohio had an explosion event and well pad fire that resulted in a 1-mile evacuation notice encompassing 25 residences.<sup>4</sup> The fire resulted in the destruction of over 25 million dollars of UOGD equipment, leaving numerous tractor trucks and tankers unrecognizable. The experience left residents fearful for their safety and wellbeing.<sup>5</sup>

The news of regular explosions and fires, as well as the experience of extreme noxious odors and noise, leaves many in a state of constant fear. Kerri Bond, a resident of Senecaville, Ohio, and a member of FreshWater Accountability Project, lives near the Crum Compressor Station operated by Antero Resources, as well as numerous well pads. She states “[p]eople are scared to death of getting blown up around here. When there’s flaring or a compressor station blowdown, it’s so loud and scary you’re afraid of going to bed at night that you might be blown to smithereens by morning”<sup>6</sup>....“We are scared to death that we will be blown up in our sleep.”<sup>7</sup> Ms. Bond’s full testimony is included in Exhibit A and incorporated herein.

Those who have spoken out about industry harms and injustices feel their lives and security are threatened by the UOGD industry itself and those acting on its behalf. Kerri Bond testifies that her family physician has warned her that she should wear a bullet proof vest because he has heard of threats against her because she has been outspoken about UOGD; Ms. Bond further states that she has had many threats against her for speaking out against the industry.<sup>8</sup> Jill Antares Hunkler testifies to helicopters being used to intimidate her and State and UOGD industry representatives following

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<sup>2</sup> Bob Jones, *Residents near Wooster awoken by terrifying noise coming from nearby gas compressor station*, NEWS 5 CLEVELAND, March 26, 2018, available at <https://www.news5cleveland.com/news/local-news/oh-wayne/residents-near-wooster-awoken-by-terrifying-noise-coming-from-nearby-gas-compressor-station>

<sup>3</sup> Casey Junkins, *XTO Energy Well Pad Explosion Near Powhatan Point Prompts Evacuation*, THE INTELLIGENCER WHEELING NEW REGISTER, Feb. 16, 2018, available at <http://www.theintelligencer.net/news/top-headlines/2018/02/xto-well-pad-explosion-near-powhatan-point-prompts-evacuation/>.

<sup>4</sup> USEPA Emergency Response, Pollution/Situation Report Statoil Eisenbarth Well Response – Removal Polrep, POLREP #1, June 29, 2014, available at <http://www.acfan.org/wp-content/uploads/2011/12/USEPA-Eisenbarth-well-pad-fire-report-Monroe-County-OH.pdf>.

<sup>5</sup> See e.g. Testimony of Rebecca Bowen, Resident of Clarington Ohio, taken by Ohio Environmental Council, Feb. 10, 2017, available at <https://www.youtube.com/watch?v=p1JJ06urK-o&feature=youtu.be>.

<sup>6</sup> Exhibit A, Testimony of Kerri Bond, p. 4.

<sup>7</sup> *Id.* at 6.

<sup>8</sup> Exhibit A, Testimony of Kerri Bond, p. 4-5.

her and recording her license plate number and a description of her car.<sup>9</sup> Ray Kemble also testifies that he has been threatened by UOGD industry representatives and that he believes his brother lost his life as the result of living under the stress of UOGD.<sup>10</sup> Ray Kemble's full testimony is included in Exhibit C and incorporated herein.

## ii. The right to health

Article 25 of the 1948 Universal Declaration of Human Rights states "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family." The negative health impacts of fracking are now well documented. Physicians for Social Responsibility and Concerned Health Professionals of New York's *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (Unconventional Gas and Oil Extraction)* is one resource that provides a comprehensive survey of the literature on health risks associated with the industry.<sup>11</sup> The medical community is increasingly calling for further study of the health risks posed by fracking to fill in current gaps in research and science-based policy to address the known harms.<sup>12</sup>

For those in communities impacted by UOGD, the health impacts of fracking are well known. Those living in close proximity to compressor stations experience nausea and vomiting; headaches; dizziness, vertigo, and disorientation; eye, nose, and throat irritation; tingling in extremities; rashes; and body numbness, aches, and pains.<sup>13</sup> Ms. Hunkler and Ms. Bond describe their experiences with these symptoms in their attached testimony.

Compressor stations are not the only UOGD infrastructure recognized to cause these types of symptoms. Ron Gulla testifies to a fissure below his nose and joint pain that developed following the development of wells and containment ponds on his property. Mr. Gulla's testimony is included in Exhibit B and incorporated herein. Ms. Bond testifies to eye and throat irritation from driving on roads where oil and gas waste is spread as a deicer and dust control agent.<sup>14</sup> Mr. Kemble testifies that he has been diagnosed with three different forms of cancer.<sup>15</sup> He further testifies that the illness

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<sup>9</sup> Exhibit B, Testimony of Jill Antares Hunkler, p. 2-3.

<sup>10</sup> Exhibit C, Testimony of Ray Kemble, p. 3-4.

<sup>11</sup> Physicians for Social Responsibility and Concerned Health Professionals of New York, *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (Unconventional Gas and Oil Extraction)* Fifth Edition (March 2018), available at <http://www.psr.org/assets/pdfs/fracking-compedium-5.pdf>.

<sup>12</sup> *Id.*, at p. 251.

<sup>13</sup> See e.g., Exhibit A, Testimony of Kerri Bond, p. 4 and Exhibit B, Testimony of Jill Antares Hunkler, p. 1; Video Testimony of Maryanne Stein, Mercer County, PA, collected by EARTHWORKS on March 9, 2016, available at <https://www.youtube.com/watch?v=z9NKdYafgeA> (hereinafter *Stein Testimony*).

<sup>14</sup> Exhibit A, Testimony of Kerri Bond, p. 5.

<sup>15</sup> Exhibit C, Testimony of Ray Kemble, p. 3.

symptoms he regularly experiences while on his own property lessen when he travels to other destinations, but return when he returns home.<sup>16</sup>

The stress of living under the impact of an industry with seemingly no regard for human rights resulted in Mr. Gulla experiencing anxiety and heart palpitations.<sup>17</sup> Ms. Bond states she has lost sleep due to noise from UOGD near her home that is “so loud here even with the noise barrier that it sounds like a jet engine.”<sup>18</sup>

### iii. The right to clean drinking water and sanitation

The United Nation’s General assembly and the Human Right’s Counsel have affirmed the right to clean drinking water, which derives from the human right to an adequate standard of living and is inextricably linked to the rights of life, health, and human dignity.<sup>19</sup> Numerous international instruments also include the right to water and sanitation.<sup>20</sup>

It is widely understood that fracking can and does adversely impact drinking water resources.<sup>21</sup> Ray Kemble describes how his water has been rendered unusable for both drinking and bathing purposes as a result of UOGD.<sup>22</sup> He further testifies that nineteen of his neighbors have also lost water as a result of UOGD.<sup>23</sup> Vera Scroggins, whose testimony is attached and incorporated herein, describes how she witnessed communities in Pennsylvania become unable to drink their water, that their animals would also no longer drink the water, and that the water was making people ill.<sup>24</sup> Despite seeking legal recourse, indeed, because he sought legal recourse, Kemble states, the UOGD operator in the area refuses to supply him water as does the State.<sup>25</sup> Their

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<sup>16</sup> Exhibit C, Testimony of Ray Kemble, p. 4.

<sup>17</sup> Exhibit D, Testimony of Ron Gulla, p. 4.

<sup>18</sup> Exhibit A, Testimony of Kerri Bond, p. 5.

<sup>19</sup> United Nations Human Rights Council, Human Rights and Access to Safe Drinking Water and Sanitation, A/HRC/RES/15/9 (2010).

<sup>20</sup> See e.g. United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women* (1979), Article 14(2); International Labor Organization, *Occupational Health Services Convention C161* (1985), Article 5; United Nations, *Convention on the Rights of the Child* (1989), Article 24; African Commission on Human and Peoples’ Rights, *African Charter on the Rights and Welfare of the Child* (1990), Article 14; African Commission on Human and Peoples’ Rights, *Additional Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa* (2003), Article 15; United Nations, *Convention on the Rights of Persons with Disabilities* (2006), Article 28.

<sup>21</sup> See generally U.S. Environmental Protection Agency, *Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States (Final Report)* (2016), available at <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990>; New York Department of Health, A Public Health Review of High Volume Hydraulic Fracturing for Shale Gas Development (2014), available at [https://www.health.ny.gov/press/reports/docs/high\\_volume\\_hydraulic\\_fracturing.pdf](https://www.health.ny.gov/press/reports/docs/high_volume_hydraulic_fracturing.pdf).

<sup>22</sup> Exhibit C, Testimony of Ray Kemble, p. 2, 4.

<sup>23</sup> *Id.*

<sup>24</sup> Exhibit F, Testimony of Vera Scroggins, p. 1.

<sup>25</sup> Exhibit C, Testimony of Ray Kemble, p. 2, 4.

testimony demonstrates that the human right to water and sanitation is being violated by UOGD in Ohio and Pennsylvania.

#### iv. The right to a healthy, viable, and supportive environment

Principle 1 of the 1972 Declaration of the United Nations Conference on the Human Environment states that humans have the right to “adequate conditions of life, in an environment that permits a life of dignity and well-being.” Pennsylvania has enshrined the right to a healthy environment in Article 27 of its Constitution, which states in part: “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.”

Individuals and families relying on a healthy, viable, and supportive environment find themselves robbed of this resource when fracking enters their community. Ron Gulla testifies that fracking on his property resulted first in the killing of all vegetation in his pond, the discoloration of pond water, and a fish kill.<sup>26</sup> Kerri Bond states that the barn swallows that used to return each year are no longer returning, her pond no longer has peeper frogs.<sup>27</sup> She states, “[i]t’s like death around here – only vultures flying above us. No song birds. Everything is dead in our pond. The beavers have left. The trees are dying.”<sup>28</sup> Maryanne Stein of Butler County, PA, who lives near a compressor station owned by Hilcorp, also describes a general lack of a healthy and supportive environment, stating “we have no birds here, no bugs here, nothing grows here.”<sup>29</sup> Bond reports that her dogs have tumors that appeared subsequent to the gas development in the area, and Stein testifies to the death of her five alpacas, two dogs, and one horse as a result of fumes from the compressor station near her home.<sup>30</sup>

#### v. The right to property

Article 17 of the 1948 Universal Declaration of Human Rights states “[e]veryone has the right to own property” and “[n]o one shall be arbitrarily deprived of his property.” Ohio’s Constitution states that “private property shall ever be held inviolate, but subservient to the public welfare.”<sup>31</sup> The Fifth and Fourteenth Amendments of the U.S. Constitution, respectively, state, “[no person] shall be... deprived of property without due process of law; nor shall private property be taken for public use, without just compensation,” and “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of ...property without due process of law.”

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<sup>26</sup> Exhibit D, Testimony of Ron Gulla, p. 2.

<sup>27</sup> Exhibit A, Testimony of Kerri Bond, p. 6.

<sup>28</sup> *Id.*

<sup>29</sup> *Stein Testimony.*

<sup>30</sup> Exhibit A, Testimony of Kerri Bond, p. 5; *Stein Testimony.*

<sup>31</sup> Ohio Constitution, Article I, Section 19.

Earlier sections of this brief describe the way UOGD deprives individuals of their personal property.<sup>32</sup> Examples include the destruction of ponds, the loss of domestic animals, erosion events, and the loss of crops and other vegetation. They also include the destruction of quality of life to such a degree that people feel it is necessary to leave their homes.<sup>33</sup>

In addition to these violations, individuals in Ohio experience the taking of their private property by the State for use by private UOGD companies via Ohio's unique unitization law as well as through eminent domain taking for pipeline construction. These aspects of property deprivation as the result of UOGD are described in further detail the following sections.

### *Unitization in Ohio*

Ohio's "unitization" law permits the *eminent domain taking* of private property for use by a private UOGD company if that company pays a \$10,000 application fee, demonstrates that it intends to develop a specified unit, that it has control over 65 percent of the oil and gas rights in the unit, and that it would be profitable for them to develop the remaining 45 percent of the unit to which they have not currently secured ownership through leasing or other voluntary methods.<sup>34</sup> Unleased property owners who do not wish to have their property developed are afforded a hearing before the Department of Natural Resources' ("ODNR") Division of Oil and Gas Resources Management ("DOGRM").

A review of decisions issued following these unitization hearings reveals that orders forcing landowners into development via a unitization order are *always* granted and every order granted has been virtually *identical* in its wording. Unitization orders are regularly issued after an UOGD operator's well pad construction permit *has already been issued by the same regulatory body*. Landowners who have their oil and gas rights taken through a unitization order are able to appeal the order to ODNR's Oil and Gas Commission, which has also *never* overturned an order in a manner that results in a landowner not being subjected to development. This administrative record demonstrates that landowners facing the taking of their oil and gas through unitization have no real recourse to prevent the taking of their property.

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<sup>32</sup> See *infra* at 10.

<sup>33</sup> See Exhibit F, Testimony of Leatra Harper; Exhibit B, Testimony of Jill Antares Hunkler, at p. 2; Exhibit E, Testimony of Vera Scroggins; Exhibit D, Testimony of Ron Gulla; Exhibit C, Testimony of Ray Kemble; Exhibit A, Testimony of Kerri Bond; Video Testimony of Maryanne Stein, Mercer County, PA, collected by EARTHWORKS on March 9, 2016, available at <https://www.youtube.com/watch?v=z9NKdYafgeA>.

<sup>34</sup> See generally Ohio Revised Code § 1509.28.

Patrick Hunkler, an Ohioan who owns property near Piedmont Lake, describes how his property was force unitized in this manner by a UOGD company and the state of Ohio.<sup>35</sup> He describes how he “poured [his] blood, sweat, and tears into building a country retreat for [his] family that reflects [his] values - using recycled materials, conserving water, running solely on renewable energy with active and passive solar,” only to have his oil and gas rights taken from him for development by a private company through a unitization order issued by the State.<sup>36</sup> Mr. Hunkler’s testimony is attached and incorporated herein.

Ohio’s unitization law is distinguishable from the pooling laws in existence in many states across the United States, which Ohio also has in addition to the unitization law. These sorts of pooling laws facilitate compliance with spacing requirements for specific oil and gas wells, and courts in the United States have generally held that they are in the public interest and serve to protect not only oil and gas developers, but individual property owners, and the State’s interest in efficient development of its fluid natural resources.

Ohio’s unitization law, on the other hand, permits a private entity to establish a unit that covers an immense amount of land, to acquire 65 percent control over the oil and gas in that unit through voluntary means, and then to take the oil and gas from the remaining 45 percent of nonconsenting landowners in the unit, so long as they satisfy the state that it will be profitable for them to do so. As Mr. Hunkler states, nonconsenting landowners are penalized for not signing a lease.<sup>37</sup> Unitization orders allow the UOGD company to recover 200 percent of any costs of well development prior to paying the oil and gas owner their share of net proceeds. However, wells rarely, if ever, recover 200 percent of the costs of development, thus, these provisions “effectively guarantee that [unitized landowners] will never see a dime of [their] share of net proceeds.”<sup>38</sup>

Ohio’s unitization law, as applied, results in the regular taking of landowners’ private property for use by private UOGD companies. As such, it results in the violation of the human right to private property.

### *Eminent Domain Takings for Pipeline Construction*

The U.S. Constitution permits the taking of private property for public use for just compensation.<sup>39</sup> Ohio law also requires an agency to show that it is a common carrier or public utility or that the taking of private property is necessary to achieve a public

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<sup>35</sup> See generally Exhibit G. Testimony of Patrick Hunkler.

<sup>36</sup> *Id* at 1.

<sup>37</sup> *Id* at 2.

<sup>38</sup> *Id* at 2.

<sup>39</sup> U.S. Constitution, Article V.

use in order for it to employ the eminent domain powers of the state.<sup>40</sup> Despite these formal codifications of the human right to property, private property is regularly taken without due process for private gain to build pipelines to further UOGD. On December 2, 2016, property owners from around the United States testified about these takings of private property for pipeline development at a people’s hearing about the abuses and problems caused by the Federal Energy Regulatory Commission.<sup>41</sup>

Pipelines relying on eminent domain powers include not only pipelines carrying natural gas to market to heat homes or produce energy, but pipelines strictly carrying natural gas liquids like ethane, which are byproducts of UOGD, for private companies to make plastics.<sup>42</sup> For one such natural gas liquids pipeline, slated to take natural gas liquids from Ohio to Canada for plastics production by a single private company, the energy company Kinder Morgan filed 130 eminent domain cases.<sup>43</sup> This use of eminent domain powers for private benefit constitutes a violation of the human right to property.

#### **vi. The right to respect for private and family life**

Article 12 of the 1948 Universal Declaration of Human Rights states:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Communities living in areas subject to UOGD live under a constant onslaught by landmen trying to gain control of the mineral rights under people’s homes. Testimony by Patrick Hunkler, Ray Kemble, Jill Antares Hunkler, and Kerri Bond all describe the aggressive targeting by landmen and other parties to secure control over mineral rights in an area slated for development. Collectively, their testimony states that company representatives bully individuals, “deliberately tear families apart” by pitting spouses against one another and approaching individuals in secret, harass, offer misleading or false information, and repeatedly invade the privacy of family life and home in order to attempt to gain control over mineral rights. Their collective testimony serves as evidence that the human right to private and family life is regularly violated by the current operations of UOGD in Ohio and Pennsylvania.

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<sup>40</sup> See Ohio Revised Code § 163.021(A), and § 163.01(H)(1).

<sup>41</sup> See “People’s Hearing FERC Abuses – Private Property Taken for Corporate Gain” video testimony, Dec. 2, 2016, available at <http://www.peopleshearing.org/>.

<sup>42</sup> See Julie Grant, *Eminent Domain is Becoming a Crucial, Controversial Part of the Gas Pipeline Boom*, THE ALLEGHENY FRONT, Dec. 30, 2016, available at <https://www.alleghenyfront.org/eminent-domain-is-becoming-a-crucial-controversial-part-of-the-gas-pipeline-boom/>.

<sup>43</sup> *Id.*

### **vii. The right to peaceful assembly and association**

The attached and incorporated testimony of Vera Scroggins details how her right to peaceful assembly and association has been violated as the result of her outspoken advocacy for environmental and public health and against the UOGD industry. Her testimony speaks for itself and is incorporated herein. Testimony by Ray Kemble, Jill Antares Hunkler, Leatra Harper, and Kerri Bond further support that those who advocate for accountability for UOGD companies and State actors have been targeted as a result of their peaceful assembly and association.

### **B. Procedural Rights**

Principle 10 of the Rio Declaration on Environment and Development states:

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, also referred to as the Aarhus Convention strengthened and further-defined this right. The Aarhus Convention establishes that the public has the right to (1) easy access to a wide array of environmental information; (2) be informed of all projects impacting their environment and an opportunity to participate during the decision-making and legislative process; and (3) judicial or administrative remedies if the State fails to adhere to environmental law or the rights to information and participation in decision-making.<sup>44</sup>

The Report of the Ohio Citizens Tribunal on the Human Rights Impacts of Fracking details how the regulatory environment in Ohio is such that these procedural human rights are regularly violated by UOGD.<sup>45</sup> FreshWater affirms the statements made therein and further expounds on these violations in the sections of this brief that follow.

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<sup>44</sup> See generally, Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, June 25, 1998, Aarhus, Denmark, available at <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>.

<sup>45</sup> Richard Sahli (2017), The Report of the Ohio Citizens Tribunal on the Human Rights Impacts of Fracking, Dec. 2017, available at <https://files.acrobat.com/a/preview/42adf35a-8b47-42a8-8127-913a1917e57e> (hereinafter *Ohio Tribunal Report*).

**i. The right to access information and public participation in environmental decision-making**

Under Ohio Public Records law, the public may not ask for particular “information” they seek, but must ask for specific records in the format that they readily exist.<sup>46</sup> The burden is on the requester to identify records “with reasonable clarity.”<sup>47</sup> The Ohio Department of Natural Resources consistently treats this as a requirement for the requester to be able to identify specific records in order for their request to be granted. This leaves citizens confused and frustrated when their requests are denied for not specifically identifying a document the citizen did not know existed, when the requester has been clear on the information she seeks. It also establishes an imbalance of power, where the citizen knows the information she is seeking, but the agency knows what records are the most likely to contain it, but do not think they are obligated to produce those documents without the requester stating the right words. Ohio law does require the agency to work with a requester to help them identify documents,<sup>48</sup> but this obligation is easily manipulated by an agency seeking to not release information or to delay the release of information.

Testimony presented by Attorney Richard Sahli of Ohio at the 2017 Ohio Citizens Tribunal on the Human Rights Impacts of Fracking describes how Ohio’s Public Records law is regularly abused by ODNR to deny the public access to information regarding UOGD and to prevent the public’s ability to appeal decisions regarding UOGD infrastructure near their homes.<sup>49</sup> This is commonly understood by attorneys and individuals working on the side of landowners and non-profit advocacy groups in Ohio on issues in any way related to UOGD, as exemplified in testimony by Megan M. Hunter, attached and incorporated herein.<sup>50</sup> The testimony of Pennsylvania

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<sup>46</sup> See *State ex rel. Fant v. Mengel*, 62 Ohio St.3d 455 (1992); *State ex rel. Evans v. Parma*, 8th Dist. No. 81236, 2003-Ohio-1159 (finding requests for service calls from geographic area to be improper request); *Capers v. White*, 8th Dist. No. 80713, \*3 (2002) (holding requests for information are not enforceable in a public records mandamus); *State ex rel. Fant v. Tober*, 8th Dist. No. 63737 (1993) (holding that office had no duty to seek out records that would contain information of interest to requester), *aff’d*, 68 Ohio St.3d 117 (1993); *State ex rel. Rittner v. Dir., Fulton Cty. Emergency Med. Servs.*, 6th Dist. No. F-10-020, 2010-Ohio-4055 (finding improper request when requester sought only information on “how documents might be searched”); *State ex rel. O’Shea & Assocs. Co., L.P.A. v. Cuyahoga Metro. Hous. Auth.*, 190 Ohio App.3d 218, 2010-Ohio3416 (8th Dist.), *rev’d in part on other grounds*, 131 Ohio St.3d 149, 2012-Ohio-115 (finding a request for minutes of meetings that contained certain topics was an improper request for information and the public office was not required to seek out and retrieve those records that contained the information of interest to the requester); *Natl. Fedn. of the Blind of Ohio v. Ohio Rehab. Servs. Comm.*, 10th Dist. No. 09AP-1177, 2010-Ohio-3384, ¶ 35 (finding a request for information as to payments made and received from state agencies was an improper request)

<sup>47</sup> *State ex rel. Glasgow v. Jones*, 119 Ohio St.3d 391, 2008-Ohio-4788, ¶ 17, quoting *State ex rel. Morgan v. New Lexington*, 112 Ohio St.3d 33, 2006-Ohio-6365, ¶ 29; *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Edn.*, 97 Ohio St.3d 58, 2002-Ohio-5311, ¶ 42.

<sup>48</sup> R.C. 149.43(B)(2); *State ex rel. ESPN v. Ohio State Univ.*, 132 Ohio St.3d 212, 2012-Ohio-2690, ¶ 11.

<sup>49</sup> *Ohio Tribunal Report* at 33.

<sup>50</sup> See generally Exhibit H. Testimony of Megan M. Hunter, Esq.

environmental attorney Emma Hempstead, attached as Exhibit I and incorporated herein, describes “the yawning gap between legal notice requirements for fracking facilities and actual notice to the public.”

These obstacles, delays, or outright obstruction of individuals gaining environmental information constitute violations of the human right to environmental information and result in violations of the human right to participate in environmental decision-making.

**ii. The right to justice, equality and non-discrimination in environmental matters**

Attorney Megan M. Hunter testifies that those impacted by UOGD often lack the financial resources required to bring and prevail in a lawsuit to redress their harm.<sup>51</sup> Impacted residents face UOGD companies that have large budgets to aggressively defend themselves against suits, and to aggressively pursue defamation suits against those who speak out, while residents often cannot afford an attorney or the experts required to prove their case in a court of law.<sup>52</sup> Attorneys available through state low-income legal services lack the environmental expertise required to bring such lawsuits and non-profit public interest groups are not able to support individuals in their fights for justice. Fair Shake Environmental Legal Services, the one non-profit in Ohio that is committed to representing individuals suffering environmental harms and that also has the expertise required to do so, has limited resources and is not able to pay the high expert costs often required in environmental litigation.

Because the State is not diligently collecting information on the impacts of UOGD, the imbalance of information between citizens and UOGD companies, makes legal battles often insurmountable and access to justice an unrealized ideal. As Attorney Hunter testifies, “ODNR could play a valuable role in providing citizens with the support needed by gathering the data about what is occurring at UOGD sites, but does not do so, due to its lack of resources and bias towards the UOGD industry.”<sup>53</sup> In Ohio and Pennsylvania, the human right to access to justice is violated by UOGD and the State’s inaction and bias towards industry.

**iii. The right to a social and international order in which all human rights may be fully realized**

The Report of the Ohio Citizens Tribunal on the Human Rights Impacts of Fracking provides a thorough description of the under-resourced agencies charged with regulating UOGD in Ohio, the undermining of public effort to access information and participate in decision-making by State government, and the regulatory capture that

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<sup>51</sup> *Id.* at 2.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 2.

results in the erosion of public health and environmental protections.<sup>54</sup> Testimony submitted by attorney Megan M. Hunter corroborates this report and speaks to the compromised social order in Ohio that leaves citizens' human rights violated by UOGD.<sup>55</sup> Her testimony asserts that the social, legal, and political environment has become such that individuals no longer believe they have any hope of regaining those rights that have been stripped from them by UOGD collaborating State actors.<sup>56</sup>

**II. Fracking and other unconventional oil and gas extraction techniques warrant the issuance of a judgment enjoining further activity, remediation relief, and damages for causing environmental harm**

The widespread human rights violations caused by UOGD warrant the issuance of a judgment ordering an immediate moratorium on UOGD, the granting of relief to remediate those harms experienced as a result of UOGD, and the issuance of damages to those who have suffered environmental harm.

As is evident in testimony presented and incorporated herein, those adversely impacted by UOGD in Ohio and Pennsylvania are without adequate recourse in their state and national legal frameworks. They are appealing to the People's Tribunal in the hope that they may be granted some assistance in overcoming the human rights violations they face.

**III. States and non-state actors are responsible and liable for violations of human rights and for environmental and climate harm caused by UOGD**

The human rights violations described herein are taking place with the full knowledge of the Ohio, Pennsylvania, and U.S. governments as well as local governments. The United Nation's Human Rights Council's *Guiding Principles on Business and Human Rights* (hereinafter the *Guiding Principles*) has the following as a foundational principle:

States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.<sup>57</sup>

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<sup>54</sup> *Ohio Tribunal Report* at 3-10.

<sup>55</sup> See generally Exhibit H. Testimony of Megan M. Hunter, Esq.

<sup>56</sup> *Id.*

<sup>57</sup> John Ruggie, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises (2011), p.6, available at <https://www.business-humanrights.org/sites/default/files/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>.

As described in the earlier sections of this amicus brief, and by the testimony incorporated herein, this duty is not being met by the U.S. government, or Ohio or Pennsylvania state governments.

In meeting this duty, the *Guiding Principles* state as follows:

States should: (a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps; (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights; (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations; (d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.<sup>58</sup>

As described in the earlier sections of this amicus brief, and by the testimony incorporated herein, the U.S. government and the Ohio and Pennsylvania state governments are not operating in accordance with this operational principle.

In regard to private, non-state actors, the *Guiding Principles* state that business enterprises have a duty to “respect human rights” and “should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”<sup>59</sup> They further state:

The responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.<sup>60</sup>

As described in the earlier sections of this amicus brief, and by the testimony incorporated herein, UOGD companies operating in Ohio and Pennsylvania are not operating in accordance with this operational principle.

FreshWater recognizes that the *Guiding Principles* are not yet a binding international document. They are, however, recognized moral norms around which the United Nations continues to work to develop a binding instrument enforceable under

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<sup>58</sup> *Id.* at 8.

<sup>59</sup> *Id.* at 13.

<sup>60</sup> *Id.* at 14.

international law. As such, FreshWater asks that these important moral norms be upheld in the form of an advisory opinion by the Peoples' Tribunal.

## CONCLUSION

For the reasons stated about, the Permanent Peoples' Tribunal should issue an Advisory Opinion that does the following:

- (1) Recommends a moratorium on all unconventional oil and gas development;
- (2) Holds that the Ohio, Pennsylvania, and United States governments are responsible and liable for the violation of human rights recognized and protected under international law;
- (3) Recommends the issuance of damages to the impacted public to be spent in a manner that affords a healthy and sustainable future; and
- (4) Recommends the granting of relief to remediate the damages done by UOGD in the form of funding for implementing a system where people's rights to information, participation in environmental decision-making, and access to justice may be fully realized.

DATED: March 30, 2018.

Respectfully submitted,



MEGAN M. HUNTER, ESQ.\*

*\*Counsel of Record*

FRESHWATER ACCOUNTABILITY  
PROJECT

P.O. BOX 473

GRAND RAPIDS, OHIO

UNITED STATES 43522

Telephone: (740) 233-1934

## **Exhibit A**

Testimony by Kerri Bond, reviewed and submitted February 20, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: From Quiet, Organic Farm to Industrial Wasteland

I, Kerri Bond of 24900 Britton Road, Senecaville, OH 43780, first to learn about fracking the summer of 2012 when our 103-acre organic farm was targeted for fracking. At first, the local oil and gas industry guy, Jeff Miley, tried to steal our mineral rights by saying that his wells on our property were producing, so that we were held by production. My husband, Jeff, and I are convinced that Miley was tipped off by the Ohio Department of Natural Resources (ODNR) and the Muskingum Watershed Conservancy District (MWCD) who first embraced the industry so he could seal off the mineral rights for himself before others learned that their "worthless" minerals were worth something again. When we realized that our minerals were allegedly held by production by Miley, we complained to the ODNR. The ODNR had an employee, Tom Tugend, who tried to intimidate us and ridiculed us when we began to fight for our mineral rights. Tom actually said that there were no gauges on the wells because the industry used "guess-timators" to measure production when we complained. Tom has since retired from the ODNR and went to work for the MWCD as a consultant and actually negotiated leases for the MWCD to frack the reservoirs they claimed as their own. The MWCD is a conservancy that has dominion over 20% of Ohio's land mass. They have received hundreds of millions of dollars in leasing rights and royalties to frack in the area, and hundreds of thousands of dollars by selling the region's freshwater to support the industry. The MWCD along with the ODNR were early adopters of the

industry, and because they leased, they forced many people into leases through unitization. They are all in this together – the regulators, the government, the conservancy district and our elected representatives – to keep the industry going to lease valuable public property for fracking and sell the water and force others into being leased through unitization.

The people in the area who had been in the oil and gas industry who have the money knew the fracking industry was coming to the area been back in 2006. For those who had their mineral rights, they had their leases tied up for pennies on the dollar before anyone knew about fracking and how much their minerals could really be worth.

We complained about Miley and how he was holding our minerals by production and planned to pollute our property to punish us for complaining. Miley had someone tip over a tank that contaminated our pond. We complained to the Ohio EPA in 2011. It was then that an inspector for the ODNR, Cindy Van Dyne (I think that's how you spell her name), came out to review the damage from the wastewater from the leaking oil tank that drained into our pond and said that Governor Kasich wasn't saying anything against the industry. We told her that Miley was stealing people's gas, and she said, "That's nothing – over in Monroe County they have all their wells connected together so no one has their minerals." Then when Jeff asked about the legality of that, Cindy replied, "Governor Kasich doesn't want any waves made against the industry, so they aren't going by the rules right now." She was the only person from the regulatory agencies I thought told the truth, but I don't know what happened to her. She probably got fired.

In order to punish us for complaining and trying to get our minerals back, the ODNR had an inspector, Dave Ball, who trespassed on our property on December 24, 2011. He came through the back of our property and found a pipe that was about a half inch out of the ground and flagged it to write a violation on us that it was a well that hadn't been capped. We didn't even know it was there. Even though Miley had a big tank on our property that was leaking, he wasn't fined by the ODNR, and the tank is still there. So the ODNR was supporting Miley and tried to intimidate us to get us to shut up. We were told that there were 12 more of the pipes on our property, so that if we complained any more to the OEPA about pollution, that ODNR would flag every one of them to make us pay \$20K each.

It was almost impossible to find a lawyer to help us get our minerals back after they were stolen by Miley through false production. In fact, one of our first attorneys, Atty. Kirschick out of Zanesville, had us in his office looking at production records of the wells on our property that Miley claimed that showed zero production, and we watched the production numbers change on line together. The attorney said, "Oh tell me this isn't true – you guys have big problems." He couldn't believe that production numbers from 16 years back were being changed on line from within the ODNR. He wouldn't represent us after that. The ODNR allowed Miley to go all the way back to 1996 to provide production records so that he could claim our mineral rights by production. One of the reasons that Atty. Kirschick said that he couldn't represent us was because he was a Republican.

When we continued to complain about the industry and pollution, the Noble County Sheriff came on to our property and arrested Jeff because of trumped up charges from Miley saying that Jeff threatened him. It was a Friday so Jeff had to spend a weekend in jail. By that time, we had

retained an attorney that charged us a huge sum to get our minerals back and negotiate a lease with Antero, Atty. Paxton out of Columbus. We had to pay Atty. Paxton to represent us to get Jeff out of jail, and he made Jeff sign off no contest to something he never did because we were told we couldn't fight the false charges.

When turned to the FBI because of the mineral leasing fraud we experienced and what we saw going on all around us. When we first told the FBI about all the mineral leasing fraud, the investigator assigned to our case, Drew McConaughy, asked me whether I thought the ODNR lied or told the truth. I said I didn't know, and Drew said, "They LIED!"

Many people don't even know their minerals were taken. They might be from Noble County, but the lease could be recorded in Morgan county. That's how I found the transfers that Miley was supposed to sign, they were recorded them on him, not on me, in a different county. So I went to the courthouse and demanded that my lease be recorded on me, and they didn't want to do it. The only reason they corrected it was because I told them I had the FBI on speed dial.

Fracking companies like Chesapeake have digitized the mineral rights in counties here in Southeast Ohio, and now we don't know where some of the original records are or if they had been altered before they were digitized. There was a notary, Steve Allen, in Noble County committed suicide when it was found out that leases were fraudulently recorded that he had notarized. We've had long-term state and local employees who left their lucrative jobs in the county auditor and recorders offices suspiciously when some of the leasing fraud began to be exposed. I've seen leases recorded on a name stamp from TransAtlantic, Donald Quest, that was notarized – not even an original signature. When I asked Donald Quest about that, he said, "That's a fraud." We went to the Noble County prosecutor about that, Clifford Sickler, and he wouldn't do anything about. I asked Donald Quest if he would testify, but he left town, and supposedly the FBI was going to talk with him. I don't know what became of that.

Jeff called Noble County Prosecutor Sickler on 1/9/12 after we visited with Donald Quest to try to get him involved and look into this. We were made to wait until March 9 to meet with him. We took 27 property owners who had all their wells run together and lost their minerals, and no one had been paid for their minerals. Sickler said there were no funds to investigate this and did nothing about it. We then found out that Sickler went to Monroe County. We went to the prosecutor in Guernsey County, Patton, who also didn't do anything about it. He wrote down a name on a piece of paper and told us to take it to the Guernsey County sheriff and ask him to investigate it, but the name was Steve Patton, his brother. This scared us away because I knew they were all related, so there was another investigator for the Guernsey county sheriff's department, and we didn't trust him. We didn't want Jeff to have to go to jail again. There are many leases in the area have lawyers and judges that have the interests in mineral rights and well pads, like Graham and Graham, so you don't know who to trust and have no one to turn to. If it's not in their name, it's in their family name or under the name of an LLC that they invest in. Right after Jeff was arrested on June 20, 2012, Sickler left Noble County and went to Monroe County.

I have never seen such dirty dealings with wills and estates. People sign off on life estates and don't even know what they are doing, so they are defrauded of their rightful minerals. It's really hard to trace who owns the minerals because the names change repeatedly. You can't find a title

clerk in Monroe County to do a legitimate title search, and no one can afford to have it done if they are suspicious. There's judges and attorneys who have assigned mineral rights to their family when the wills were filed with them and then lost. I don't know what the FBI is doing about this. I was told that Drew retired. There is a lawsuit about this fraud against Ascent Resources, but we are told the Attorney Crispin who brought the suit is having a difficult time.

This has been hard on our marriage. Jeff just wants rid of our house, but I can't sell it to another family. I want the industry to have to buy it. Our property is worthless, so we want to sell it with the mineral rights to get completely out. Now I wish we would never have leased or that we would have held out to be forced unitized and made the industry buy our property, but we can't go back. We had no idea the industry would do this to us – or that if they did, that it could even be legal. We were told when we signed that we would never know they were there. Now there's another pad that will be drilled next to us, leased by the MWCD, the Krupa pad. We can't drink the water or breathe the air here, and I can't stand to be here. The neighbors hate us because we speak out against the industry and they think we are hypocrites, but how could we know? Some of them have lost their water, and we are afraid to drink ours as well and invested in a purification system. Everyone expects us to give everyone money because they think we are so rich. The money has never been worth it. We no longer have an organic farm and had to sell our sheep.

Our son works for the pipeline industry, and he has been really mad at me for complaining about the industry, but now he sees what is going on. We wish he could get a better job to take our grandchildren to move away, but he has a family to support and can't say anything against the industry himself until he finds something else.

The industry works with each other to help each other out, dividing up the spoils. For instance, once we got our mineral rights back from being stolen, Antero and Cabot both wanted our lease. Cabot made us an offer in writing, and I told Antero, who said that no one would give us that much for a lease. So when I showed Antero what we were offered, the next thing I know, Cabot called and took back the offer saying that our property wasn't what they needed any more. That's collusion in the industry.

When Shell first came to the area and offered \$50/acre to everyone, people were given vouchers from the bank, PNC, that bounced. This is being investigated by the FBI along with the mineral leasing fraud involving Ascent and others, but we don't know yet what has become of it.

Now we have pipeline explosions because of subsidence – two huge explosions in SE Ohio in the last three weeks. When damages happen, the industry pays property owners off so they don't complain too much. Our son works for the industry and does his best to keep people safe. He served his country in Iraq and Afghanistan, and now he is still in harm's way. He has a family to support, and this is the best job he can get, and that's sad.

We take people and environmental organizations on toxic tours of the area and take pictures to document all the damage. I have many photo's and we have been exposed repeatedly. I have been made sick by touring the area with migraines and even throwing up. We are concerned about all the hydrogen sulfide gas that is being released and what will happen in a valley if

there's an inversion. We know the industry releases that toxic gas because you can smell it – smells like rotten eggs. Methane is being released all over because of explosions and because the fracking is activating conventional wells that are being repressurized, but no one is doing anything about all the emissions. People are scared to death of getting blown up around here. When there's flaring or a compressor station blowdown, it's so loud and scary you're afraid of going to bed at night that you might be blown to smithereens by the morning.

It smelled so badly here yesterday (2/19) that we got sick and our dog went crazy. I think they put something in the gas to make it smell sweet, it's a chemical smell, but it's sweet like ether. Last night it was so loud here even with the noise barrier that it sounds like a jet engine. We can't even sleep. I am getting so worn down I feel like giving up, but I can't. It's just so wrong, and I have grandchildren here and a family I can't leave. I have to keep trying to fight back, but there's nowhere to turn. We can't even pay an attorney to adequately represent us. We are now tied up in court and will be deposed soon. The industry intentionally threatens us and tries to intimidate us and bullies us. These tactics have worked since the beginning to make many people afraid and stand down. But we don't just stand up for ourselves against the industry, we stand up for others and have helped other people get their minerals back and helped them to be braver to speak out, so that helps keep us going.

I had an interesting conversation with my doctor yesterday who told me that I had better watch my back because of the threats against me that he's heard about. He said I should get a bullet proof vest. He also said that all the leasing arbitrators in Columbus are bought off. I have had many threats against me and have been warned repeatedly that I should not speak out against the industry or I will be sorry. I have been told that my phone is tapped, and that it's actually legal. I am so sick today and I am really worn down. Jeff wants to get out of here, but our family is here, and then I see him getting sick and my grandson, Grayson, both need breathing treatments.

First, you fight for what you have because you are an American and you believe in justice and believe in the constitution, then you realize that all those who are elected and who are supposed to regulate are against you, and you become bitter and "radicalized" and fight all by yourself for what is right, and then you get worn down, and you get sick and then you die, and then they win. This is all so much bigger than all of us. They think nothing of tearing families apart and pitting one against the other to get a lease. For those who fight back, they threaten them with lawsuits and that they won't get in a unit or get paid for the gas beneath them. They want us to be dependent upon fossil fuels and accuse us of being hypocritical because we drive a vehicle. Even our local elected officials are for the industry, even having seen the long-term devastation and property value losses from the fossil fuel boom/bust industry. They all tout the jobs, even though they are toxic, temporary jobs that will kill the workers and destroy the environment and public health.

I am living in a living hell. I am so afraid for my grandson, Grayson, who was born prematurely when fracking came here, probably because of that. Now that he has been exposed to this industry all his life, what is going to happen to him? What is going to happen to us? Our dogs can't even sleep outside because they fight to get out of the air. They have tumors all over them. Children are getting rare types of cancer in their eyes. The industry is building on brownfield sites because they know they will never be held accountable because of what has already been

polluted. They are taking their waste and “downblending” it so they can use it on our roads for “road bed stabilization.” We can’t even drive on our roads because the dust makes us sick and what they are spraying on them for “dust control” and “de-icing” is stuff we have never seen before – it sticks to our cars like drill mud, and you can’t get it off. When it become airborne, you have immediate eye and throat irritation. Get behind a road sweeper and breathe it in, and you will feel it immediately!

Artex and others like Ascent have over 1796 acres unitized to frack in the Wayne National Forest and Morgan county and all toward Caldwell, OH. No one can fight them because the ODNR grants every application for unitization, even if the leases are not valid and the mineral rights are fraudulently taken. There are so many Title 7 transfers, that you can’t even tell who the original owners of the mineral leases are. There is a judge in Woodsfield who tells people that there’s no original will that can be found, so that any copies of a will from their family member that they have are not valid, so that when people claim their mineral rights through inheritance, they can’t prove it. Turns out, the judge has invested in a mineral leasing holding company. People have been drilled under and don’t even know it because someone else stole their mineral rights, either through false production (by pretending an abandoned well is producing on their property, holding their mineral rights), or through mineral theft.

I never thought any of this could ever happen in this country. I can’t even believe some of the things I have seen personally that this could all happen. I feel that we are in a slave society, working for those people have money and have bought and sold our government. I am so incensed about what has happened here that I feel numb. I have been fighting back for so long – waiting for the lawyers – waiting for justice – and no one comes to help us. I want to be able to hold my ground, but we can’t even find a good attorney to represent us because most of them are on the take or afraid of the industry. Now we have a good lawyer representing us to try to get the industry to pay what is coming to us so we can get out, but my doctor even told me today that my lawyer needs to get a bullet-proof vest, too.

Now the barns swallows that used to come back on the same day every year are not returning, and our pond has no peeper frogs. It’s like death around here – only vultures flying above us. No song birds. Everything is dead in our pond. The beavers have left. The trees are dying. We are scared to death that we will be blown up in our sleep. Our farm is for sale, with all the minerals – we want nothing to do with oil and gas. We would leave, but my little grandson is 850 feet from the pad, and he coughs all the time. My son works for the industry, and I can’t leave by grandchildren.

God help us.

## **Exhibit B**

Testimony of Jill Antares Hunkler, written and submitted May 17, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Defending our common home

My name is Jill Antares Hunkler, and I live in Somerset Township in Belmont County, Ohio, near the Village of Barnesville's Slope Creek reservoir. Yesterday, May 12, an event occurred that I feel compelled to share with you at the beginning of this testimony.

Immediately after returning from a drive to the grocery store, I heard a helicopter and I thought it must have landed in my yard because it was so loud. When I went outside to investigate, I found a black helicopter hovering low and very near my house. I walked into my yard and just stood there for a few minutes watching it. The helicopter then flew directly beside me and literally right above my trees and hovered again for several minutes. It then flew to the back of my house, so I walked onto my deck and stared at it. Finally, after what seemed like an eternity, it flew over the hill and hovered there for another ten minutes. There is no doubt that whoever was flying that helicopter was there to intimidate me and to let me know that I am being watched.

Why would someone be watching me and trying to intimidate me? Could it be because I have joined a lawsuit against the Bureau of Land Management to stop fracking in Ohio's only national forest? The Wayne National Forest is rich in natural and historic treasures that provide essential habitat for many animals, as well as hunting, fishing and natural recreation for not only local residents but individuals from many places. I have joined a lawsuit along with the Sierra Club, the Ohio Environmental Council, the Center for Biological Diversity, and Heartwood.

Or are they also watching me because I have filed a Notice of Intent to sue MarkWest for significant and ongoing violations of the Clean Air Act and Ohio Pollution Control Act at the Humphreys compressor station on hill above my home. This situation is outlined in the following press release:

"First we noticed the odors and had nose, eye, and throat irritation, as well as headaches. Then the symptoms worsened over time with nausea, vertigo, rashes, mental confusion, disorientation, numbness, body aches and pains" says Jill Hunkler. "I began researching the negative effects of compressor station emissions and became very alarmed. I was introduced to others who had lived near compressor stations who had suffered similar ailments and became convinced that there was an emissions problem with the station. I made connections with Fresh Water Accountability Project, and Earthworks who offered assistance. I also contacted the Ohio Environmental Protection Agency (Ohio EPA) and voiced my concerns."

On July 14, 2015, Earthworks, a national non-profit organization, used optical gas imaging technology (specifically a Forward Looking Infrared, or FLIR, camera) to film the Humphreys Compressor station. The camera showed gases clearly appearing as grey plumes above the stacks and moving across the facility fence line, and also showed venting from the storage tanks. "The Humphreys compressor station is clearly a significant pollution source in the area and showed some of the most intense emissions we've filmed to date," said Nadia Steinzor, Eastern Program Coordinator with Earthworks. "While we were filming, my coworker and I experienced dizziness and headaches and smelled strong hydrocarbon odors."

Lea Harper, Director of Fresh Water Accountability Project stated: "When I visited the Markwest compressor station with Earthworks and the FLIR camera, it was obvious there were invisible pollutants causing the strong odor. And when I met a neighbor with health complaints, I had a stark realization - no one is protecting us. Not the EPA, not the Ohio Department of Natural Resources (ODNR), not our elected representatives - there's no one looking out for those living next to the industrialized operations. No one is monitoring for toxic chemicals released into the air. Without measurements, people don't know what is making them sick, and the company is off the hook. It's a terrible way of externalizing the high cost of human health and environmental degradation. I would never have believed it if I didn't see it for myself."

After receiving resident complaints for more than a year, on May 19, 2016 the Ohio EPA finally inspected the Compressor Station using a FLIR camera and flame ionization detector. The FLIR camera confirmed that vapors were being released from a valve that connects all five storage tanks. Thus, the Vapor Recovery Unit ("VRU") was not operating in a manner to capture and control volatile organic compounds ("VOCs") consistent with the permit condition. The U.S. EPA has noted serious compliance issues with the type of VRU used at Humphreys compressor station.

Nov. 19, 2016 the Ohio EPA stated "we currently are reviewing the response by the company and are working with MarkWest to ensure compliance with their permit terms and conditions. Six months after the violations were issued, the polluting of the air was still occurring at the Humphreys compressor station.

Storage vessels at natural gas production facilities are known to contain large quantities of VOCs, other hazardous air pollutants that are known carcinogens, and methane. MarkWest has continuously failed to comply with the terms of its Permit-to-install, and the Ohio Air Pollution

Control Act by violating emissions limitations of the Permit and causing a public nuisance by failing to prevent the emissions of vapors, fumes, hazardous air pollutants, including VOCs, particulate and fugitive emissions in close proximity to residences, which endangered, and continues to endanger, the health and safety of the surrounding community and caused, and continues to cause, property damage to neighboring lands.

The Notice states, "MarkWest's violations of the Clean Air Act, The Ohio Pollution Control Act and its Permit have injured and will continue to injure the health, environmental, and aesthetic interests of the Hunkler family and the surrounding community. These injuries are traceable to MarkWest's violations of "an emission standard or limitation."

In its operating permit application to the Ohio EPA, MarkWest identified the potential to emit, among other pollutants, VOCs, and Hazardous Air Pollutants. Exposure to these and other chemicals related to natural gas production have been associated with eye, nose, and throat irritation, respiratory problems, and adverse effects to the nervous system.

Compressor stations are a permanent source of noise, air, and odor pollution for the surrounding community. The overall operation of the Humphreys Compressor station emits numerous toxic and other harmful air pollutants, and the operation of the engines and other equipment at the site, including blowdown events, causes extreme disturbance in the surrounding areas that is hazardous to human health and safety. The violations described in the Notice Letter injure, and unless abated, will continue to injure the health, financial, aesthetic, and recreational interests of the Hunklers and the surrounding community in general.

For all the reasons just listed, my family and I have been forced to leave our home, due to the oil and gas industry's pollution and violations of the human right to a healthy environment.

Maybe I am being watched because recently while on a driving tour of fracking sites, a traffic control guard for the industry took photos of my license plate and wrote down the make and color of my vehicle and said they gave the information to the state. When questioned about this she later said they give the information to the company. Just shortly after that encounter, a truck pulled in behind me at a gas station and also took pictures of my license plate. When asked why, he responded that he did not like what I was doing.

Could it be that I am being watched because for years now I have educated the public on the hazards of fracking and been instrumental in grassroots organizing, advocating for a ban on fracking and a focus on renewable energy sources as the solution for future generations.

I have been experiencing the hazards of fracking and witnessing the path of destruction and contamination caused by this polluting industry. My family and I live in close proximity to fracking sites and have experienced negative health impacts including headaches, asthma-like symptoms, rashes, and insomnia due to the industry's invasion of my ancestral homeland.

Those of us living in these once peaceful hills are not only dealing with negative health impacts. We are also experiencing explosions, fires, contamination of streams, including the death of 70,000 fish, gas leaks that caused lengthy evacuations, air and noise pollution, unsafe roadways due to industry traffic,

springs and well water contamination, and depletion of our water supplies by Industry withdrawals from our reservoirs, ponds and streams.

On average it takes eleven million gallons of water to frack one well in Ohio. The water is toxic after it has been fracked. These are all examples of a violation of the right to safe drinking water. It is heart breaking to witness the massive deforestation and habitat destruction, as they haul away beautiful hillsides one truckload at a time to build the frack pads, pipelines, injection wells, compressor and transfer stations.

Due to the invasiveness of shale development, southeastern Ohio has been described by many as living in an occupied territory. I have been working continually since the invasion began to research and share the truth about the hazards of fracking, and to organize informed local opposition to irresponsible industry development. I have lived in the Slope Creek area for over 30 years and have enjoyed swimming, fishing, canoeing and camping on the shores of the reservoir. I decided to build my own house on the opposite shore of my childhood home, where Slope Creek flows through the yard. I am grateful for the many peaceful moments in this tranquil and beautiful landscape with its abundant water, trees and wildlife. I never imagined that my quiet country way of life would disappear.

I began researching the impacts of shale development and found that: fracking emissions contain methane, carcinogens, neurotoxins, and VOC's (Volatile Organic Compounds). I have learned that these emissions hover near the ground and are known to cause serious health problems. So there is reason for great concern regarding my family living in this once tranquil, but now threatened valley.

The first warning signs of the shale industry invasion came with the arrival of the leasing land agents. Area residents formed long lines outside the local high schools to sign over the mineral rights before educating themselves about the potential threats involved with the industry. Landowners and farmers, who had been struggling financially for years, were suddenly being presented with significant amounts of money that they did not refuse. The industry preached of safe development, large royalty checks, and independence from foreign oil and gas supplies.

It took several months before the invasion intensified and the land agents were replaced with incoming crews of mass destruction. The deforestation, habitat destruction and the removal of whole hillsides one truckload at a time began. The transportation of oversized equipment on twisty, hilly country roads made driving very dangerous for area residents. The fracking infrastructure, including pipelines, compressor, and transfer stations began developing rapidly. Injection wells for the radioactive and chemically-laden waste were among the first secretive projects to be completed and began accepting out-of-state toxic fracking waste. Currently there are numerous fracking well sites on the hills above Slope Creek Reservoir.

I began researching and presenting the facts to my local and county officials regarding a radioactive fracking waste, and many other industry-related contamination issues. Belmont County had entered into a secret contract with EnerGreen 360 LLC, a company that had been permitted to take fracking drill cuttings, mix it with coal ash, and use it as fill for an industrial park site one mile from our Village of Barnesville. A press release written by the Freshwater Accountability Project alerted me of the project and stated:

Industry insiders and scientists have known for some time that fracking waste can be radioactive. Drill cuttings, drilling muds and sludge are laden with heavy metals and chemical agents used to extract gas and oil from deeply-buried underground shale layers. Other toxic materials such as arsenic and Uranium 238 once buried safely more than a mile below ground are brought to the surface due to fracking.

After reading this alarming press release, I began organizing a group, Concerned Barnesville Area Residents (CBAR). We gathered factual evidence and presented it to local and county officials, initiated a successful petition drive, placed full page bulletins, wrote numerous editorials outlining the hazards of the project, and organized a town hall meeting. As a result of the community's voicing of its opposition to the project, the company withdrew and is not operating in our county. This was a big victory, showing what concerted, informed community action can achieve.

In a March 2014, at a Village of Barnesville council meeting, I witnessed a Gulfport Energy representative presenting contracts to the council. The village had already agreed to lease the surface and mineral rights to Gulfport. The contracts being presented to the Village called for the locating of two fracking well pads within 500 feet from the shoreline of Slope Creek Reservoir. The leasing of this land for fracking adjacent to our drinking water is a violation of the human rights obligations to water.

As soon as I heard this worrisome news, I urged the Village not to permit these pads within the Slope Creek Watershed. I continued researching the potential threats to our drinking water supply. My now respected and powerful group of concerned area residents began campaigning for the protection of the reservoir and the abandonment of the fracking wells within the watershed. Peer-reviewed scientific studies confirming the existence of documented cases of methane migrating thousands of feet and contaminating water sources due to compromised fracking well bore integrity were given to local officials. A successful petition drive resulted in 2300 signatures which have been submitted to The Ohio EPA, the Ohio Department of Natural Resource, Governor Kasich, Gulfport, and the Village requesting that the company relocate the pads and abandon operations in the Slope Creek Watershed. When hand delivering the petition, I also included were peer-reviewed scientific papers documenting and explaining how water supplies have been contaminated in numerous cases at distances of up to one kilometer (3,280 feet) from the leaking shale wells.

I read a statement by Dr. Anthony Ingraffea of Cornell University, who conducted research over many years for the oil and gas industry giant Schlumberger and the Gas Research Institute. When asked about Gulfport's plan to put frack pads 500 feet from the shoreline of Slope Creek Reservoir, Dr. Ingraffea said that: "My principal concern would be the loss of wellbore integrity. If they are going to put two pads within 500 feet from the shoreline of that reservoir, there will be multiple wells, maybe as many as 12, on each pad. The possibility for one or more of these wells leaking due to faulty casing and/or faulty cement is very high... gas can migrate from the leaking wells many thousands of feet. So, 500 feet is nothing, not even close to being a 'safe' distance away."

After we received a response from the Ohio Department of Natural Resources Director James Zehringer regarding this petition, I wrote to him, "How can there be confidence in your statement that "ODNR is committed to the protection of all Ohioans and our environment in your regulation of the oil and gas industry" when you admit that you are only now in the process of finalizing horizontal well site construction rules?"

To date there are 1,500 wells drilled in Ohio. Due diligence would have required these rules to be in place before a single well was drilled. According to our research, less than 50% of the wells in Belmont County have been inspected, as no inspection reports were provided in our public records requests. Your statement that “there have been no incidents of stray gas migration” cannot be taken seriously if the wells have never been inspected. .”

In the autumn of 2014, during an average rainfall season, Slope Creek reservoir, the drinking water supply for 10,000 people, had been depleted from excessive fracking industry withdrawals. This is an example of a violation of the Right to safe drinking water. Due to public pressure, the Village ceased allowing Gulfport to withdraw water from the reservoir.

This led to fears among the industry about the availability of the water essential for their drilling activities. Another fracking company, Antero Resources, had entered into a five-year contract with the Village for water withdrawals, installed a barge for transporting equipment and a floating pump on the reservoir. Subsequently, Gulfport Energy filed a lawsuit against the Village of Barnesville over their contract with Antero for water withdrawals. The lawsuit states that the Village has given priority rights to Antero for the water over Gulfport.

This lawsuit led to international media coverage as a David and Goliath story between these large oil companies and the small village of Barnesville over the fight for water. In a local news interview, I stated, “I am grateful to the Village of Barnesville for ceasing water withdrawals last fall when the water levels became alarming low.” I then addressed Gulfport, “don’t sue our Village. It is our water. You are a guest here. Respect us, our way of life and our natural resources.”

There was also a brine truck accident that contaminated one of Barnesville’s reservoirs. At the time of the spill, water tests confirmed there was a spike in radium, a naturally occurring radioactive element. Although at the time of the spill, village officials and residents were told by the OEPA that fracking fluid was just brine, “saltwater” and that the water test results did not need to be expedited and that there was no cause for alarm. This is also a violation of the Right to safe drinking water.

Fracking fluids are misleadingly labeled 'brine,' which is a violation of the Right to know. Brine implies saltwater, but fracking fluid contains toxic chemicals like formaldehyde, benzene, toluene, biocides, ethylene glycol, and hydrochloric acid. It can also contain toxic substances that are naturally occurring deep underground, including arsenic, barium, lead, mercury, and radioactive elements like radium. These toxic fluids can be spread on our roads, if local officials allow it. Fracking fluid is also disposed of in high volume through injection wells, which pose risks to water supplies from failing cement seals. The millions of gallons of water it takes to frack each well is contaminated and permanently removed from the hydrologic cycle. This is a violation of the Right to Obligations of Water.

Ohio has not commissioned a scientific study on fracking. Ohio’s regulations of the oil and gas industry are among the weakest in the country and some critical regulations have never been written. The chief of the Ohio Department of Natural Resources (ODNR), Division of Oil and Gas, can waive, at will, any of the regulations that do exist, and regularly does so. Radioactive fracking fluid and drill cuttings are virtually unregulated in Ohio. This has made Ohio the fracking waste dumping ground of choice for neighboring states. Ohio is accepting waste that is classified as radioactive in Pennsylvania and West Virginia for disposal in landfills that are not equipped to contain or monitor it.

Based on my research and observation of irresponsible drilling practices, I have refused to lease my mineral rights to the industry. A land man from Gulfport Energy called me on January 5, 2017, and asked me to reconsider my refusal to lease my mineral rights to them for fracking. He said all my neighbors have leased and they plan to begin forced unitization if I do not agree to lease. With only 65% of the landowners leased in their proposed unit, the industry can petition the ODNR to force the remaining 40% of landowners to lease. This is an example of a violation of Right to lands and resources.

There will be a hearing before the Chief of the ODNR Oil and Gas Commission where Gulfport and I will both be given an opportunity to present our cases. The ruling in such cases always favors the industry, even to the extent of declaring that no royalties will be paid to the forced unitized mineral owner until the well has paid for itself 200 times over. This is a form of punishment for not supporting shale development. The unit in which my property would be forced into will have a well pad located less than a mile from the Slope Creek reservoir dam. There have been documented cases of the fracking process causing earthquakes in Ohio. This is particularly concerning as possible earthquakes caused from this drilling site within such a short distance of the reservoir could compromise the dam's integrity and threaten those who live downstream, including my family. Certainly this is a violation of the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

When I first took up the battle many said: "you are wasting your time. You can't stop this industry because they have all the money and the power influencing local, state and the federal government." Fortunately, we did not listen to such defeatists; instead many concerned residents joined together in truth and achieved a great victory by stopping the radioactive fracking waste facility from being built a mile from our village. Our resistive efforts were among the first in Ohio, and we won!

Ohio and the United States government have failed to protect the human rights of citizens by allowing irresponsible oil and gas development to occur throughout North America. There is significant evidence to indicate the fracking has had adverse impacts on the people and the environment.

Fracking also contributes to furthering our climate change crisis with its methane, and VOC laden air pollution. With methane being many times more potent than CO<sup>2</sup> as a greenhouse gas, fracking poses significant threats to current and future generations. We need help protecting our precious water resources, air quality, our forests and all that lives and grows within them from the oil and gas industry.

**Exhibit C**

Testimony by Ray Kemble, Reviewed and Approved March 1, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Last Man Standing in Dimock

I, Ray Kemble, of 11081 State Rt. 3023, Montrose, PA 18801, have lived in my home for almost 30 years. On October 25, 2006, under duress, I signed a lease to frack my home.

The industry deliberately tears families apart. I came home one day and found that my significant other had signed a lease. We had bought the property together and worked very hard to renovate it. I never wanted to sign over the 7 acres we had, so the landman went behind my back to get my significant other to sign, and I was furious. We didn't speak for many months. My step-son pressured me to sign just to have peace in the house. I was the last person in Dimock to sign. I felt that I didn't have a choice. After I finally signed to lease my seven acres under duress, my significant other left three months later. The stress had been too much on our relationship.

By 2009, my water began to change. The DEP came to test it and found high levels of methane, determined to be of thermogenic origin. Cabot was issued a Notice of

Violation by the DEP. There were three documented spills by Cabot in nine days, and failed well casings were found. I joined a lawsuit when 13 water wells (<https://www.youtube.com/watch?v=az8IW6jH8SI&t=296s>), one of which blew up, were found to be contaminated in Dimock:

<http://www.nytimes.com/2009/12/08/business/energy-environment/08fracking.html>. Cabot began to supply drinking water to impacted Dimock residents.

Once the movie, *Gasland*, screened at Sundance and Dimock became famous for flammable water in 2010, we found evidence that the Pennsylvania government was conspiring to protect the industry and spy on residents. Pennsylvania Intelligence Bulletin #131 / ITRR / warned "owners/operators and security personnel associated with our critical infrastructure" about *Gasland* Screenings. James Powers, director of PA Dept. of Homeland Security accidentally sent a copy of PAIB#131 to two people subscribed to the Susquehanna County Gas Forum, thinking they were industry people. This revealed that the Commonwealth of PA was conspiring with industry to essentially spy on citizens, and report their movements to industry. The governor at the time, Ed Rendell, apologizes for the spying and states, "This is ludicrous. And I apologize to any of the groups who had this information disseminated about their activities. They have the right to protest."

As a result of the *Gasland* movie and because of the lawsuit and public outcry, the state promised to put in a new waterline to provide safe drinking water to impacted Dimock residents. Once the new governor, Tom Corbett, came into office, those plans were dropped: <http://thetimes-tribune.com/news/gas-drilling/dep-drops-dimock-waterline-plans-cabot-agrees-to-pay-4-1m-to-residents-1.1077910>. The money did not do anything to fix the problem or provide clean water.

The industry began a propaganda campaign in earnest, and in 2011, *Energy in Depth Marcellus* was created to sow doubt about the impacts of fracking and discredit researchers and citizens who complained. Their first target to discredit? Dimock! Here's just one example of what was written (author later received a lucrative job at Cabot): <https://www.energyindepth.org/marcellus/dimock-proud-enough-is-enough/>

Cabot continued to complain about having to provide water to Dimock residents, and by the end of 2011 water deliveries ceased. The actor, Mark Ruffalo, brought water to us and also more press, but it hasn't helped us in the long run. I refused to take the company's water filtration system and still maintain a water buffalo. I lost business at my garage because I joined others in a lawsuit against Cabot and supported myself by driving the water truck for the industry:

<https://stateimpact.npr.org/pennsylvania/2011/12/21/dimock-in-the-limelight/>

By 2012, the EPA had delivered water to Dimock, but the industry stepped up its propaganda campaign and produced the movie, "Truthland," to discredit us, and EID produced, "Dimock Proud." By this time, I was upset and stressed most of the time. I was unable to make a living doing what I do best, repairing cars, because of the unpopular stance I took against the industry. I was targeted, as well as my attorneys. By the end of 2012, my water had changed again, and I reported the spills to the NRC (#1033706). My water was green-yellow and looked gelatinous:  
<https://www.youtube.com/watch?v=qls7WydAF7Y>).

Cabot is providing water to some of my neighbors, but not for me and the other 19 people who were part of the original complaint against Cabot that were forced into settlement. Julianne Skinner, a Montrose borough council member at the time, was a friend of mine, and was opposed to the borough wanting to move the hydrant. They issued memo's in which me and my neighbors were called names such as the Dimock hooligans, the "pirates" of Montrose water. The borough was getting money from the industry, so my friend was forced off the council because she wouldn't do what they wanted. The Montrose borough sold the water to PA/American water. John Hangar was the secretary of the DEP, Scott Perry was the director, and they held a huge press conference at the Dimock church, where they read off the charges against the industry after the Gasland movie release. It was shortly after that Governor Corbett cancelled the water contract, and the new pipeline to bring Dimock water was removed.

By 2013, we learned from an attorney for two conservation groups that he uncovered evidence that top Obama administration officials interfered in U.S. EPA's investigation of water contamination from shale drilling in Dimock, Pa., out of fear the inquiries would hurt President Obama's re-election chances:  
<https://www.eenews.net/stories/1059985281>

In 2014, my well water changed again:  
<https://www.youtube.com/watch?v=9g8lcGnexUI>. By this time, I am totally stressed and fed up as you can tell from the video. Throughout 2014 we continue to complain and document - we even go to the United Nations with the Sisters of Mercy. Nothing came out of any of our efforts to fix our water or to be compensated for the loss of our home values and quality of life.

In 2015, we were able to testify to the EPA Scientific Advisory Board (SAB) to refute the previous finding that there was no, "widespread, systemic damage to water" done by fracking. While I testified at the hearing in Washington DC, someone shot out the windows in my house on 10/29/15. Through the first half of 2016, we continued to testify and provide evidence to the SAB. As a result, the EPA SAB sharpens criticism of fracking report and issues the statement: "The SAB finds that the EPA did not support quantitatively its conclusion about lack of evidence for widespread, systemic impacts of hydraulic fracturing on drinking water resources, and did not clearly describe the

system(s) of interest (e.g., groundwater, surface water), the scale of impacts (i.e., local or regional), nor the definitions of 'systemic' and 'widespread,'" the report said. For the first time, the SAB also raised the possibility that the EPA might want to rethink its headline conclusion.

Throughout 2017, the industry stepped up its propaganda campaign and lobbied the PA government through its, "Think About It," program. My water changed again, which I reported in September 2017. In October, the ATSDR issued its report of elevated methane in my well water, and I still have not received the results of testing of other contaminants.

We went to the PA Attorney General, Josh Shapiro, who investigated the 200 people who were interviewed all over the state with fracking complaints. We found that there was a deputy assistant AG, who worked with Cabot's attorneys (who?) who said they cannot make a referral to the AG. He said that he needs a complaint from the local county district attorney, and we hope someone will step forward. We had a good one, but he passed away from cancer. The assistant attorney for the AG's office actually works out of the industry's lawfirm, Blank Rome, out of Pittsburgh (<https://www.blankrome.com/offices/pittsburgh-pa>). When you have corporations running your government and legal system, you have no rights.

Last August, the sheriff came to my door with a stack of papers 9" thick to sue me for \$5mm which I don't have, so they sued someone who is judgment-proof. The news story was broadcast all over the world. I was sued along with the Speer Law Firm. <https://www.desmogblog.com/sites/beta.desmogblog.com/files/2017-08-07%20Cabot%20lawsuit.pdf>. Speer did things I would have done differently, and I was let go as a client, but I was still sued along with them: <http://naturalsociety.com/cabot-oil-sues-dimock-pa-resident-speaking-out-against-fracking-1571/>

During the first hearing of this lawsuit in December 2017, Cabot claimed that they gave me a small settlement for contaminating my property, which invalidated all my rights. The media and witnesses to the hearing could not believe that the industry could be so arrogant as to assert such an outrageous claim.

I have been threatened, vilified, attacked, discredited, disrespected and shunned so much that you cannot imagine what my life is like here. The only thing that keeps me going is my efforts to help as a spokesperson so that the industry can't do this to others. I have been diagnosed with three different forms of cancer and broke my back. I have to walk away from all of this for my health. I have to sell my personal possessions to pay bills and to hold on to my house because of the lawsuits. We have industry-directed government throwing the people under the fracking bus for money. We are disposable - collateral damage in the quest for gas, oil and money.

The industry wants a permanent gag order and injunction so that I can never speak against the industry or about what has happened to me again. I was a patriot, believed in my country and paid my taxes. My grandmother was a Dody, one of the first families to come over on the Mayflower. My family was proud to be Americans. Now I've lost everything including my brother, who I found dead in October 2016. I believe he died because of all the stress of living around here. I still have his funeral bill to pay. I try to sell my possessions. Local people take advantage of the situation because they know I am hard up and have to sell, so they only want to give me a penny on a dollar. The doctors around here pretty much know what is making people sick, but they can't speak out because of Act 13 and the fact they do not want to be targeted by the industry and tied up in court. The local hospital is given money by the industry to stay silent. So are the local emergency crews, who oblige the industry by keeping their sirens silent while responding to industry incidents.

I have been two weeks without water. I only have 75 gallons left in the buffalo. Pennsylvania American Water will not fix the hydrant, so I had to pull it myself and pay for the parts to do so.

I tried to sell my property and tried to get a realtor to list it just to sell my garage as a business, but no one will pay to buy my property - it's worthless.

I just want out of here. I have dreams of leaving and never coming back, but I have no money to even keep up the house. I had to go on disability, and there's not enough money to pay the bills, let alone to leave everything and start over. Now I live in a worthless house with water I can't drink or even bathe in safely. My health continues to decline while I live in the house. When I leave the house, like I did recently to travel to Florida to provide testimony against fracking, I feel much better. When I return, I get sick again. Now I have no water, and I have fought and told the truth for all these years without any justice. Our government is not just corrupt, it is criminal.

Additional information:

**Cabot Oil + Gas v. Ray Kemble. (Rich Raiders, atty.)**

Cabot is suing Ray Kemble and prior attorneys, Speers Law Firm, seeking civil damages and legal fees from Kemble and Speers claiming Kemble has disparaged Cabot with speech, and violated terms of secret settlement agreement, and that a 2017 federal lawsuit filed by former counsel, Charlie Speer, was frivolous. Kemble says he is speaking only the facts of how his water was contaminated by drilling and fracking. The problem has never been fixed as required by Pennsylvania law (The Oil and Gas act of December 19, 1984 (P.L.1140, No.223), guarantees citizens the right to have clean water free from impacts from gas drilling). Ray is seeking remedy and redress of grievance, and seeks protection under PA Anti-SLAPP law

<https://www.youtube.com/watch?v=TeNT3YGr-VY>

> Cabot v. Kemble 2017-936-C

<https://www.desmogblog.com/2015/11/03/landowners-dimock-pavillion-parker-county-demand-inclusion-epa-national-fracking-study>

<https://www.pressconnects.com/story/news/local/fracking/2015/11/23/promise-fracking-lessens-pennsylvania/76052604/>

Additional information: <http://baltimorepostexaminer.com/frackings-horror-stories/2017/02/28>

## **Exhibit D**

Testimony by Ron Gulla, Reviewed and Approved February 2, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Still Fighting for Justice

I, Ron Gulla, and family now live with my mother after losing our farm at 29 Gulla Lane, Hickory, PA due to fracking and the frack gas lawyers and landmen who represent the industry. I was experienced in the conventional oil and gas industry and had a good job in heavy equipment sales, but in 2005, my life changed for the worse. 12 years ago when I signed a lease for my farm that would be fracked, I believed the landman who said that we would get 350,000 cubic feet of gas a year for free. They said it would be vertical wells and dry gas, and that was in the lease, and that was a lie. It was a contract that was misrepresented, but that didn't matter. Once all the exemptions were implemented, the lease should have been renegotiated. When I pointed this out, to my lawyers, they didn't follow through to void the lease. I had no idea that environmental regulations had been dismantled to allow the industry to pollute with impunity, and that I would

have nothing to say about what happened to my farm and family. All my neighbors were defrauded of their quality of life when they signed. If we would have known what was coming, we would never have signed.

In our area, Bob Capouillez, a consultant for Geological Assessment Leasing, wrote and gathered leases as the “middle man” for the fracking industry. Bob had a conflict of interest and advantage to promote fracking because he also worked for the PA Game Commission, which he never disclosed, which also gave him access to property information, and worked with the Farm Bureau as well ([http://lancasteronline.com/news/local/william-capouillez-shocked-and-disappointed-by-objections-from-gov-tom/article\\_75beab56-aada-11e3-a365-001a4bcf6878.html](http://lancasteronline.com/news/local/william-capouillez-shocked-and-disappointed-by-objections-from-gov-tom/article_75beab56-aada-11e3-a365-001a4bcf6878.html)). Bob became a multi-millionaire by bundling leases and selling them. I was only paid \$7.50 per acre for my farm, which was worth \$6K to be leased later. Bob took money off the top for all the leases and even a percentage of royalties. He was taken to court, but was let off the hook. Once we were signed, we were unable to get Bob to help us with any of our questions, concerns or problems later on. No one ever described the difference between unconventional and conventional drilling, so there were many shocks and surprises to come for all of us when the industry actually began operations.

Bob leased my farm for Range Resources, who operates by ignoring people or bullying them when they cannot be ignored. At the beginning, the PA Department of Environmental Protection (DEP) used the same industry tactics as an arm of the industry. The Mt. Pleasant Township supervisor (Larry Grimm) actually told me that the DEP told them that their mission statement was to promote fracking in PA. For instance, in 2006, I met with Sherman Richardson of the DEP on my farm after many complaints. Sherman did not leave his vehicle as I described the problems I had encountered already.

- 1) A total siltation of my pond due to runoff with the silt fences flattened down completely.
- 2) Mill slag dumped on the property.
- 3) Access roads were not seeded, limed or fertilized to restore.
- 4) No plans to avoid soil erosion implemented.
- 5) Employees defecated on my property repeatedly, even leaving toilet paper (I was told was an OSHA issue when I complained to the DEP).
- 6) A fish kill in my pond due to siltation and pollution.
- 7) So much run-off and siltation that my asphalt driveway was covered and well water became muddy.

Sherman agreed that the location road was a real mess and difficult to drive through. He complained to me that he was over worked and that the DEP was under staffed. Sherman said he would look into the obvious problems, but no relief or assistance was provided. My neighbors experienced many problems of a similar nature.

In July 2006 after the vegetation in my 2.5 acre pond died, and the pond water became dark and brown. The stream leaving the pond was totally black on the bottom. I showed this to Range Resources and the DEP, and they had no answer for the die-off or the discoloration of the pond water and stream bottom. I observed that at the location site of Gulla wells 3 and 6 that there was black fluid coming from the toe of the well pad and running directly into the pond. The flow pit for #6 was leaking, and the pit remained full and overflowing for several weeks before they were pumped out. When I called Range Resources to test my pond to see what had contaminated it,

they said it was no use because there was nothing they could compare it to. No baseline testing had been done of the pond, and this was the usual excuse to refuse to do testing by both the industry and the DEP, even though the pond was obviously degraded. The Range Resources contact did admit that he thought the liner had leaked, but no remedy was offered.

I called the DEP about the contaminated pond, and they sent Mark Keil as Sherman's replacement when Sherman became seriously ill. I met with Mark several times to document the damage to my property and pond because of fracking. Even though he walked my property repeatedly, Mark could never determine the source of the contamination, but he did say that my property was, "a textbook case" of what not to do. Mark created an album full of pictures of my property which was reviewed at DEP meetings. I repeatedly showed Mark the contamination and the erosion, and the poor construction that caused failure in the field, and where the Universal frack trucks spilled acid and chemicals all around my property. In September 2006, the DEP finally sampled my pond water. In January 2007, I received a letter in the mail from the Sherman at the DEP that stated that the pond contamination was not a result of drilling practices.

In May 2007, there was a fish kill in the pond from all the silt and contamination (it had happened before the year before). I complained to the Mount Pleasant Township Supervisors and the local agriculture extension office because I knew it would do no good to complain to the DEP. No one would help. They all told me to contact the DEP.

In July 2007 I was on Gulla #9 pad taking pictures of the damage done after Patterson drilling moved out their rig. Sherman happened to drive to the location, and I complained to him about the letter denying that drilling caused the pond contamination. I stated that the testing was inadequate because only the surface water was tested and not the pond sediment. Sherman said he was not authorized by the DEP to test the sediment and that he was told what to say in the letter by his supervisor. I told Sherman I wanted a meeting with his supervisor, but never spoke to him again. I found out later that Sherman had passed away.

In August 2007 when I was driving up my driveway along parked frack tanks, my mom and I observed fluid coming out of a pipe on a tank. Someone had unscrewed the plug at the end of the flow pipe on the tank, which was going onto the ground and running into the stream. I called my contacts at the DEP repeatedly, but there was no response. Sherman had passed, and Mark said he lost his cell phone, and it took him eight weeks to get a new one(?)

In September 2007, Mark brought Vince Yenko, Sherman's replacement, to my farm for an introduction. Mark stated, "Wait until you see this place, and after this there is another location messed up on Gulla #5 at Alexander's farm." This was where Gulla #5 spilled fluid from flow pits into a stream that flows into the Alexander's property. Vince said that Range Resources are the worst group of people he has ever seen in the industry, and I stated that I have experienced the worst nightmare of my life. I told him about how my family and property had been disrespected and lied to. Vince observed how workers just threw their garbage in ditches on my property. When I told Vince about how I couldn't get any relief working with Sherman, Vince told me that Sherman was a convicted murderer with the nickname, "Hatchet Jack." How could Sherman get a job with the DEP working with landowners?

I called Vince numerous times after we were introduced. Vince stated there were so many problems he couldn't keep up with them. The contamination and destruction of my property continue to this day. Range Resources even pumped contaminated water from my pond to a neighboring pond for fracking purposes. Range Resources told neighbors that the frack ponds were lined with plastic lines for protection, but they were not. My garage was even broken into by a rig hand who stole my equipment.

Because of the lies and the damage done, my wife and I sued Range Resources. It was very difficult to find attorneys who would take our case because most of them worked for the industry. When I finally found attorneys to take my case, Burns, White & Hickton, I was treated with disrespect, lied to, and overcharged. When my assigned attorney left to work for the Oil and Gas industry, the replacement attorney bullied me and told me I didn't have a chance against Range Resources. I learned later that Attorney White was personal friends with a Range Resource's attorney named Robert Lambert. Burns, White & Hickton actually botched discovery so we lost in court. I could have a malpractice lawsuit against this law firm, but cannot find a law firm to take this case. I found it to be impossible to find a law firm that will sue another law firm. After the terrible experience with Burns, White & Hickton, I was even offered another \$75K to settle and wouldn't do it because it isn't right. I retained another law firm, Noah Geary who took \$11K without doing anything except lie and try to get me to settle. Then I went to Myer, Unkovic & Scott that took over \$100K of my money while not disclosing that they also represented the frack drilling company, EQT and a liner company that serves the industry.

The industry lies to everyone. My neighbors and township supervisors have all been lied to by the industry. There is no relief through the regulatory agencies and even the courts. Now people are getting sick because of all the pollution. I developed a fissure below my nose and experienced joint pain, but after leaving the farm, the ailments cleared up.

My family and I now live at my mother's house to get away from the industry. My farm is totally worthless. I was forced to settle out of court, and I was baited with another property that actually had mineral rights already leased. The Range land man, Mark Hanesagan, recommended I talk to Bill Matthews of Howard Hanna, who said they would do the title work to insure the property wasn't leased, but they didn't do it. Bill actually lied under oath that I did not request a title search, which I repeatedly did. I now have a lawsuit against Howard Hanna because they did not represent me when I was offered another farm I thought would be frack free plus they forced the sale of my farm to Range in court, and I could not get out of the sales agreement. I thought I was lucky that I was able to get Range Resources to compensate for my farm so I could purchase another one to keep my family safe and healthy, but I was deliberately deceived by a real estate company that is known to work for the industry. The industry has made promises they did not keep and told me lies, but of course, they make sure there are no witnesses while doing so. I wanted to leave my farm so badly to go to another farm they offered me, but it was leased, they didn't tell me, and only used it as bait to get me to sign off on my farm and leave.

I am now represented by Galanter Tomosovich, in Pittsburgh for the way I was defrauded by the realtors who were working with Range Resources to bait me with another property and get me to settle with Range Resources. My lawyer said that there isn't any justice so I have no idea whether the money I am paying them will do any good.

I had heart palpitations which I believe are stress-related and anxiety which is caused by the industry because of what they have done to me and my family, but how do I prove damages? I have friends who have died of rare cancers after living near the industry – how do we prove that they did it?

The industry has lawyers on staff; we have to pay out of pocket to protect ourselves. Even if a settlement is granted, there is a gag order so we never know how others fared. I know the family that the fracking industry even had their children gagged in order for them to get enough of a settlement to get out of harm's way. The industry has purchased research to promote their propaganda, and even the EPA had to retract their original assessment that fracking didn't contaminate water to tell the truth about widespread impacts. This keeps the public from knowing the true harms of fracking.

I have travelled to many different states to warn people about fracking and have been interviewed by over 20 foreign countries. I have testified to the Science Advisory Board of the EPA as well as the Chartered SAB. I have spent over \$170K for lawyer fees and lost even more money in capital gains by having to sell my farm and equipment. Range still owes \$70K for taking water from my pond and for a pipeline they put through my property. My net worth is cut in half because of fracking. My home life has suffered as this is a tremendous strain upon me, my wife and children. Our legislators, former governor and even employees of the DEP like Mark Keil serve the industry in order to get jobs with them later. Fracking is the only industry in the US that is exempted from important environmental regulations. No one ever told us that when we signed on to be leased for fracking. It would not have occurred to us at the time to even question what we were doing. We have lost money, we have been made sick, and we can't get away from the destruction and pollution of the industry all around us. I lost my job in the heavy equipment industry because I was let go under false pretenses. I know it was because I complained too much about the industry. Now I am working for Damascus Citizens when funded to take health surveys from impacted people (even those from the industry), living with my family at my mom's house. Even though we have been harmed, I will never stop telling the truth about fracking to anyone who will listen to hopefully help others avoid the terrible experiences I continue to endure.

More information:

[https://www.youtube.com/watch?v=2Vqi0\\_p1APM](https://www.youtube.com/watch?v=2Vqi0_p1APM)

<https://www.youtube.com/watch?v=8mwYZRojQCs>

[https://www.youtube.com/watch?v=\\_TrJKVNxNPM](https://www.youtube.com/watch?v=_TrJKVNxNPM)

<https://www.youtube.com/watch?v=GziO4bqMK48>

“Ron Gulla, a landowner in Washington County, Pa., continues to battle the oil and gas industry in court over fracking. He said his pond turned black after a fracked well was drilled on his land in 2005. He has since moved to another home but remains in litigation.

Gulla said he complained to state and federal regulators but there was little follow up.

Before the report's final conclusion today, Gulla said neither agency protected him.

"We were all on our own and we cried out and we cried out," he said."

<https://www.marketplace.org/2016/12/13/sustainability/epa-reverses-stance-fracking-drinking-water>

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## **Exhibit E**

Testimony by Vera Scroggins, Reviewed and Submitted February 14, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: I want to be a Full American Citizen Again and not be under a Permanent Injunction That Restricts my Travel on Public Roads in my County

I, Vera Scroggins of Brackney, PA, feel that I have to leave my home. I have put applications in to New York across the border for senior subsidized housing. I have put in 10 years of educating people about the harms of fracking. I have to keep a balance so I don't get ill and become incapacitated because I have seen that happen to others. Today, I have been calling all morning to help a friend, Ray Kemble, to get water, and I cannot get any local or statewide agency to help. They say it's a political issue, and they do not use Act 13 money which is earmarked to help impacted individuals, and so far, nothing has materialized. Some say they will make phone calls. Our county commissioners tell me others to call, so people are on their own against this monstrous, toxic industry. If you stand up against it, they try to squash you and punish you. No one is helping, so what do you do when you come across every wall. Those who claim that they

would like to see the gas industry leave, they are very afraid to act. I called Congressman Matt Cartwright who is supposedly against the industry, and someone from his office called back to help and is trying but no help yet.

We were misled, and we were lied to from the beginning, and we are left to clean up. I started as soon as I saw the first gas drilling rig shown me by a friend in Dimock. It started on the Teel farm, and the Ely properties in 2008, and I was shocked. I had not heard about the industry and didn't know it was coming to our county or that it would even be a possibility to actually drill on farms and put a rig so close to people's homes within 300 ft. It was obviously wrong, so I decided to document. I like to do photography, video's and write, so I began making inquiries to the agencies like the DEP. I talked with many people. I started being taken by my friend, Susan, to homes where people started complaining that their water had changed, and they couldn't drink the water, their animals wouldn't drink it, and they were made ill. Of course, that was shocking and appalling. Even more so, when we contacted the gas companies and the DEP, I was also shocked that they found very elevated levels of methane and heavy metals. Water had to be delivered to many homes in that area. Eventually the DEP admitted but it took them awhile, but the determination letters took years to get to public notice.

The public list now of DEP determination letters, 301 now that we are up to. There are sites in PA that are now taking frack waste. My county has waste impoundment ponds.

I started doing gas tours for people who contacted me in 2009, and by word of mouth, the tours began to escalate through 2013. I've done hundreds of tours for thousands of people from all over and five different continents. I've done residents, journalists, media, legislators, and farmers. Besides giving testimony at different hearings, I contacted Cabot about what I was doing to inform them. Cabot requested a preliminary emergency injunction from the County judge to keep me away from their property in 2013. I had no attorney at that time. I was given a notice on a Friday when the sheriff came, and I had to appear in court on that Monday. I asked for a continuance because I couldn't find an attorney in time, and the judge refused (Judge Seamans, who is pro gas and has leased property in his family's name). The judge should have recused himself, but instead, he ruled against me. Cabot claimed I trespassed 12 times, which I never passed a No Trespassing signs. By this time I was doing up to four tours a week to respond to a need and a request for education. I would get calls and requests all the time for tours. This was not my idea, but just a response to many requests, some from people who have heard from the industry and want the other side of the story. Many of the times, we would visit a site, that was open, no gates, and the supervisors and employees would talk with us because we were also polite and professional. We would ask questions and never be threatening.

When Cabot received the preliminary, full injunction, I was unable to go on any inch of their leased properties, so I was prohibited from business and personal properties, which was about 40% of my county, and business or residences leased and occupied by Cabot. So that meant I couldn't even visit some of my friends on their properties. I couldn't go to a store or even the local hospital that was leased by Cabot. When the judge signed off, he couldn't see that this was the most ridiculous and far-reaching thinkg to do to a citizen or a resident.

During that time, I had to be very careful. Before I went anywhere, I had to think it all through. My friends were all in shock. Someone mentioned a civil rights attorney I should call because I could barely function in my normal life. Every place I would go I had to think about. I talked with Attorney Gerald Kinchy, who was a civil rights attorney, who was anti-fracking and had moved from PA to NY to get away from the industry. Attorney Kinchy was appalled at the degree of violation of my civil rights agreed to take my case and filed motions to vacate the preliminary injunction. I received calls from the ACLU in Pittsburgh and Public Citizen in D.C. about my case who also asked to join my case, so they joined the case to oppose the injunction as a violation of my civil rights. We filed motions in November and December of 2013. It took until March 2014, the court issued a modified preliminary injunction so that I could step onto Cabot property but could not be within 100 ft. of an installation, which I interpreted to be a well pad, plus their access roads.

Cabot continued to fight for a permanent injunction and filed that motion in September 2014. Meanwhile during this time Guardian in the US did an article on me and visited me to learn about what had happened. This became international news from Guardian that a US citizen had been restricted like this. Article was published 1/29/14, <https://www.theguardian.com/environment/2014/jan/29/vera-scroggins-fracking-activist-pennsylvania>.

In October 2014, Cabot filed another lawsuit for civil contempt of the March 2014 order, in which they claimed I was within 100 ft. of an access road of theirs. I was doing a tour and I stood with a group by a driveway, which they called an access road. I had permission from the owner to be on the property next door to this driveway, which was about 30' of the driveway, so had no idea the industry called it their access road, which was a private driveway to a person's house and also led to two gas wells on this person's property. We went to court for another hearing and have been to court nine times so far. The same judge, Judge Seamens, has heard our testimony and heard that it was not intentional, which was important. Because it was totally unintentional, the judge decided it was indirect civil contempt, so there was no punishment. The basis should have been upon the fact that I was standing 30 ft. from the private driveway, so the pad that I thought I needed to be 100 ft. must have been part of any installation, which Cabot includes their access roads, even if a private drive.

In November 2014, the judge ordered the permanent injunction which validated the March 2014 modified temporary injunction to stay away from a well pad by 100 ft. By this time, my life has become surreal, and it feels like I am in the Twilight Zone. By December 2014, my lawyers filed to vacate this order, so the court vacated the order 12/11/14.

In February 2015, Cabot filed another contempt order on me. During this time, I do many things to help me keep my focus and to remain empowered to keep my spirits up. It's become more of a struggle, of course, but it is what it is. This has impacted me financially as well. Sometimes I receive donations for tours and I get taken out to eat or receive money for gas. But I do this work mostly on my own and I am on fixed income, senior citizen, on social security.

My children have become upset about my involvement – even embarrassed. I have three adult children who have resented my activities, and my one daughter changed her last name not to be

associated with me. I have been vilified, defamed and libeled. My grandchildren have been bullied in their school and they lost friends because they were connected with me. My two daughters and their children left the county. There were two businesses my two daughters ran, and they had difficulties because of my involvement. This has torn my family apart, but now it is not so bad because more people are realizing how harmful the industry is.

I have been threatened on my Youtube channels that I would be harmed. I have a Youtube channel with hundreds of videos of my experiences. I have been run off the road while I am walking my dog. While doing my tours outside, the gas trucks will intentionally emit black smoke from their trucks as a protest to our protest. I never know whether my dog will be killed – that has happened to others. Some people have had their tires slashed. I sometimes wonder what I might come home to. I live alone, and I am afraid. I have had the gas workers and neighbors lie about me where I am to get me in trouble. People make fun of me and call me all sorts of names. The industry has written articles about me that are full of lies that are in print to discredit me. Here is just one example: <http://naturalgasnow.org/vera-scroggins-law-just-contempt/>.

Eventually, the courts handed down a permanent injunction with all kinds of restrictions such as 100 ft. from all their installations. I have all sorts of instructions about what I cannot do in my car. If I am walking past their sites, I can only come up to 25 ft. of their access road. So I am even restricted on public roads. I have to park 100' away from Cabot access roads on public roads. There are about 100 access roads in which I have to watch where I walk and where I park. My lawyers could not do better than that. I have asked to go in front of a jury so I could prove that I am not a threat or a trespasser. I continue to question how my civil rights could be lost like this and am now very disappointed with the legal system. I discussed Judge Seamen's conflicts of interest, but have been told it could be worse if you recuse a judge. They say nothing can be done about conflict of interest because he was not leased to Cabot but to another gas company. My case has become too much for ACLU and Public Citizen, and I see that even they are limited in their ability to help us.

The country as a whole has been taken over by corporations. Our elected officials are either engaged in the industry themselves or are afraid of them. In the beginning, I was more reactive, but now I am more polite and respectful and that seems to do a little better, but it still doesn't convince people to come out against the industry. Some people will agree with our complaints, but they won't come out publicly about it. They are afraid for their jobs and their lives and being dragged to court. Most of the people who were activists and harmed went underground. They even had more money, but that meant they had more to lose. There are many people who have had to sign gag orders for settlements, so they can't speak out. This is not a free society with this kind of fear and control.

I was born in Germany a few years after the war, so I have a WWII mentality. My parents went through the war in Europe, so I know about the Nazi's and the devastation of Europe, so I see the fear of the residents and the silencing of the people and the punishing of the people by the fracking industry as very similar to tactics used by Nazi Germany. For those who could never understand how someone like a Hitler could come to power, those of us who have witnessed the frack industry make whole populations succumb can understand the dynamics. The industry uses propaganda and fear tactics to make people look the other way out of fear.

I have given the Sisters of Mercy from the UN a tour. They were shocked. I don't know what has come from that. I know people have testified to the UN, and yet, the industry continues to bully people and get away with poisoning people and the environment.

There are so many times I have given tours to pro-gas people, and even when they see the pollution and destruction, they still support the industry. That's because it's not next to their home and doesn't affect their water wells. They can't see beyond their own personal life and personal connections with the industry.

I have to go to court the end of this month on trumped up criminal charges about trespassing, and I don't have a lawyer, so I have to represent myself.

I am a naturalized citizen since I was born in Germany. I am an American. I want my rights back.

Additional Information:

(please add links to information and video's you want to share with the tribunal)

#### HISTORY:

Cabot has a permanent injunction against Vera arising from 2013 claim of trespass. Cabot claims Vera is a "serial trespasser", but has *failed to the most basic, necessary elements in even in one single case:*

- a) Any documentation (e.g., Lease or Deed) showing Cabot has ownership or possessory interest.
- b) Any police records supporting a history of trespass
- c) Proof of proper notice (signage, physical barriers)
- d) Any harm to person or property caused by Scroggins
- e) Proof that Scroggins remained after being asked to leave

The prior court failed to take note of the ROLE OF PROTECTOR Vera plays, in documenting the actual harms the Oil and Gas industry is causing to our communities, that her presence has a PUBLIC SAFETY BENEFIT, in that Vera has filed dozens of complaints with OSHA, PADEP, and other agencies resulting in Violations, Fines, and Operational Changes.

The permanent injunction against Vera is Judge-made law restricting Vera's natural movement: requiring Scroggins to stay 100'ft from any Cabot site, and 25'ft from any Cabot Lease Road. Cabot has failed to give any map of Cabot properties or leased properties. Cabot has sent no-trespassing landowner letters, all the same, with the new landowner's name with property tax ID numbers totally about 60 letters since 2014. Cabot approaches the landowners and asks them to sign and tells them Scroggins is a serial trespasser.

The lower Court was AFFIRMED upon Appeal.

NEW CHARGE: CIVIL CONTEMPT: as of Dec. 15, 2017. I went to court hearing for this contempt charge on Feb. 7, 2018 and waiting for Judge's order; he found me in "wilful contempt"

Also, new Criminal Charges of trespass as of Jan. 31, 2018.

Since the injunction, Vera has taken great care to follow the injunction. She still gives tours, but is very careful to not stop near Cabot sites.

On Nov 28, 2017, Vera was with a documentary filmmaker near two Cabot sites. There were confusing signs, which read: "ALL TRAFFIC MUST TURN RIGHT", which led to a Cabot Lease Road.

NEW CHARGE, as of Jan. 31, 2018: Pa 18 sec. 3503(B1i) Defiant Trespass, Actual Comm:

§ 3503. Criminal trespass. (b) Defiant trespasser.-- (1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by: (i) actual communication to the actor

**and**

§ 5503. Disorderly conduct. (a) Offense defined.--A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he: (4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Submitted by: Vera Scroggins : [www.verascrogginswaterdefense.wordpress.com](http://www.verascrogginswaterdefense.wordpress.com), [veraduerga@gmail.com](mailto:veraduerga@gmail.com), [www.youtube.com/user/veraduerga](http://www.youtube.com/user/veraduerga) , 607-237-9685, Susquehanna Co, PA.

## **Exhibit F**

Testimony by Leatra Harper, Reviewed and Approved February 27, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: The "Crazy Environmental Lady" of Guernsey County

We found our small home near Seneca Lake during a tough time in the family, and it became a gathering place where family and friends came from many miles away to enjoy the lake and our neighborhood gatherings. We made many great memories during the 10 years at Seneca Lake, but all that was wiped out by fracking.

In 2010, we were making plans to add on to our home for our retirement. That's when our daughter said we shouldn't invest in the area, because they were going to frack all around. We asked, "Fracking – what is that?" We had no idea what was coming, nor did many of the people we knew in the area, but soon enough, we began to hear more about us as people all around were approached for leasing. Our two parcels weren't big enough to be leased, but our neighbors were

leased for their two parcels right next door. We had neighbors who became our good friends who had more acreage, and we warned them that the frackers would want to lease them. We presented the fact to our neighbors that fracking is exempted from important environmental regulations that every other industry in the U.S. must follow. That told us that there was something fundamentally wrong with the industry – if fracking was so safe, why would it need environmental exemptions (called the Halliburton Loophole) in order to operate profitably? Despite our warnings, our neighbors signed with Carrizo. When we found out, we broke off our relationship. We warned them about trihalomethanes in the water. I will never forget when our neighbor (who had a home in Washington, PA) told me that was what he believed gave his mother cancer. So I asked him if TTHM's were so bad, why would he allow his family to be exposed? Now there are TTHM's in the drinking water in Guernsey County which could be a result of the brominated compounds from the fracking industry getting into the source water. Even those people with city sanitized water are not guaranteed safe drinking water in Southeast Ohio.

One of the first realizations I had about how the fracking industry operates on propaganda and intimidation were the ads, billboards and articles touting America's "safe and clean energy future." Fracking is now intended mostly for higher-priced export markets as SE Ohio gets turned into a resource colony while huge frack gas pipelines take private property through eminent domain to LNG facilities for export.

We lived in what is called a "conservancy district." It is a quasi-corporate-public entity created by statute, ORC6101, for "recreation, conservation and flood control" back in the 1930's. There are a few conservancy districts in Ohio created to protect public resources, and we lived in the largest one, the Muskingum Watershed Conservancy District (MWCD), which occupies about 20% of Ohio's land mass and has dominion over many large reservoirs created by dams built and maintained by the US Army Corps of Engineers. We were intrigued by the concept of a conservancy district, thinking that was why there was so little development and the reservoirs were protected, because the MWCD was the caretaker to the extent that people who had homes on the reservoirs couldn't even purchase the property they were built upon – they had to lease from the MWCD which had its own law enforcement. In 2005, the MWCD even obtained the ability to tax property owners in the district, despite lawsuits and the protests of over 50,000 property owners. We certainly never thought the conservancy district would allow fracking of the reservoirs – we were wrong! In fact, the MWCD immediately embraced fracking, and became the major force in the proliferation in the area, leasing land to be fracked and agreeing to sell water from the reservoirs to support the industry that now on average requires 10 million gallons of water each time a well is fracked.

When we first learned of the MWCD's plans to frack, we simply thought they just didn't have all the facts, so we testified at Board Meetings with the facts about the damage done to the environment and public health by fracking. This was my first experience of how an invested property owner could be totally ignored, marginalized, trivialized and ridiculed for opposing the system. I was one of the few to oppose fracking because people simply didn't know about it. The industry moves quickly and only talks to land owners through independent agents, telling people not to talk with their neighbors so they can get the best deal, For those who resist and ask questions, they are threatened with being left out. When a huge organization like the MWCD that

has been in existence for over 70 years embraces fracking, most people believe it can't be bad – why would a conservancy district frack if it would degrade the property values and the “recreation and conservation” that the district was mandated to protect? We began a Facebook page, the Southeast Ohio Alliance to Save Our Water from Fracking” to provide people with the facts about fracking and keep them apprised of the industry moves in the area. We paid a great deal of money to alert people to the harms of the fracking industry by sending out mailings and hosting meetings.

Despite our warnings and the fact that we provided a scientific paper to warn of the harms of fracking, especially to frack beneath a reservoir needed for a drinking water source like Seneca Lake (used for drinking water in 2011 during a period of drought), the MWCD proceeded to invite and promote fracking into the district. We testified repeatedly and paid \$3K for the report that was totally ignored. The MWCD used taxpayer money to pay for industry-friendly reports to support their decisions, instead. That's when we began a protest campaign against the MWCD and launched our small non-profit, the FreshWater Accountability Project (FWAP). We organized protests at MWCD Board Meetings and testified repeatedly to the annual Conservancy Court to no avail. We were totally ignored. One year, we weren't even allowed to testify. In 2016, we paid another \$3K to FracTracker to issue a report to warn the Conservancy Court about the harms to the entire Muskingum River watershed because of the lack of protections and regulations for fracking, frack waste and massive water withdrawals to an entire region. That report along with in-person testimony from Ted Auch of FracTracker the previous year were also totally ignored.

We also held information meetings, but in our first meeting at the Guernsey County library, the industry representatives came to discredit us and threaten us. We were so frightened by their threatening stance that we waited for them to leave before us so they would not see what car we were driving. Someone even called the Guernsey County library manager that he should not allow us to have our information meeting. He told us about it. We felt it was in

By 2012, our daughter, Leslie, who worked for FWAP, would travel to Columbus to testify against SB 315 to support fracking, and we began to realize how the MWCD, the ODNR and other public entities such as Port Authorities and private entities such as local Chambers of Commerce with local and state-elected public officials fully embracing the industry and its claims of jobs, which turned out to be vastly inflated (one such study cited here: [https://aede.osu.edu/sites/aede/files/publication\\_files/Response%20to%20The%20Ohio%20Shale%20Coalition.pdf](https://aede.osu.edu/sites/aede/files/publication_files/Response%20to%20The%20Ohio%20Shale%20Coalition.pdf)).

We hired an environmental attorney, Terry Lodge, of Toledo, Ohio to help us. Terry was the only attorney we could find to take on the industry at the time. Terry provided testimony to the MWCD, filed complaints with the ODNR, initiated lawsuits to ask for the courts to take Declaratory Action because the MWCD was the only conservancy district in Ohio to frack (the next largest conservancy district, Miami, actually lobbied Columbus to protect themselves from injection wells). We asked the courts to force ODNR to implement regulations for fracking, and corresponded with Army Corps. We had a meeting with the Army Corps at their headquarters in Cincinnati to question them about their failure to protect the watershed from fracking. We warned them that if they break it, they fix it. We laid out the industry's playbook about how the

LLC's planned to pollute with impunity and leave Ohio taxpayers to clean up the mess, but all our efforts were in vain. We filed a lawsuit for \$10K to obtain public records from the USACE because of their "partnering" agreements with the MWCD, but we were denied in Appeals Court and cannot prove that there's collusion with the Army Corps and the MWCD that their "partnering agreements" were to obtain funds to cost-share with the Army Corps for dam maintenance, but we believe that is exactly why the Army Corps out of Huntington embraces fracking through the MWCD. Other Army Corps districts do not, so we requested rulemaking, which was also denied.

By the end of 2015 we finally sold our home and got out of SE Ohio to move back to our second home in Northwest Ohio. We became frightened of the possible health effects. One day after I filmed flaring at a well, I walked in my house and my husband declared, "You smell like benzene, you've been exposed!" He was angry because he ran a steel mill, and if there were ever releases of such a toxic chemical like benzene, the USEPA Region 5 would be monitoring and fine him. Instead, there's no one monitoring the air. My husband would have to prove that his operation did not pollute – we have to prove that the fracking industry pollutes ourselves, and we don't have the equipment, the funds, or the training to do so. We have to spend all our own time and money to fight the industry. We have spent over \$200K of our own money and are still spending. We have had a couple small grants from Patagonia, but no big funders seem to be helping us with our anti-fracking activities in Ohio. We believe it is because the regulatory framework is so lax that funders know they won't win. Food and Water Watch closed their Cincinnati Office. We have appealed to Earth Justice and the NRDC to help us with our lawsuits to no avail. Fortunately, we have a liaison from EarthWorks to document air contamination with their FLIR camera, and attorneys who are helping us through Fair Shake Environmental Legal Services and Hunter & Hunter, LLC at affordable rates. But mostly, we have been abandoned by the Big Greens and big funders here in Ohio.

After moving back to our home in NW Ohio, we found out that the Nexus pipeline is running under the Maumee River 10 miles downstream from our house, and the Rover pipeline is going under the Maumee 10 miles upstream from us. The Maumee River is our drinking water source, and it is already compromised by toxic algae. With all the drilling spills and the dewatering and the run-off that these huge frack gas pipelines cause, we know the Maumee will be further degraded. Once again, we protested, we wrote letters, we made comments in person to FERC, and we paid attorneys to oppose the 401 Water Quality certification. We may as well have been spitting in the wind. We protested the Nexus compressor station near Waterville, OH near our home and paid for robo calling and did flyering to let everyone know what was coming or they would have had no idea. We packed Anthony Wayne School's auditorium to capacity and people had to be turned away. We even had elected officials like Randy Gardner there, and we testified repeatedly against Nexus. NOTHING WAS DONE! I drove all the way to Cadiz to testify to FERC against Rover. We may as well have been spitting in the wind.

In February 2018 we lost two important cases we brought in front of the Ohio Supreme Court. Despite dissenting opinions in Appeals Court, both cases were ruled against in a majority opinion along Republican party lines. We had waited for years for a ruling on our Declaration Action to ask the courts to decide that the MWCD was not acting as a conservancy district in the ways originally intended in ORC 6101, and the other case that was asking that the Ohio

Department of Natural Resources promulgate rules and regulations that would protect the public and the environment against the harms of the unregulated disposal of toxic and radioactive fracking waste.

We continue to take people on toxic tours in Ohio and pay for water and air sampling ourselves. We write letters, sign petitions, we even flew to Washington DC to testify at the People's Hearing against the rubber stamping of all the frack gas pipelines. We have attended trainings, protests, and organizing events. We have sponsored two conferences and brought in scientists, researchers, attorneys and public health advocates. Our last conference was held all day in the Statehouse Atrium in Columbus. We personally invited all the ODH, the OEPA, and the ODNR and all our elected officials. No regulators attended. One or two legislators did, but most of them just walked through our conference and totally ignored us.

The industry lies and covers up its downsides, such as the effect that fracking will have on climate change (for example, <https://cleantechnica.com/2018/02/22/emissions-fracking-5-times-higher-reported/>) and how many jobs the industry provides. Now people in SE Ohio are seeing the destruction and some are getting sick. People are beginning to realize that all we warned about is coming true. I am still known as the "Environmental Lady" but now I am no longer called crazy. Except for some people who want to believe that there's nothing they can do, and we hope to prove them wrong, but it looks pretty bleak. We thought we could avoid some of the terrible destruction that was coming to the region we lived in and the lake we loved. Now we just hope to hold the polluters and the profiteers accountable before they leave and dissolve their LLC's. We know their playbook – the fossil fuel extractors have already left us to clean up the acid mine drainage from coal mining. Now they plan to do the same with fracking and its waste. We are appealing to the United Nations to help us. People are losing their health, their civil rights, their human rights and their homes. Families have been torn apart. Communities have become degraded, and our water is not safe to drink, our air is not fit to breathe. People are afraid of earthquakes and explosions caused by the industry. Our government is on the take from the corporations, and we have very few rights and little recourse left. Please help us.

## **Exhibit G**

Testimony by Patrick Hunkler, written and submitted March 28, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Our Unitization Story

When I bought my secluded 21-acre property near Piedmont Lake in 1992, it was the first step toward my dream of building a solar home. I chose this place because of its diverse woodlands, pristine natural spring, and sun-drenched opening at the end of the lane with the perfect southern exposure. Just as important, this parcel of land came with the surface and all mineral rights intact.

For years, I poured my blood, sweat and tears into building a country retreat for my family that reflects my values - using recycled materials, conserving water, running solely on renewable energy with active and passive solar. For decades, it was gratifying to know that our place at Piedmont would be safe from the devastating impacts of coal mining.

Everything changed in 2010, when we were first contacted about our oil and gas. That summer, a landman knocked on our door, offering us \$157/acre for the oil & gas reserves under our Piedmont property. Briefly we actually considered signing that lease, until we learned more about the differences between the older, conventional confined vertical wells and this modern unconventional horizontal fracturing, extending up to 2 miles down and 2 miles horizontally through the Utica shale.

We decided no, we don't want fracking in our backyard. We are very concerned about the massive amounts of fresh water contaminated with chemicals and wasted with each frack, the likelihood that the contaminated frack water will eventually migrate into abandoned wells in the Clinton formation, the radioactive tailings from drilling to such depths, the greenhouse gas emissions from leaking methane and wasteful flaring, and the air pollution emanating from various facilities. Our earth care ethic has inspired us to embrace and promote renewable energy – this corporate push to double down on fossil fuel production marketed as “clean” natural gas is a distraction from developing renewable energy.

For seven years it has been intrusive and stressful dealing with landmen from different companies pushing one-sided, monetary leases and no understanding “no” for an answer. One landman threatened that the sheriff would be knocking on our door soon. When we asked that our environmental concerns be addressed in their leases, no company attempted such negotiations, other than non-surface affectment. Still, we felt safe because of our uniquely American right of owning the surface of our land, as well as all the underlying minerals to the center of the Earth. (In most other countries of the world, the government owns the subsurface minerals.)

Then we received notice last August of an upcoming unitization hearing. Suddenly, we were no longer in control of what we own. Our comments at the unitization hearing had no impact on the outcome and our concerns were not addressed by the state or by the oil and gas company. There is no other forum for our concerns; there is no provision in the state regulations for public comment or appeal of the drilling permits, our property far outside the small permitted area, and the regulations provide little if any protection for air and water.

Now that the unitization order has been issued, our minerals can be taken and we are being punished for exercising our right to refuse a lease. We are now being offered less than our neighbors, and are subject to a 200% “interest penalty” that will effectively guarantee that we never see a dime of our share of net proceeds. Stark contrasts exist between eminent domain by our government and unitization by for-profit corporations.

For a corporation to take what is ours, without our consent or equal compensation, for their own corporate gain – not for the benefit of all, or the defense of our country, or the common good – seems un-American and unjust.

## **Exhibit H**

Testimony of Megan M. Hunter, Esq., written and submitted March 30, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Access to Justice

I have been practicing law in Ohio since November 2015, when I took a job with Fair Shake Environmental Legal Services, a non-profit law firm with offices in Pittsburgh, PA and Akron, OH that represents “modest-means” clients in environmental matters. In

October 2017 I started my own firm, Hunter & Hunter LLC, where I continue to represent Ohioans on environmental matters. Since I have been in Ohio, the vast majority of my work has involved assisting individuals or organizations impacted by unconventional oil and gas development (UOGD).

In representing individuals in matters related to UOGD, I have witnessed undue delay on the part of the Ohio Department of Natural Resources (ODNR) (the sole regulator of oil and gas development in the state of Ohio) in responding to records requests. I have also witnessed the U.S. Environmental Protection Agency charge exorbitant fees to a requester seeking information about the explosion of a gas well near her home, although she was entitled under federal law to a fee waiver. It was only through appealing the denial of her requested fee waiver with the assistance of an attorney, a process that lasted for nearly a year, that she was able to learn she was indeed entitled to a fee waiver, and thus could afford to pursue gaining to access the records. Even following the appeal, this individual still has not received her requested records, over a year following her initial request. Local governments also engage in delay tactics, feign confusion, and claim reasonable requests are overly broad in an attempt to avoid releasing the information specifically requested by requesters.

Individuals impacted by UOGD are often unable to access information pertinent to the operations of facilities near their homes in the timeframes necessary for them to make informed decisions about their own lives, to participate in environmental decision-making in any meaningful manner, or even to pursue legal recourse by appealing unlawful decisions within the permitted timeframe.

I have witnessed how both ODNR and the Ohio EPA (which regulates air emissions from compressor stations, as well as some other aspects of oil and gas infrastructure) selectively make available records on their websites in such a manner that limits citizens' access to information, ability to participate in decision-making, and ability to exercise the legal recourse to which they are entitled.

Perhaps most disheartening of what I have seen during my time in Ohio is that so many of those most severely impacted have come to believe they have no recourse, not through the law, not through appeals to their government, not through begging the companies who are the source of their suffering. After years of complaining to Ohio EPA and ODNR and having none of their struggles affirmed or even acceptably listened to and investigated, many individuals believe the situation is hopeless. I meet many humans whose adverse health symptoms directly correspond to the start of operations of UOGD infrastructure near their homes, who have clearly documented the noxious odors they are experiencing, the noise that keeps them up at night, the fear they experience from seeing flaring in the middle of the night, but after months or years of complaining to Ohio EPA and ODNR, only have the agencies tell them there is nothing they can do.

People who have suffered under these conditions and have been ignored and dismissed in this manner by their own governments do not believe they can hire a lawyer and win in a court of law. And in many instances, the current law in Ohio, the courts, and the imbalances of power and resources in the justice system may only serve to prove them right. However, their hopelessness makes legal battles even more challenging. After months or years of calling the Ohio EPA or ODNR, they stop believing that it matters to call. They stop sending their complaints. As a result, the records of actual impacts of UOGD become limited. I have watched many harmed individuals be defeated into silence, their hopelessness ending the record of complaints, not the cause of the harm.

Many people impacted by UOGD also simply lack the financial resources required to bring and prevail in a lawsuit. While UOGD companies have enormous budgets to aggressively defend themselves against suits, and to aggressively pursue defamation suits against those who speak out, it is impossible for most of the people impacted by UOGD to afford an attorney or the experts required to prove their case in a court of law. Thus, even well-meaning attorneys who wish to represent people free of charge are left with the simple fact that they cannot afford the expert costs required to successfully litigate a case where the company doing the harm will be armed with expensive experts. ODNR could play a valuable role in providing citizens with the support needed by gathering the

data about what is occurring at UOGD sites, but does not do so, due to its lack of resources and bias towards the UOGD industry.

What I have witnessed as an attorney during my three years working on environmental matters in Ohio is the abandoning of those impacted by UOGD by their governments, while people suffer under an onslaught of pollution of their water and air, the stress that accompanies that, and the hopelessness and fear that comes from being ignored by those with the power to help them.

People are left in a position of fear because of the lack of information around what is happening to them. They fear for their health, their safety, their families, and they are suffering as they watch homes they love intruded by contamination that makes them ill. There is a persistent shock that this can be happening to them. On a visceral level, those impacted by UOGD know their human rights are being violated. They know their right to private property has been violated, their right to health, their right to family and private life, their right to a healthy environment, their right to information and participation in decision-making. As an attorney, I know daily that my ability to help them is limited by the denial of the human rights to access to information and to participation in environmental decision-making by the unfair bias in oil and gas law in the state of Ohio towards UOGD companies, the under-resourced nature of ODNR, and the intentional commitment on the part of the Kasich administration to increase UOGD and associated industries in the state of Ohio.

## **Exhibit I**

Testimony of Emma Hempstead, Esq. of Fair Shake Environmental Legal Services, Pittsburgh, PA written and submitted March 28, 2018

TO: The Permanent Peoples' Tribunal Session on Human Rights, Fracking and Climate Change

SUBJ: Access to Information and Public Participation in Decision Making

Access to information

In my work, I have seen the yawning gap between legal notice requirements for fracking facilities and actual notice to the public. Public notice requirements are formally satisfied by publication buried in the back of little-read papers. I see well-informed, proactive community members struggle to stay apprised of new fracking developments in their own neighborhoods. Good journalism can play a helpful role, in the rare instances where a community is fortunate enough to have reporting on environmental issues.

Public participation in environmental decision making

The burden falls to residents to understand complex, emergent areas of science and engineering just to know whether to be concerned about the risks of a proposed facility, and then falls to them again to understand complex legal frameworks and procedures if they decide to undertake a challenge. The opportunity to participate in addition to employment and family obligations given those burdens is in practice highly limited.