

## WATER IN THE GREEN ECONOMY: “LEGAL RIGHTS FOR WATERWAYS”

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### Problems:

- Our current environmental laws have been largely unable to prevent over-drawn waterways, continued contamination of remaining waters, and disappearing species and habitats.
- These dilemmas result in large part because our overarching legal and economic systems treat the natural world as property that can be exploited and degraded, rather than as an integral ecological partner with its own rights to exist and thrive.
- Environmental concerns are generally subsumed to the incessant driver of economic growth, leading to dangerously unbalanced relationships among humans and the rest of life on Earth.

**Solutions:** Re-envison economic systems so that they serve “sustainable communities”; establish legal rights for ecosystems – including waterways – to exist, thrive and evolve.



Dry Scott River bed, dampened by river-fed sprinklers.  
Northern California. Photo by Erica Terence

### UNEP, *Towards a Green Economy* (2011)

- “Green economy”: driving force behind Rio +20 negotiations
- Fundamentally presumes that can “protect” environment by further forcing environmental policies to fit within an overarching economic system that is causing the destruction
- Assumes that current, overarching economic system will continue, rather than challenging it and offering alternatives
- Suffers from “adjective-noun problem”: The focus of “green economy” and “sustainable development” is the economy and development. Environmental protection is tangential.

### Focus on “Green Economy” Stalls Progress on Waterway Health in Favor of Current Growth Models

- Example: The Water chapter of UNEP’s *Towards a Green Economy* report lists indicators of “progress towards a green economy” on page 121. Of the five indicators listed, not one would measure improvements to the health of affected waterways or water-dependent ecosystems.
  - This is particularly disturbing in that the same report points to an aggregate decline in waterway and aquifer health worldwide. Human water needs depend on healthy waterways.
- The report defines a “green economy” as “one that results in ‘improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities’.” It also states that the “green economy “seeks to minimise the impact of economic activity on the environment.”
  - Both definitions fail to embrace environmental *health*, and instead settle for “reducing” or “minimizing,” rather than *reversing*, the trend of ecological degradation, which will continue without changing the overarching driver of economic growth.
- End result will be haggling over the prices stakeholders are willing to pay to continue destructive patterns, rather than actually improving our relationships with the natural world to reverse environmental degradation.

### **Alternative Approach: Re-Envision Our Economic Models to Serve People and Planet**

- Rather than contort environmental policies to fit within an economic system premised on the maximization of private wealth, examine the root of the problem: the economic system itself.
- The distribution of good and services need not be for the purpose of maximizing economic wealth. Instead it could be focused, for example, on maximizing attainment of biological and social needs.

### **The Economy Should Serve “Sustainable Communities,” Both Human and Environmental**

- Our economic model should be re-envisioned to serve “sustainable communities,” a term which includes *both* human communities and the wider communities of the natural world.
- Elements of sustainable human communities include not just the economy, but also culture, societal/familial relations, healthy food, clean drinking water, sanitation, housing, necessary medical care, democratic governance, education, meaningful and appropriately rewarded labor, spirituality, civic duty, local development consistent with these elements, and other factors.
- Elements of sustainable environmental communities similarly include healthy nutrients, clean water, biodiversity, restoration in the face of destruction, and thriving, connected habitats.
- In setting governance policy, all elements of sustainable communities must be considered. The economy must be viewed as serving human and environmental communities, not the reverse.

### **Develop and Implement Legal Rights for Ecosystems and Species**

- Existing laws assume that waterways are to be manipulated for human economic benefit. They marginalize the larger interconnections demonstrated by modern science and ethics. Recognizing in law the rights of the waterways to exist, thrive and evolve will better guide our behavior to protect waterway integrity, to the benefit of sustainable human and waterway communities.

### **Rights-Based Laws Exist and Are Expanding to Reverse Degradation and Promote Healthy Waterways**

- Local: Pittsburgh, Pennsylvania, U.S. – “Natural communities and ecosystems, including, but not limited to . . . water systems, possess inalienable and fundamental rights to exist and flourish within the City of Pittsburgh. Residents of the City shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.” Law passed November 2010.
- State: Work is being initiated to amend California water law to grant legal water rights to rivers.
- National: Constitution of Ecuador (2008), Article 71: “Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain itself and regenerate its own vital cycles, structure, functions and its evolutionary processes. Any person, people, community or nationality, may demand the observance of the rights of the natural environment before public bodies . . . . Article 72: “Nature has the right to be completely restored.”

- First successful case decided March 2011 in favor of the Vilcabamba River. Provincial Court of Loja found the river’s right to flow had been violated and required remediation.



Kris Krug, <http://staticphotography.com>

- International: “Universal Declaration of the Rights of Mother Earth,” adopted at April 2010 World People’s Conference on Climate Change and the Rights of Mother Earth; presented to UN April 2011.
  - “Mother Earth and all beings” have, among other rights: the right to exist, the right to water as a source of life, the right to integral health, and the right to full and prompt restoration for violations of these and other enumerated rights.
- Rights-based laws advance “sustainable communities” by respecting and supporting the ecological integrity of waterways, for the benefit of all beings that depend on water.