

# THE COMMONS



A Report to Owners  
from the **Tomales Bay Institute**

# RISING

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Like the tide,  
the commons ebbs  
and flows over time.  
In our time,  
it's rising again.

**THE COMMONS**, *n.*, gifts of nature and society; the wealth we inherit or create together and must pass on, undiminished or enhanced, to our children; a sector of the economy that complements the corporate sector.



**A vibrant commons sector can grow from the seeds we see today.**

## Dear Fellow Owner,

Three years ago, the Tomales Bay Institute published a *Report to Owners on the State of the Commons*. We found that America's commons — natural gifts like air and water, and social creations like culture and the Internet — are being grossly mismanaged. Maintenance is terrible, theft is rampant, and rents often go uncollected.

Since then, our common wealth has, if anything, deteriorated further. But rather than focus on this bad news, we decided it was time to report some good news. Even in these dark days, seeds of a new economic order are sprouting. They can be seen in many places, from local land trusts to your laptop to your tabletop. They're giving birth to a new commons sector that's both a counterpart and a counterweight to private corporations.

This rising commons can be seen across America, from Maine's Penobscot valley to Portland, Oregon's street crossings and free wi-fi hotspots everywhere. That is the story we tell in this report.

Our belief is that, with much nurturance and support, a vibrant commons sector can, in time, protect nature, reduce inequality among humans, and improve the quality of life for rich and poor alike. Moreover, we believe that sector can grow from the seeds we see today.

The purpose of this report is thus two-fold: first, to celebrate the seeds that are already emerging, and second, to suggest how, taken together and multiplied, they can grow into something powerful enough to change the world.

The broad sweep of these innovations shows that models for a strong commons sector already exist. The challenge is to expand them to a scale where they counterbalance the corporate sector.

To learn more, check our sources, download a pdf copy or order a printed copy of this report, please visit our website, <[www.onthecommons.org](http://www.onthecommons.org)>.

Sincerely,

Harriet Barlow, CHAIR

# THERE IS AN ALTERNATIVE— AND IT'S RISING

## OUR THREATENED COMMONS

*From public schools and universities to public lands and other natural resources, from the media with their broadcast and digital spectrums to scientific discovery and medical breakthroughs, a broad range of the American commons is shifting from public responsibility to private exploitation.*

— Bill Moyers

The idea of the free market has become so widespread it's hard to remember when public stadiums weren't named for private corporations. But evidence is mounting—from catastrophic climate disruption to unprecedented disparities in wealth—that our present corporate-dominated economic system is leading to ecological and social disaster. There must be an alternative.

In fact, there *is* an alternative, and it's on the rise. That alternative is an emerging economic sector we call the commons. It won't replace corporations, but it will complement and temper them. In so doing, it will provide benefits corporations can't supply: healthy ecosystems, economic security, stronger communities and a participatory culture. And it will curb the corporate invasion of realms we hold dear—nature, our minds, our food and our democracy.

When most people hear about the commons, they think of a meadow where peasants graze sheep. But the commons of the 21st century is quite different from its medieval predecessor. It embraces everything we inherit or create together and must pass on, undiminished or enhanced, to our children: air and water, ecosystems and habitats, arts and the Internet, public spaces and soundscapes, our free time and social safety net, and much more.

The trouble is, our current management of the commons is deeply flawed. For several centuries, the trend has been to enclose and privatize commons, rather than to manage them sustainably as shared assets. In recent years this trend has accelerated. The result is that private corporations, with government help, are invading and depleting our commons at a perilous rate.

The rationale for corporate enclosure is that it's essential for economic growth. In reality, however, much of what passes for growth these days doesn't *create* net wealth, but rather *diminishes* it by diminishing the commons. To put it bluntly, we're squandering our children's inheritance and calling it growth.

Similarly, much of what passes for private wealth nowadays isn't, in fact, privately *created*; it's privately *taken* from the commons. To speak bluntly again, the rich are rich because, through corporations, they get the lion's share of common wealth; the poor are poor because they get very little.



KATHY MADDEN, PROJECT FOR PUBLIC SPACES

Volunteers come together to beautify a public square in St. Louis, Missouri.

**The commons won't  
replace corporations,  
but it *will* complement  
and temper them.**

In these twin tragedies of squandering and misappropriating our shared wealth, the commons isn't the cause, it's the victim. But that needn't remain the case. It's possible to reverse these tragedies by nailing down what's in the commons now, and steadily adding to the commons from this day forward.

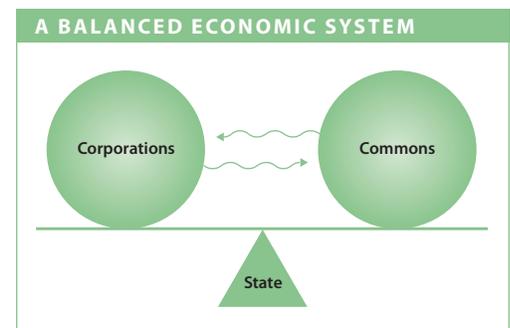
A protected and enhanced commons requires several things. First, it needs institutions that can effectively manage shared assets on behalf of future generations. Such institutions need to be transparent, free of corporate influence, and legally accountable to public beneficiaries. A good example is the fiduciary trust.

Second, it requires property rights. As capitalists know, property is power, and at this moment our common assets lack adequate property rights. Hence, they can be trespassed upon by private corporations almost at will. Common property needs to be shielded from such transgressions, just as private property is.

Third, a strengthened commons requires government support. This doesn't mean government ownership or even regulation; the state and the commons are two different things. It *does* mean government should nurture the commons as zealously as it nurtures private corporations — indeed more zealously, to make up for decades of neglect. For example, just as government grants property rights to private corporations (think of land titles, rights of way, water and mineral rights, broadcast licenses, patents and pollution permits), so should it grant property rights to commons institutions.

Finally, a strengthened commons requires active citizens. There's no lack of work to be done or roles to be played. The commons needs defenders, builders, restorers, entrepreneurs and donors. What will you do?

If you're looking for inspiration, we hope to provide some here. We profile several active citizens who are enlarging and enlivening the commons. We also examine institutional models that have been proven to work. It's these individuals and models that give us hope for the future.



Private corporations and shared commons should enhance and constrain each other. The state's job is to maintain a healthy balance.

We must nail down what's  
in the commons now,  
and add steadily to the commons  
from this day forward.

#### KEY ROLES OF THE COMMONS SECTOR

- Assure sustenance for all
- Represent nature and future generations in the marketplace
- Nurture arts and sciences for their own sakes
- Promote diversity, community and democracy

# PROTECTING NATURE'S GIFTS

Americans are putting ecosystems in trusts — and making polluters and extractors pay.

## A CALL TO CHANGE HOW WE TREAT NATURE

In June 2005, a U.N.-sponsored, 1,300-member international research team reported that roughly 60 percent of the ecosystems that support life on earth are being used unsustainably. Such overuse, say the scientists, increases the likelihood that extreme events and abrupt, non-linear changes will seriously affect human well-being. The potential consequences include floods, droughts, heat waves, fishery collapse, dead zones along coasts, sea level rises and new diseases.

*The Millennium Ecosystem Assessment concluded that 'it lies within the power of human societies to ease the strains we are putting on the services of the planet... Achieving this, however, will require radical changes in the way nature is treated at every level.'*  
<[www.millenniumassessment.org](http://www.millenniumassessment.org)>.



From the food on our plates to the trees and rivers outside, a host of natural gifts make life on earth possible. We inherit these gifts collectively from the creation, and owe it to our children to pass them on, undiminished, to succeeding generations. If they belong to anyone, they belong to everyone.

Many of these shared gifts are what scientists call *ecosystems*; they provide services which are absolutely essential to life (like fresh water, clean air and a stable climate). Yet our *economic* system, by pricing these ecosystems at zero, mindlessly destroys them for the sake of short-term profit.

Happily, there are ways to fix this systemic problem. One is to charge considerably more than zero for letting private corporations degrade shared ecosystems. We could do this by setting limits on pollution and selling usage permits; supply and demand would then set prices.

Another is to hold certain kinds of usage rights in trust for future generations. That's what a rising number of trusts now do to save rivers, forests and family farms.

## Making polluters pay

Through the last twenty years, as global warming has gone from academic theory to scientific consensus, the right to spew carbon dioxide into the atmosphere has remained free and unlimited. Last year, in the face of federal inaction, seven northeastern states launched a regional initiative to change that.

Their plan will put a limit on carbon dioxide emissions from power plants, and require utilities to hold permits for emitting CO<sub>2</sub>. Still undecided, though, is a crucial detail: will polluters have to pay for their permits, or will they get most of them for free?

Dozens of citizens groups are calling upon the states to auction emission permits and use the proceeds to reduce costs to consumers. 'Historically, polluters have used our air for free,' says Marc Breslow of the Massachusetts Climate Action Network. 'But there's no justification for allowing them to keep doing so. The atmosphere is common property.'

Adds Larry deWitt of the Pace Law Center: 'There's no reason to give *any* permits to power generators. Consumers, who pay the price increases, should receive the proceeds of permit sales.'

Meanwhile, California is considering a program similar to the Northeast's. No specific design has been recommended yet, but groups like the Natural Resources Defense Council are taking stands. Says NRDC's Devra Wang, 'Emission permits should be allocated to utilities as trustees for *customers*, not *shareholders*. This can avoid the windfall profits associated with giving permits to private companies.'



### MATT PAWA: DEFENDER OF THE AIR

*Matt Pawa was working in a Washington law office when a case came along that his firm wouldn't let him touch.*

*At issue was the damage done by global warming. Two New England land trusts realized that as carbon dioxide pollution was changing the climate, it was threatening the forests they protect.*

*Pawa quit his job and hung out his own shingle to take their case against five electric utilities, which between them account for 10 percent of U.S. CO<sub>2</sub> emissions. Along the way, he joined forces with the attorneys-general of eight states who were filing a similar case because of injuries to human health, water supplies and agriculture caused by global warming. The states didn't want monetary damages; they wanted a court to order the utilities to cut carbon emissions by three percent a year for ten years, faster than any currently proposed government plan.*

*The cases have their roots in the ancient common law of public nuisance, as affirmed by the U.S. Supreme Court early in the 20th century. Both are on appeal, waiting for questions of law to be settled before they can be tried.*

God gave the care of his earth  
and its species to our first parents.  
That responsibility has passed into our hands.

PCC FARMLAND TRUST, WWW.PCCFARMLANDTRUST.COM



Nash Huber continues to cultivate his organic produce farm thanks to the Puget Consumer Cooperative, which bought the land when it was about to be subdivided.

## Soil for farmers, not parking lots

As suburbs sprawl into the countryside, city-dwellers can't take farms for granted any more.

That's what Seattle's largest food co-op learned in 1999, when one of its organic suppliers warned he was about to lose his land to a subdivision. The Puget Consumer Cooperative (PCC) saw that the well-being of its 40,000 members was tied up in the soils of the Dungeness River delta 50 miles to the west, and decided to take action.

Within six months, the co-op raised enough money to buy the land, and formed the PCC Farmland Trust to protect it for generations to come. Now the trust leases the land back to the farmer, who uses it not only to grow vegetables, but also to train a new crop of farmers. Since that original purchase, the trust has protected two more farms, raising \$1 million from 1,400 donors.

PCC's efforts have good company. A coalition of food co-ops in California has pooled its resources to protect some of the farms that feed its members. Other trusts from coast to coast hold easements which guarantee that farms will remain in food production in perpetuity. These trusts close the circle between eaters and growers, involving urbanites in stewardship of soil that feeds them.

## Restoring rivers and fish

If any stream on the East Coast has a chance of reviving its salmon runs, it's Maine's Penobscot River. It has by far the largest run of salmon in New England, with about a thousand fish returning to spawn in each of the last two years. That's a far cry from the 50,000 thought to have returned historically, but it represents a recovery from near extinction in the 1990s.

Now a coalition of conservation groups and the Penobscot Indian Nation have negotiated a pact that may speed the salmon's recovery. They formed a trust that obtained an option to buy and dismantle two dams, allowing the river to run free for its final 12 miles.

By reducing the number of dams, the trust aims to improve salmon survival. 'I don't know of a single self-sustaining run of Atlantic salmon that has to cross more than three dams,' says Andy Goode of the Atlantic Salmon Federation.

Around the country, hundreds of similar groups are restoring fish runs on local rivers. In some cases, the solutions involve better farming and forestry practices. Elsewhere, the answers lie in planting trees alongside streams, and maintaining roads so they don't send mud coursing into creeks. The underlying sentiment is always the same: rivers and fish belong to us all, and we need to care for them.

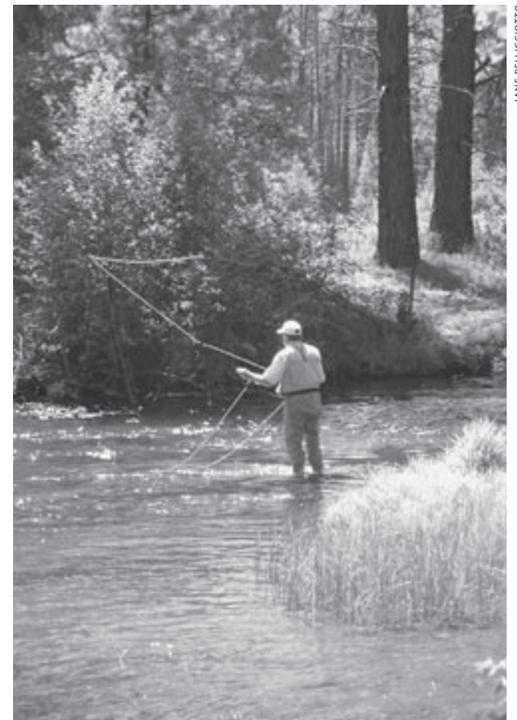
## If fish owned water, too

In most of the West, you lose your water rights if you don't use them. Left high and dry are all the reasons to leave water in a stream, such as swimming, rafting, fishing, and the fish themselves.

The Oregon Water Trust was founded in 1993 to do something about this. Thanks to a change in state water law, it is able to purchase or lease water rights, and then ensure that the acquired water remains in the river or creek to benefit salmon and other fish.

Over its first twelve years, it worked with more than 300 landowners to put water back in streams, often reviving creeks that had been sucked completely dry during the summer irrigation season. Sometimes the seller forgoes water by switching crops, or by irrigating only during the spring, when stream flows are ample for agriculture and fish alike. Elsewhere, deals have hinged on delivering water from a different source, while leaving it in streams where fish need it.

Similar water trusts have sprung up in Montana, Colorado, New Mexico, Texas, Washington and Nevada.

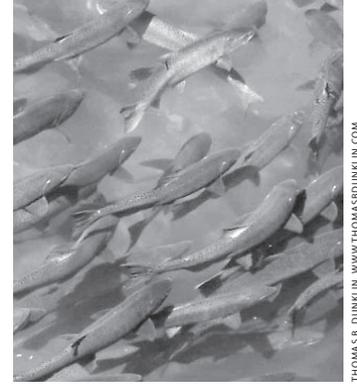


JANE PELLICCIOTTO

Trusts in seven western states hold water rights to ensure that streams keep flowing for fish, swimmers and boaters.

By the law of nature  
these things are common to mankind—  
the air, running water, the sea, and  
consequently the shore of the sea.

— INSTITUTES OF JUSTINIAN (535 A.D.)



THOMAS B. DUNKLIN, WWW.THOMASDUNKLIN.COM



JANE PELLICCIOTTO

Older forests provide clean water, room for wildlife, carbon sequestration and opportunities for solitude. Trusts can maintain forests' timber production while safeguarding the forests' ecological value.

## Saving private forests

A forest is more than a timber source or future subdivision: it's an ecosystem bursting with life. It also supplies us with an array of vital services, from clean water to climate control and wildlife habitat. But forests are under threat from timber companies and developers.

About 80 percent of America's forests are privately owned. Corporate owners grow and cut trees for quick profit, neglecting other forest values. Meanwhile, smaller owners are often tempted to sell to subdividers. Until recently, no private entity represented forests themselves.

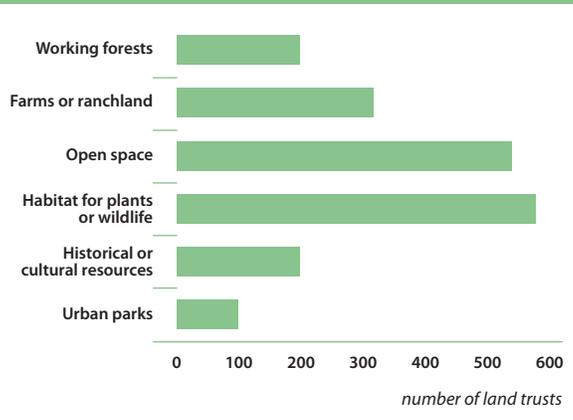
Then, Connie Best and Laurie Wayburn decided that was their job. In 1993, they founded the Pacific Forest Trust, a non-profit that acquires *working forest conservation easements*. Under these arrangements, private forest owners relinquish their rights to subdivide and clearcut. These restrictions run with the deed, so they're binding on new owners as well. Meanwhile, the owners can harvest trees sustainably. On top of that, they receive cash or tax benefits, plus the peace of mind that comes from knowing their forests will be managed responsibly forever.

Wayburn and Best are also helping forest owners combat global warming. Old forests hold more carbon per acre than younger forests, so by letting trees live, owners can keep CO<sub>2</sub> out of the atmosphere. Now, thanks to the Pacific Forest Trust, they can also sell their carbon savings to companies seeking to offset their own emissions. The trust is formalizing such carbon sequestration agreements on nearly half of the 28,000 acres on which it holds easements.

### TRUSTS LARGE AND SMALL

Trusts with public beneficiaries range from the Nature Conservancy, which owns rights to 15 million acres worldwide, to small local trusts that are popping up everywhere — more than 1,500 of them across the United States.

#### LAND TRUSTS AND THEIR PRIMARY FOCUS



Local and regional land trusts have proliferated in recent years. According to a 2003 survey by the Land Trust Alliance, such trusts now protect more than 9 million acres throughout the United States — double the acreage protected just five years earlier.

## Whose pure water is in those bottles?

Jim Wilfong, a long-time Maine resident, was standing in the shower when that question hit him. The problem, as Wilfong saw it, was that out-of-state companies such as Nestlé were pumping Maine's pristine water out of the ground, bottling it, and selling it far and wide—a \$2 billion-dollar-a-year business—while Mainers gained nothing.

A former state legislator, Wilfong knew that Maine's aquifers hadn't stayed pure by accident. In the 1970s, the state invested heavily in cleaning up polluted rivers. Then came a costly effort to decommission underground storage tanks, which were leaking fuel into the ground. Now private bottlers are reaping the rewards.

Wilfong's brother, who lives in Alaska, had told him about that state's Permanent Fund (see page 19). If Alaskans can share their oil wealth, Wilfong figured, Mainers could share their water wealth. He drafted an initiative requiring the state to auction water rights rather than give them away free. The proceeds would go to a trust that would invest in water quality and return the excess to Maine's citizens.

'If the state was getting rid of an old car, they wouldn't give it away—they'd sell it,' he says. 'So why should we give away our water?' Stay tuned for the results as the Water Dividend campaign proceeds.



**Americans drank 26 billion liters of bottled water in 2004, despite evidence it's no healthier than tap water. About 40 percent of bottled water, in fact, starts as treated tap water. Most of the rest is pumped from pure underground aquifers that belong to everyone.**

We will not allow Nestlé  
or any other corporation  
to decide what is sustainable.  
It's our water, not theirs.

—JIM WILFONG, H<sub>2</sub>O FOR ME

# BUILDING THE HOMETOWN COMMONS

A revival of public spaces and local commerce is underway in America.



CITYREPAIR.ORG

Volunteers in Portland, Oregon, pause while turning a city intersection into a work of home-spun art that invites passersby to slow down and interact with one another.

We humans are social creatures. And for eons, our settlements reflected this. We built houses close together, and used public spaces to connect with neighbors.

Over the last half century, this social ecology has been disrupted. Development has taken forms that keep people isolated in cars. Big, box stores have ended the familiarity between shoppers and merchants. Political debate has shifted from town squares to the costly enclosures of television.

Now Americans are pushing back. They're building community gardens and farmers' markets, reviving public spaces, and demanding that public buildings not be named for corporations.

## Public spaces: America's new frontier

From Bryant Park in New York to Pioneer Square in Portland and Copley Square in Boston, urban plazas are coming back to life. Even Detroit, which was built by the automobile, is reviving its downtown by rerouting autos around a new public square called Campus Martius Park. The park bustles with life in both summer and winter (when there's a skating rink), and has attracted some \$500 million in new investment to the area.

Not all the place-making is by government. In Portland, Oregon, informal groups of neighbors have reclaimed street intersections. They paint vivid designs on the pavement to mark the place as their own. They also add rustic structures, such as produce exchange stands, play areas, and even a 24-hour tea stand.

In Boston, people in the Dudley Street neighborhood formed a land trust in 1988 to buy vacant land and determine how it could best serve the community. Today

there are 600 new and rehabbed homes—all with a cap on resale prices—plus gardens, a common, parks and playgrounds. These efforts revitalized the neighborhood without displacing local residents, as would have happened through gentrification.

## Wi-fi for all

The Internet is the sidewalk of the 21st century; it's where people and businesses connect. So it's not surprising that cities are starting to build high-speed wireless networks the way they once built streets.

Many operate wireless 'hot zones' that offer free access over dozens of blocks. Others, like Philadelphia, are rolling out low-cost service city-wide. In San Francisco and New Orleans, city-wide access may even be free.

As of early 2006, nearly 150 U.S. cities were deploying or planning public wi-fi networks. That's a 50 percent rise over 2005. And it excludes countless hot spots set up voluntarily by citizens and local businesses.

Meanwhile, in Washington, a bi-partisan group of senators has introduced legislation to open unused TV channels for wireless broadband access. These vacant channels reach farther and penetrate buildings better than the 'junk band' currently allotted to wi-fi. If they are made available, urban and rural wi-fi networks could be set up quickly and at low cost.

### BRINGING DEMOCRACY TO MALLS

*Local merchants aren't the only ones hurt when a Wal-Mart comes to town—civic life suffers, too. When people congregate in private shopping centers, the First Amendment no longer applies. Owners can—and do—ban leafleting, petition drives, and other forms of grassroots democracy.*

*But California, New Jersey and Colorado have ruled that shopping malls are like public squares, and must be open to free speech, even if they are private property. Voters in other states are demanding similar rights.*



ANTONIO ZUGALDIA

Two friends enjoy wireless Internet access in Bryant Park in New York City, one of many free hotspots around the country.

# Democracy grows hollow if citizens don't have places to rub shoulders with one another.

—JAY WALLJASPER



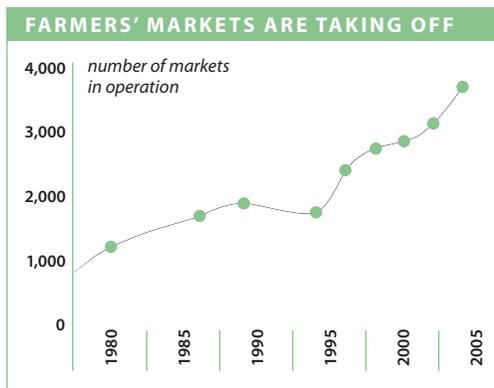
CHAS REDMOND

A berry good day at a farmers' market in Seattle, Washington.

## A renaissance of farmers' markets

Until the Civil War, most American cities had public markets. In the 1940s, there was a brief resurgence, as farmers sought better prices and shoppers sought fresher food. Then came interstate highways, and the market for seasonal local produce collapsed.

Now the tide is turning again. From Union Square in New York to San Francisco's Ferry Building, city-dwellers are rediscovering the pleasures of meeting each other and the people who produce their food.. There are now nearly 4,000 farmers' markets in all 50 states, double the number ten years ago.



The number of farmers' markets in the U.S. has increased more than tenfold since 1970, benefiting growers and eaters alike.



MICHAEL EJERCITO

For many, a visit to the local farmers' market (like this one in Madison, Wisconsin) is a festive activity.

## Raising community along with tomatoes

Economists say people will care only for what they own. If that's so, how do they explain the green oases that have risen from vacant lots in New York City? Rubble became garden plots. Street sculptures and shrines appeared. People built sheds for tools they shared—all of this on land they didn't own or lease. Today New York is dotted with 700 community gardens. About 150 of these will eventually give way to housing, but the rest will stay.

And it's not just New York. The American Community Gardening Association counts 70 major cities with community gardens. In Seattle alone, more than 1900 families raise food in these neighborhood spaces.

These gardens yield significant amounts of food. In Philadelphia, gardeners save an estimated \$700 per year on food bills. The Food Project in Boston produces over 120,000 pounds of vegetables on 21 acres; most of it goes to people in need. Just as importantly, the gardens turn strangers into neighbors.

## Is it Willie's field, or AT&T's?

In America, sports stadiums used to bear names that told you where you were. Today, stadium names are sold to the highest corporate bidders. But many fans are fighting back.

In Green Bay, Wisconsin, the Packers wanted to sell the name of famed Lambeau Field. After a public outcry, the effort died.

In San Francisco, voters approved a referendum banning the sale of naming rights to Candlestick Park, where the Forty-Niners football team plays. Now they're battling to name the stadium where the baseball Giants play. First it was PacBell Park, then SBC Park. When SBC became AT&T, many fans had enough: they're asking the city in its signs to call it Willie Mays Field, henceforth and forever.



JOHN WASIUTYNSKI

A group digs space for a pond in Greene Acres Community Garden, one of many in Brooklyn, New York.



TOM SPAULDING

The corporate name of the San Francisco Giants ballpark has changed so many times that fans are naming it Willie Mays Field once and for all.

# SHARING KNOWLEDGE AND CULTURE

Corporations want to own ideas and melodies. People want to share them freely. A fundamental battle is raging.



Wikipedia is an online encyclopedia written and edited entirely by users. In four years, it has amassed nearly one million entries and become one of the Internet's most visited sites.

The commons of knowledge and culture are as old as humanity, and almost as vital to us as air. They rest on the fact that free exchange of ideas is indispensable to creativity. As Isaac Newton put it, 'If I have seen further, it is because I've stood on the shoulders of giants.'

But our creative commons are under siege. Entertainment companies want to encrypt their content to prevent sharing. Drug companies want to lock up research. And media oligopolies want to charge tolls on the Information Highway.

The good news is that citizens are fighting back. They're creating open source software, weblogs, online news sites and other freely shared content.

## Extra! Extra! Read and write all about it!

While corporate ownership of TV stations and newspapers has been concentrating, there's been an offsetting explosion of 'citizen media.' Weblogs, or blogs, that feature personal musings, reporting and commentary, have proliferated wildly. Some are among the first to report breaking news, such as the South Asian tsunami. Others correct errors and biases in the mainstream media. Still others focus on local news.

Cultural and social networks are also spreading. **Ourmedia** and the **Internet Archive** allow people to post and share their own films, writing and other creative works. **Friendster**, with 13 million monthly users, connects people with similar interests.

These efforts draw upon a wide array of talent at low cost, giving them an edge over commercial media. It's unclear how all this will evolve, but trends suggest the biggest threat to corporate media isn't 'pirated' works, but citizen-generated content.



Citizen journalism is getting a try-out in Minneapolis and St. Paul, where the online Twin Cities Daily Planet mixes contributions from community newspapers, independent journalists and engaged citizens.

## Free and Open Source Software

Open source software is written by volunteers; anyone can read, modify and redistribute the code. The **Linux** operating system and **Firefox** web browser are prominent examples. So are many of the core programs running the Internet and the World Wide Web.

Much of this activity depends upon a legal innovation, the General Public License, sometimes known as *copyleft*. This license, created by Richard Stallman of the **Free Software Foundation**, gives everyone rights to freely use, modify and redistribute a software program as long as any derivative programs are disseminated just as freely. In this way, it enables people to participate in collective efforts without fear that anyone will profit from their donated labor.

## Creative Commons: share and share alike

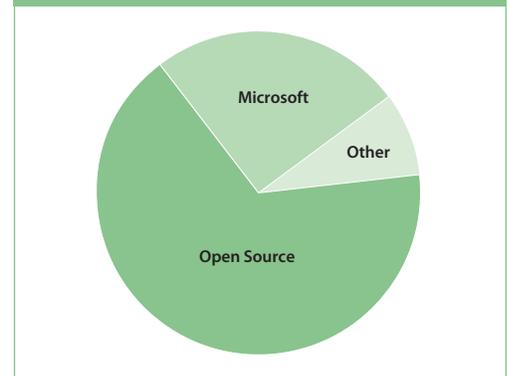


Until recently, writers, artists and other creators faced a dilemma when they released a work to the public. They could place it in the public domain and lose all control over how it was used, or they could protect it under copyright. If they chose copyright, anyone who wanted to reproduce their work would need their permission—but many creators want their work to be readily available for non-commercial use.

To address this problem, Stanford law professor Lawrence Lessig and his colleagues devised a system that allows non-commercial users to share and modify creative works freely. Creators can affix a Creative Commons symbol to their works and thereby alert others that the works can be shared in specific ways—for example, only in non-commercial settings, or only if the author is properly credited. This helps creative works circulate more freely, while protecting creators from piracy.

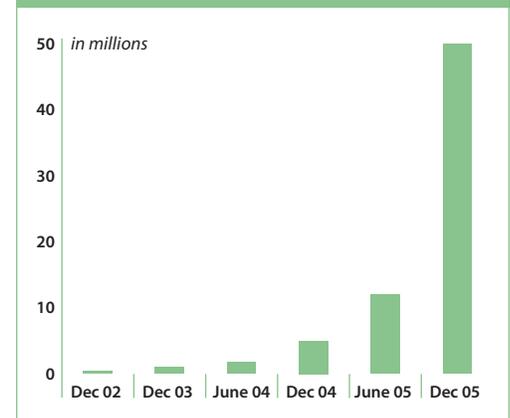
Since 2002, creators have assigned CC licenses to more than 50 million works, and the CC logo itself has become a symbol of the sharing culture.

### MOST SITES SERVED BY OPEN SOURCE



Since 1996, when the World Wide Web began to spread, an open source program called Apache has been the most popular choice for web hosting.

### CC LICENSES ARE TAKING OFF



We're so used to patents  
that we forgot ways to discover drugs  
in the public domain.  
We need to rediscover them.

—STEPHEN MAURER, CO-FOUNDER, TROPICAL DISEASE INITIATIVE

#### KEEPING THE WEB OPEN TO ALL

*Tim Berners-Lee was a programmer at CERN, the European high-energy physics lab, when he had an idea to greatly simplify the Internet. Instead of typing commands to fetch information from another computer, readers would simply click on a link and a new page would appear. The world's computers would become one seamless information space, freely accessible to all.*

*Berners-Lee wrote the codes for Hypertext Transfer Protocol (HTTP) and Hypertext Markup Language (HTML). More importantly, he persuaded CERN to release them into the world with no patents, licenses or other strings attached. As a result, anybody could adopt them without fear of lawsuits or owing a penny in royalties. Within a few years, the World Wide Web was ubiquitous. Berners-Lee then moved to MIT to lead an international consortium dedicated to preserving the Web as a non-proprietary space.*

*At numerous points along the way, Berners-Lee could have started or joined a business, and he probably would have earned millions. Each time, he declined. 'I wanted to see the Web proliferate, not sink my life's hours into worrying over a product release,' he explained.*

### Crazy for Craigslist

Craigslist began in 1995 as Craig Newmark's informal effort to keep his circle of acquaintances abreast of events in San Francisco. It soon expanded to cover jobs, apartments and household goods, and became an underground hit. Now <craigslist.org> attracts more than 10 million users a month in over 100 cities.

Except for job listings in some cities, posting to Craigslist is free. Many observers wonder why Newmark hasn't tried to wring more profit out of his site or sell out for millions of dollars. He isn't interested. 'We're both a community service and a business,' he says. 'We don't take ads — no banners, no pop-ups — basically as an expression of values.'

### Is it live? Or is it vinyl?

Sixty years ago, when radio stations started playing pre-recorded music on the air, musicians had reason to fret. Not only were their livelihoods threatened; so was the future of live performance.

To assuage these fears, the musicians' union and the record industry created the **Musical Performance Trust Fund**. For every record and CD sold, record companies pay a small royalty into the trust, which uses the money to sponsor free performances. Musicians get paid to play, and the public gets to hear live music.

In 2004, the Fund supported over 11,000 free concerts in parks, schools and hospitals, and paid more than \$8 million to musicians. It's a brilliant model of how commoditized, copyright-protected art can support free and living art.



Enjoying a concert  
in Chittenden  
Locks Park  
in Seattle,  
Washington.

## Now, open source science

Until recently, science was a 'gift economy' in which scientists pursued basic knowledge and freely shared their findings and ideas. Then, patents became the rage, and with them came secrecy and a tilt of research toward profit-making products.

In response, many scientists are creating new scholarly commons.

- The international effort to sequence the **human genome** placed all its results in the public domain.
- The **Public Library of Science** publishes freely accessible, peer-reviewed journals in biology and medicine.
- **OneWorld Health**, a not-for-profit pharmaceutical company, brings scientists and capital together to create low-cost drugs for the developing world.
- The **Tropical Disease Initiative**, a Web-based community of laboratories, collaborates on research for similar drugs.

## New ways to pay our pipers

Every civilization needs culture—statues and paintings, myths and stories, music and dance. But cultural workers need to eat, and if they share their work freely or cheaply, how will they make a living?

In many countries, national governments proudly support the arts. But in America, federal funding was never great, and recently it has declined. Fortunately, there are other mechanisms through which people can pay their pipers.

The **Music Performance Trust Fund** is one model: sales of copyrighted reproductions support live public performances. The **San Francisco Hotel Tax Fund** is another: it underwrites scores of community arts institutions, from the symphony to the Mime Troupe. Here are two other ideas:

- For creators of music and videos shared on the Internet, Harvard law professor **William Fisher** proposes a system that compensates artists with public funds based on how frequently their works are downloaded.
- Economist **Dean Baker** of the Center for Economic and Policy Research proposes a tax-credit-funded voucher system for paying artists who put their works in the public domain.



Big pharmaceutical companies say patents and high prices are needed to fund cutting-edge research. In fact, most basic research is funded by government and non-profits, with private firms often walking off with key patents.

### THAT IDEAS SHOULD FREELY SPREAD...

*...from one to another, for the moral and mutual instruction of man, seems to have been benevolently designed by nature, when she made them, like fire, expansible over all space.*

— Thomas Jefferson

# ASSURING SECURITY FOR ALL

Private savings aren't enough. We need universal trust funds and ways to share risk.

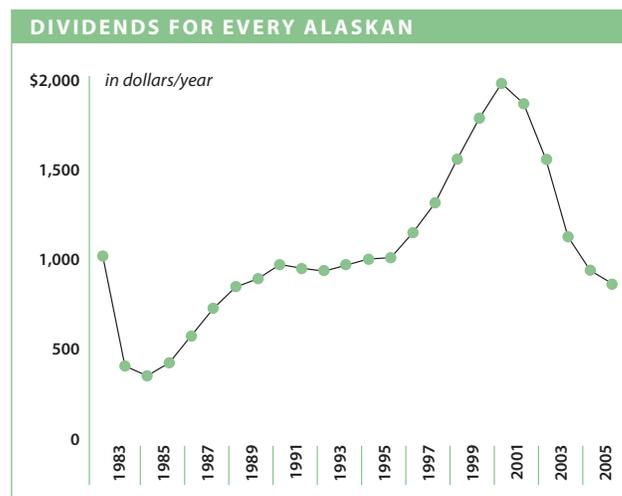


In pre-industrial days, common pastures, streams and woods provided food and fuel for all. Then, the commons were enclosed and people moved to cities.

Writing at the time of these enclosures, Tom Paine argued that, since loss of the commons meant loss of sustenance, displaced citizens ought to be compensated. To do this, he proposed a 'national fund,' financed through a tax on private land, that would pay yearly dividends of roughly \$2,000 (in current dollars) to everyone.

Paine's prescription remains remarkably relevant today. Not just land, but water, air and other gifts of nature are being claimed by private corporations. At the same time, people need more dollars than ever just to survive. Why not use nature's wealth to augment everyone's wealth?

Instead of a 'ownership society' in which everyone looks out only for themselves, America could be a 'co-ownership society' in which many assets and risks are shared. The following models show how and why.



Since the Alaska Permanent Fund began paying equal dividends to each Alaska resident in 1982, the state's population has risen by about 50 percent, the Permanent Fund has grown from \$4 to \$30 billion, and Alaskans have received more than \$13 billion in dividend checks. Because distributions are based on 5-year average earnings, dividends are still depressed by the dot-com crash and 2002–03 recession.

## The Alaska Permanent Fund

Under Alaska's constitution, the state's natural resources belong to its citizens. Jay Hammond, Republican governor of Alaska in the 1970s, took this provision seriously. When oil began flowing from state lands on the North Slope, he pushed for the royalties to be shared among Alaska's citizens. Many battles later, the legislature agreed to a deal: 75 percent of the state's oil revenue would go to the government as a replacement for taxes. The remaining 25 percent would flow into a **Permanent Fund**, which would be invested on behalf of all Alaskans equally.

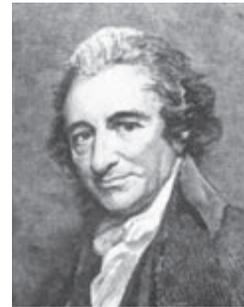
Since 1980, the Permanent Fund has grown to \$30 billion and paid equal dividends to all Alaskans (including children) out of the income earned from its investments. Annual dividends have ranged from \$800 to nearly \$2,000 per person, depending on the performance of the stock market. In effect, the Permanent Fund is a giant mutual fund managed on behalf of all Alaskan citizens, present and future. Even after the oil runs dry, it will continue to benefit everyone. Economist Vernon Smith, a Nobel laureate and libertarian scholar at the Cato Institute, has called it 'a model governments all over the world would be well-advised to copy.'

## An American Permanent Fund

Entrepreneur and author **Peter Barnes** has taken Alaska's model a step further. He's proposed an American Permanent Fund which would pay dividends to all Americans, not just those who live in Alaska. Revenue for the nationwide fund would come from several sources, the most significant of which is the auction of permits to emit carbon dioxide. Gas, oil and coal suppliers would be required to buy enough permits to cover the CO<sub>2</sub> emitted by the fossil fuels they sell.

'Just like oil for Alaskans,' Barnes explains, 'the air is a shared inheritance of immense value to all of us. At present, we let polluters dump their trash into our asset for free. The result is far too much pollution. If, instead, we charged polluters for diminishing our common wealth, we'd gain in two ways: first, there'd be less pollution, and second, there'd be income for everyone.'

For the average person, dividends from the fund would offset the higher prices they'd pay for fossil fuels; people who use car-pools or public transit would come out ahead. Everyone would gain from cleaner air, a more stable climate, and less dependence on foreign oil.



### IT'S OUR WEALTH

*Nature's gifts, wrote Tom Paine in 1790, are 'the common property of the human race.' When they are privatized, citizens must receive payment in exchange.*

### EMPOWERMENT, NOT DEPENDENCY

*The late John Rawls, one of America's leading philosophers, distinguished between predistribution and redistribution of income. Under redistribution, money is taken from 'winners' and transferred to 'losers.' Under predistribution, the playing field is leveled by spreading ownership of property. The property itself then distributes income to all.*

*According to Rawls, while redistribution creates dependency, predistribution empowers. Tom Paine would have agreed.*

**BRITAIN'S TRUST FUND BABIES**

*Every child born in Great Britain after 2002 has a trust fund. The government kicks in \$440 to start the funds (children in the poorest 40 percent of families receive \$880). It makes an additional gift at age 7. All interest earned by the funds is tax-free.*

*Parents, family and friends can add up to \$2,000 a year to children's accounts. At age 18, the children can decide how to use their funds.*



ETHAN KENT, PROJECT FOR PUBLIC SPACES

**YANKEE WEALTH RECYCLING**

*If wealth recycling sounds un-American to you, consider professional baseball, football and basketball. Each league shifts money from the richest teams to the poorest, and gives losing teams first crack at new players.*

*Even George Will, the conservative columnist, sees the logic in this. 'The aim is not to guarantee teams equal revenues, but revenues sufficient to give each team periodic chances of winning if each uses its revenues intelligently.'*

**A grubstake for every child**

Though America thinks of itself as a land of opportunity, not everyone gets the same chance to succeed. One out of five children is born into poverty, while a few inherit millions. One way to even life's odds is to give every baby a trust fund. Britain has done this, and America should do it, too. Here are two ways.

Senators Rick Santorum (R-PA) and Charles Schumer (D-NY) have sponsored legislation to create tax-free savings accounts for all newborns. The federal government would deposit \$500 into each account (\$1,000 for children in low-income households). When they turn 18, the children could use their savings for further education, home purchase or continued investing.

Yale professors Bruce Ackerman and Ann Alstott have gone further, proposing 'stakeholder grants' of \$80,000 to nearly all American children when they turn 18. Use of the money would be unrestricted, but there'd be two conditions for receiving it: a high school degree or equivalent, and the absence of a criminal record. The grants would be financed by a small tax on existing wealth. In effect, wealth would be recycled from those who have succeeded to those just getting started.

**Sharing life's risks**

Nowadays, people face a multiplicity of risks: suffering a costly illness or disability, losing a job, failing in business. These and many other calamities can strike anyone more or less randomly. Even longevity can become a misfortune if one outlives one's savings.

There are two ways we can approach these risks: one is to individualize them, the other is to share portions of them so that no one is destitute. The first says, 'Every person for him or her self.' The second, as embodied in Social Security, says, 'We're all in this together.'

Social Security was America's answer to one of the harshest side-effects of industrialization: millions of unemployable older people who couldn't rely on their families, as they had in the past. Franklin Roosevelt's ingenious solution was

an intergenerational compact in which one generation of workers supports a previous generation's retirement, and in turn is supported by the next. Thanks to this pact, America has all but eliminated extreme poverty in old age.

As it turns out, pooled risk sharing — sometimes called social insurance — has several advantages over individualized risk. One is universality: everyone is covered and assured a dignified existence. Another is efficiency: social insurance costs less than private insurance. The reasons include economies of scale, simplicity of options, and lower costs for marketing, claims management and profit.

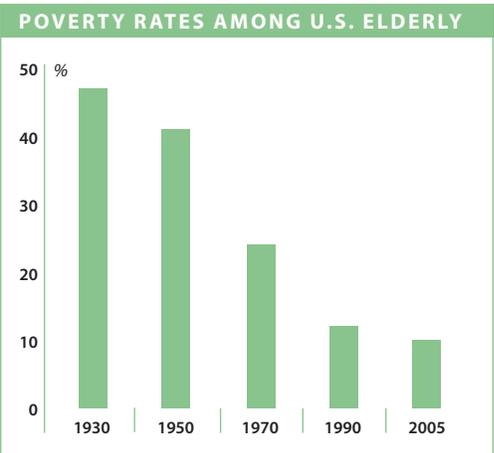
## Health care, Canadian style

Nothing better illustrates the advantages of pooled risk sharing than a comparison of Canada's health insurance system with America's. The 1984 Canada Health Act guarantees pre-paid medical care to all Canadians. Every province now runs its own insurance program in accordance with five principles:

- Each plan is not-for-profit.
- All medically necessary services are covered.
- All residents are covered.
- Premiums are affordable.
- Coverage continues when a person travels.

Canada also bans extra billing by medical practitioners. As a result, the system is incredibly simple. For routine doctor visits, Canadians need only present their health card. There are no forms to fill out or bills to pay. The system is supported by a combination of federal and provincial funds.

The bottom line is indisputable: Canadians enjoy better health care than Americans, at about half the cost and a fraction of the hassle.



Thanks to Social Security and Medicare, poverty among our elderly has declined dramatically.

### HEALTH CARE BY THE NUMBERS

	U.S.	CANADA
Per capita expenditures (US\$)	\$6,040	\$3,326
% spent on administration	26%	10%
Monthly premium for a family of 4	\$1,045	\$88
Prozac 10 mg. (100)	\$410	\$191
Male life expectancy (years)	75	77
Female life expectancy (years)	81	84
Infant mortality (per 1000 births)	6.5	4.7

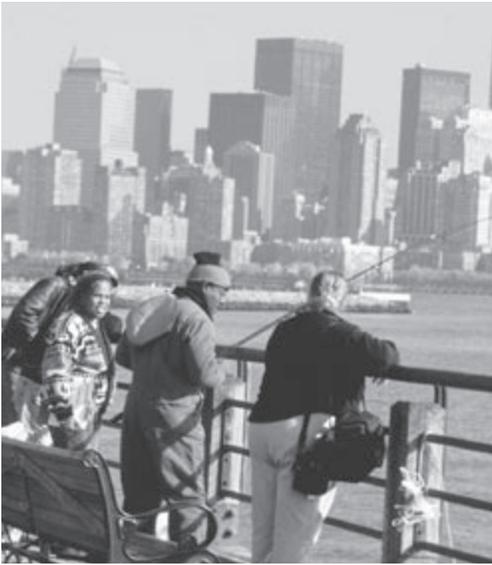
Our country has never been richer.  
But an unprecedented share of our wealth goes to a very small number of people.

—JULIET SCHOR, ECONOMIST

# RECLAIMING OUR TIME AND QUIET

Americans are tired of corporations' demands on their time and attention.

ANDY WILEY-SCHWARTZ, PROJECT FOR PUBLIC SPACES



Fishing off a pier in Liberty State Park in New Jersey.

When markets began, they were discrete events in time and space. Most of life occurred outside them, by different rules and for different ends. Until the middle of the last century, most stores closed in the evening and on Sunday. Families had time after work for Cub Scouts, PTA meetings and the like.

Today we move to the metronome of the market. Its needs demand our attention nearly every waking moment. Not surprisingly, that's making many people overloaded. They're telling corporations, 'You can't have everything. We need time for *life!*'

## Hold the marketing!

Common space is freedom space. It's there for us to inhabit, so long as we don't interfere with anyone else.

It's not a space we have much of any more. We're barraged by ads—over 3,000 a day and growing. Buses, airports and a host of other public places have become theaters for corporate want-creation. But a backlash is stirring.

- The State of Maine bought out all billboards in the state, beginning in 1981. Vermont, Alaska and Hawaii also ban billboards.
- Within three months after it was launched, the FTC's 'Do Not Call' list had already enrolled 50 million Americans, and now includes half of eligible U.S. phone lines.
- The future of TV ads is murky because a growing fraction of viewers use recording devices such as TiVo to fast-forward through commercials.

Our mental environment  
is a commons like air and water.  
We need to protect it  
from unwanted incursions.

## Got a minute?

Democracy requires a temporal commons, a pool of time available for community concerns. The market, however, claims so much of our time—both as workers and consumers—that we have little left for our families, let alone for our communities.

Americans work longer than medieval peasants, either at jobs that demand long hours, or at second and third jobs needed to make ends meet. They spend additional hours wrestling with the complexities of medical insurance and cell phone plans.

Now citizens are claiming more non-market time.

- Hundreds of communities hold **Take Back Your Time Day** events to recognize the day in October on which Americans could stop working if they had as much time off as Europeans. TBYTD's agenda includes paid leave after childbirth, limits on compulsory overtime, and making Election Day a holiday.
- The **Massachusetts Council of Churches**, with support from the Atlanta-based **Lord's Day Alliance**, has made the reclaiming of time a major focus.
- The **Slow Food Movement** has become a force to protect traditional ways of growing, preparing and eating food. Founded in Italy, it has thirty-five chapters in California, six in Texas, and one in Alabama.

## Putting time in the bank

Helping neighbors is a great American tradition. But as people relocate more frequently, it's harder for them to trust that favors they do will be repaid.

**Time Dollars** you can bank are one solution. When you help a neighbor for an hour, you earn one Time Dollar. Then, when you need help yourself, you can spend your saved Time Dollars.

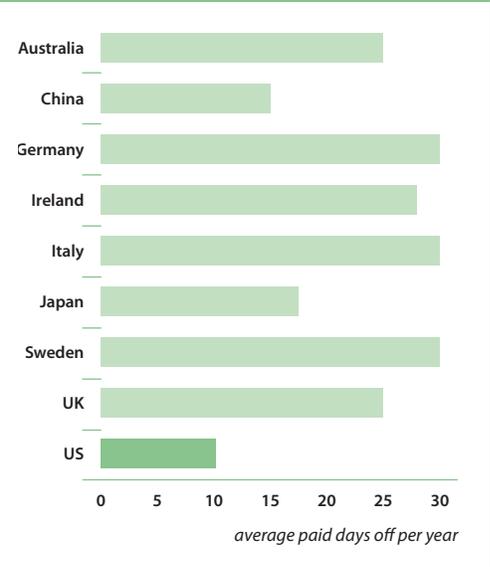
Some communities have harnessed Time Dollars for special projects. In Chicago, Maine and Florida, nearly 5,000 low-income kids have earned computers by tutoring younger peers for a hundred hours apiece. And in New York, members of an HMO for the elderly contribute 15,000 hours annually to help each other with home repairs, transportation and simple companionship.

### QUIET, PLEASE!

*A wave of modern devices has turned our once-tranquil soundscape into a sea of noise. Now, people are demanding quiet.*

- *Chicago, Cleveland and Pittsburgh have cracked down on boom box cars.*
- *Suburbs across the country have restricted leaf blowers.*
- *New York City has banned cell phones in theaters.*
- *Amtrak added Quiet Cars on its northeast corridor trains.*

### AMERICANS STARVED FOR PAID LEAVE



Americans have less paid time off work than citizens of any other industrialized nation, with barely two weeks annually.

# A PATH AHEAD

Let the world know  
what we know:  
the commons belongs  
to everyone.



JANE PELLUCIOTTO

A family purchases light rail tickets in Portland, Oregon.

## WHAT YOU CAN DO

*Take a walk in your neighborhood.*

*Notice what's missing: a community garden?*

*A bike path? A wi-fi hot spot?*

*A food buying club? Make it happen!*

*If there's a river, creek or wetland near you,  
fall in love with it. Learn everything about it.*

*Then join or build an organization to restore it.*

Like the tide, the commons ebbs and flows over time. In our time, it's rising again. Not in its ancient form, but in new, 21st century forms.

The first swells can be seen around us. The models exist. The possibilities are endless. Now, we need to *scale up*.

To do this right, we first need a large vision. In that vision, the commons is as strong and vibrant as the corporate sector. It's managed according to its own rules and in the interest of its own beneficiaries, future generations and all living citizens equally.

Second, we need to create common property rights that protect many of nature's gifts. These rights should be managed and defended by trustees, bound as much as humanly possible to future generations.

Third, we need to build commons management institutions at every level, from local to regional to global.

Fourth, we need to dedicate steady revenue streams to art, science, public spaces and public transportation. We need these streams to create zones of knowledge, culture and daily life that are shielded from corporate intrusion.

A strengthened commons sector can tackle several major problems long unsolved by corporations or government:

- Protecting the atmosphere, the ocean and other threatened ecosystems;
- Ensuring that, in the richest country on earth, no one is destitute;
- Providing simple, affordable health insurance for people of all ages.

And there's no end of work to do locally.

The key is this: wherever you are, claim your birthright to the wealth we jointly inherit or create. Claim it in living rooms, at church, in chat rooms and hair salons. Let the world know what we know: *the commons belongs to everyone!*

And when times are dark, remember that there *is* an alternative. It's rising now, and we can lift it faster.

## ABOUT THE TOMALES BAY INSTITUTE

The Tomales Bay Institute promotes public understanding of the commons through publications, gatherings and media. Please visit us at <[www.onthecommons.org](http://www.onthecommons.org)>, or contact us at <[tbicoordinator@earthlink.net](mailto:tbicoordinator@earthlink.net)>. The Institute now includes the efforts of Friends of the Commons. We are based in Point Reyes Station, California, with an office in Minneapolis and Fellows across the country.

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Editors	Peter Barnes, Seth Zuckerman
Writers	David Bollier, Jonathan Rowe
Design & Production	Jane Pellicciotto/Allegro Design
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**the commons**, n., gifts of nature and society;  
the wealth we inherit or create together and must pass on,  
undiminished or enhanced, to our children; a sector  
of the economy that complements the corporate sector.



**The models exist. The possibilities are endless.  
Now, we need to scale up.**