

Natural wonders should have their own legal rights | Commentary

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Students from Oviedo High School jump from a tree into the Econlockhatchee River in Little Big Econ State Forest. Preserving areas like this is a challenge for the next generation. (Rich Pope/staff photographer)

Our planet faces an ecological crisis that current laws cannot avert. Rising seas, dead zones in oceans, imminent extinctions — every day, it seems a new calamity makes the news. The world population keeps growing, stoking destruction of habitat and depleting resources. We need a new way to stave off eco-disaster, one that gives nature legal and political rights.

Elizabeth Drayer (Courtesy photo)

Nature rights has its roots in ancient cultures that worshipped water, celestial objects and animals — the concept is old rather than new. Native Americans used animals in their rituals and plants in healing ceremonies. Western culture altered the relation between man and nature, demoting ecosystems to property, unworthy of respect in their own right. This made possible the polluting activities that wreak havoc with the air, water, flora and fauna on which we depend for survival.

While laws have been passed that purport to protect these resources, these laws are subject to changing political winds. Rivers, mountains, and meadows have no inherent rights in the legal system, or the chance to enforce those rights in a court of law.

Supreme Court Justice William O. Douglas recognized the need for nature rights in a famous dissent from 1972: “Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation,” Douglas wrote. “...before these priceless bits of Americana (such as a valley, an alpine meadow, a river, or a lake) are forever lost or are so transformed as to be reduced to the eventual rubble of our urban environment, the voice of the existing beneficiaries of these environmental wonders should be heard.” Since Douglas penned these words, scholars have debated how to give nature legal rights. Though progress has been gradual, the movement is gaining ground. To date, several countries have endowed natural entities with legal rights, including Ecuador, Bolivia, and New Zealand. A growing number of U.S. communities are following suit. Most recently, Toledo, Ohio granted legal personhood to Lake Erie. This is not as farfetched as it may sound. Many nonhuman entities have rights under the law, like corporations, ships, and trusts. Why not grant similar rights to trees, birds and bees?

Of course a lake, oak, or manatee can't file legal briefs or present oral argument in a court of law. But the law can bestow certain rights on these entities, like the right to exist and flourish, then empower citizens to enforce those rights by bringing suit against polluters.

While giving nature the power to enforce its rights in court is a huge step forward, it still leaves ecosystems on the defensive, fending off assault. If nature played a role in *making* laws to protect and restore itself, there'd be more hope of reversing decline.

Of course, this requires that humans serve as ecosystem guardians in government. But giving nature a seat at the political table, with power to make laws to advance its well-being, should be the next goal for civilization.

There will surely be legal hurdles along the way, but our most important societal milestones faced similar challenges. Giving women and minorities the right to vote required constitutional change that was years in the making. But we wouldn't sacrifice those rights today and go back to letting white men call all the shots.

It seems inconceivable the venerable founding fathers endorsed such a limited system of representation. But once we guarantee nature the status it deserves, we'll look back on our old exploitative ways and wonder how we could have been so shortsighted.

The author is a lawyer, longtime environmental advocate and a candidate for mayor of Clearwater.