Banning GMO’s: The New Civil Rights Movement

As the fight over genetically modified canola and other GM crops escalates in the Willamette Valley, a group of farmers and neighbors in Benton County have spent the past year talking about how to stop GMO’s.

They’ve asked the question that people across the country ask when faced with corporate threats – such as GMO’s, fracking, or water privatization – how do we say no?

Traditional environmental activism would have them writing letters to elected officials, submitting public comments on proposed GMO plans, and testifying at hearings.

This kind of activism is based on the assumption that we have the legal authority to decide what happens in our communities. And from this, that if we build enough support in opposition to unsustainable practices such as GMO’s, that the folks who run things will take heed and respond.

The problem is that this simply isn’t true.

And thus, as folks in Benton County are finding out, this kind of activism won’t stop GMO’s. And so they’re taking a different path, which is forcing them to dig deeper than they ever imagined into how and for whom our system of law works, placing them side-by-side with hundreds of other communities in what may become this country’s new civil rights movement.

Bringing Down the Hammers

Corporations have painstakingly constructed a system of law – through the use of public institutions including the courts, state legislatures, and Congress – to ensure we can’t stop threats such as GMO’s, and chilling community efforts by punishing us when we step outside the box they’ve constructed for us.

To maintain the box, corporations have devised four large hammers which they use on us when we dare to say things like “we don’t want GMO’s here” and seek to drive that idea into local law.

The first hammer is called Dillon’s Rule, named for a railroad lawyer who wanted a legal doctrine that would put a halt to municipal “interference” with railroad expansion. Under Dillon’s Rule, communities can’t enact any laws unless our state legislatures say we can. Our municipalities are thus subordinated to the position of “children” to our state “parent,” only able to do what we are told. If we do otherwise, corporations clobber us with Dillon’s Rule, suing us for acting outside our authority.

The second hammer involves our legislatures (and occasionally Congress), banning communities from adopting certain kinds of laws. At the behest of industry, our legislatures routinely draft laws which preempt communities from having decision making authority over things like factory farming and fracking. Here in Oregon, Big Ag is seeking to have the legislature pass a bill preempting communities from making any decisions about GMO’s.

When these first two hammers fail to sufficiently smash us, corporations have two more at their disposal. The first is “corporate personhood.” Beginning in the 1800’s, by pressure from railroad and other corporations, federal judges began to recognize corporations as “persons” for purposes of constitutional rights. Today, corporations routinely wield these “rights” to override community lawmaking.

The fourth hammer comes when corporations wield our own civil rights laws – written to protect freed slaves – against us. Under these laws, corporations demand monetary damages from communities that challenge their authority to engage in fracking or other harmful activities.
Thus, if we seek to pass local laws to stop GMO’s, we must dodge all four hammers to be deemed “legal”; yet affected corporations triumph even when only one hammer hits home.

**Running Around the Hamster Wheel**

The big environmental organizations have mostly decided to work within these limitations. In the case of GMO’s, that has meant trying to do everything but ban them, since state and local bans of governmentally-approved seeds and foods fall directly under all four hammers. So instead they’re try to get federal agencies to deny applications for new GMO’s or better regulate GM crops, or push for labeling of GMO’s in food.

They have settled for “what can we get,” rather than asking “what structural change do we need?” to guarantee that GMO’s never see the light of day.

Such a strategy gives away the store without a fight – creating the illusion that GM crops can be controlled, and that the growth of GM foodstuffs is inevitable.

**Reframing the Fight Against GMO’s**

For the problem isn’t GMO’s, but a system of law that enables corporations to impose GMO’s upon our communities without our consent. Thus if we’re to stop GMO’s, we need to change the system itself.

In short, while we need a sustainable food movement, we can’t have one until we launch a democracy movement.

We’re not the first to strive for structural change. When the Abolitionists looked out at the constitutional landscape, slaves were invisible to the law – much in the way our communities are today.

Recognizing that it was the system of law itself which was the problem – and not that they needed to just better regulate slavery – they pioneered a movement that forced the system to work for them. Thus, they defined existing laws – which refused to recognize slaves as “persons” – as unjust. And then they proceeded to break those laws, openly, frontally, and without apology.

In so doing, they revealed how the system worked, in order to reach more and more people who would see that injustice and join their movement.

The fight against GMO’s must follow a similar path, transforming itself into a movement by revealing how the current system denies community authority to build sustainable farm and food systems.

**Community Civil Disobedience in the Name of Sustainability**

In 2001, faced with an influx of factory farms and the state legislature’s preemption of local lawmaking around farming, Wells Township, Pennsylvania, adopted a law banning agribusiness corporations from farming.

This ban on “corporate farming,” borrowed from similar laws adopted in Midwestern states, reflected a new understanding by communities – that the problem wasn’t odor or water quality – but rather the corporatization of agriculture. Communities redefined the problem from being about factory farming, to being about a system of law which authorizes corporations to define what food production looks like.

Wells was joined by other communities who passed laws which took on the key legal doctrines – those four hammers – which stand in the way of municipalities saying “no” to threats like factory farming, and the ability to build environmental and economic sustainability.
Over 140 communities in eight states have followed similar paths. This kind of organizing – seizing our municipal governments to commit acts of collective, non-violent, civil disobedience through local lawmaking – isn’t focused on the hope that the courts will rescue us by overturning 200 years of corporate “rights.” Instead, it is being pursued with the understanding that structural change will only occur when we refuse to comply with a system bent the other way.

**So, What Do We Do Tomorrow?**

Over the past year, folks in Benton County asked themselves that same question – given the state of farming, and a system focused on delivering a toxic mix of corporate concentration and GMO’s.

Understanding that without challenging the system of law itself they cannot stop GMO’s, they drafted a “Food Bill of Rights” law which establishes a “right to sustainable food systems” for the community, and prohibits those activities – like the planting of GMO’s – that would violate that right.

The law takes aim at the existing system by re-defining corporate “rights,” invalidating preemptive state and federal actions, and elevating the right of the community to sustainability above competing rights claimed by agribusiness corporations.

In many ways, the proposed Benton County law, as well as other laws that have been adopted across the country, dare corporations to reveal how the current system of law works. If they seek to overturn these local laws, corporations must bring down those four hammers of Dillon’s Rule, state and federal preemption, corporate personhood, and other corporate “rights” – which they’ve constructed to ensure communities can’t interfere with the expansion of their authority and power. Exposing the hammers in plain sight, means communities can see them for what they are – legal doctrines intended to subordinate our communities to a “corporate state.”

These laws thus “reframe” the dispute – from being focused on the question of whether GMO’s are harmful – to being about the authority and “rights” of agribusiness corporations to override the authority and rights of communities to self-govern.

This issue of “who decides” must build toward removing those corporate hammers at the state level, as is beginning in Pennsylvania, New Hampshire, New Mexico, and Washington State. And then build toward federal constitutional change that elevates community self-governance above rights claimed on behalf of corporations and commerce.

If we want to stop GMO’s, we need to instigate a community revolt which produces a system where it actually matters what we want. This means we have to stop deluding ourselves that it’s enough to write letters and wave signs, and instead begin to drive structural change to liberate our communities from the corporate grasp.

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