

Scene on Radio
Season 5, Episode 9:
Transcript

[Music]

John Biewen: *Season 5 is made possible in part by listeners who've supported our show, and by a grant from the International Women's Media Foundation.*

John Biewen: Amy, are you some kind of tree hugger?

Amy Westervelt: John, you say that like it's an accusation!

John Biewen: Well, yes. It is, because in a culture that has normalized tragic estrangement from the rest of the natural world, it is, we all know, ridiculous to have feelings about non-human life for its own sake.

Amy Westervelt: I really think the environmental movement has kind of over-corrected on this front. So, for a long time it was focused on nature to the exclusion of humans, which made it tough to tie climate into other social justice issues, and that was a big problem. But now I feel like even the movement has swung the other way, partly as a reaction to this sort of tree-hugger criticism from the right. And I don't think that's great, either. I think, you know, we should and could fight for both because we're all

connected. So yeah, I actually live in a forest, and I don't go hug the trees in it, but I do love a good, primal forest scream. And—

John Biewen: Ah. I'd like to witness that.

Amy Westervelt: And actually, I think that reinforcing our connection to the rest of the world is not just *not bad*, it's actually pretty critical to human wellbeing. I asked Indigenous activist and attorney Tara Houska about this recently, and I really loved her answer so I'm going to play it for you here.

Tara Houska: I think the climate movement does itself a huge disservice by even trying to condition themselves or allow their conditioning to continue that we are somehow separate from nature. That nature can be summed up in statistical data and analysis and that we are hard-nosed, you know, here's the solutions, right? And then you look at the little pieces like land defenders that are all over the globe. These are people that are in direct community with nature. That are not necessarily speaking the language of, you know, the statistical cold, hard 1.5 degrees or whatever, right? Because it's all around us and we are still in community with relatives, you know, like it's a completely different understanding of nature. It's not a place to visit. It's a place that's all around you all the time, including with yourself. Your body is made of the Earth, right? Like, that's understood.

Amy Westervelt: So, John, how about you? Any tree-hugging in your life?

John Biewen: Well, you know, I've hugged a few trees in my time. Usually it's more of a kind of laying-on-of-hands, hands on bark, and sort of a greeting: Hey there, oak. What's up, Beech. Hello Ms. Sycamore. I do have a low-key thing going with trees — and moss, and the wind, and water running over rocks. Should I cue that sound here, by the way?

Amy Westervelt: Yeah!

[Sound: water running over rocks in river]

John Biewen: These feelings have gotten more intense during the pandemic. Those walks in the woods have been a life saver, you know? And who knows, ecological grief and dread may play a part, too, in my feelings about being in the woods these days. There are certainly people more outdoorsy than me, and my credentials as an environmental activist are limited at best — though, you know, as long as I've been a voter, green policies have figured in how I vote. Not that the two-party system in the U.S. typically gives us extremely green options.

Amy Westervelt: Right. It's usually a choice between the party that wants to enforce *some* modest environmental protections while pretty much letting industry do whatever they want in the environment, vs. the other one wants to *completely* turn loose the

drillers, polluters, miners, foresters and other exploiters of “natural resources.” But we need to get past the idea that only people who identify as full-fledged environmentalists care about the health of the planet and natural systems. Especially when it comes to the climate emergency!

John Biewen: This came up in a stark way here in the fall of 2021, when Joe Manchin, the U.S. senator and coal baron, killed the strongest climate provision in the Democrats’ Build Back Better bill — which we talked about in our bonus episode. Politico, in its DC Newsletter, highlighted this development with the [headline](#): “Winner: Manchin. Loser: Environmentalists.”

Amy Westervelt: Arghh. It was so annoying and it had people screaming, and rightly so. When we make our planet unlivable thanks to people like Joe Manchin, it’s not just “environmentalists” that lose, it’s everybody. That mentality that only this special interest group, the “tree huggers” or the “green” people, has a stake in saving the planet — it’s so damaging, and really shows an ongoing failure to understand what’s at stake here. The NASA climate scientist Peter Kalmus likes to say we need a billion climate activists. Or billions.

John Biewen: Getting back to the cultural point, and that estrangement from our non-human relatives. We started this season by looking at the evolution of Judeo-Christian thinking on nature. We were trying to understand the roots of Europe’s — and ultimately America’s — role in driving us to the edge of ecosystem collapse. But we also heard

from David Pecusa, on Hopi Nation, and the scholar Enrique Salmón, about indigenous approaches — how the many peoples who were on this continent long before the colonizers arrived, how they view nature and humanity’s place within it. In this episode we’re gonna try to bring those two seemingly incompatible conceptions together, in a way.

Amy Westervelt: Yeah, in a way. There’s a legal concept called “Rights of Nature.” And it’s made its way into some countries’ constitutions and legal systems. In the U.S. it’s part of some tribal treaties and a growing number of people are trying to bring it into the rest of the legal system too. I’ve been low-key obsessed with rights of nature for a while, and I’ve come to think of it as basically a way to integrate Indigenous views of nature and justice into a Western legal system.

John Biewen: Which sounds hard. But a worthy thing to attempt. When you say “rights of nature,” Amy, what does that mean exactly? Ecosystems have rights?

Amy Westervelt: In a nutshell, yeah. And you know the first time I heard about this, I have to admit that I had kind of the same reaction that conservative commentators have had. Like, okay, so... the trees have rights? Sounds a little too hippy-dippy and woo-woo to actually work in a courtroom.

John Biewen: Amy, I'm surprised to hear you say that. I mean, it *does* sound radical at first blush. But certainly no more so than, oh, I don't know, giving a corporation all the rights of an individual.

Amy Westervelt: Yeah, exactly. That's a perfect comparison because we do give corporations almost more rights than individuals at this point. But still, it really is kind of difficult to integrate these ideas with the Western judicial system. I mean you're talking about meshing two very different approaches to nature and justice in one body of laws. So all those philosophical and religious ideas we talked about early on in this season would end up underpinning laws. And in the U.S., that means pretty rigid ideas about nature as property. How do you reconcile that with the idea of nature as a living entity, with rights?

John Biewen: And even in other countries, like Ecuador or New Zealand, which we'll be talking about here, you're dealing with either a Roman legal system or British common law, both from colonizer cultures with a whole lot of domination and ownership baked into their ideas around nature and, therefore, their laws around natural resources.

Amy Westervelt: That's exactly right, yeah. So that's the challenge that some folks have taken on, with varying degrees of success. It's one approach to repairing humanity's relationship with nature, and how that relationship is governed.

[Music: Theme]

John Biewen: From the Center for Documentary Studies at Duke University, this is Scene on Radio, Season 5: The Repair, Episode 9. I'm John Biewen.

Amy Westervelt: I'm Amy Westervelt.

John Biewen: This time we start turning our attention more directly to the transformations that we might make to save ourselves from ecological collapse — changes in policy, culture, and, in this case, in the law. Amy, take it away, and we'll talk some more later.

Anita (speaking Kichwa)

Voiceover: We must take care of our planet earth, to stop polluting it. With each passing day we must continue teaching this to our children and youth for a better future, because nowadays virtually nobody cares for nature. Trash is thrown everywhere, rivers are contaminated. That's how it is.

[Music]

Amy Westervelt: That's Anita speaking, in Ecuador. She's an 18-year old Kichwa from the highland region of Riobamba. Like so many others, she has migrated from the

countryside to Quito, Ecuador's capital city, in search of a better life. She works in a beloved neighborhood hole-in-the wall that sells fresh fruits and veggies, snacks, and home cleaning supplies. Anita holds dear the mothership that sustains us all: Pachamama. *Nature*. Mother Earth. In 2008, Ecuador became the first country in the world to write rights of nature into its Constitution. Rafael Correa was president, and he had won election largely on a wave of support from Indigenous communities, thanks in part to his pledge to enshrine their sovereignty into the Constitution. The Derechos de la Naturaleza were part of that. Framed around an indigenous Kichwa concept — harmonious living with oneself, your community, and the natural world — the country sought to prioritize nature over the sanctity of private property. The constitutional amendment says “Nature, or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.”

Alberto Acosta: Personalmente, yo vengo de una realidad en donde se asumía que la naturaleza era un objeto que estaba subordinada...

Amy Westervelt: This is Alberto Acosta. He's mixed, white and indigenous. He's an economist and the former minister of energy and mining for Ecuador. And he chaired the constitutional committee that wrote that rights of nature amendment into the Constitution in 2008. He's talking here about what shifted his thinking about nature, from believing that it was a subordinate object, a resource to be used for development or the economy, that it was an object that must be controlled by human beings. Then:

Alberto Acosta: Pero han pasado los años y por muchas razones he aceptado que esa visión, que si posicionamiento mío que todavía es dominante en el mundo, está *totalmente* equivocada.

Amy Westervelt: He does this thing that we all wish wasn't so rare: he evolves. Time passes. He takes in new information and revises his view. He says he comes to realize that his view of the world, a view that is still the dominant view in much of the world, is completely wrong. And he goes on to help write a totally different view of things into Ecuador's constitution. Of course, the constitutional amendment didn't immediately change the court system. When new laws or policies are passed, they need to be tested, generally with lawsuits. Ecuador's new rights-of-nature amendment was tested by all sorts of claims big and small. First there was this road that was being widened in the south that was dumping dirt and rocks into the Rio Vilcabamba. Two foreign activists who happened to live nearby filed a case on behalf of the river in 2009 and a judge ruled in favor of nature in 2010. They required the company building the road to submit to the court a remediation plan, environmental impact report, and all the required environmental permits before it could continue. Score one for nature! Also in 2010, a much bigger challenge, really testing the power and jurisdiction of the law:

Radio Mundo Real (Archival): Environmentalist organizations from five countries filed a complaint on November the 26 against British Petroleum, BP, for

the spill of over five million barrels, and the environmental damage linked to that spill in the Gulf of Mexico. The complaint was filed before Ecuador's court because it is the only country that recognizes nature as a subject and protects its rights in its constitution...

Amy Westervelt: The activist Vandana Shiva, with a handful of other activists, filed suit against BP in Ecuador over the Deepwater Horizon spill and its impact on Pachamama. So, a spill that had happened in another country, in the Gulf of Mexico off the coast of the United States, but that case was brought to court in Ecuador. After all, if your mandate is to protect the rights of Mother Earth, well, that justice knows no borders. The court eventually threw out that case for lack of jurisdiction. Various other cases have tested the limits and protections of Ecuador's Rights of Nature amendment. It has not been quite the silver bullet some may have hoped. Oil drilling, mining, and other extractive industries are still going strong in Ecuador. Here's a spoof ad that one environmental group put out in 2020 to protest the number of mining permits given out in the country's forests.

Spoof Advertisement: Are you looking for a country with naively low mining regulations, zero red tape, and irresponsibly low taxes? Look no further. Introducing a fabulous once-in-a-lifetime opportunity to open your very own mine in the most biodiverse country on the planet. And there is literally nowhere you can't mine. Inhabited lands? Not a problem! Our complementary army is at your

service day and night. 40 thousand troops on hand to deal with any combat situation. Wildlife? Forget about it!

Amy Westervelt: Today, Ecuador's Constitutional Court — that's their equivalent to the Supreme Court in the U.S. — is deliberating a rights of nature case on exactly this. If it rules in favor of the cloud forest of Los Cedros, that could set a new precedent providing legal protection for the country's 6 million acres of protected forests. That term, cloud forest, describes a type of rainforest that grows at high altitudes. The tree canopy is really dense and they're almost always shrouded in mist. That's where they get their cool name.

Martin Obando (Spanish): En este bosque tan biodiverso hay mucho que aprender. Siento que es aún muy poco, lo que hemos investigado, lo que hemos aprendido ...

Voiceover: In this very biodiverse place there's so much to learn. I believe that what we've learned to date has been so little. There's a huge diversity out there that should be investigated in this wonderful forest called Los Cedros.

Amy Westervelt: Nature guide Martin Obando has lived and worked in the Los Cedros Natural Reserve since 1994. His home there is roughly 40 miles north of Quito, in a forest that sprawls over more than 17-thousand acres. Founded in 1988 with land purchased by foreign investors including the Australian Rainforest Information Center,

this lush green land is at the center of the most high-profile rights of nature case in the world right now.

Martin Obando (Spanish): En la actualidad tenemos una amenaza muy fuerte por parte de las mineras transnacionales...

Voiceover: We face a very strong threat posed by transnational mining companies. They have obtained licenses to explore this protected area.

Amy Westervelt: Those companies are the defendants in this case before Ecuador's highest court. They include a Canadian mining firm that secured a gold exploration permit in Los Cedros in conjunction with Ecuador's state-owned mining company, and two subsidiaries of Australia's SolGold corporation. If the court rules in their favor, mining could take place in at least 68 percent of the Los Cedros Nature Reserve. The case has received international attention, with scientists all over the world agreeing that this place needs to be protected. Even Jane Goodall has expressed support. But that attention is another challenging aspect of enforcing the rights of nature in Ecuador. You might have noticed that both the cases I've mentioned before were filed by non-Ecuadorians. The Los Cedros case is also spearheaded by outsiders. An Australian nonprofit runs the reserve, and lots of the lawyers and activists involved in the case are not Ecuadorian. The coalition working to protect Los Cedros *has* reached out to local indigenous groups, and many support the effort. But they, and non-indigenous Ecuadorians, are not leading this fight. This trend has become another test for rights of

nature in Ecuador. When you have the world's strongest law protecting nature, how do you avoid becoming the world's testing ground for a legal theory?

Alberto Acosta (Spanish): Tuviste en el caso en la audiencia de Los Cedros ...

Amy Westervelt: Economist Alberto Acosta isn't too concerned about that. During the Los Cedros case, he says, scientists from all over the world testified to defend the spider monkeys, the plants, the water, and it was great. Magnificent, even.

Alberto Acosta (Spanish): ...magnífico!

Amy Westervelt: He's more concerned with a different problem.

Alberto Acosta (Spanish): Seguimos defendiendo solo situaciones aisladas....

Amy Westervelt: We continue to defend isolated situations, he says. This wonderful protected forest of Los Cedros. But why not *all* the woods?

Alberto Acosta (Spanish): Por qué no todos los bosques?

Amy Westervelt: Why not all the woods and all the moors? Why not all the water sources already?

Alberto Acosta (Spanish): Por qué no todas las fuentes de agua, ya?

[Music]

Amy Westervelt: For Acosta, protecting entire ecosystems would be more in keeping with the intention of rights of nature. Not just one case at a time. But, there's that problem of shoehorning this very different view of nature into a Western court system. The courts in Ecuador, like those in the U.S., work case-by-case. It's hard to say 'forget specifics, let's litigate how we treat forests in general'.

[Music]

[Break]

Annette Sykes: One of the key witnesses for me, he described it in our language as 'Te Urewera is my mother and my father.' It's where I grew up, it's where I go to pray, it's where I go to partake of food that nourishes me and my future generations. So for you to suggest that you can own my mother and my father is completely antithetical to our ideology or our relationships to that environment.

[Music]

Amy Westervelt: This is Annette Sykes, a Rotorua activist and lawyer in New Zealand. She advocates for the rights of Māori tribes to govern themselves. She's talking here about Te Urewera, an absolutely stunning ancient forest and river and mountain region that once comprised a national park in New Zealand but is also the homeland of the Indigenous tribe there. Now, this area is a legal entity. The Te Urewera approach solved the problem that Acosta mentioned — our inability to fit nature into a human legal system focused on individuals. Instead, in New Zealand, they created a separate set of legal rights and processes for an ecosystem. Te Urewera also illustrates how rights of nature dovetails with the indigenous land back movement — a climate solution many activists are also beginning to call for. Of course, what happened in Te Urewera wasn't perfect either.

Annette Sykes: The case wasn't an easy case, it went on for 15 years.

Colonization never goes away. So we were deeply colonized. So even the modern settlement process of treaty claims. I'd love to say that once we did the case, colonization got put on the plane back to United Kingdom. It didn't.

Amy Westervelt: After a long fight that started in the late 1990s, the Tūhoe iwi — a Māori tribe from the northeast region of what's now called New Zealand — and the New Zealand government granted legal personhood to the Tūhoe homeland, [Te Urewera](#). That happened in 2014. They created a board responsible for making decisions in the best interests of Te Urewera. Tūhoe, as children of Te Urewera, give expression to her through the board. But representatives of the Crown, the New Zealand Government, are also on that board. Indigenous elders have been protesting their presence.

Annette Sykes: You see very evident efforts by the Crown to maintain levers of power. And one of the levers of power, of course, is a board where the Crown appoints people to sit with other people and has the final say on who should be the whole board. And naturally people who live with the space feel that they have a closer connection and obligation that should be recognized in the decision-making authority that eventually emerges from it. So they are opposing the top down approach. In calling for much more accountability to the board, that's one problem. They see the accumulation of wealth as antithetical again to what they want for the conservation and ecological survival of their way of life.

Amy Westervelt: A lot of people who watch this stuff internationally saw what happened with Te Urewera as a major breakthrough for environmental law, but Sykes says the Maori elders see it as a stepping stone to broader transformation. Even the idea that humans have the power to give or deny nature rights is pretty off-putting to them.

Annette Sykes: She would never exploit me, and I should never exploit her. She feeds me, she nurtures me, her essence is me, I'm born from her roots and I go back to them. So how could I see her as a corporation? Sorry. That's why I struggle that she's even being identified as a equivalent in human terms. You know, it's the "legal personality" part.

[Music]

Amy Westervelt: The other issue with placing nature into the colonizer's court system? The time scale. Western legal systems in general don't understand or make room for the sort of generational thinking that's really required to protect nature.

Annette Sykes: You know, it's not, the statute of limitations isn't six years or 12 years. The statute of obligation is to the next generation at a minimum, if not till seven generations, because you have to be able to think beyond the thirty years.

So, you know, that's the conflict. I don't know how we're going to resolve it, but I'd love to see. Can I say climate change is also a trigger in our country? It really is changing behaviors, and we have to, we can't be complacent. And I think it's also one of the wonderful things about the Act itself, there is the ability — so I'm not all doom and gloom about it — there is the ability for strategic thinking to ensure that our obligations to the world climate change visions can be influenced by this being an exemplar of what we can do as a nation.

[Music]

Amy Westervelt: In the U.S. — and in many Western countries — rights of nature approaches like those in New Zealand and Ecuador, of course, butt right up against an issue we talked about in one of our early episodes: property law. In 2019, voters in Toledo, Ohio, passed the “Lake Erie Bill of Rights,” LEBOR. It was designed to protect that Great Lake from pollution — and the citizens of Toledo approved it via ballot initiative during a special election. But pro-property rights people, and especially the fossil fuel industry, lost their damn minds.

Montage of voices, news clips: *A lawsuit has been filed against the Lake Erie Bill of Rights not even a day after it passed...*

A farm in Wood County filed in a federal court this morning in Toledo....

And while this is one very brave farmer taking action, how this ultimately is decided will have implications for farmers not just in Ohio but across the nation....

They can't extraterritorially start dictating to the rest of the Lake Eerie Basin, which includes not only much of Ohio but parts of four other states and Canada....

You know, this is aspirational hippie language: let's fix the earth without knowing how....

But according to the environmentalists, we haven't moved fast enough for them. Apparently, in two years we should solve all the lake's problems....

Lake Eerie now has rights. National review. The radicals who are leading this agenda wish to thwart capitalism and human thriving....

Found out that BP was basically the sole funder of the campaign against....

Amy Westervelt: This is from the documentary *Invisible Hand*, about the Toledo fight and some other similar fights elsewhere in the country. A year after citizens passed the initiative, a federal judge in Ohio ruled that it violated the constitution.

Josh Pribanic: And just recently, you know, the city is negotiating whether or not to pay out two hundred thousand dollars in attorney costs.

Amy Westervelt: Josh Pribanic co-directed the documentary.

Josh Pribanic: And basically for this bill that they passed, that they had to argue in front of a court, and the prosecution's asking for payment of two hundred thousand dollars for their negotiating.

Amy Westervelt: It wasn't just that this rights of nature bill had passed in the United States that really set off the industry. It was that it was in Toledo, Ohio, not Brooklyn, New York, not San Francisco, California. In the Rust Belt. The film also follows another American community's fight for rights of nature: again, not in a coastal elite cite, but in Grant Township, a tiny, tiny town in Pennsylvania. But in the case of Grant Township, residents used an approach that can potentially work *with* America's weird approach to property rights. It's called Home Rule. In a nutshell, it gives the people who live in any

town the right to wrestle control over permitting decisions back from the state. And that's a big deal if you live in Pennsylvania and you're worried that your lawmakers are in the pocket of an industry that wants to dump its radioactive waste in your backyard. I asked Colin Jerolmack, the NYU environmental sociologist we heard from earlier this season, about this, because the case also surfaced in the research for his book about fracking in Pennsylvania, *Up to Heaven and Down to Hell*.

Colin Jerolmack: Pennsylvania, Colorado and Texas, are home rule states, which means that municipalities can create their own constitution and can create their own laws. And there are some municipalities that have exerted home rule and are going to court and they're winning. But home rule is something you have to opt into. And so I think, you know, getting municipalities interested to create their own home rule charters, I don't know that it would lead to a huge blossoming in absolute bans. I think in some places it would lead to a ban.

Amy Westervelt: What Jerolmack is referring to there is a sort of movement in towns and counties across the U.S. to ban fracking or to ban gas in new buildings. Obviously this is not something that the fossil fuel industry likes. But also it's something that conservatives have fought against really just because it seems like government intervening and telling them what to do.

Jerolmack: But what I've been really struck by is even a lot of very conservative communities, all they want are greater regulations than what the state is giving them. And so I do think that that could be an important part. It wouldn't solve the whole problem, but it would solve immediate, visceral problems to people, you know, like, for instance, not allowing fracking in residential areas or near residential areas. That would be great for a lot of people that deal, you know, front line communities, fenceline communities that deal with those consequences. And I think it's a way that could get rural conservative folks on board with environmental regulation, people who tend to be pretty skeptical or cynical of federal, let alone state regulations.

[Music]

Amy Westervelt: It's still a pretty far cry from rights of nature, particularly including rights of nature in the U.S. constitution, but it might be a step in that direction. And filmmaker Josh Pribanic points out that towns *can* opt to include rights of nature in their home rule charters. That's this local constitution that they draft when they decide to embrace home rule. Grant Township in Pennsylvania did just that. The town was fighting the state's decision to allow fracking companies to dump radioactive waste underground there. They're still fighting for home rule to stick. In late 2021, that case continues.

[Music]

Amy Westervelt: In the meantime, John, indigenous rights of nature cases are happening in the U.S. too. In Minnesota, the White Earth Band of Ojibwe are fighting to protect the rights of wild rice, manoomin, against the damage the Line 3 pipeline may cause.

John Biewen: Line 3 is that pipeline that a company called Enbridge Energy is building across northern Minnesota, replacing an old line that carried tar sands oil, about as dirty a kind of oil as there is, from Canada to Lake Superior. Ojibwe and other Indigenous people have led protests against it. People have filed several lawsuits to stop it, including this one that you mention, Amy, on behalf of wild rice.

Amy Westervelt: That's right. In 2018, White Earth and the 1855 Treaty Authority, an organization that upholds treaty rights for Ojibwe bands, enacted legal personhood for wild rice. It declared that within White Earth and other ceded Ojibwe territories, manoomin has "inherent rights to exist, flourish, regenerate, and evolve, as well as inherent rights to restoration, recovery, and preservation."

John Biewen: Hmm. In August 2021, White Earth invoked the rights of manoomin in a lawsuit against the Minnesota Department of Natural Resources, the DNR, filed in tribal court. The Ojibwe wants to stop construction of Enbridge Energy's Line 3 oil pipeline. The DNR claims the tribal court has no jurisdiction over the project. Construction of the pipeline has since been completed. But the case is still alive, so manoomin might still get its day in court.

Amy Westervelt: That's right, and if the tribal court rules against the DNR and if that ruling actually holds? That could be a *huge* deal in other pipeline fights, many of which are happening on indigenous lands and would impact water and land and lots of other ecosystems in the same way that this one does. This reminds me of how Annette Sykes in New Zealand really connects rights of nature to the broader indigenous sovereignty land back movement. Like, she talks about this Te Urewera win that all these advocates all over the world point to as a huge success as really more of a step on the pathway to sovereignty and just giving land back to indigenous people.

John Biewen: So the pathway to just giving the land back to the tribe and butting out, in other words?

Amy Westervelt: Yeah, that's right! And you can see how that would make sense for the Lakota at Standing Rock and the Ojibwe in Minnesota, too. Because, you know,

again, it is hard to just mash these two very different justice systems together, and do we need to force the Indigenous system into the colonizer court system or can we just give them real sovereignty?

John Biewen: But there's another way people are trying to tackle this, right? In Guyana, Brazil, Australia, and some other places?

Amy Westervelt: That's right. So, way back in 1972 at the first international summit on the environment, in Stockholm, advocates talked about environmental rights and instead of talking about them as rights of nature, they talked about a human right to a healthy environment. That idea didn't really go anywhere for a while, but in 1994 Costa Rica wrote it into its constitution, and today there are 110 countries that guarantee humans the right to a healthy environment in their constitution. And in quite a few of those countries, lawyers are trying to use those amendments to try to legally force governments to stop permitting fossil fuel extraction.

John Biewen: That is fascinating, and given that it's kind of a novel idea to me, let me guess, the U.S. is *not* one of those countries that has done this.

Amy Westervelt: Yeah. Sadly, the U.S. is as behind on this as it is on human rights in general. But the United Nations Rights Council, just in October 2021, declared access to a healthy environment a human right. So that's a pretty big deal.

John Biewen: And you've been following a case in Guyana, right, another country in northern South America, where a constitutional right to a healthy environment has come into play.

Amy Westervelt: That's right, it's super interesting. So ExxonMobil is starting a massive offshore deep water drilling project off the coast of Guyana, and this lawyer Melinda Janki, who's Guyanese, has filed a suit against the Guyanese government claiming, basically, that if it lets this project go forward, it'll violate her clients' rights to a healthy environment. The plaintiffs are a professor and a young climate activist. Initially, Exxon tried to say that this lawyer was misinterpreting the amendment, but, uhh, that didn't fly because she happens to have written that amendment! Yeah.

John Biewen: Wow, that's amazing. So, litigation. It's one possible tool that people can use, and are trying to use, to repair some of this damage — and to change how we live in nature going forward. Thanks so much, Amy Westervelt.

Amy Westervelt: Next time, credits, yada yada.

John Biewen: Next time, the first of two episodes where we go straight at the question at the heart of our series: what to do. How to stop the wreckage and begin the repair. Starting with the actions, the policies we need to push for now to save the planet and our collective future.

John Biewen: Our script editor for Season 5 is Cheryl Devall. In Ecuador, interviews and translations by Polyglot Barbershop, audio engineering assistance by Jonathan Pinto, and voiceovers by Cassandra Cola and Miles Bullock. Street music by Gustavo Fajardo. Additional reporting in New Zealand by Lyndal Rowlands. Other music in this episode by Lili Haydn, Kim Carroll, Chris Westlake, Lesley Barber, Cora Miron, and Fabian Almazan. Music consulting by Joe Augustine of Narrative Music. We post transcripts on our website: sceneonradio.org. The show is distributed by our friends at PRX, and comes to you from the Center for Documentary Studies at Duke University.