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FROM PROTEST TO POLICY: THE POLITICAL EVOLUTION OF  
CALIFORNIA ENVIRONMENTAL JUSTICE ACTIVISM, 1980s-2010s

A dissertation submitted in partial satisfaction  
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

SOCIOLOGY

by

Tracy E. Perkins

June 2015

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Tyrus Miller  
Vice Provost and Dean of Graduate Studies

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## **Abstract**

Tracy Perkins

From Protest to Policy: The Political Evolution of California Environmental Justice Activism, 1980s-2010s

This dissertation traces the political evolution of California environmental justice activism since its origins in the 1980s. I argue that over time environmental justice activism has been increasingly institutionalized through the creation of formal movement organizations incorporated as non-profits. This process of institutionalization has been accompanied by professionalization and a growing engagement with routine political processes. These include participation in government advisory boards and stakeholder initiatives, lobbying, policy advocacy, voter education, and campaigns to put environmental justice advocates in elected or appointed government office. The growth of these approaches has been accompanied by a general decline in more oppositional interactions with the state and a reduced use of disruptive, “outsider” political tactics. However, this changing emphasis has not been adopted uniformly across California environmental justice activism, resulting in growing schisms within the movement.

Activists’ strategies and tactics have shifted both in response to the effects of their earlier activism and their own strategic decision-making. These changes also are influenced by broader political trends outside of activists’ control. Earlier, protest based activism as well as current policy advocacy have both resulted in important

accomplishments accompanied by significant limitations. In the context of persistent structural racism and a capitalist economic system that has created vast divides between the “haves” and the “have nots,” the environmental justice vision of a clean, safe and equitable society remains an elusive goal.

The conclusions presented here are informed by in-depth interviews with 55 environmental justice activists across the state conducted between 2013 and 2015. They also draw on in-depth interviews with 39 San Joaquin Valley environmental justice activists conducted between 2007 and 2011. I also conducted policy and legal research to support my analysis of the two case studies presented here. One case study analyzes 28 years of environmental justice activism in the San Joaquin Valley’s Kettleman City, which hosts the largest hazardous waste landfill west of the Mississippi. The other analyzes environmental justice activists’ involvement with policy advocacy on the California Global Warming Solutions Act of 2006 and its ongoing implementation process. Finally, this work is informed by my own participation in California environmental justice activism.

## **Dedication and Acknowledgements**

This dissertation was written with the support and participation of a large community. Most importantly, I thank the environmental justice activists throughout the state who shared their reflections with me through the interviews analyzed here. My dissertation committee members Andy Szasz, Jonathan Fox, and Miriam Greenberg helped at every step along the way from project conceptualization to completion. Barbara Epstein, Julie Guthman, and Steve McKay also provided much appreciated mentoring and guidance. Dave Campbell, Jonathan London and Julie Sze gave me an excellent foundation for this project through their oversight of my master's work, and I thank them for their ongoing moral support and opportunities for collaboration during my doctoral work. Brandi Summers-Thompson, Christie McCullen, Sandy Brown, Sara Romano, Jeff Jenkins, Michelle Glowa and Bernie Zaleha helped me brainstorm, write, and navigate my doctoral program through innumerable meetings at local coffee shops with laptops and post-its. Finally, thank you to Bill and Lynette Perkins, who were unfailingly supportive of the many years I spent in higher education. This dissertation is dedicated to the memory of San Joaquin Valley environmental justice activist Teresa De Anda.

## **Chapter 1: Environmental Justice Activism Then and Now**

To most of the country, environmentalism is still understood through a collage of iconic moments and artifacts: the Cuyahoga river catching fire, young “tree-sitters” living high up in stately Northern California redwoods to keep them from being cut down, or the Sierra Club’s beautiful yearly calendars that feature the splendors of the natural world. The experience of poor people and people of color who have alternately described their work through the lens of environmental inequality, environmental racism, or environmental justice are generally less present in this popular imaginary, but they too have an important role to play in the history of American environmentalism.

These advocates earned a separate label from the broader environmental movement because they focused on different things. Where the majority of American environmental activists of were middle-class Americans who sought broad protections for our air, water, animals and wild places, environmental justice activists focused more narrowly on the heavily polluted neighborhoods in which they lived.

### **The origins of environmental justice activism**

The origins of the environmental justice movement are often located in a 1982 protest in Warren County, North Carolina. African American protestors lay down on the road to block trucks from bringing soil contaminated with polychlorinated biphenyls (PCBs) to a local landfill. The landfill had been located near the poor,

predominantly African American town of Afton in order to create a regulated site to dispose of PCBs that had been illegally dumped along North Carolina roadsides. Local activists came together with regional and national civil rights leaders to stage 25 days of protest during which 523 people were arrested (McGurtry 2007). Their explicit racial critique of the location of the landfill in their county, as well as the involvement of national civil rights leaders, led to the creation of the term environmental racism.

Other iconic moments in the development of the environmental justice movement followed. In 1984, the California state agency responsible for managing waste commissioned a report titled “Political Difficulties Facing Waste-to-Energy Conversion Plant Siting” (Powell 1984). The report was written by a private consulting firm called Cerrell Associates, Inc., and later become known, infamously, as the Cerrell Report. This document motivated early environmental justice advocacy through its inflammatory recommendation to locate waste-to-energy facilities, also known as incinerators, in low-income communities less likely to be politically effective in resisting them. For example, the authors wrote that, “Middle and higher-socioeconomic strata neighborhoods should not fall at least within the one mile and five mile radii of the proposed site” (1984:43). The document was the closest thing activists had to a “smoking gun” showing intent to locate polluting facilities in low-income areas with little political capital that are least likely to be able to resist them effectively. Another key document was created in 1987, when the United Church of Christ published “Toxic Wastes and Race,” the first national study to show the

disproportionate location of hazardous waste landfills in communities of color. The report found that communities of color often suffer from disproportionate exposure to pollution even when their class position is held constant (Chavis Jr. and Lee 1987).

Early fights in California often centered on the hazardous waste incinerators at issue in the Cerrell Report described above, as well as landfills and other waste concerns. Grassroots groups were at the forefront of these struggles. In predominantly people of color communities, key groups were the *Madres del Este de Los Angeles* (Mothers of East LA), Concerned Citizens of South Central Los Angeles, the West County Toxics Coalition in Richmond and *El Pueblo Para el Aire y Agua Limpio* (People for Clean Air and Water) in Kettleman City. Working class white communities also participated in the activism of these early years. For example, Concerned Neighbors in Action took on liquid hazardous waste flowing through their streets from the Stringfellow Acid Pits above their homes in Glen Avon in 1978 (Sarathy 2011), and residents living near the Casmalia hazardous waste landfill began protesting it in 1985 until its closure it down in 1989. All of these groups attracted national media attention and won their respective campaigns.

Their efforts, and those of other community groups like them, generated a ferment of activity and enthusiasm. At a time when environmentalists were seeing many of the victories of the 60s and 70s rolled back under the Reagan administration, environmental justice activists were charting a new, more combative path closer to the needs of people most impacted by pollution. In the San Joaquin Valley's Kettleman City, iconic moments included the day when students and sympathizers

came from around the state to chain themselves to the axles of a bus parked across the entrance to the hazardous waste landfill just outside of town. Or, the hearing at which the Spanish speaking residents were told to “go to the back of the room” if they wanted to hear the proceedings translated, and instead stormed the front of the room. Groups from around the state came together to support each other’s campaigns in 1989 through back-to-back marches in Southern and Northern California. The first was led from the Santa Isabel Church, where the Madres del Este de Los Angeles were based, to the incinerator site in Vernon. The next day activists in Northern California followed suit with a march in Martinez.

On the national stage, fledgling environmental justice activists made waves in 1990 when they sent a series of letters to the “Big Ten” national environmental organizations<sup>1</sup> charging them with a lack of attention to the environmental problems impacting communities of color, racism within their own predominantly white staffs, and the disappropriation of the lands of Native Americans. These letters and the subsequent 1991 First National People of Color Environmental Leadership Summit held in Washington D.C. announced environmental justice activists to the world in bold, aggressive language. Then in 1994, environmental justice activists stood by President Clinton’s side while he signed Executive Order 12898. The order directed all federal agencies to “identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income

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<sup>1</sup> Organizations that received this letter included Sierra Club, Sierra Club Legal Defense Fund (now Earthjustice), National Audubon Society, National Wildlife Federation, Environmental Policy Institute/Environmental Defense Fund, Izaak Walton League, The Wilderness Society, National Parks and Conservation Association, and Natural Resources Defense Council.

populations, to the greatest extent practicable and permitted by law” (United States Environmental Protection Agency n.d.). For environmental justice activists, it seemed that their time had come.

### **Environmental justice activism today**

Today, much has changed. The Environmental Protection Agency recently celebrated the 20<sup>th</sup> anniversary of their environmental justice work, and government statutes direct both the federal and state government to consider the environmental justice implications of all decisions made by all branches of government. The first person of color ever appointed to direct the EPA just stepped down after four years in office under the first person of color ever elected to presidency. During her tenure, the EPA raised the profile of environmental justice activism and began a new plan to better address environmental justice concerns (Environmental Protection Agency 2011) after a period of little action under the Bush presidency. College classes on environmental justice and environmental racism are offered throughout the nation, and more and more non-profits are taking on the problems of environmental racism and environmental inequality.

California environmental justice activists have even more reasons to celebrate. The California Environmental Protection Agency now has a full-time Assistant Secretary for Environmental Justice and Tribal Affairs. The person currently filling the position was raised in a family of environmental justice activists. A handful of other environmental justice activists occupy positions in the Governor’s Office, while



others have moved into elected and appointed positions in city governments and regulatory boards. Activists and community residents regularly attend government hearings equipped to help both English speakers and monolingual Spanish speakers participate. In some cases even companies whose work is opposed by environmental justice activists have embraced the language of environmental justice.

Environmental justice activists have flexed their muscles on policy advocacy initiatives in the state capitol, and have played important roles in the near total halt of the construction of hazardous waste incinerators, the removal of the agricultural industry's exemption from the Clean Air Act, the gradual clean up of the ports of Los Angeles and Long Beach, and the passage of the nation's first law recognizing clean drinking water as a human right. Many environmental justice activists' offices now contain framed awards and public recognition from a variety of state agencies: the Department of Toxics Substances Control, city governments and the state Congress.

And yet, these many years later, much also remains the same. Study after study continues to document the presence and disproportionate burden of pollution in low-income communities and communities of color, including a twenty year update to the 1987 report "Toxic Wastes and Race" (Bullard et al. 2007). Residents continue to experience these statistics through heavy air pollution, noise, and unpleasant smells. They live near mega-dairies that leach nitrates from cow manure into their drinking water and create bad odors and flies. They live next to agricultural fields from which pesticides drift into their homes. Accidents at the industrial facilities next door send them alternately running through the streets, sheltering in place in their

homes, or unsure what to do. They turn on the taps in their kitchen sinks and watch brown or sediment-filled water come out, or perhaps worse, water that looks and tastes fine but is contaminated with arsenic, nitrates, or pesticides. They live near sites where oil drilling vibrates the earth and cracks their windows and foundations, in places where air pollution alerts regularly warn children not to play outdoors. And, scholars increasingly report on the subsequent toll on their health, linking exposure to pollution to more visits to the hospital, higher rates of cancer, asthma, and other illness, and earlier death (Alexeef et al. 2010; Capitman and Tyner 2011; Morello-Frosch et al. 2011; Morello-Frosch, Pastor, and Sadd 2001).

### **Changes in the form of environmental justice activism**

Early environmental justice activism was noteworthy for the widespread involvement of local community groups and the use of tactics outside of the routine political process, such as the blockade in Warren County. Early environmental justice activists also criticized national environmental groups for, among other things, their reliance on routine, “insider” politics in the nation’s capitol, and called for “a people’s strategy which fully involves those who have historically been without power in this society” (SouthWest Organizing Project 1990:3). “Outsider tactics” and community groups that are not incorporated as nonprofits continue to find a home in environmental justice activism, but it is an increasingly small one.

This dissertation argues that over time environmental justice advocacy has been increasingly institutionalized through the creation of formal movement

organizations incorporated as non-profits. This process of institutionalization has been accompanied by a growing engagement with routine political processes. These include participation in government advisory boards and stakeholder initiatives, lobbying, policy advocacy, voter education, and campaigns to put environmental justice advocates in elected or appointed government office.

Both academics and activists have long debated the wisdom of using these “insider” tactics to achieve social change. On the one hand, many social theorists argue that this approach does not address the structural origins of everyday problems such as the racism, poverty and environmental degradation that underpin environmental inequality and environmental racism. Worse, some see insider tactics as actively undermining movement goals, and the results of a process of cooptation or “selling out.” On the other hand, another body of thought sympathizes with movement institutionalization, the development of formal social movement organizations, and participation in existing political structures as a pragmatic strategy capable of achieving concrete, if limited, reforms in hostile political climates.

This dissertation charts broad trends in both the political landscape and the form of environmental justice activism in California since its early days in the 1980s. In my telling, California environmental justice activism is not a success story of a movement that has been able to scale up its local work into significant statewide power. Nor is it a story of the cooptation and blunting of grassroots power over time. Rather, it is a story of the experiences of environmental justice activists who have struggled for decades for clean air to breathe, clean water to drink, and safe, healthy

communities in which to live. Their strategies and tactics have shifted both in response to the effects of their earlier activism and their own strategic decision-making, as well as to broader political trends outside of their control. Earlier, protest based activism as well as current policy advocacy have both resulted in important accomplishments accompanied by significant limitations. In the context of a capitalist economic system that has created vast divides between the “haves” and the “have nots,” the environmental justice vision of a clean, safe and equitable society remains an elusive goal.

This research builds on and contributes to existing scholarship on environmental justice. Where the majority of environmental justice scholarship focuses on documenting environmental injustices, this work contributes to the smaller body of work on environmental justice activism. And, although environmental justice activism is often included as a chapter within the history of US environmental activism, these analyses almost invariably portray environmental justice activism in a static way. To date, little work has been done to examine how environmental justice activism has changed over time. What work that does exist on this front tends to focus on the changing discourse, framing, and sometimes subject matter of environmental justice activism (Schlosberg 2013; Sze and London 2008), rather than its changing politics and strategy.<sup>2</sup>

Where the majority of scholars analyze environmental justice activism at the level of the town, the organization, the campaign, or the policy, this project reveals

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<sup>2</sup> Eric Carter’s recent article “Environmental Justice 2.0: New Latino Environmentalism in Los Angeles” (2014) is a significant exception to this trend.

broader trends in environmental justice activism by using the entire state as the unit of analysis. This approach also allows for vital analysis of the interactions between and internal tensions amongst discrete activist groups that can be less visible in cases with fewer activist organizations involved.

By locating activists within the broader social, political and economic world that shapes their tactics, I emphasize that activists are not completely free-actors making decisions independent of the larger world in which they are enmeshed, which is sometimes the implicit message of environmental justice scholarship. However, I also take activists' strategic decision-making seriously, and chart how they have navigated the changing political circumstances over time. This project does not just assess activism from afar, but engages with activists' own perceptions of their political options, their successes and failures, and their reasons for the tactics they use. My work therefore sits squarely at the intersection of activist agency with broader political and social structures.

This project engages critically with the outcomes of movement participation in environmental decision-making in a field that often takes participation by grassroots activists in the formal political system as a victory in and of itself, regardless of outcome. However, it also asks what tangible benefits engagement with the state has produced that may go unacknowledged by critics of insider politics. Finally, this dissertation pushes back on a tendency in the environmental justice and political ecology literatures to build our analyses around implicitly monolithic categories of "the community," "people of color," and even "environmental justice

activists” by underscoring the diversity of goals and political outlooks of people located within these categories.

### **Origin stories and the meaning of environmental justice**

The narrative at the beginning of this chapter, which locates the origins of environmental justice activism in the Warren County protests, is the most common rendering of the story. It marks the starting point of the environmental justice movement with activism that created the term “environmental racism” in the 1980s. But there are many ways to describe the origins of environmental justice activism. Some scholars emphasize the overlap of the environmental justice movement with the preceding anti-toxics movements by including the activism led by Lois Gibbs and others in Love Canal, New York, which preceded the protests in Warren County, as part of the origins of environmental justice activism (Szasz 1994). My research in California suggests that these two movements indeed had significant overlap, with a number of groups that first organized under the rubric of anti-toxics activism later using the language of environmental racism and environmental justice. Therefore, the early years of the story I tell about environmental justice activism in California include low income communities of all racial and ethnic backgrounds, as opposed to only featuring the low income communities of color that became the focus of the environmental justice movement as it transitioned away from anti-toxics framing.

Other scholars have described earlier environmental actions taken by low-income people and people of color outside of the self-described environmental justice

and anti-toxics movements as environmental justice activism as well. For example, in their environmental justice timeline, Bullard et al include Martin Luther King's involvement with the garbage strike led by black sanitation workers in Memphis in 1968, and the United Farm Worker's declaration of a national grape boycott day in 1969 (Bullard et al. 2014). Taylor analyzes environmental justice activism as a "submerged frame" in a long period of activism beginning with people of color trying to improve housing conditions for slaves (2000). Elsewhere she interprets Sacagawea's environmental contributions to the Lewis and Clark expedition of 1804, and Harriet Tubman's connection to the environment through the framework of environmental justice (D. Taylor 2011). Pulido frames the early anti-pesticides work of the United Farmworkers of America from 1965-1971 (1996b).

In some of these cases the people whom the above scholars analyze are described as environmental justice activists even though they would not have self-identified as such, as the language of environmental justice had not yet been invented. In other cases, these earlier environmental actions by people of color are described instead as precedents to contemporary environmental justice activism. Either way, this work is important because it shows that the environmental justice activism of the 1980s and beyond did not spring whole cloth from nothing. Analyzing the precedents of contemporary environmental justice activism helps show the many ways in which people of color and low-income populations engaged in environmental action long before the 1980s. It also highlights the absence of these histories of environmental action in many of the dominant narratives US environmentalism.

However, there are also drawbacks to using the concept of environmental justice for such a wide array of activities across such a large swath of time. The uses of the term now often refer to either, 1) an analytic lens to explore any form of environmental inequality, 2) a descriptor of low-income and people of color engagement with environmental action, whether or not they themselves see their work as environmental justice activism, or 3) a descriptor of historically specific social movement made up of people who self-identify as environmental justice activists.

The use of the same term for these divergent purposes makes environmental justice an analytically blurry concept, for which it is not always clear how the author intends it to be used. Second, calling environmental activism undertaken by low-income people of color prior to the 1980s “environmental justice activism,” without explicit language describing it as a precedent to contemporary environmental justice activism, obscures the historical specificity of the environmental justice movement and the conditions under which it emerged. Third, labeling all people of color engagement with environmentalism as “environmental justice” can obscure the diversity of ways in which people of color participate in environmental action, including within the mainstream environmental movement. It can be problematic to use the language of environmental justice to describe all people-of-color engagement with environmentalism in the context of what Finney has described as the ghettoization of environmental justice concerns by policy-makers, in which any person of color engaging environmental issues is assumed to be working within the realm of environmental justice activism rather than the broader environmental



movement (2011, 2014). This trend has also been noticed by Milligan, who documents how a group of largely African American residents seeking to make improvements in the water quality of a local river actively avoided using the language of environmental justice, which they anticipated would place them in the category of second class citizens in their relationship with the state (2014).

This dissertation therefore traces the evolution of the third category of “environmental justice” from the above schema - the US social movement whose participants self-identify as environmental justice activists, and whose origins overlap with the preceding anti-toxics movement. However, as will be explored in the pages that follow, the use of the term is varied even within this bounded category. Some activists embrace the term environmental justice to describe their work wholeheartedly, while others use the term in some political contexts but not in others. And, the use of the term to cover an increasingly diverse array of forms of activism and policy work also adds complexity to the story of the political evolution of California environmental justice activism.

### **Why California?**

Environmental injustice is a national and global problem, so why study its politics in California? As the ninth largest economy in the world (Center for the Continuing Study of the California Economy 2012), California is significant in its own right, as well as beyond its borders. On the subject of climate change, for example, California occupies a key role in the national setting. The state is a

significant contributor to climate change, with between 452.97 and 484 million tons of carbon dioxide equivalent emitted each year between 2000 and 2009 (California Air Resources Board 2011). The US is the second largest emitter of carbon dioxide in the world, and California is the single largest greenhouse gas emitter in the US, thus slowing climate change will require its significant participation (World Resources Institute 2012; United Nations 2012). Within the US, high-growth regions that contribute the most to our national greenhouse gas emissions, like California, will be particularly important.

Similarly, the US is well on its way to becoming majority people of color country, as indicated by recent census data that shows births of babies of color have surpassed births of white babies. California reached this demographic tipping point in 2000, and in 2014 Latinos surpassed whites to become the single largest ethnic group in the state. Although, as with all social groups, people of color have diverse political affiliations and relationships to environmentalism, these changing demographics impact politics in ways important to my research topic. Recent polls show that Latino voters and people of color more generally believe the science of climate change and favor environmental legislation to slow it more than the whites who are more frequently associated with environmentalism (Baldassare, Bonner, Petek, Shrestha 2012; Hertsgaard 2012; Sahagun 2010; Sierra Club 2008; Sierra Club and National Council of La Raza 2012). This suggests that the racial politics of environmental and environmental justice activism in California, and particularly the relationship between environmental justice activists and the Latino Legislative Caucus in the state capitol,

could be a sign of things to come in other parts of the country.

Even before California became a majority people of color state, however, it has been seen as an environmental policy trendsetter, with state standards often surpassing federal standards, and sometimes later becoming adopted more widely across the country. In environmental justice activism too, activists and policymakers beyond the state's borders attend to what happens here. As a Washington D.C. based environmental justice activist told me during the course of my research,

There's a lot always going on in California... The great thing about the Californians is they've got great state and federal leadership. You've got Boxer and Pelosi and Waxman and Maxine and Barbara Lee. I mean the delegation is the best. So, we're always counting on them to lead the way on every issue. It's great to have that. They're an extremely important flank in the environmental justice movement.... I think that there's still lot of struggles because of globalization. But they have the right convergence of progressive leadership, resources, and the diverse communities who have this fabulous gumbo of activity going on... So, it's a very special place. I always tell my California friends, don't send us any bad stuff, keep being the model for the rest of the country, because really, seriously, it's very important.

Finally, while the origins of environmental justice activism are most frequently located in the American South, environmental justice activism has a rich, long history in California as well. Analyzing California's historical and contemporary environmental justice activism, therefore, emphasizes that environmental justice activism in this country sprang up in many locations independent of each other, rather than all flowing from the events of Warren County and the African American protestors that lay down in the streets there, as is sometimes implicit in origin stories

that begin there. It also underscores the regional and racial diversity of environmental justice activism.

California's role as a national environmental trendsetter, when combined with the ongoing seriousness of the environmental problems faced in the state's most politically disenfranchised communities, suggests that the state may serve as a model, but it also serves as a warning. If even one of the most environmentally progressive states in the country, with some of the strongest activist infrastructure and political receptivity to environmental justice issues experiences the kinds of problems that form a daily backdrop to life in our most politically disenfranchised communities, our prognosis could be dark indeed.

Finally, while I focus on California, I see my analysis of activist dynamics here as model with which to explore processes and outcomes of activism in other places as well. The questions guiding my analysis are applicable across a range of cases. How do social movements evolve over time? What are the most important changes in the American political context of the last thirty years, and how have movements responded to these changes? How does the decision-making capacity and agency of activists combine with broader political, demographic and social trends to shape activist strategy and outcomes?

## **Methods**

This dissertation grew out of my prior research on environmental justice activism in California's San Joaquin Valley. Where that project analyzed individual

activists' pathways into environmental justice activism (Perkins 2012), this project scales up geographically and temporally to analyze environmental justice activism across the state and the lifetime of the movement. The conclusions presented here are informed by in-depth interviews with 55 environmental justice activists across the state conducted between 2013 and 2015. They also draw on the in-depth interviews with 39 San Joaquin Valley environmental justice activists I conducted between 2007 and 2011 for prior research. I have not included the names of the activists I interviewed here, except in the cases of interview excerpts that have already been published elsewhere with identifying information.

In addition to interviews, I also conducted policy and legal research to support my analysis of the two case studies presented here. One case study analyzes 28 years of environmental justice activism in the San Joaquin Valley's Kettleman City, which hosts the largest hazardous waste landfill west of the Mississippi. The other analyzes environmental justice activists' involvement with policy advocacy on the California Global Warming Solutions Act of 2006 and its ongoing implementation process.

Finally, this work is informed by my own participation in California environmental justice activism. My relationship to California environmental justice activism began in 2007, when I conducted interviews for my first research project. I designed these interviews to provide data for my master's thesis and also to collect stories that could be shared outside of academia to help activists raise the profile of their work in the public realm. This effort led to the creation of Voices from the Valley (formerly 25 Stories from the Central Valley), which included theater,

photography and a website featuring oral history, teaching tools, a news feed/archive and other online content (Perkins 2008).

Voices from the Valley was supported by an advisory committee of five activists, one of whom later invited me to join the board of directors of his organization, Greenaction for Health and Environmental Justice, on which I served for three and a half years. Other organizations were periodically in touch to make use of my photographs and the oral histories I had collected, to get help connecting to scholars who could support their research needs, to solicit my participation in organizational evaluations and visioning processes, to ask me to document events through photography, or to help them find interns and staff. I deepened my relationships with activists through these many points of contact, and later created a second digital humanities project to honor the lifework of one who I came to know particularly well: Teresa De Anda, a San Joaquin Valley pesticides activist who died from liver cancer in 2014 (Perkins 2015).

Contributing to environmental justice efforts through my research, writing, photography and teaching is a core priority for me. But managing the often disparate needs of activism and scholarship is not always easy. Because my “participant observation” has necessarily included more participation with some groups than others, I have had more exposure to some activists’ ways of understanding and analyzing contemporary environmental justice activism than others’. This is significant given the increasingly fragmented nature of environmental justice activism across the state. To counteract this as best I can, I leaned on my interviews with a

broad swath of environmental justice activists to help give me a variety of perspectives on the issues at hand. I also chose case studies that fall both within and outside of my own primary group affiliations.

Scholars who have ethical commitments to the social movements about which they write often feel a conflict between a desire to write only positive things about the social movements they support, on the one hand, and their training in critical thinking, on the other. In the best of cases, we do intellectually rigorous scholarship that is useful to the movements we study even though it may also critique them. I hope my work can do just that by offering a big-picture overview of where California environmental justice activism has been, how it has changed over the years, and a description of the resulting political dilemmas facing activists today. In this project I hope to offer seasoned environmental justice activists a fresh perspective on their work, and newer activists a deeper understanding of their own history.

My analysis is deeply shaped by the voices of the activists I interviewed for this project. Therefore, my writing quotes them extensively to share and value their insights. For scholars, I hope that this approach will underscore that activists too are engaged in conversations about many of the topics that often appear in our scholarship with little reference to their parallel intellectual work. Nonetheless, in the end I draw my own conclusions about California environmental justice activism, which do not always agree with those of the people I interview. This work therefore tries to value and include the voices of environmental justice activists, while steering clear of speaking for them.

## **Roadmap**

This dissertation analyzes the political evolution of California environmental justice activism through the following content. Chapter two provides an overview of how environmental justice activism in the state has changed over time. It shows how early activism that overlapped with the anti-toxics movement in low-income communities later changed to focus on low-income communities of color in the environmental justice movement. It describes how the frame of environmental justice then expanded over time to include more and more subjects, and was also rearticulated by state agencies and industry. It further traces the professionalization of activism, the growing importance of the nonprofit sector, and parallel shifts in strategy. Specifically, I explore the shift from early disruptive protest tactics to contemporary policy advocacy and collaborative work with the state. Finally, I describe the internal conflict within environmental justice activism that has resulted, in part, over differing perspectives about these changes.

Chapter three situates these changes within a broad social and political context as it has changed over the duration of California environmental justice activism. I show how conditions favoring popular protest have waned at the same time as conditions favoring policy advocacy, collaboration with the state and professionalization have grown. In addition to assessing the impact of these broader trends on environmental justice activism, I also describe how the early efforts of environmental justice activists changed the political landscape in ways that differentiate contemporary activism from what came before. Finally, I describe how



many environmental justice activists have made strategic choices to do things differently in response to their perceptions of the limitations of earlier strategies.

Chapter four tells the story of 28 years of environmental justice activism in the small agricultural town of Kettleman City. The experience of activists there helps tell the story of the early environmental justice movement and its oppositional relationship to the state. It also shows how, in the face of broad changes over time in which many activists have engaged more collaboratively with state agencies, Kettleman City activists have maintained a more oppositional relationship to the state. It therefore provides a window into the deepening schisms within the environmental justice movement as it becomes increasingly divided by strategic approaches and the professionalization. The town's victory in halting the construction of a hazardous waste incinerator in the early 1990s underscores the efficacy of the early environmental justice movement. However, the town's ongoing troubles with the landfill and other sources of pollution also highlight the difficulty of overcoming long established patterns of pollution and social disenfranchisement.

Chapter five features the statewide policy advocacy work that environmental justice activists pursued to shape the content and implementation of the California Global Warming Solutions Act of 2006. This continues long past 2006 as activists participated in advisory committees and lawsuits in an effort to prevent the creation of a market-based cap-and-trade system as the cornerstone of the state's efforts to control industrial greenhouse gas emissions. Their early successes in the legislature were overridden by state agencies, and cap-and-trade became the central feature of

the new system for managing industrial greenhouse gases. I argue that in spite of their growing ability to access state legislators, neoliberal political logics remained stronger than the forces activists were able to bring to bear on their campaign. The internal conflict among environmental justice activists who divided over the question of whether to support policies to try to direct revenues from the cap-and-trade system into environmental justice communities also highlights the divergent perspectives activists take on working within existing political systems. Overall, this story helps explain why activists have scaled up their work to the level of state policy advocacy, as well as limitations of this approach.

Finally, chapter six describes the political dilemmas facing environmental justice activists today as they navigate increasingly collaborative relationships to the state, state-wide policy advocacy, and a general decline in disruptive protest. I highlight the tradeoffs inherent in these changes, and argue that in spite of the continuing problems of pollution in low income communities of color, they would likely be worse off if not for the efforts of environmental justice activists over the years.

## **Ch. 2. Changes in California Environmental Justice Activism**

### **From Low-Income Communities to Low-Income Communities of Color**

The Warren County protests provided the first explicit race-based framing of the distribution of hazardous waste landfills, which later grew into critiques about the racialized distribution of environmental amenities and disamenities more generally. But the protests in Warren County didn't start out with an explicit racial critique. Eileen McGurtry explains that the local community group opposing the landfill was predominantly made up of whites, and that they opposed the landfill for four years before later connecting with civil rights leaders to create a race-based critique paired with direct-action blockades of the dump. The new racial framing had as much to do with the role North Carolina played in national civil rights politics and the reauthorization of the National Voting Rights Act, which had been a cornerstone achievement of the Civil Rights movement, as it did with the dump itself (McGurtry 2007). Indeed, for the first many years of opposition to the landfill in Warren County, activism there fit neatly into the existing anti-toxics movement that had gained national prominence through the publicity surrounding Love Canal in 1978.

Andrew Szasz's description of early anti-toxics activism as multi-racial, grassroots, local, contentious, originating in opposition to siting of hazardous waste facilities while couched in a structural critique of American society and politics

(Szasz 1994) makes clear its overlap with what would later come to be called environmental justice activism. He writes that,

As it has developed, the hazardous waste/toxics movement has crossed class and race boundaries. In its previous phases, American environmentalism could plausibly be dismissed as middle-class and white. With the maturation of this, the grass-roots or toxics phase of environmentalism, that is no longer an accurate portrayal. The industrial facilities that produce toxics tend to be located in or near communities of the working poor and of people of color. Historically, waste disposal facilities were, likewise, to be found in the poorest, demographically most heavily black or Latino communities... Antitoxics environmentalism, then, is an environmentalism to which working people and people of color can relate. By 1990, toxics organizing in the nation's racial and ethnic communities was perhaps the most dynamic, fastest-growing facet of the toxics movement. (1994:75)

Like many white anti-toxics activists, Sue Greer of PAHLS saw her activism as responding to a class-based distribution of social problems that impacted people of all racial backgrounds:

I think that it is unfair that the rich dump on the poor. And that's what this issue is all about...Hey, if you're poor and you're black or you're Hispanic or you're a farmer, like me, look out 'cause here comes an incinerator or a landfill or some God-awful piece of pollution. (Szasz 1994:192)

But when Greer's organization went to nearby Gary, Indiana, to organize against a proposed toxic waste incinerator there she encountered racial tension nonetheless:

The black mayor of Gary and the City Council told us to go home, we didn't have any business over there, although it's like fifteen miles from where I live. It's the same air. Air isn't black or white; we all breathe the same air. They tried to make a racial issue out of it, I think... I found that there's two classes of blacks in the Gary area. There are some very racist people over there. It's very hard to work with them. But there are some very beautiful people over there, too, and those are the people that we are bringing in now. (Szasz 1994:192)

Like Greer, white activists not only at times encountered difficulties working in majority people of color communities, but also in racially integrating their own groups. As Kaye Kiker described,

ACE has about 350 members and we are biracial. That was one mountain we had to climb. A lot of people left ACE because we decided to be a biracial group, but we've gotten beyond that. (Szasz 1994:192)

Racial tensions amongst activists also surfaced when anti-toxics organizing was later eclipsed by the framing of environmental racism, which emphasized race instead of class as a primary cause in the distribution of pollution sources.

Specifically, this frame drew attention to people of color's increased likelihood to be exposed to polluting industries as compared to whites. As Pulido writes,

It is important to note that the grassroots movement for environmental justice began as an anti-toxics movement (Cable and Benson, 1993; Capek, 1993; Szasz, 1994), and emanated from both white and nonwhite activists, with the initial emphasis being on working class, and poor communities threatened by both polluters and the state. Nevertheless, it is the plight of nonwhites that is currently receiving most attention, largely through the development and deployment of the "environmental racism" frame... In short, the creation of "environmental racism" as an organizing strategy shifted attention to nonwhites, specifically, disproportionate exposure to various forms of pollution, their historical exclusion from environmentalism, and the often regressive nature of environmental policy (Alston, 1990; SWOP, 1990; Austin and Shill, 1991; Bryant and Mohai, 1991). It is still unclear why racism has been so much more forceful than, say, an emphasis on equity, which would include whites. Certainly one factor is the authority and organizational capacity of the civil rights establishment. But perhaps more important is the degree to which "race" looms large in the public consciousness and it is no longer acceptable to engage in what the dominant society deems racist behavior (i.e., deliberate targeting). In contrast, income disparities and political weakness emanating from class relations are rarely, if ever, critically discussed. By articulating the situation in "racial" terms, and making unprecedented claims upon both the state and private polluting firms, activists drew attention to their plight, and reinterpreted the problem of toxics as a

racist one, thereby eclipsing the needs and concerns of white communities. (Pulido 1996a:145–146)

With the rise of environmental racism framing by activists, scholars and others debated the “race vs. class” casual mechanisms behind the distribution of pollution sources extensively. Again, as Pulido wrote in 1996,

There has been a great deal of wrangling among academics, industry analysts, and policy-makers as to whether environmental racism actually exists, what it is, and if discriminatory patterns are simply a function of other (i.e., nonracist) forces and structures... it has also been intimated that should environmental racism be proven invalid, then perhaps activists would recognize their error and abandon efforts to challenge potentially hazardous land uses. (Pulido 1996a:142,143)

Scholars identified an array of mechanisms to explain the disproportionate location of polluting industries in communities of color. Some resisted the idea the idea of racism as an important factor in the location of polluting industries. As Pulido writes,

Some in this group have a far more conscious and directed racial project than others. To a certain degree, they recognize how ideas of race are discursively constructed and are attempting to make the United States a “color blind” society. One critic noted with dismay the recent lawsuit filed on behalf of the Latino residents of Kettleman City which charged Kings County, California, with environmental racism, “It’s unfortunate their argument did not rest solely on the theory that, as poor people, they should not be burdened with an extra share of the toxic waste. But, then, that doesn’t raise the temperature like a good dose of race-baiting” (Rees, 1992:16). Here, the critic appreciates “race” as a social artifact and is attempting to delegitimize it as a social concern. (Pulido 1996a:153)

In contrast to the person quoted above, Pulido and other scholars supported the environmental racism perspective by showing how deeply embedded racism has been in the history of class formation and other racial projects (Pulido 1996a).

Regardless of the cause, however, the frame of environmental racism as an outcome is supported through many statistical analyses that show polluting industries are more likely to be located in communities in which the majority of residents were non-white, even when class was held constant (Bullard et al. 2007; Chavis Jr. and Lee 1987; Morello-Frosch et al. 2001; Pastor et al. 2013).

Later, the terms “environmental equity” and then “environmental justice” came into use. Holifield writes that the language of “environmental equity” was promoted by federal policy-makers, to the displeasure of activists:

When activists concerned about disproportionate impacts of toxic pollution first gained the attention of federal policy-makers in the early 1990s, the EPA preferred to call the problem one of “equity” instead of “racism” or “justice.” According to a 1990 EPA report, only environmental “equity” lent itself to measurement using methods of scientific risk analysis (U.S. Environmental Protection Agency, Office of Policy, Planning, and Evaluation, 1990; Sandweiss, 1998). From the perspective of grassroots activists, however, characterizing the problem as a matter of achieving an “equitable” redistribution of pollution represented a distortion of their agenda. Not only did they insist that their goal was to prevent pollution rather than redistribute it, but many activists also criticized the EPA’s reliance on flawed risk analysis models. Under pressure from these activists, the EPA soon followed their lead and adopted the broader and more inclusive term environmental justice (Foreman, 1998). President Clinton’s (1994) Executive Order 12898 ensured that environmental justice would become the favored term in other United States federal agencies as well. (2001:80)

The term environmental justice broadened the framing of environmental racism to also include class (Pulido 2000), in recognition of the fact that low-income white communities also suffered a disproportionate burden of pollution as compared to wealthier white communities. Some activists saw this as a retreat from the race-based framing that had been at the core of their work and pressed for a continuation

of the usage of environmental racism framing. Nonetheless, the most common use of the concept of environmental justice became, and remains, a focus on low-income communities of color, with much less attention paid, if any at all, to low-income white communities. Below, Pulido and Taylor present slightly different versions of this history. As Pulido writes,

In early studies, the term “environmental racism” was used to denote disparate patterns. Over time, the term “environmental equity” became popular, as it was more inclusive, encompassing both racial and economic disparities. Many activists, however, also saw it as an effort to depoliticize the antiracist consciousness underlying the movement. Moreover, as Heiman (1990) has pointed out, environmental (in)equity implies the problem is with the allocation of pollution and environmental hazards, rather than with a particular economic system. Activists eventually adopted the term “environmental justice,” as it was inclusive and offered a more politicized conception of the problem. (Pulido 2000:34)

On the other hand, Taylor presents a slightly different account:

Around the same time activists, scholars, and policy makers began studying the phenomenon of environmental racism, the term *environmental justice* came into use. During the 1980s, the Citizens Clearinghouse for Hazardous Wastes (CCHW) (1989) began describing the grassroots environmental activism engulfing the country as “the movement for environmental justice.” A primarily White, working- and middle-class organization at the time, CCHW (which grew out of the Love Canal Homeowners Association and the campaign of Love Canal residents to get compensation for their contaminated property) focused on social class. It organized around justice for middle- and low-income people. However, as the U.S. GAO (1983) and UCC (1987) studies brought the issue of race and the environment to prominence in communities of color, the term *environmental equity movement* was used to describe the growing movement to address racial, gender, and social class environmental inequalities (e.g., see Bullard, 1990, 1992a, pp. 82-95). By the early 1990s, the term *environmental equity* fell into disuse, and the term *environmental justice* rose to prominence. The term *environmental justice movement* replaced the term *environmental equity movement*. The terms *environmental justice* and *environmental justice movement* emerged out of the series of meetings and workshops held between 1990 and 1991 to plan the



1991 First National People of Color Environmental Leadership Summit. The term *justice* replaced equity because environmental justice activists felt *justice* was a more inclusive term that incorporated the concepts of equity and impartiality, or equality. The movement is concerned with two kinds of justice: (a) distributive justice, which addresses who should get what, and (b) corrective or commutative justice, which is concerned with the way individuals are treated during a social transaction. (Taylor 2000:536–537) [Emphasis in original]

As the anti-toxics movement became the environmental justice movement, work in predominantly white low-income communities dropped off as low-income communities of color became the focal point of the movement. In some cases, older anti-toxics organizations in predominantly white communities refashioned themselves as environmental justice organizations as the demographics of their communities changed over time to become largely made up of non-whites. This, for example, is the case of Center for Community Action and Environmental Justice, which began through organizing in the low-income white community of Glen Avon around the Stringfellow Acid Pits. In other cases, anti-toxics organizations expanded their mandate and the places in which they worked, to become increasingly in agreement with the environmental justice framework over time. A small number of groups, such as Greenaction for Health and Environmental Justice, continue to work in both low-income communities of color and low-income white communities. Finally, some anti-toxics groups were unable to transition into the environmental justice movement and closed down. The National Toxics Campaign, for example, began its work in 1984 as the National Campaign Against Toxics Hazards, sponsored by Citizen Action and Clean Water Action. Their work in California centered on Richmond, where they helped found the community group West County Toxics Coalition, which still exists

under the leadership of Dr. Henry Clark. As Burke writes,

By 1990 the [National Toxics Campaign], which could rightly claim much of the credit for organizing the grass-roots support that led to the passage of the tough 1986 Superfund toxic waste cleanup amendments, had grown to 100,000 members with 25 employees and an annual budget of \$1.5 million. (1992:12)

However, the National Toxics Campaign closed in 1993 due to, in the words of several of its board members and staff, “chronic problems of racism, sexism, poor management, and lack of accountability” (Hinds et al. n.d.:1). The National Toxics Campaign was a recipient of one of the famous, critical environmental justice letters in the early 1990s, and according to some insiders, the internal efforts to embrace a more racially just staffing and decision-making structure within the organization was part of what underpinned the power struggles that eventually led to the organization’s demise. Others describe the organization’s problems as less about race and gender, and more about conflicts between its grassroots leaders and central managers over fundraising and organizational decision-making (Burke 1992).

On the other hand, Greenpeace was also a recipient of such a letter, but was able to forge strong relationship with grassroots activists of color with at least some of the Greenpeace staff and weather the transition from the anti-toxics movement to the environmental justice movement, until Greenpeace closed that aspect of their work entirely in the late 1990s. Other groups, such as the Silicon Valley Toxics Coalition, had various points of intersection with the environmental justice movement, but largely continued on in the tradition of the anti-toxics movement.

## **Movement Professionalization**

As Szasz describes, early anti-toxics activism took place at the grassroots, with little assistance from formal social movement organizations:

Before 1978, instances of siting opposition were, with almost no exception, conducted without any contact with or help from others. After 1978, more than half the cases reported in the literature show that groups had begun to network, to bring in speakers from communities fighting the same companies, to share experiences and learn from others' tactics. (Szasz 1994:71)

In California, Greenpeace and California Rural Legal Assistance played important roles in the anti-toxics movement and overlapping early years of the environmental justice movement work. Greenpeace organizer Bradley Angel and his peers traveled throughout the region to tell communities about toxic facilities being proposed near their homes, and to help residents resist the siting of these facilities. California Rural Legal Assistance gave the young lawyer Luke Cole a desk in their office, where he developed an array of legal approaches to support environmental justice organizing (Cole 1993, 2011). The National Toxics Campaign mentioned above, which was based on the East Coast, also undertook work in California during this time. Their work in California centered on Richmond, where they “provided organizing, technical and financial assistance to and served as the fiscal sponsor for West County Toxics Coalition in Richmond” (Hinds et al. n.d.:11).

These organizations worked with community groups that sometimes they helped form, and sometimes were already in place before they arrived. Some of these community groups incorporated as non-profits over time. For example, activism undertaken around the Stringfellow Acid Pits in Glen Avon by the Concerned

Neighbors in Action later led to the creation of the Center for Community Action and Environmental Justice, which still exists as a nonprofit organization that works on environmental justice concerns in the “Inland Empire” region just east of Los Angeles. The Coalition Against Cancer, which began work in 1980 in San Diego, similarly became the nonprofit organization Environmental Health Coalition over time.

Some of these groups transitioned successfully from the anti-toxics movement to the environmental justice movement, though several retain white executive directors as artifacts of their origins in the anti-toxics movement, in which low-income and working class white communities participated equally with low-income and working class communities of color. Other groups were active for the time needed to fight their local campaign, and then, after either succeeding or failing with their immediate target, dissolved. Other current environmental justice organizations have their roots in environmental organizations or other relevant nonprofits and later spun off into their own organizations. For example, Communities for a Better Environment grew out of an environmental organization based in Chicago called Citizens for a Better Environment and Greenaction for health and Environmental Justice grew out of the anti-toxics organizing of Greenpeace. These organizations did not originate in site-specific community groups, and remain more likely to have offices, and pursue work, in multiple locations.

Over time, the nonprofits pursuing environmental justice work grew in both number and in size. Larger staffs required increased funding from philanthropic

foundations, which in turn required an increased level of professionalization in order to successfully compete for and manage increasingly large grants.

Universities also began to provide formalized training, legal, and research support for environmental justice activism. As Bullard writes,

In 1990, there was not a single university-based environmental justice center or a program that offered a degree in environmental justice. In 1994, there were just four university-based environmental justice centers. It is no accident that all of these early environmental justice centers were located at historically black colleges and universities (HBCUs). Today, there are dozens of university-based environmental justice centers and 22 legal clinics that list environmental justice as a core area, and six academic programs that grant degrees in environmental justice, including one legal program. (2014:13)

## **Framing & the Expanding Task of Environmental Justice**

### **The Expanding Meaning of Environmental Justice**

Contemporary environmental justice activism grew out of conflicts about the management of hazardous waste and the subsequent anti-toxics movement, as well as the foundational role of the PCB landfill located in Warren County. Early anti-toxics struggles were often NIMBY (“Not in My Backyard”) efforts, in which residents’ primary concern was to prevent the location of new industrial facilities in their towns, often with little thought to where these facilities might locate instead (Szasz 1994). However, in many locations activists quickly developed a broader critique of industrial practices that led them to not only to prevent the location of industrial facilities in their “backyards,” so to speak, but also to question their location in anyone else’s backyard either. This often happened through engagement with nascent movement organizations that put activists from different towns struggling with

similar problems in touch with each other. For example, Mary Lou Mares from Kettleman City describes how her thinking changed as she met more people from affected communities in other parts of California:

We started going to statewide conferences and meeting other people who were fighting other terrible stuff. There was Stormy Williams, she was fighting in the Mojave Desert. Everybody says, "Why can't you put this incinerator in the desert or somewhere where people don't...?" And she would get up and say, "Wait a minute, I live in the desert!" [Laughter] At first, you are so ignorant that it's easy to say, "Put it in the desert," but you start meeting people and you start understanding that there is no place to put an incinerator because the air belongs to everybody and it has currents and it goes around and comes around. You just cannot put anything into the air.

In order to support just such transformations, Lois Gibbs and the Citizen's Clearinghouse for Hazardous Waste, now called the Center for Health, Environment and Justice, made this way of framing the issues explicit when they were contacted for help with local battles, as did other groups. As Szasz writes,

It is true that people who are just becoming active today still tend to start from a narrow, NIMBY position. But when they contact the movement's infrastructure to ask for help, they not only get help, they get a full dose of the movement's radical analysis. And they are exhorted to stay involved, become part of the movement, help others. (Szasz 1994; 83)

However, not all activists stay with the movement after their local battles are won:

Of course, in spite of all encouraging and cajoling, most people's participation will be limited and of short duration. Lois Gibbs has noted that, "for the vast majority of groups in the Movement, the local fight is everything"... As Marty Chestnut put it, "Most groups are one-issue groups. Once they win a case, they fold up and go away. One or two people will want to continue, get fired up. (Szasz 1994; 160).

Early anti-toxics and environmental justice activists gained support and energy from residents' desire not to see their communities become host to new incinerators and landfills. As many activists developed deeper critiques of contemporary society based in social justice ethics, however, their understanding of the interconnectedness of many environmental and social problems deepened. Over time, then, the issues tackled under the guise of environmental justice activism expanded from waste, to pollution more generally, and then further to include environmental amenities such as parks (Carter 2014), healthy food (Gottlieb 2009), public transportation infrastructure (Bullard and Johnson 1997), and climate change (Sze and London 2008). This issue expansion process means that environmental justice activism now has significant overlap with the parallel areas of climate justice and food justice activism, both of which drew heavily on the conceptual ground already trodden by environmental justice activists (Alkon 2012; Schlosberg and Collins 2014).

One activist reflects on this expansion through her organization's work over the years:

I think our work has shifted the way environmental justice has shifted. When we began in the early and the late '80s, early '90s, we were focused on hazardous waste, and that was the origins of the environmental justice movement, looking at hazardous waste and the disproportionate impacts, on communities of color. There was Kettleman City and Buttonwillow and Westmoreland [the locations of California's three Class I hazardous waste landfills, all of which are in predominantly Latino towns].

And then in the mid-'90s, we were still doing that, but also looking at toxics. So there were hazardous waste incinerators proposed, cement kilns, and using tires as fuel in cement kilns was another issue that we were focused on. So they became sort of a toxics issue, and I think that was also true of the larger environmental justice movement, looking at air pollution and toxics.

And then towards the late '90s, and I think it's true to this day, we looked at disproportionate impacts generally. So everything from land use, to pesticides, to transportation. It opened up into lots of different areas, where we were seeing that the same issues from toxics and hazardous waste were true for other sources of pollution, and other environmental decisions. And then I think in the mid-2000s or so, it became—we were looking to not only fight the bad things, but also try and implement the good things. So more and more communities were doing proactive campaigns. Not just critiquing policy, but actually trying to propose ordinances, or trying to start pilot projects, or convening task forces. Doing things; not waiting for the government or not waiting for industry to do it, but actually trying to implement some of the solutions that we had been advocating for, to demonstrate that it could be done. And so we began doing some of that, more proactively.

Although the description above begins with the early years of environmental justice activism, environmental justice framing was not adopted at the same time everywhere. Another activist, who lives adjacent to the Port of Los Angeles, only remembers the term being used for the first time in the early to mid 2000s:

The term environmental justice really wasn't used that often back then. I would say the term environmental justice started being used about eight or nine years ago. We understood that we were being exploited as a community. We understood that. We understood it as mostly that because LA is so big, and that we were identified as throw away communities by virtue of our adjacent location to the port.

But as environmental justice started to shape in our minds, what it really means to have issues of environmental justice, we realized that we fit every aspect of it. We have a lot of non-whites here. We have a lot of poverty here. So it's fairly easy to be exploited, and there's a lot of efforts to keep really meaningful change from happening as far as investing in the area, like what they would do if they redid the waterfront, which is the project I told you about that they keep talking about, but they don't do. Because, in reality, my opinion is if they build something really grand there, they're going to be under a lot of pressure to keep the other aspect of the port looking good, being as little-polluting as possible. There's going to be a lot of pressure on them. This way, they can just kind of do whatever they want, and they have less people of power, so to speak.



Because environmental justice activism and framing has been developing for several decades, as new people become exposed to it, they are exposed to broader conceptions of what the term means than they would have been had they been introduced to the term earlier. However, the concept of disproportionate burden of pollution in politically vulnerable communities remains at the center of the term.

### **Multiplying and Potentially Conflicting Uses of the Environmental Justice Frame**

The frame of environmental justice activism became used in an increasingly wide array of settings as more people and organizations engaged with it over time. Since its early days, the number of organizations pursuing environmental justice activism, and using that frame explicitly in their work, has grown dramatically. With this growth in numbers has come a growth in ways the frame of environmental justice is used, and by whom. Similarly, after Clinton's 1994 executive order on environmental justice directed all federal agencies to develop environmental justice programs and policies, the frame of environmental justice began to get applied in a number of different ways in policy settings.

### **Policy Makers**

The expansion of the frame of environmental justice has made it increasingly available for a wide array of uses by state and federal agencies, and in some cases industries as well. However, in incorporating the term "environmental justice," they typically also rearticulate it in ways that serve their interests.

After Clinton's 1994 executive order on environmental justice directed all federal agencies to develop environmental justice programs and policies, the frame of environmental justice began to be used increasingly in policy settings. Policy makers' use of the term has led to their own particular ways of defining environmental justice that fit their interests. These typically involve defining environmental justice as a process of fair inclusion in decision-making rather than attending to the racialized and classed outcomes of decision making. Ryan Holifield, for example, describes how the Clinton Administration's approach to environmental justice emphasized "data analysis, managed public participation, and economic opportunity" (Holifield 2004). Specifically, Holifield analyzes how EPA Region 9, which covers the American Southeast, translated the national environmental justice directive into their on-the-ground work cleaning up polluted sites through the Superfund program. He found that,

Instead of efforts to redistribute risk more "justly," the Clinton EPA's approach to environmental justice emphasized mechanisms for building trust and managing political activity in communities that raised such allegations... They also called for remedial personnel to make EJ communities aware of targeted grant and economic development programs and to "enhance" efforts to involve community members in decisions about remediating and redeveloping hazardous waste sites. (Holifield 2004)

Research done by Raoul Liévanos on the California EPA's process of implementing environmental justice policy between 2002 and 2007 resulted in similar findings. Liévanos shows that Cal/EPA drew on federal language to define environmental justice as "the fair treatment of people of all races, culture, and incomes with respect to the development, adoption, implementation, and enforcement

of environmental laws and policies” (2012:489). More specifically,

Cal/EPA’s primary mode of implementing the fair treatment mission statement was through procedural measures: funding community-based organizational involvement in decision-making processes like CEJAC, and creating various local advisory committees on cumulative impact assessment. (Liévanos 2012:496)

London, Sze and Liévanos also find that the implementation of environmental justice policy in California has emphasized procedural improvement at the level of Cal/EPA since 2004, and more specifically within the Department of Pesticide Regulation (London, Sze, and Liévanos 2008). The emphasis on state agencies primarily defining environmental justice work as procedural improvements in citizen participation runs throughout this scholarship.

### **Environmental Organizations**

Similarly, after the stinging letter sent to the “Big 10” environmental organizations in 1990, many mainstream environmental groups began to pay more attention to environmental justice work as well. The Sierra Club’s board of directors adopted a set of environmental justice principles in 1991, and two years later called “on all parts of the Club to discuss and explore the linkages between environmental quality and social justice, and to promote dialogue, increased understanding and appropriate action” (1993). Until 1997, Greenpeace also had a campaign of supporting anti-toxics advocacy work in low-income communities.

The Sierra Club and the Center for Biological Diversity now regularly appear alongside the names of other environmental groups in court cases and letters to the

agencies representatives and legislators. In their legal work, environmental justice activists are often represented by the Natural Resources Defense Council and Earthjustice, formerly the Sierra Club Legal Defense Fund. Three of these four groups were part of the “Big 10” group of environmental organizations that received the widely publicized letters from the environmental justice groups in 1990. And in 2013 the Sierra Club named academic and environmental justice advocate Robert Bullard to its highest honor, the annual John Muir award. It is the first time an African American has ever been given the award since its inception in 1961.

These efforts by environmental organizations to take up the work and framing of environmental justice have not been without their complications, however, as will be explored further in chapter six.

## **Industry**

The environmental justice frame, too, is increasingly deployed not just by movement actors but also by the former, and sometimes continuing, targets of their advocacy in industry. For example, Waste Management, the largest waste handling company in the world, has professed their commitment to the cause of environmental justice. In a 2013 essay titled “How Waste Management got Proactive on Environmental Justice,” Vice President for Federal Public Affairs Sue Briggum wrote the following after describing the impact of the *Toxic Waste and Race in the United States* (Chavis Jr. and Lee 1987) report on the waste industry:

We quickly learned that we needed to think about our prospective communities. Responsible companies want to be known as good neighbors – responsive to community concerns, providing benefits greater than potential environmental burdens, and located equitably. As soon as we started talking to environmental justice leaders, we learned that they were open to very candid and productive discussions with companies willing to listen carefully with a genuine interest in finding common ground. (2013)

Waste Management is a member of the “Business Network for Environmental Justice,” which was formed in 1995 by the National Association of Manufacturers. In 2012, Briggum was even featured on the EPA’s 20<sup>th</sup> Anniversary Video Series. The series was made by the EPA’s Office of Environmental Justice in commemoration of the 20<sup>th</sup> anniversary of Clinton’s executive order on environmental justice, and featured on the EPA’s Environmental Justice in Action Blog.

## **Tactics**

As environmental justice activism has aged, its tactics have slowly shifted as well. Many activists, in their effort to scale up beyond the local focus of the early years, have increasingly embraced policy advocacy and electoral politics. These changes are often accompanied by an emphasis on collaboration with, rather than opposition to, state agencies. However not all activists have embraced these trends.

## **Disruption and Collaboration**

The anti-toxics movement and the overlapping early years of the environmental justice movement were often explicitly disruptive and hostile toward state agencies. Lois Gibbs and her neighbors in Love Canal, New York, famously

held hostage representatives from the federal Environmental Protection Agency (Kitchell 2012). Public hearings to permit incinerators and landfills were often dramatically interrupted by organizers and residents. A long-time California environmental justice activist tells one such story:

[They're going to] burn hazardous waste at this plant, and everything is going to be hunky-dorky, right? Hunky-dory. No problem's going to happen. Everything is going to be good. And a bunch of the folks in Rosamond, because we're downwind of the plant, put on this public meeting, and had a big hearing, and Bradley [Angel, from Greenpeace,] came down for it, and Pat Costner was here. And I remember my mom—she told this story many times—she was like, Bradley told her, “Now listen, Pat, I don't care what happens. You just got to get the mic. You've got to get the mic. You've got to get the mic.” She weighs like—tiny. Tiny! Maybe eighty pounds, at most. And looks like a librarian. She's got the little hair in the little bun, and the glasses, and the little dress on. It looks like she'd be a librarian in elementary school, right? And so this guy gets up there, and he's from the company that's going to burn the waste, and he's talking. So, Bradley's telling her, “Now listen. Your sole objective. Now, get the mic, get the mic!”

So the guy's up there from the company talking about how it's fingernail polish remover that they're going to burn. It's your unused chemicals from underneath your sink that they're going to burn. It's no problem. The air is going to be cleaner coming out than it was when it went in. And, “We're going to clean the air by burning this hazardous waste.” And he is just up there laying out a line of crapola that you just can't even believe! And people are just getting furious. People are asking him questions, and just one lie after another.

And so, the one guy stands up, a big huge burly guy, and he's saying, “Well, it doesn't sound to me like you're telling the truth on some of this stuff. This doesn't make any sense. Why the hell would you have to spend so many millions of dollars to retrofit the kiln, if all you're going to burn is nail polish remover?” And the crowd is just getting all up tight. People are getting all up tight, and yelling, and people had a bunch of signs, and Bradley's like, “Now, Pat, now! Just go up there, Pat. Pat, now, now, now!”

And Pat walks up there, you know, she's got her little flat, little tiny heels, and all eighty pounds of her. She walks up there, and she's standing there, right, and the guy is still talking. Bradley's waving his arms in the back, waving his arms in the back. And she's standing there. “Hello. I'm Dr. Pat Costner from Greenpeace, and I would like a chance to talk into the microphone.” And I

mean, there was just all this noise, so finally she just reaches up, and the guy's yelling in the mic—she just reaches up and just snatches it right out of his hand. Snatches it! And then, there she is. “Hello, I’m Pat Costner from Greenpeace, and I’m an expert on the emissions from these types of facilities, and you came—” And it was all over! The town was just like in an uproar. And thank goodness there was a side door to the gymnasium, so when the guy finally gave up and left, he didn’t have to walk through the crowd. So that was the big thing.

This same activist has many such stories, here’s one more from Alpaugh:

My mom kept this whistle on her windowsill for fifteen years. They handed out whistles when they went into the big meeting at Alpaugh, right? So there was the big meeting, and that’s the meeting where they said, they told the Spanish-speaking people—and of course Alpaugh is ninety-eight percent Spanish speakers right—that they had to go to the back for translation. And there was a local minister there that was bilingual, and he comes walking up the aisle and he took one of the microphones, and he said, in Spanish, “I am, you know, Priest blah—you know, Father blah, blah, blah, blah from—and I will be happy to translate for you, and I will translate simultaneously, and I will stand over here. And after they speak—” So he just laid it all out there. And then that’s when they started doing the chairs. That’s why they always have to tie the chairs together now. Because, what they did is, they started banging the chairs. So they would pick up the chairs that were steel, and they would bang them on the floor of the meeting hall. And then they had the whistles.

And then kids, actually, some of the high school kids went up, and when the guys—they had this huge podium, and they had all these white guys up there, and each one was going to come up and give his story. One was from the state, one was from the county, one was from the facility, or whatever. There’s like six of them, right. Well, some of the teenage boys went around back behind the stage, and when the guy would get up to talk, they’d fold his chair up and take it away.

So he couldn’t sit back down again. And so, pretty soon these guys didn’t have any place to sit, and people were becoming extremely agitated. They started throwing the chairs, and then they finally fled out the side door. Got in their cars and drove off.

The speaker describes how these tactics were more confrontational than current tactics:

Do you know that the school kids in Casmalia went and set up school in the state legislature? They took their desks, and they set their schools up in the halls of the state legislature, because they could not get action to shut the dump down. And they finally published a petition by sixteen local doctors in the newspaper. There were a lot of different tactics that I think were used in the past that were much more confrontational.

Szasz's work documenting this era of activism during the 1980s and early 1990s supports these stories as well. As he writes,

A radical populist rhetoric is well suited for reaching out to a rank and file that is confronting industry and government, becoming increasingly disillusioned, frustrated, angry, coming to disbelieve official depictions of what state and capital are all about. One would also suggest that issue expansion was desirable because it allowed the movement and its SMOs to expand their potential base of micromobilization settings. Conversely, one would argue that there would have been little benefit in moving in the other direction, becoming more moderate. Moderating their rhetoric would have decreased core organizations' ability to forge solidarity with fledgling local militants. Besides, reform environmentalism is an organizational niche that is already well filled. Did the United States need one more organization engaged in traditional tactics of lobbying, of participating in the give-and-take of the official policy process? Carving out a new niche that combined direct, grass-roots action with an original and innovative environmental/populist ideology was the more promising, functional choice. (Szasz 1994:89)

Even in the late 1990s, evidence of this disruptive approach to activism was easy to find. In 1998, for example, activists from the Chemehuevi and Mojave tribes, as well as others in the Colorado River Native Nations Alliance, Greenpeace, and environmental allies staged a 113 day occupation and road blockade of federal land that helped lead to the defeat of the Ward Valley low-level nuclear waste landfill.

Although best known for their local work against individual polluting facilities in individual low-income communities of color, environmental justice



activists have also been increasingly scaling up their work to engage in policy advocacy at the level of the state. This has necessitated increasing use of “insider politics” that emphasize relationship building with state agencies and political representatives, in addition to, and in some cases in place of, older, more oppositional forms of political action. These collaborative politics coincide with a widespread desire among activists to be “for something” instead of just “against something.” In other words, activists increasingly want to complement their traditionally reactive, rearguard politics of resisting pollution threats with proactive politics that envision and work toward broader solutions to the problems at hand.

These new collaborative projects manifest in a variety of ways. For example, a number of organizations are creating local environmental reporting and enforcement task forces in collaboration with state officials intended to make it easier for residents to report environmental problems and have them acted on by the state. They feature websites in which residents can report their complaints, and these complaints are generally reviewed and forwarded to the appropriate government bodies by the task force. Participation by state officials is voluntary. These projects include the Imperial Valley Environmental Report, the Kern Environmental Enforcement Network, the Fresno Environmental Reporting Network, and the Los Angeles Area Environmental Enforcement Collaborative. The California EPA’s Assistant Secretary for Environmental Justice and Tribal Affairs has also recently created a new Environmental Justice Compliance and Enforcement Working Group at the level of the state (California Environmental Protection Agency 2013).

Other groups target board members and agency staff for educational initiatives as part of these more collaborative tactics. For example, one organization uses the following approach:

We've done a lot of work where we try to meet individually with people that are already on their local water boards to help educate them, both with our staff and community residents that we work with to help them feel supported and understand the issues, and see themselves as a partner of the community. We've been looking at that strategy to complement getting new people on. And then also, we started a leadership institute this year. And I think there's between 30 and 40 people that graduated from that. It was focused on water leadership in the [San Joaquin] Valley, and it included people that are not on boards and that are on boards, with the hope that whether you are on a board or off the boards you should be working together to get solutions in place.

The new spirit of collaboration is also visible in the award ceremonies that some environmental justice organizations hold to reward state agencies and corporate actors for their support. During my fieldwork I attended one such ceremony on the occasion of the 25th anniversary of the Center for Community Action and Environmental Justice, and another at a fundraiser organized by Pacoima Beautiful. Both gave awards to state and business representatives, at times with wry comments about their formerly antagonistic relationship. In 2015, the Community Water Center began what they propose to make an annual Water Justice Leadership Award ceremony, in which they honored two grassroots activists, an Assembly member, a Senator, a staffer from the Governor's Office, and a staffer from a related water nonprofit. The master of ceremonies was the Chair of the State Water Resources Control Board.

Another activist sees many possibilities in these increasingly collaborative relationships with state and federal agencies:

I think over time what happened—the EPA definitely, and other agencies, have tried to do more collaborative processes, and I think it's helped. I mean, the more that they have dialogue with people of color, and communities of color, on these issues, and maybe learn something from them, and there's an honest exchange, things can only improve. Even if it's just that there are friendly people at the agency you can talk to, and give you advice about politically what you might want to try or not try [laughs], and who you should be talking to, and who you should not be listening to. All that stuff, inside information, is extremely valuable, so even if it's only that.

### **Participation in Public Decision Making**

Over the decades, environmental justice activists have gained increasing recognition in policy circles, as well as increased access to public decision-making processes. This is due in part to the growing evidence of environmental inequality described above, activists' organizing skills, the gradual professionalization of environmental justice activism, and the state's changing demographics that lead legislators to pay more attention to organizations that can credibly claim to represent people of color voters.

Early environmental justice activism typically worked to improve both the process of environmental decision-making, as well as the outcomes of those decisions. The hope was that if opponents of industrial facilities were able to participate in more open, democratic decision-making processes, the outcomes of those decisions would be more likely to favor the activists. These two types of claims are often conceptualized as working toward both procedural justice and distributive justice (Shrader-Frechette 2002).

The emphasis on procedural justice grew out of the regular problems that activists encountered trying to participate in the government decision-making process. This pattern was widely documented, including in my own work with women environmental justice activists from the San Joaquin Valley:

Anger about being excluded from government processes that are supposedly open to the public was also a grievance for many of the women. Women who represented working-class communities were angered by the way in which government officials scheduled meetings that excluded people who could not easily get time off from daytime work. They were also angered by the layers of bureaucracy that governed who could speak at public meetings, when they could speak, and in what form they could speak. The meetings seemed designed to keep their voices silent. Technocratic language prevented many community members from fully understanding what was going on. In addition to all the other ways in which they were blocked from participating in government meetings, Spanish-speaking communities faced serious difficulties in getting interpretation provided for them. All but 4 of the 18 Latinas I interviewed speak English fluently, but many of those in their communities did not. This became a lightning rod around which they organized more community members. (Perkins 2012:87)

One of the principles of environmental justice signed at the First National People of Color Environmental Leadership Summit in 1991 speaks directly to these problems: “Environmental Justice demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation” (Anon 1991).

Since the early years, activists’ experience of participating in the process of public decision-making has improved. One activist reflects on his early years as an environmental justice activist, and how public hearings have changed since:

Our fight was about translating the meetings, translating the documents. We still have the problem right now, but it's somewhat different. There's been some changes in that, not everywhere. There's more translation, they're more open to that when you request it. It's more open. For a long time, that was a fight with the county, which was pretty stupid. "No we're not going to do it, it's got to be in English." And then, by God, every time we met, we had 100, 200 people show up. That was a battle. They couldn't do any business and we wouldn't let them do any business. So that changed now, other than Kettleman City where there's been some issues, that doesn't happen now. You go to meetings and they have translators, they have interpreters. I mean, [the Department of Toxic Substances Control] knows, [the Environmental Protection Agency] knows, that's changed.

In addition to improvements in the public hearing process, environmental justice activists have successfully pushed for environmental justice advisory committees across a range of government settings, in order to create space for their voices to be heard in the government decision-making venues that would impact their daily lives. Table 1 shows a sample list of official policy advisory committees on which California environmental justice activists have served.

**Table 1. Sample list of advisory committees on which CA environmental justice activists have served**

<b>Scale</b>	<b>Name of Advisory/Working Group</b>	<b>Date Begun</b>	<b>Government Body</b>
Local/Regional	Hazardous Materials Commission	1983-current	Contra Costa Health Services
	Integrated Regional Water Management processes	2002-current	California Department of Water Resources
	Environmental Justice Advisory Group	2008-current	San Joaquin Valley Air Pollution Control District
	Citizen's Advisory Committee	Prior to 2006 - current	San Joaquin Valley Air Pollution Control District

	Environmental Justice Advisory Group (formerly the Ethnic Community Advisory Council)	1990-current <sup>3</sup>	South Coast Air Quality Management District
	Environmental Justice Advisory Task Force	Unknown - current	City of Commerce
	I-710 Local Advisory Committee	Unknown - current	City of Commerce
State	External Advisory Group	1999	CA Department of Toxic Substances Control
	California Global Warming Solutions Act of 2006 Environmental Justice Advisory Committee <sup>4</sup>	2007	Air Resources Board, California EPA
	California Freight Advisory Committee	2013	California Department of Transportation
	Cumulative Impacts & Precautionary Approaches Work Group	2007/8	Office of Environmental Health Hazard Assessment, CA EPA
	Governor's Drinking Water Stakeholder Group	2012	CA Office of the Governor
Federal	National Environmental Justice Advisory Council	1993	US EPA
	National Environmental Justice Advisory Council Goods Movement Work Group	Unknown - current	US EPA
	Federal Advisory Committee on the Industrial Combustion Coordinated Rulemaking	1996	US EPA
	Dialogue on Assembled Chemical Weapons Assessment	1997	Department of Defense

<sup>3</sup> The Ethnic Community Advisory Council became the Environmental Justice Advisory Group in 2008.

<sup>4</sup> Also known as the AB 32 EJ Advisory Committee.

As depicted in the chart above, these environmental justice advisory committees take place at all levels of government.

However, while activists have successfully pushed for the creation of these committees, many are skeptical of their value. One activist describes his concerns here:

Luke [Cole] used to say that getting community members at the table would change outcomes, would help empower outcomes. He would say, “If you’re not at the table you’re on the menu.” But, what I’ve seen in actual practice with the NEJAC, the EPA advisory committee, or the AB 32 EJ advisory committee, is that the community gets a seat at the table, or their representatives got a seat at the table, but they’re still on the menu. The menu didn’t change despite them being there.

The speaker elaborates his point further through the example of the AB32

Environmental Justice Advisory committee described in chapter 4:

The frustration and anger that those members had, if you talk to Angela Johnson Meszaros or Jane Williams, Caroline, Henry, about what it was like to be on AB 32 Advisory Committee, it’s a great case study on why being at the table not only doesn’t help you, but it sucks your time and energy. And you ended up with nothing.

Finally, he makes a similar point about his organization’s founder’s experience with

NEJAC, the federal level national environmental justice advisory committee to the

EPA:

[He] was very frustrated with the NEJAC. Very frustrated with it. For me it was very frustrating to hear Luke talk about how ineffective, not that NEJAC was ineffective, they did all this work. And they’re trying to help the EPA change and the EPA would not change, the institution just could not change. It would be my view that these advisory committees really are just a waste of time.

In these cases, participation in government advisory councils fails to impact the outcomes of the decision-making bodies and takes up valuable time that activists could have used on other projects.

In other cases, the mere existence of the advisory councils can be used to delegitimize activists' critiques of the outcomes. For example, in an online comment about an environmental justice advisory committee that eventually decided to sue the agency that had convened them instead of continuing on in an advisory role, the agency's chair commented that, "Our process for developing the Scoping Plan was unprecedented in its openness and transparency, including many opportunities for substantive comment and interaction... Ironically, some of the plaintiffs sit on ARB's Environmental Justice Advisory Committee (created by AB32) and enjoyed unparalleled access to ARB staff and board members throughout plan preparation" (Hecht 2009). One activist finds this sort of statement is commonly used to delegitimize activist concerns with the outcomes of agency processes that incorporated environmental justice activists:

Interviewer: So when I was reading up on that lawsuit, I saw someone who was the target of the lawsuit saying something along the lines of, "Well, these people had unprecedented access to the decision-making structure, and so therefore, how could they possibly be upset?"

Interviewee: Mm-hm.

Interviewer: I'm curious if you've seen the participation in those settings be used against you in terms of the other side getting to say, "Everyone was there, we talked it over," even though they made a decision against what your input was.

Interviewee: Absolutely. That's now a very common tactic to say, "They were at the table, we included all stakeholders. We went out and got public



comment, we had translators there we gave Spanish speakers twice as much time to talk. Gosh, the outcome didn't change at all." Gee, I wonder why. When the new AB 32 scoping plan revision started again and they restarted the EJAC, I was like, "We are not going to do this because ARB does what it wants and it is just jumping through hoops."

On the other hand, many activists continue to participate in environmental justice advisory structures. Even when the outcomes are not changed by the participation of the environmental justice activists, activists sometimes feel that participation is a useful way to get a number of environmental justice activists who may not typically work closely together in the same room at the same time. These processes can build social and professional ties amongst environmental justice activists, who are sometimes from different parts of the state, which strengthen the movement's internal networks. Similarly, participation in advisory committees sometimes offers insight into how government works, and who knows whom, in ways that activists find useful later as they continue to pursue other campaigns.

Activists are also now better able to participate in decision-making in other ways outside of public hearings and advisory boards. As one activist describes,

I think we have an unprecedented access to people at agencies that are making decisions. I mean, when my parents were involved in the struggle, I don't recall them being able to call up someone at [the Department of Toxic Substances Control], and get a meeting now. So we have an access that wasn't there before, and that's because we work in coalitions, and we get them to come out and listen to problems... So that's a good thing, that we have that kind of access. How much of a difference does it make? I don't know. But, we can get them!

Maricela's skepticism about the utility of the new accessibility of state agencies stands in opposition to the following quote from Denny Larson, who points to the value of inside information about how agencies work:

But I think over time what happened—the EPA definitely, and other agencies, have tried to do more collaborative processes, and I think it's helped. I mean, the more that they have dialogue with people of color, and communities of color, on these issues, and maybe learn something from them, and there's an honest exchange, things can only improve. Even if it's just that there are friendly people at the agency you can talk to, and give you advice about politically what you might want to try or not try [laughs], and who you should be talking to, and who you should not be listening to. All that stuff, inside information, is extremely valuable, even if it's only that.

The long-standing effort to make political participation in policy processes and government decision-making more open to participants from a wide array of race, class and language backgrounds is, again, motivated by a desire by activists to make the state *more* responsive to low-income people of color living in disproportionately polluted communities. These efforts have resulted in calendars filled with meetings, hearings and phone conferences as part of activists' roles on multitudes of national, state, local, academic and nonprofit advisory boards. However, even as activists continue to push for "a seat at the table," they express widespread skepticism about the efficacy of these initiatives and push to also help "determine the menu." They criticize many of these boards for the ways in which they use up activists limited time and resources on processes that often do not result in tangible benefits for environmental justice communities, and note that in some cases their participation is tokenized.

In the end, improved processes of participation and access to state agencies have had mixed results. On the one hand, improving these processes is a victory in and of itself for environmental justice activists, who have long been concerned with both distributive *and* procedural forms of justice. On the other hand, as processes of participation improve, the radicalizing influence of the once overtly racist, classist and sexist processes wane, thereby shrinking one avenue by which activists draw more people into their campaigns.

### **Scaling Up: Policy Advocacy & Electoral Politics**

Activists in the anti-toxics movement and early environmental justice movement were frequently charged with practicing NIMBY politics. NIMBY is short for the phrase “Not in My Backyard.” The label was typically applied in a dismissive way that undercut some of the moral authority of protesters by depicting them as people concerned only with the welfare of their own communities, rather than with the public good. Although some portion of the local residents who participated in campaigns to prevent toxic facilities from being sited in their communities were motivated by NIMBY impulses, many activists also had, or over time developed, broader critiques. The Principles of Environmental Justice signed at the First National People of Color Environmental Leadership Summit in 1991 make these broader critiques explicit, as shown in Table 2.

**Table 2. Principles of Environmental Justice, 1991**

**WE, THE PEOPLE OF COLOR**, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural world and our roles in healing ourselves; to ensure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice:

1) **Environmental Justice** affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.

2) **Environmental Justice** demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.

3) **Environmental Justice** mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.

4) **Environmental Justice** calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.

5) **Environmental Justice** affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.

6) **Environmental Justice** demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.

7) **Environmental Justice** demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation.

8) **Environmental Justice** affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from

environmental hazards.

9) **Environmental Justice** protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.

10) **Environmental Justice** considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.

11) **Environmental Justice** must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.

12) **Environmental Justice** affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided fair access for all to the full range of resources.

13) **Environmental Justice** calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.

14) **Environmental Justice** opposes the destructive operations of multi-national corporations.

15) **Environmental Justice** opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16) **Environmental Justice** calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17) **Environmental Justice** requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

(Anon 1991)

In partial fulfillment of these far-reaching goals, and an insistence that theirs was not a NIMBY movement, activists over time did seek to create more wide-reaching

change than that which was available to them through the predominantly local organizing of their early years. This led activists to scale up their local work to the statewide level through policy advocacy with state agencies, legislative policy advocacy, and, to a lesser extent, increased engagement with electoral politics.

### **Legislative Policy Advocacy**

California environmental justice activists increasingly engaged in statewide policy advocacy. However, early anti-toxics and environmental justice organizing was largely local in character and eschewed the established political process of lobbying and policy work. Activist Sue Greer, for example, describes her opposition to these tactics as follows in book published in 1994:

Interviewer: Do you lobby?

Sue Greer: No I really don't. Number one, it turns me off because legislators, to me, are dishonest... There are very few that I even trust. I think that if our forefathers came back and saw what was happening in this country they'd be shocked and appalled because it's not what their intent was. They have a bunch of people that are bred into corruption, they drink and carouse around, waste our money, they're greedy, they lie, they cheat, they have conflicts of interest. I mean, they're involved in multinational corporations, they cater to them and we are the losers for all those people. (Szasz 1994:91)

While the sentiment expressed above was common in grassroots anti-toxics organizing, the pre-existing national environmental groups often took a different approach:

The older, more established environmental organizations had also taken up the cause. Of these, Greenpeace took the most radical line, advocating source reduction, fighting the export of wastes to less developed nations, helping

communities, CCHW-style, to oppose incinerator siting. The others – the Sierra Club, the Environmental Defense Fund, the Natural Resources Defense Council, the Audubon Society, the National Wildlife Federation, and the Conservation Foundation – all, to varying degrees, incorporated toxic waste issues into their routine lobbying and litigation efforts. Their presence provides the movement with more conventional means for exercising influence within the proceduralized, normalized realm of “Washington Politics.” (Szasz 1994:76)

The early environmental justice movement overlapped in issues and participants with the anti-toxics movement, and therefore some of its members’ strategic preferences coincided. On the other hand, environmental justice scholar Dorceta Taylor describes the environmental justice movement as actively working to build institutional ties in ways that is at odds with Greer’s above quote:

The EJM [Environmental Justice Movement] also targeted people with strong institutional ties that could be utilized by the movement. Thus, within a short period of time, the EJM had ties not only to religious institutions, community organizations, and labor unions, but also to universities, mainstream environmental organizations, federal agencies, legal institutions, and grant-making organizations. By focusing on the people with social and institutional ties, the EJM practiced bloc recruiting (a method perfected by the civil rights movement). Once leaders of organizations lend their support to the movement, they then encourage members of their organizations to support movement activities, and members usually lent their support (McAdam, 1982). Thus, the EJM did not try to build a movement by creating its own network of activists from scratch. It built the movement by recognizing preexisting networks of activists likely to fall within the latitude of acceptance and by recruiting them. It also used the preexisting network or organizations likely to support the new movement by sharing resources that would aid movement building efforts (Taylor 2000:564)

Nonetheless, the early years of environmental justice activism were largely focused on local community organizing, at times with the help of lawsuits. However, California environmental justice activists increasingly engage in statewide policy

advocacy. Policy advocacy work has taken off especially since 2008, when the network that is currently at the forefront of policy work, the California Environmental Justice Alliance (CEJA), hired two full-time staff to coordinate their efforts. CEJA is a network of six environmental justice organizations that work across California, as shown in Table 3.

**Table 3. Member organizations of the California Environmental Justice Alliance**

<b>Organization</b>	<b>Date Founded + Notes</b>	<b>Office locations</b>
Asian Pacific Environmental Network (APEN)	1993	San Francisco Bay Area
Communities for a Better Environment (CBE)	1978. Launched in California, already existed in Chicago.	San Francisco Bay Area, Los Angeles Area
Center for Community Action and Environmental Justice	1993. Formed out of grassroots group Concerned Neighbors in Action.	Inland Empire
Environmental Health Coalition	1980. Begins as the Coalition Against Cancer	San Diego
People Organizing to Demand Environmental and Economic Rights (PODER)	1991. Originally named People Organizing to Demand Environmental Rights	San Francisco Bay Area
Center on Race, Poverty and the Environment	1989. Formed in partnership with California Rural Legal Assistance.	San Joaquin Valley and San Francisco Bay Area

CEJA’s activities include coordinating their members’ efforts to pass environmental justice policy at the state’s capitol in Sacramento. This involves linking the grassroots participants in their member organizations to the policy process, and helping to get them to the capital to lobby. They describe their form of



grassroots lobbying as a necessary way to push back on the better financed lobbying efforts of their opponents:

CEJA believes in “bottom-up” policy that is driven by those who are most directly impacted by the issues. The communities where we work, and our movement overall, lack the lobbyists and capacity to make large campaign contributions that industry opposition has in their arsenal. In 2013, we saw over and over the power of big industry associations such as the Western State Petroleum Association (WSPA), the lobbying organization for California oil. The oil industry overall (WSPA and Big Oil corporations) have spent a whopping \$45.4 million dollars in lobbying in California since 2009 – the equivalent of \$20 per minute, every day, every week, every month for over four years.<sup>7</sup> And this is not even counting campaign contributions: business associations such as the Chamber of Commerce gave \$12.2 million in 2012 to state candidates, <sup>8</sup> the oil and gas industry gave \$1.2 million in campaign contributions in 2012 alone. (California Environmental Justice Alliance 2014:6)

CEJA originated when four of the current six member organizations began working together within California Calls, then called the California Alliance. The California Alliance began in 2003 as a group of locally based organizations meeting to create a statewide effort to organize low-income residents, and grew to focus on get-out-the vote efforts. They rebranded as California Calls in 2009. The environmental groups spun off into their own organization, as one participant describes:

The idea is for CEJA to bring community members to actually lead the statewide policy, so that they’re actually at the front, leading, and being the voice for environmental justice policy, as opposed to hiring lots of lobbying, or even policy advocates, to do the work. We really believe that the community members need to speak for themselves. So CEJA formed around 2001....

A bunch of these organizations [current CEJA members] are like 30-plus years old...So they’re well established organizations, pretty large, considering they’re non-profits. Some of the member organizations had done work

together prior to 2001 on different campaigns and issue areas, but in 2001 they really felt like there was a need to form a statewide coalition, because there was such a gap in strong environmental justice policy.

Four out of the current six CEJA organizations sat at a table called Cal Alliance - California Calls now. California Calls, formerly called Cal Alliance, is a statewide alliance, and the idea with them was they brought together the leading social justice organizations in the state to work primarily around voter engagement and voter empowerment... Within Cal Alliance, there were different "hubs." So there's the tax and fiscal hub, which still exists today, which is primarily what Cal Alliance or Cal Calls is about right now. They do a bunch of GOTV electoral work. Get out the vote, on tax and fiscal work. Then there was an economic hub, and then there was an EJ hub, which some of the CEJA organizations were part of. So then they spun off, and formed what used to be called the Environmental Justice Working Group, which is when I came on board. In 2008 it was still called the EJ Working Group, and then we changed our name at some point, I think around 2009 or so.

So basically, the EJ organizations that were part of Cal Calls said, "We should formalize our alliance. It just makes sense for us, there's such a need in the state, to combine our resources." Each of the organizations does incredible local work, and they thought that they needed a statewide formation to lead on environmental justice policy from the ground up, from the grassroots perspective. And so that's how CEJA formed, and the intention behind it.

But from what I understand, the organizations that are part of CEJA joined together because they all have sort of the same theory of change. There's different criteria or requirements, if you will, of participation in CEJA, and commitment. So one big one is you have to have a grassroots membership base, and each of the member organizations does a ton of local organizing, and really believes in organizing low-income communities of color that are most impacted by environmental justice issues, to lead and speak for themselves. And I think that could be potentially different from other formations, maybe either regional or statewide formations that were mostly policy advocacy formations, or that may not have necessarily a base, a large base of folks that they could draw from. So I think that that might be the difference between CEJA and other formations.

But there's definitely other environmental justice groups in the state, for sure. It's not like CEJA's the only one. There's definitely other EJ groups in the state. So there's that piece: a big criteria is that you really have to have a base. You have to be a base-building organization. You have to have a track record, and be well established, to have worked on policy, grassroots policy change, prior. And then there's also this criteria around being well established, so you have to have a certain kind of budget, and income. So that's the thinking around why these particular groups got together.

CEJA has supported bills that were eventually passed, such as SB 712 and AB 1329, which, respectively, “authorizes temporary suspension of any facilities operating under an expired permit” (California Environmental Justice Alliance 2015:1) and, “directs the Department of Toxic Substances Control to prioritize enforcement of environmental laws at hazardous waste facilities in low-income communities and communities of color” (California Environmental Justice Alliance 2014:7). They also supported bills that have not yet passed designed to, for example, encourage the use of electric vehicles (passed), place a moratorium on fracking (failed), increase the fines paid by “major single-day pollution violators” (held on floor), and require guidelines to direct the translation of California Environmental Quality Act laws (vetoed). Appendices 1 and 2 contain a complete list of the bills CEJA supported in the 2012-2013 and 2013-2014 legislative sessions, as well as whether or not they passed.

CEJA also takes public positions on bills that they deem as harmful to the environmental justice cause. In 2013 they released their first annual environmental justice legislative “scorecard,” which rated how California legislators fared on the ten bills that CEJA tracked during the 2012-2013 legislative session. In 2014, their second scorecard tracked 13 bills. In this second scorecard, the average grade awarded rose from a C to a B, with twelve legislators earning perfect scores. The Democratic Governor’s grade rose from a D to a low B (California Environmental Justice Alliance 2014, 2015).

Much of CEJA's legislative work hinges on the role of the growing people of color population in California, which became a numerical majority of the state's population in 2000. One of the two CEJA coordinators highlighted their importance in an op-ed published in the capitol's local newspaper:

In his inaugural speech, Gov. Jerry Brown promised to be a national leader on environmental issues. If California wants to pass big environmental policies, legislators need to look to people of color to lead the way...Across the state and the country, people of color bear the overwhelming brunt of environmental hazards and show support for progressive environmental policies at a higher rate than their white peers. To maintain support among California's new and growing majority, decision makers will need to give more weight in their agendas to the environmental concerns of communities of color. African Americans, Asian Americans, Latinos and other people of color make up about 60 percent of California's population. Voters of color were critical to the outcome of major climate change ballot measures in the past three years – passing Proposition 39, which is projected to generate up to \$1 billion each year to support renewable energy jobs by closing a corporate tax loophole; and defeating Proposition 23, which would have overturned California's landmark climate change law, Assembly Bill 32.... Political issues related to environmental justice – the disproportionate burden of pollution in low-income communities and communities of color and the harm to health and quality of life – cannot be sidelined any longer. They will be the most critical environmental policies for California in 2015. The constituencies most impacted by these policies are rapidly growing their political voice and power, demanding to be heard as California takes strides toward environmental health. (Cervas 2015)

Other groups outside of CEJA have worked on policy advocacy as well. The Community Water Center, the Environmental Justice Coalition for Water and their allies in the world of water justice activism secured the passage of AB 685, the Human Right to Clean Water Bill, in 2012. This bill is the first in the nation to assert a human right to clean water.

Water justice activists also attempted to transfer the responsibility for managing California’s drinking water from the California Department of Public Health to the State Water Board through AB 145. The California Department of Public Health had been criticized for not spending \$455 million of federal monies available to the Safe Drinking Water State Revolving fund, resulting in a “Notice of Noncompliance” from the US EPA. The notice said that the Department of Public Health failed “to make timely loans or grants using all available drinking water funds to eligible water systems for necessary projects,” and lacked “dedicated accounting and financial staff to track commitments, calculate balances, and plan expenditures” (Nylen 2014). Activists hoped that transferring the Drinking Water Program to the State Water Board will improve support for low-income communities with drinking water problems across the state, in part by housing all water management programming in one location within the state government. When the bill stalled, they worked instead with the governor’s administration to successfully transfer responsibility of the Drinking Water Program through the budget process (Nylen 2014). Other water policy efforts have focused on streamlining the process by which small, disadvantaged communities can access state funds to bring their drinking water contamination levels down to legally allowable levels (Community Water Center n.d.).

## **Electoral Politics**

Environmental justice activists have often participated in electoral politics by knocking on doors to remind people to vote, or by volunteering on the campaigns of preferred political candidates. Activists who work within nonprofit organizations are careful to do so on their own time in order to not jeopardize the tax-exempt status of their organizations. More recently, however, environmental justice activists have begun to scale up their work on electoral politics. This scaling up process takes two forms: the creation and participation in 510(c)(4) organizations explicitly designed to engage in the political process, and electing environmental justice activists to government office. Both are efforts to promote environmental justice goals in broader, more systematic ways than discrete local community organizing campaigns often afford. 501(c)(4) organizations are nonprofits, as are 501(c)(3) organizations. However, unlike “c3s,” “c4s” are able to endorse political candidates and donate time and money directly to political campaigns. One activist speaks to both trends as follows:

I think there's a lot of work to do in the policy front, and the funding front, and the political front, to build the political power to get our people into decision-making roles. I don't know that I trust democracy in this country, but I'm willing to run with the strategy of - right now - the one to two to three-year strategy to influence decision-makers who are currently there, to be on our side. And the five to ten-year strategy is to become them - from the local water boards up to the Governor's Office. Elected officials, appointed officials, the whole thing. Because with five grand, you can take over a local election in a small town, and take over the town council. You know, bang for your buck. I think there's a lot more talk of c3, c4 collaboration.

Another person describes her observations on the environmental justice movement's entry into formal politics as follows:

Interviewer: Have you seen any changes in how EJ happens in California over time?

Interviewee: Yeah, absolutely. I think the variability of the sustainability of the organizations is still there. But I think the sophistication of folks is also much greater.

Interviewer: In what way?

Interviewee: Well, [we realized] that we have to get political. And we have to get organized in a civic way, not just a legal way. You know, litigation is an important tool, but it is not in and of itself going to get you -- it could get an injunction, that's the most beneficial thing, to get an injunction and get you some time. But for the most part, it won't get you what you want, affirmatively.

And I guess that's the part that I have seen, different organizations really get more civically organized.

Interviewer: So, more explicit engagement with government is what I'm...?

Interviewee: It's political campaigns.

Interviewer: As opposed to more localized community organizing around a particular facility?

Interviewee: Or just adding the element that, okay, yeah, we need to address the board of supervisors, but we really need to have a voting block that cares about this. If you have a facility issue or whatever, that only impacts 300 people, and that district is elected by 100,000, you have to form some partnerships. So, that's the other thing.

CEJA's current work on policy advocacy originated in the repertoire of electoral politics practiced by California Calls. So, their original members have experience participating in statewide interventions into electoral politics through "get out the vote" campaigns. However, as described earlier, they went on to found the California Environmental Justice Alliance, which eschews get out the vote work in favor of policy advocacy directly with already elected legislators.

On the other hand, Communities for a New California originated as a 501(c)(4) organization designed explicitly to engage in the political process. One of its founders describes how Communities for a New California grew out of prior

professional experiences helping nonprofits achieve their missions. They worked with a variety of non-profits, including the Agriculture and Land Based Training Association (ALBA), which trains farmworkers to become farmers in their own right. But some of the problems they saw were outside the scope of their ability to address, as the following experience working with ALBA in Salinas shows:

I remember one day where there was a couple of young farmers, like 18, 19. These guys were really young. But they were really good. And they were missing for like a week from what we were doing and it turned out that their younger brother had been shot... There's like 20 murders a year in Salinas. It's really bad.

Even as their client based developed, they began to rethink their approach in light of the kinds of experiences the had in Salinas:

We had just started to really grow and develop, when another change happened. [We] said okay, this is really nice. This is a good life for us. We're doing a lot of good work, building capacity... [The non-profits we work with] now know that if they want transit or if they want waste water, or whatever it is that they need, that they want to prioritize - they know the process for that, who to go to. But they're still being disregarded, because they have no political relevance. And that was not something new to us. It was just kind of like, "do we really want to just do this without trying to attack the bigger problem?"

And like I said, it wasn't something new. A lot of our old friends and colleagues from those different organizations that we were currently working with or previously working with, who were in the non-profit world, were also in that same dynamic. And so, we helped form Communities for a New California (CNS), which is a 501(c)(3) and a 501(c)(4) and a PAC. Essentially it's focused on candidates and initiatives. It's political really. And building capacity in certain areas that we found to be strategic for both local purposes, regional purposes and statewide purposes, and even federal, especially in Coachella, where now they have a democratic congressional representative. That was a huge thing. As an example, in June we turned out close to 10,000 voters in Fresno, mostly in the west side of Fresno. And in Coachella probably about the same actually...



CNC has been involved in a couple of lawsuits to get districts elected by district and not at-large. In Coachella, they just passed a measure to make the Coachella Valley water district; a district is to be elected by a district, and not at-large. They just succeeded in settling with the City of Merced on the same thing. And this is really relevant, because you end up having on the city councils or water districts or whatever, four of the five council members living in the northeast side of town, and everybody else is pretty much not represented. So, that's a big institutional priority, getting people elected that represent the community. That's kind of what that organization is all about. And then when we go and we want to get a facility properly permitted, or not even sited, or get proper mitigation, then there's somebody there who's actually going to listen, not because it's the right thing to do, but because they have a vested interest in getting reelected. That's the dynamic.

In addition to the work of Communities for a New California, which does not only work on environmental justice issues, environmental justice activists also participated in electoral politics through opposing Proposition 23, which was successfully defeated by the California electorate in 2010. If passed, this proposition would have suspended the enactment of the new law until state unemployment levels dropped below 5.5% for four consecutive quarters. Two coalitions took the lead in defeating Prop 23: the “Stop Dirty Energy” coalition and “Communities United Against the Dirty Energy Proposition”:

With support from investment banker and progressive political donor Tom Steyer, the mainstream environmental community organized Stop Dirty Energy, which scored a coup when it signed up former U.S. Secretary of State and Bechtel Corp. CEO Republican George Schultz as its co-chair with Steyer. The coalition ultimately encompassed several hundred organizations. In addition to virtually every environmental and environmental justice and clean energy organization in the state, it included a huge array of businesses; organized labor; Kaiser Permanente and other health care providers; public health organizations, including the American Lung Association; faith communities; local governments; and a diverse array of elected officials.

Environmental justice and community groups coalesce [sic] to oppose Prop 23—on their own terms. As the mainstream environmental campaign

organized with strong environmental justice support, environmental and social justice leaders made an important decision to create a separate coalition -- not just to defeat Prop 23, but to build long-term a shared vision of prosperity and environmental quality and a progressive, environmental electorate that looks like California. The Ella Baker Center for Human Rights, later joined by the California Environmental Justice Alliance, the Greenlining Institute, Asian Pacific Environmental Network, and PowerPAC, formed Communities United Against the Dirty Energy Proposition (Communities United), a coalition of more than 120 environmental, social and economic justice organizations from across the state. Most of Communities United's members were also members of Stop Dirty Energy and the Ella Baker Center had a seat on Stop Dirty Energy's executive committee. While remaining independent, the two coalitions crafted a working relationship rooted in shared values and messages, but with an understanding that each would develop its own strategies and implement them. (Lerza 2011:4-5)

According to Lerza, the role of the Communities United coalition was crucial to defeating Proposition 23:

The history between California's mainstream environmentalists and environmental justice organizations is not a happy one... [Considering] the stinging defeat of 2006's Proposition 87, which would have placed a tax on oil company profits to fund renewable energy research and development, was strong and painful in 2010. Well funded (to the tune of \$40 million) by two progressive donors, the Prop 87 campaign did not engage communities of color, labor or low income communities. As a result, the no campaign, funded by Chevron and other oil companies, was able to immediately and effectively tag the measure as a tax on the poor. Thanks to a relentless, well targeted "no on 87" paid media campaign and the lack of a "yes on 87" ground game or media in those same targeted communities, Prop 87 was defeated by a nine point margin. That defeat was very much on the minds of both mainstream environmentalists and environmental justice leaders as they jumped into action on Prop 23. Determined not to let corporate interests target and manipulate low income and communities of color again, EJ organizations took the offensive in 2010 to oppose Prop 23 and did not wait to be invited or engaged by mainstream groups. They knew that communities of color and low income communities would be the targets for the yes campaign's paid media and that the campaign would paint AB 32 as a job and economy killer. They knew it was imperative that people of color and low income community organizations reach their communities first with different messages. They also knew that they, not the mainstream groups, understood the right messages, messengers and media vehicles for their communities. In creating

Communities United, EJ groups and their allies were able to retain full control over resources, strategies and messaging and to assert leadership in a manner not be possible [sic] had they been subsumed as a component of the Stop Dirty Energy Campaign, a possibility that was discussed at length, but ultimately rejected. (Lerza 2011:6–7)

In the end, the “people of color vote” was significant in the defeat of Proposition 23:

It wasn't even close –Prop 23 went down to a resounding defeat, with 61.6 percent voting no and only 38.4 percent voting yes. But there is more to the story: Voters of color comprised 37 percent of the electorate and whites 63 percent. However, 73 percent of voters of color and 57 percent of white voters voted against the measure. One million new voters of color came to the polls in November 2010 in California, and clearly the vast majority of them opposed Prop 23. Even had white voters supported Prop 23, this huge outpouring of motivated voters of color would have guaranteed its defeat. Voters of color were the climate firewall. Here's why: while environmentalist Jerry Brown defeated former Ebay CEO Meg Whitman in the Governor's race with about 52 percent of the vote overall, only 45 percent of white voters cast their ballots for him, while 64 percent of voters of color supported him. Similarly, climate champion US Senator Barbara Boxer kept her seat, winning 54 percent of voters overall. However, Senator Boxer got just 42 percent of the white vote, but a stunning 67 percent of the voters of color vote. In other words, these climate champions are in office today solely because of overwhelming support from voters of color. (Lerza 2011:10)

In addition to their increasing participation in electoral politics, another expression of environmental justice activists' increasing engagement with formal state politics is the trend toward electing them to public office. The increased interest in electing environmental justice activists to public office stems in part from a frustration with the limited power of government advisory committees. It also stems from an acknowledgement that appointed positions, while valuable, can leave activists in the difficult position of being a minority voice on the decision-making board to which they are appointed. As one activist described in our interview,

Actually becoming a decision-maker I think is a good strategy. And that's what's really unique about the Republican model of base building. The conservative movement targeted school boards and got people into the political world by getting people elected to school boards and then they started rising up. Actually empowering community leaders to become decision-makers in their own right is much different than being on an advisory committee. It is very difficult to get a majority of good people on a decision-making board, like the San Joaquin Valley Air District. One person we worked with... got appointed to the regional water control board. Wonderful community advocate, awesome person. One of my heroes. I got to work with her early in my career. But to be the minority voice on the board view, it was hard on her.

Below, Table 4 provides a partial list of environmental justice activists now filing elected or appointed roles in California government.

**Table 4. Partial list of environmental justice activists now filling elected or appointed roles in government**

<b>Name</b>	<b>Position</b>	<b>Dates</b>	<b>EJ background</b>
Arsenio Mataka	Assistant Secretary for Environmental Justice and Tribal Affairs, California EPA	2012 - present	<ul style="list-style-type: none"> <li>• Executive director of California Rural Legal Assistance</li> <li>• Son of EJ activists John and Rosenda Mataka</li> </ul>
Martha Guzman-Aceves	Deputy Legislative Secretary of environment, energy, water and agriculture to California Governor Jerry Brown.	2011 (date of appointment) – present	<ul style="list-style-type: none"> <li>• California Rural Legal Assistance Foundation</li> <li>• Communities for a New California</li> <li>• United Farm Workers</li> </ul>
Debbie Davis	Community and Rural Affairs Advisor in the Governor's Office of Planning and Research	2011 - present	<ul style="list-style-type: none"> <li>• Policy Director of Environmental Justice</li> </ul>

			Coalition for Water
Alegria de la Cruz	Supervising Attorney, then Regional Director, California Agricultural Labor Relations Board	2011 - present	<ul style="list-style-type: none"> <li>• Legal Director, Center on Race, Poverty and the Environment</li> <li>• Directing Attorney, California Rural Legal Assistance</li> </ul>
Roger Kim	Senior Advisor on the Environment to San Francisco Mayor Edwin M. Lee	2013 - present	<ul style="list-style-type: none"> <li>• Executive director of Asian Pacific Environmental Network</li> </ul>
Sandra Meraz	Central Valley Regional Water Quality Control Board	2007-present	<ul style="list-style-type: none"> <li>• Committee for a Better Alpaugh</li> <li>• President of the Center on Race, Poverty and the Environment's Delano Advisory Board</li> </ul>
Felipe Aguirre	Maywood City Council (also Mayor)	2005 - 2013 (2008-2009)	<ul style="list-style-type: none"> <li>• Comite Pro Uno</li> <li>• Advisory Board Member, California Environmental Rights Alliance</li> </ul>
Nury Martinez	Los Angeles City Council	2013 - current	<ul style="list-style-type: none"> <li>• Executive Director, Pacoima Beautiful</li> </ul>

**More racially diverse decision-makers**

In some cases environmental justice activists emphasize the election of people of color to public office. In other cases they simply emphasize the election of “community members.” The Environmental Justice Coalition for water describes their approach as follows:

The Environmental Justice Coalition for Water is opening up the closed doors of the water world. It is time that the people making decisions about the future of California's water *truly* reflect the future of the state of California. Amongst our member organizations and as a coalition, we are actively building the capacity of community members and advocates to become active members of decision-making bodies such as the Regional Water Quality Control Boards. This not only enables community members to participate in decisions about their natural resources, but also ensures that California's many low-income communities and communities of color are better represented within decision-making circles.... The State and Regional Water Quality Control Boards are charged with monitoring the quality of California's water resources and ensuring proper distribution of these resources. There are nine Regional Water Quality Control Boards and working with the State Board, they develop and enforce water quality goals. They regulate all types of industries in each region, issuing permits for what sort of water is allowed to be discharged by industries from refineries to agriculture. In 2005, out of 86 Regional Water Quality Control Board members, there are only three people of color!! (Environmental Justice Coalition for Water n.d.)

However, increasing the racial diversity of decision makers alone does not automatically create more racially just outcomes from state agencies. The activist below speaks to the limitations of environmental justice activists in their abilities to create the change they want to see, even from within the apparatus of the state:

Just having diversity doesn't necessarily get you there. The outcome itself has to be racially just. And just having a diverse entity with racially unjust outcomes isn't helping anything. Arsenio Mataka is a good example. Hired out of [California Rural Legal Assistance] as a young attorney, the son of John and Rosenda Mataka, two amazing EJ leaders, and he gets inserted into a system from which there has been a longstanding series of racially unjust outcomes [as the Assistant Secretary for Environmental Justice and Tribal Affairs at the California Environmental Protection Agency]. And the hope was that that would change because there is now more leadership in Cal EPA. And, I respect Arsenio a great deal, and think he has the best of intentions, but he's not the one calling the shots. Cliff Rechtschaffen and Martha Guzman in the Governor's office, does that mean that there's going to be more racially just outcomes? Alegria de la Cruz is the [Regional Director at Agricultural Labor Relations Board].

... Does [Cliff] being there, does Martha being in the Governors office, does that mean that there are more racially just outcomes? I would say no... Just having diversity in an institution doesn't change it if there is institutional and structural racism that still exists. So, maybe those who called for more diversity way back when were a bit naïve to think that if the faces changed the outcomes would change. Maybe there hasn't been enough facial change in our institutions to where will so racially just outcomes. Maybe there needs to be more. But at this point, if I were in Arsenio's shoes, I would feel very frustrated.

Of course, state agencies and other environmental organizations are still far from achieving staffs that accurately represent the racial makeup of the state. One activists describes the ongoing tension as follows:

Interviewee: I am involved with the anti-fracking movement in Fresno... The number of people of color that attended that meeting, and there was well over 100 people there, was very small. Sometimes that's a good thing, sometimes that's a bad thing. I think that if something like fracking affects Caucasian people, then there's more attention to the problem. It sounds terrible but it's the truth. They're going to speak out more, they're going to have more resources to combat it and people are going to listen to them more. It's just the way it is.

What's funny is, when we do environmental protests, and we're out there chanting, having a protest, and people tell us to go back to Mexico. I guess they automatically assume that if they see people of color chanting that we're protesting for immigration. That's why I *know* that when there's white people, there's going to be a lot more attention put on the issue.

### **Being “for something”**

Finally, environmental justice activists are increasingly expressing their interest in being “for something” rather than “against something.” This represents a significant shift in environmental justice activism, which has historically fought reactive battles against environmental “bads” rather than proactive battles for environmental and social “goods.” In some cases this shift in emphasis occurs when

environmental justice campaigns to shut down polluting facilities are won. For example, Pacoima Beautiful in Los Angeles County successfully pressed for cleanup of the Price-Pfister Faucet Plant Superfund site in their community, and then invested significant energy into the creation of new jobs through the construction of a shopping area on the same site that now contains a LEED certified Costco and other big box stores. Youth United for Community Action in East Palo Alto won a landmark campaign to shut down Romic Environmental Technologies' hazardous materials recycling facility and is now working with the city to create a business park on the same site. The Coalition for a Safe Environment, in Los Angeles County's Wilmington, has worked tirelessly to reduce diesel emission in the Los Angeles and Long Beach ports, and is now also forming relationships with clean technology companies to promote the development and adoption of newer, cleaner infrastructure and transportation tools. Finally, the seven groups that make up the California Environmental Justice Alliance (CEJA) have partnered with the solar industry to help promote a legislative agenda for rooftop solar power.

Forming these new partnerships can at times cause controversy among activists who historically defined themselves in opposition to both corporations and the state. CEJA's partnership with the solar industry, although formed to promote their rooftop solar agenda, also means that they are partnering with an industry that is primarily oriented around the construction of large solar farms in the California desert. Other environmental justice activists oppose these solar farms for their potential to destroy the traditional lands, sacred sites, and historic artifacts of the



Native American tribes who call those lands home. For example, CEJA has partnered with the Solar Energy Industries Association, which supports the Ivanpah solar project in Barstow that has also been sued by a local organization dedicated to preserving Native American sacred sites and cultural artifacts in the area.

The director of one CEJA member organization responds to my question about the tensions between local/distributed solar, and utility-scale solar/solar-farms.

Our focus has been pretty much on local solar. But I would take it kind of closer to home. We're working at the LA Department of Water and Power [DWP]. We want them to adopt a comprehensive clean energy program. So, they're saying, well, we're getting off of coal. By 2020 to 2025, we're going to end our contracts with folks in Utah and Arizona. But we're going to replace them with natural gas. They're talking about San Onofre, and we replace that with natural gas. So, we want them to -- and we think it's doable. Technically, we can show how they can adopt a comprehensive clean energy program, and it's cost effective, it's reliable and so on. But we had to get the union on board. We had to get IBEW Local 18, they're the big union in LA DWP. So, the question we're having is, will we have to support some utility scaled solar? And if we did, what would be the conditions under which we would support that?

So, part of that would be what do the folks where these projects are happening, what do they say, what are their demands? So, we're looking at that. Our preference is for total local solar, but we don't know if we have the strength to achieve that. And if we don't, is labor going to fight us, and then we end up with natural gas? Because right now, their thing is "Let them build natural gas, we get the jobs." So, we said, "You can get the jobs, but you've got to support X amount of local solar and most importantly, X amount of utility scale solar. I don't know. It's a discussion that is going on, but it hasn't been resolved yet.

In addition to the possibility of environmental justice activists dividing over the question of local vs. utility scale solar, as the broader environmental movement has already done, the relationships that environmental justice activists form with particular legislators also complicates, and sometimes erodes, intra-movement

solidarity among disparate activist groups:

In a movement, you have to have solidarity, in my opinion. And so people knew that if the toxic dump in Casmalia was closed, it would mean more toxic waste would go to Kettleman. They also knew it might increase the pressure to site a hazardous-waste incinerator, of which there's dozens being proposed [at that time]. Yet everybody, even if they would be on the receiving end of more waste, or more at risk, supported the closure of Casmalia. Kettleman went to East LA to help march against the Vernon incinerator, even though that might increase pressure to support Chem Waste getting an incinerator in Kettleman... Without a doubt, there was strong unity, diversity of the movement, the feeling that an injury to one is an injury to all. And then jumping ahead to 2013, what do you have?... I think there are some real policy problems, exemplified, for example, by the recent *Congreso* in Sacramento about a month ago, where they invited and featured Senator Ricardo Lara, and wrote a glowing bio of him in the conference packet that, honestly, could have made me puke. And you can quote me, because Lara sponsored one of the worst pro-polluter bills in the state legislature this year. And that information was censored by CEJA. When I tried to raise it in their meeting, in a discussion about renewable energy, I was literally cut off. And he was invited to speak at an environmental justice rally at the exact same time a lot of EJ communities... were fighting it. So it's like night and day, compared to, I think, real social justice movements, the beginning of the movement in California for many years, which was really based on solidarity, and the belief that an injury to one is an injury to all.

### **New Localism**

Much of the environmental justice movement has been scaling up their work through policy advocacy and participation in electoral politics. However, some groups continue to work at the local scale in ways that they always have, opposing the construction of new polluting facilities, trying to reduce the existing pollution sources, and undertaking other local efforts. And, other newer expressions of localism in environmental justice activism are emerging as well. These are best seen in the growing interest in creating community gardens, bicycle shops and workers'

cooperatives as efforts to improve health, create jobs, and build community in low-income communities of color.

Environmental justice groups' relatively recent promotion of community gardens and worker-owned cooperatives fit into the increasing popularity of "Do-It-Yourself" activities as a form of political action. These overlap ideologically with Occupy culture and anarchism in which some of the younger activists are more likely to be steeped. In the course of my research two environmental justice activists explicitly used the word "direct-action" in a way that repurposes it from its traditional meaning as an activity in which the activist places her body in the way of process meant to be disrupted (such as through a tree-sit or blockade) to a new meaning of "directly acting" in the community through community gardens and bike programs. One activist responds to my question about her organization's community garden program as follows:

Interviewer: I understand that came out of one of your programs where you're going around asking people about their visions for their communities, and what kind of support they wanted from you all. So how's that going? Does it feel like its part of the EJ work you're doing? Bigger? Does it feel like it's kind of a separate garden thing?

Interviewee: No, it's interesting. A lot of the people who've been involved in the gardens were involved in some our fracking trainings, and have been going up to Sacramento on different bills, or engaging in different programs. So they've testified at Air District meetings. It's part of our larger organizing; it's not its own thing. There are some participants who are only involved in the garden, but a lot of people are involved in other aspects of the work.

Interviewer: Were they first involved in other aspects, and then got into the gardening? Or was the gardening kind of the like, the gateway to participation?

Interviewee: It's worked in a couple of different ways. There have been a few people who have become more active, who only got involved in the

garden. And then there are people who had been active, who wanted to do the garden. And so it's happened in both ways. So that's been really neat to see, how people have gotten involved. And that all came out of our decision to be a little more proactive, and say, "Okay, the community's saying, 'We want community food projects.'" Then it's like, well, we can advocate for cities and counties to try and create these projects, or we can try and entice developers to develop these projects. But why don't we just help the community design and implement the projects? Why don't we just demonstrate that it can be done? And so that's how it got started. So it feels like its very much part of our organizing. And it's become a good base from which to draw support for other issues and other campaigns.

Some scholars of the alternative food movement have critiqued these tactics as apolitical interventions unlikely to significantly change low-income people's opportunities, while neatly mapping onto neoliberalism's emphasis on individual responsibility instead of regulatory politics (Brown and Getz 2008; Guthman 2008; Mares and Alkon 2011). Environmental justice activists approach these interventions in ways that both align with and complicate neoliberal environmental governmentalities.

While in other contexts these strategies can be seen as sharing with neoliberalism a rejection of state-action, when implemented in environmental justice organizations they function slightly differently. Most of the environmental justice leaders I interviewed who pursue this kind of programming within their organizations emphasized that these kinds of community-oriented, local, pleasurable, non-confrontational activities sometimes function as a way to draw residents into their broader political work that targets corporations and the state. It is not clear if this was an intentional strategy or a happy by-product of this new kind of programming. Some

also emphasize the need for activities like these that provide short-term payoff and sense of accomplishment, a rich sense of community, and tactile pleasures in the face of political campaigns that can last years and years with little tangible results to show for it.

### **Internal Conflict**

The changes within environmental justice activism described above are not uniformly practiced nor embraced. In 2014, a new statewide coalition formed, called the California Environmental Justice Coalition (CEJC). See Table 5 for a list of members.

**Table 5. California Environmental Justice Coalition member groups, as of November 10, 2014**

Asamblea de Poder Popular de Gonzales
Bay Area Healthy 880 Communities
Biosafety Alliance
Boyle Heights Stakeholders Association
Breakthrough Communities
California Prison Moratorium Project
Central California Environmental Justice Network
Centro CSO Community Service Organization
Citizens for Chiquita Canyon Landfill Compliance
Comite Civico del Valle
Comite Pro Uno
Community Food and Justice Coalition
Danza Aztec Tlaltlach
Desert Protection Society
East Side Coalition Against Exide Toxic Technologies
El Pueblo Para el Aire y Agua Limpia/People for Clean Air and Water of Kettleman City
Environmental Justice Coalition for Water
Food Empowerment Project
Fort Ord Environmental Justice Network
Fresno Brown Berets
Global Community Monitor

Grayson Neighborhood Council
Greenaction for Health and Environmental Justice
Huntersview Mothers and Fathers Committee for Health and Environmental Justice
Idle No More SF Bay Area
Indigenous Permaculture Project
Just Transition Alliance
La Cuna de Aztlan Sacred Sites Protection Circle
Luchando por nuestra Salud
Madera Coalition for Community Justice
Maravilla Historical Society
Mexican American Political Association (MAPA)
Mohave Cultural Preservation Program
Mothers of East Los Angeles
OccupySF Environmental Justice Working Group
Padres Unidos de Maywood PUMA
Poder Verde Comite de Wasco
Proyecto Eco Tierra
San Joaquin Valley Latino Environmental Advancement Project
Sierra Club Tehipite Chapter/Fresno
Silicon Valley Toxics Coalition
Tri-County Watchdogs
Tri-Valley CAREs (Communities Against a Radioactive Environment)
Valley Improvement Projects
West Berkeley Alliance for Clean Air and Safe Jobs
West County Toxics Coalition
West Oakland Environmental Indicators Project
Youth United for Community Action

The similarity of the name with the already existing California Environmental Justice Alliance (CEJA), speaks to tensions within the state about movement strategy and representation. CEJA is made up of six environmental justice organizations. The rest of the state’s environmental justice organizations are not allowed to join. Together, they pursue policy advocacy in the state capitol. When successful, however, policy advocacy results in the passage of new policies that affect all state residents, not just those working with the organizations passing the new policies.

Indeed, the possibility of that broader impact is the reason to pursue policy work in the first place.

However, CEJA's closed doors policy, as well as the change in their name from Environmental Justice Working group to California Environmental Justice Alliance in 2007/8, has prompted concerns that they are speaking for the statewide environmental justice movement in the capitol, without actually involving other environmental justice organizations beyond their self-selected group of six.

In 2014, the California Environmental Justice Coalition convened their first statewide gathering. Representatives from environmental justice nonprofits and community groups from across the state convened in Kettleman City to meet, discuss statewide advocacy needs, and get the new organization running. No staff members from the organizations that make up the California Environmental Justice Alliance attended.

The CEJC mission statement reads as follows (emphasis added):

The California Environmental Justice Coalition takes action to bring about systemic change in industry and government policies and practices to protect health and promote justice and resilient communities by *uncompromisingly* following the Principles of Environmental Justice; *promoting unity and solidarity*; using community-based knowledge; and strengthening community leadership. Led by people of color and low-income communities, CEJC is a *broad, inclusive, grassroots* statewide coalition of *small and large* groups uniting urban, rural and indigenous communities in resistance against environmental racism and injustice, and committed to environmental, social, and economic justice. (California Environmental Justice Coalition n.d.)

The emphasis on unity, inclusivity, the grassroots, indigenous communities, and the inclusion of both small and large groups results from a perception that CEJA is

exclusive, made up of nonprofits and not community groups, made of large organizations (relatively speaking), with no indigenous representation, and that it is too willing to compromise on environmental justice priorities with legislators and state agencies.



## **Ch. 3: The Changing Political Context**

### **Introduction**

The shift in emphasis from “outsider” political tactics to “insider” political tactics described in the last chapter happened in the context of both prior environmental justice activism, as well as the changing political context through the decades. Activists made strategic changes in how to achieve their goals on the basis of the successes and failures of early environmental justice activism. The successes of early environmental justice activism also resulted in changes in the political landscape in which contemporary environmental justice activists work. Finally, the changing face of environmental justice activism has also been influenced by changes in the broader political landscape over time that are outside of the influence of the environmental justice movement. Below I explore these themes as they break down under the core categories of change: reduced popular protest, scaling up to policy advocacy and electoral politics, institutionalization and professionalization, and collaboration.

### **Reduced popular protest**

#### **Influence of Prior Activism**

#### **Reduction of incinerator proposals**

As described in chapters 1 and 2, early environmental justice activism grew out of concerns about the management of hazardous waste. Specifically, many of

these concerns were ignited by efforts to locate new hazardous waste incinerators in low-income communities across the country. Activists responded so successfully to these incinerator proposals that no new commercial incinerators have been built in the U.S. in close to twenty years. Indeed, after early pushes to locate new incinerators in the 1980s and early 1990s, incinerator proposals declined, and incinerator proposal proposals to burn hazardous waste, in particular, came to a near halt. While this can be counted as one of the successes of environmental justice organizing in the United States, I argue that it also reduced the numbers of people who could be easily drawn into environmental justice organizing through appeals to protect their communities from new polluting industries. It is also important to note that many of these incinerators were proposed in small, rural towns that did not already have an existing industrial base into which a new facility could blend. The reduction of incinerator proposals has reduced one of the driving forces of widespread community politicization around environmental justice concerns.

#### **Clean up of existing sites and implementation of new federal laws**

Similarly, activists' early efforts and the slow implementation of hazardous waste laws put into place in the 1970s reduced the incidence of the most egregious forms of hazardous waste management. This means that dramatic, politicizing incidents are less likely to happen now than in the early years. For example, it is now hard to imagine managers of a waste facility intentionally releasing large amounts of liquid hazardous waste into a ravine, as happened in the Stringfellow Acid Pits in the 1970s, causing liquid hazardous waste to run through the towns streets and foam up

over its sidewalks. Since those incidents, activists have engaged in long campaign to slowly clean up the site. Their efforts led to the creation of the state superfund program, and designated the Stringfellow Acid Pits as the first Superfund site in the California.

Similarly, activists across the state rallied together around the hazardous waste landfill in Casmalia, which their efforts closed in 1989. Among other things, landfill managers had been spraying liquid hazardous waste onto its hillsides in order to speed evaporation, and the local school had sent children home in response to overpowering toxic fumes (Lopez 1985).

Overall, government agencies and corporations seem to have improved their practices just enough to avoid the most egregious waste management problems of the 1970s and 1980s, again undercutting an easy source of politicization for the environmental justice movement. This is comparable to arguments that have been made about the broader environmental movement. As vice-president of the Sierra Club Bernard Zaleha put it,

The very improvements that came with more effective regulation of air and water pollution, the partial clean-up of toxic dumps, the wilderness designation or other protection of particularly popular wild areas, and the recovery of previously endangered, popular species like the bald eagle and wolves, means that for an increasing portion of the American public, environmental issues just don't seem as urgent... This translates into less pressure on public officials. (Zaleha 2012:5)

#### **Incorporation of environmental justice framing**

Activists were also successful in promoting the concept and language of environmental justice. Indeed, they have been so successful that state and federal agencies, and in some cases industries as well, have adopted the language of environmental justice themselves. However, in incorporating the term “environmental justice,” they typically also rearticulate it in ways that serve their interests.

After Clinton’s 1994 executive order on environmental justice directed all federal agencies to develop environmental justice programs and policies, the frame of environmental justice began to be used increasingly in policy settings. Policy makers’ use of the term has led to their own particular ways of defining environmental justice that fit their interests. These typically involve defining environmental justice as a process of fair inclusion in decision-making rather than attending to the racialized and classed outcomes of decision making. Holifield’s work is useful here too, when he describes how the Clinton Administration’s approach to environmental justice emphasized “data analysis, managed public participation, and economic opportunity” (Holifield 2004). Specifically, Holifield analyzes how EPA Region 4, which covers the American Southeast, translated the national environmental justice directive into their on-the-ground work cleaning up polluted sites through the Superfund program. He found that,

Instead of efforts to redistribute risk more “justly,” the Clinton EPA’s approach to environmental justice emphasized mechanisms for building trust and managing political activity in communities that raised such allegations... They also called for remedial personnel to make EJ communities aware of targeted grant and economic development programs and to “enhance” efforts to involve community members in decisions about remediating and redeveloping hazardous waste sites. (Holifield 2004)

Research done by Raoul Liévanos on the California EPA's process of implementing environmental justice policy between 2002 and 2007 results in similar findings. Liévanos shows that Cal/EPA drew on federal language to define environmental justice as "the fair treatment of people of all races, culture, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies" (489). More specifically,

Cal/EPA's primary mode of implementing the fair treatment mission statement was through procedural measures: funding community-based organizational involvement in decision-making processes like CEJAC, and creating various local advisory committees on cumulative impact assessment. (Liévanos 2012:496)

London, Sze and Liévanos also find that the implementation of environmental justice policy in California has emphasized procedural improvement at the level of Cal/EPA since 2004, and more specifically within the Department of Pesticide Regulation (London et al. 2008). The emphasis on state agencies primarily defining environmental justice work as procedural improvements in citizen participation runs throughout this scholarship.

The environmental justice frame, too, is increasingly deployed not just by movement actors but also by the former, and sometimes continuing, targets of their advocacy in industry. For example, Waste Management, the largest waste handling company in the world, has professed their commitment to the cause of environmental justice. In a 2013 essay titled "How Waste Management got Proactive on Environmental Justice," Vice President for Federal Public Affairs Sue Briggum wrote

the following after describing the impact of the *Toxic Waste and Race in the United States* (Chavis Jr. and Lee 1987) report on the waste industry:

We quickly learned that we needed to think about our prospective communities. Responsible companies want to be known as good neighbors – responsive to community concerns, providing benefits greater than potential environmental burdens, and located equitably. As soon as we started talking to environmental justice leaders, we learned that they were open to very candid and productive discussions with companies willing to listen carefully with a genuine interest in finding common ground. (2013)

Waste Management is a member of the “Business Network for Environmental Justice,” which was formed in 1995 by the National Association of Manufacturers. In 2012, Briggum was even featured on the EPA Office of Environmental Justice’s 20<sup>th</sup> Anniversary Video Series. The series was made by the EPA’s Office of Environmental Justice in commemoration of the 20<sup>th</sup> anniversary of Clinton’s executive order on environmental justice, and featured on the EPA’s Environmental Justice in Action Blog.

I argue that the widespread adoption of environmental justice framing by state actors, as well as its more limited adoption by industry, has helped undercut the potential for mass mobilization around environmental justice concerns by reducing the sense of outrage that residents used to feel when they brought their concerns to hostile agency representatives and industry officials. Instead, activists are more likely now to encounter sympathetic responses, even if it is not always clear that this sympathetic response results in environmental improvements in activists’ lived experience of pollution.

## **Changing Political Context**

### ***Routinization of public participation***

The adoption and re-articulation of environmental justice framing by state agencies and some industries overlaps with the routinization of public participation processes, society-wide containment of protest and reductions of overt racism to also make mass mobilization around environmental justice concerns more challenging. As noted elsewhere in this manuscript, public participation in environmental decision-making has been routinized, if unequally, through the provisions of Spanish-language simultaneous interpreting and bilingual signage and scheduling hearings at places and times that are more convenient to the people most directly affected by the decision. Hearings have also become increasingly tightly managed with attention to reducing disruption over the years. The following quote describes one such disruptive hearing, and the way the management of hearing spaces has changed since:

That's why [the government] always has to tie the chairs together now. Because, what they did is, they started banging the chairs. So they would pick up the chairs that were steel, and they would bang them on the floor of the meeting hall.

Another activist who organized with Greenpeace in the 1980s reflects in a similar vein on the ways in which highly visible disruptive protest has become more difficult over the years:

It would have been 1987 when... Greenpeace climbed onto the roof of the state capital. Now you would get shot doing it, but we unfurled a banner, a gigantic banner, that people held off the roof. It was against the incinerator onslaught that was starting to happen.

The same activist also reflects on the new norm of applying for permits for marches and protests, by looking back on a large march in Los Angeles:

So, when the march started, you know, we didn't have permits, we just poured into the street. And the rally - after the mile long march or whatever it was, in front of the proposed site on Bandini Boulevard - we had a rally on the sidewalk. It was smack in the middle of Bandini Boulevard, and that was really intentional. It's to kind of up the spirit of the people, and show defiance, and that people aren't going to take this lying down, literally.

This activist's observations overlap with scholarship that documents the increased use of "negotiated management" tactics (McPhail, Schweingruber, and McCarthy 1998) that allow for orderly protests through the issuing of permits.

### **Reduction of overt racism**

Finally, the reduction of overt displays of racism over time that have been noted in U.S. race-relations broadly speaking (Bonilla-Silva 2006), has also been mirrored in interactions between state agencies, industry representatives, and environmental justice activists in California. As racist treatment of residents by agency officials and industry representatives served a vital politicizing role in early environmental justice activism, the reduction of this poor treatment, while a good thing in and of itself, has also undercut an important mobilizing experience in terms of the ability to generate widespread participation in environmental justice activism.

### **Normalization of risk**

Finally, I argue that risk has been normalized in many communities over the years. Environmental justice activism's origins around waste conflicts also owed much to the newness of hazardous waste in the popular imagination during the late 1970s and 1980s. Andrew Szasz emphasizes that "mass perception of risk *varies*



*historically,*” and according to, in part, the newness and familiarity of the risk in question (1994:57). The early years of the anti-toxics movement articulate with the relatively early years of hazardous waste as an established social problem generating widespread alarm in society. Through the mid 1970s, hazardous waste was a poorly understood issue (Szasz, 1994). Regulators did not know how much of it there was, where it was located, how it was being disposed, or what its potential environmental and health impacts might be. Hazardous waste was a largely unregulated industry until the passage of the Resource Conservation and Recovery Act (RCRA) in 1976, and public opinion polls showed that it “had not yet coalesced into a distinct entity in public opinion” (1994:13). Indeed, a 1973 survey showed citizens to be:

remarkably unruffled by the prospect of having a hazardous waste disposal facility for a neighbor: 60 percent of respondents favored or strongly favored placement of [a national disposal site] facility in their own county; 58 percent thought that such siting would either leave property values unchanged or actually increase those values ... [and] almost 60 percent of the sample were willing to live within five miles of a hazardous waste disposal facility. (Szasz 1994:14)

Similarly,

A 1976 EPA survey of the hazardous waste management industry found that only 42 percent of [treatment, storage and disposal facility] owners and operators felt that “public opposition was a constraint in obtaining new sites or expanding old ones” (GAO, 1978:11). (Szasz 1994:69)

It wasn't until 1978, with the advent of Love Canal and other disasters that hazardous waste became recognizable as a social problem and perceived threat. Press coverage stressed the Love Canal story as a disaster in which “everyday life had come to a halt” (1994:47) within the “total disruption of community [and] of settled,

everyday life” (1994:44). Accordingly, public opinion about hazardous waste facilities changed dramatically:

By 1979, a GAO survey of government and industry officials found that “virtually all of the disposal industry officials interviewed indicated that public opposition was a major problem... *Most* State officials we interviewed cited [public opposition] as the major barrier and expected public opposition to increase in the future” (GAO, 1978:11; emphasis added). (Szasz 1994:71)

But as Szasz also notes, “In a society where episodic attention is the norm, issue importance can evaporate as quickly as it forms, and nothing guarantees that even widespread political discourses will have staying power” (Szasz 1994:64). Though most Americans likely still would prefer not to have a hazardous waste landfill for a neighbor, hazardous waste can no longer be credibly thought of as “new” with the attendant sense of increased risk that novelty can bring. Similarly, while the regulations managing hazardous waste were new in the 1970s and 1980s, they are no longer so. The push to create and implement them in the first place drew widespread attention through Love Canal, which was essentially happening before there was any federal regulation of hazardous waste, and through the Regan era efforts to take the country back to a largely unregulated state when midnight dumping was a common occurrence.

Today, the longevity of these laws and the sense that hazardous waste is now a regulated substance going to permitted landfills designed specifically to handle it safely undercuts some of the ability of activists to organize against the expansion of existing hazardous waste sites.

### **Increase in statewide policy advocacy and electoral politics**

At the same time as multiple trends both internal and external to environmental justice activism have led activists *away* from outsider tactics by diffusing their ability to generate mass popular protest, others have led them *towards* increasingly “insider” political tactics.

Environmental justice activists have scaled up their work into statewide policy advocacy and electoral politics due to strategic decisions influenced by their assessment of the limitations of prior, more local tactics, as well as a growth in the scientific evidence of environmental inequality resulting from environmental justice activism and, often, activist partnerships with academics. This scaling up process has also been influenced by larger trends outside of the control of environmental justice activists. For example, demographic change has increased opportunities to participate in the formal political process for groups that can credibly claim to represent people of color constituencies.

### **Influence of prior activism**

Not all activists have scaled up their work into the policy and electoral arenas, but many have. This emphasis often builds on a sense of the limitations of the local emphasis of early environmental justice work and a desire to make broader, more lasting changes than what can be accomplished at the local level.

### **Limitations of local siting battles**

Activists in the anti-toxics movement and early environmental justice movement were frequently charged with practicing NIMBY politics. NIMBY is short for the phrase “Not in My Backyard.” The label was typically applied in a dismissive way that undercut some of the moral authority of protesters by depicting them as people concerned only with the welfare of their own communities, rather than with the public good. While many environmental justice activists had, or developed, social justice goals broader than the wellbeing of their own communities in the early years, many also came to see exclusively local work as inherently limited. Some activists have made these changes in tactics as a result of their own direct experiences over the decades, while in other cases younger activist look back at the accomplishments and limitations of those that came before them and want to try something different. For example, this activist sees that even in the face of the many local victories of environmental justice organizing, low-income communities of color remain disproportionately burdened by pollution. He pursues policy work because, as he puts it,

I don't want to be fucking old in 20 years, and say, “Shit, you know, everything is still the same.”

Activists also pursue policy advocacy in an effort to make broad social change because it is unclear that they have any other options. One activist describes this train of thought as follows:

Does policy change really change the structural racism? I don't know that I fully believe we can solve everything through policy change, but it's kind of like, “Well, unless I'm willing to do a full-on, like, revolution, what else can I

do?” And I don’t know that I feel like we’re ready for a revolution! There aren’t enough people on board. So there’s really nothing else to do but try and get policies changed.

Another activist provides a reason to do policy work when he notes that successes achieved in local community organizing campaigns can be overturned by policy work unless activists are attending to the policy world as well as their local work:

If we don’t [do policy], I think we can do a lot of good stuff on the ground, but they can wipe it out with just a piece of paper being signed in Sacramento.

Similarly, another activist notes that environmental justice activists need to attend to policy work in order to have a larger impact, and to prevent larger losses:

It’s also about bringing local issues up to bare at the statewide level, highlighting that our state and national, federal, elected officials really need to pay attention to this issue down here. Because it doesn’t only impact the health of local residents, but it’s also about corporate pollution and setting a really bad precedent that can have repercussions for the rest of the state and the nation.

She also notes that without grassroots participation from the people living with the worst impact of pollution, polluters will continue to hold sway in the political world:

What has happened in Sacramento is that there hasn’t been room for community groups to advocate at the statewide level. So it’s been a lot of major policies that are passed in the state, that impact thousands and thousands of lives all throughout California, are made by big lobbyists, big lobbying firms. Or the decisions are made by big business, or big oil companies and polluters, and often times communities are locked out of those decisions. They’re either decisions that are made between those big polluters and policy-makers, and behind closed doors, or, if there’s a public space, if there’s a hearing, there isn’t proper notification to community members, there’s a lot of technical legalese jargon, and in order for you to be able to follow that, you need skilled people. We have our attorneys, and we have worked with lobbyists before, so the work that CEJA’s been able to do is bring that wealth of information, and translate it and bring it to the community

level, so communities can understand these major decisions that are being made, and get empowered to actually do something about it. So that's the piece that's missing, and probably intentionally left out. It's what's so undemocratic about statewide politics in California.

Some activists even talk about policy work as tactic of mature people and movements, as opposed to youthful confrontational tactics. For example, this activist reflects on the politics of the 60s and 70s and those in which he participates now:

We yelled, we screamed, we threatened. But then, as we mature, we need to realize, how do you fight the enemy from within? You fight him on his own turf now.

And, in some cases, the issues themselves are inextricably linked to the broader world. As this woman notes,

I think you do see some groups scaling up nationally, but also in a focused way. So you've got the emergence of kind of a network of environmental justice groups around the country that are now gathering to look at ports and goods movement, because it really is a national issue, connected to freight, connected to trucks, connected to shipping.

Taken together, the above quotes show that scaling up has been, at least in part, a conscious, strategic decision made by some environmental justice activists.

### **Growing scientific evidence of environmental inequality**

Activists have also been aided in the policy realm by the growing scientific evidence of environmental inequality. Unlike the early years of environmental justice activism, there now exists extensive documentation of the unequal distribution of

environmental amenities and disamenities across race and class lines. As Dorceta Taylor wrote in 2000,

As the movement became more established in the late 1980s and early 1990s, discourses shifted to a rhetoric of rationality, that is, developing the empirical credibility needed to support the environmental justice claims. Studies and books ... reported on environmental justice and stimulated new waves of research and policy making. Though studies questioning and countering environmental justice claims and methodological approaches appeared in the 1990s, these studies also used questionable methodologies, and as a result have not seriously damaged the credibility of environmental justice claims. (Taylor 2000:561)

Since the above quote was published in 2000, the research on environmental inequality has continued to grow. Indeed, much US-based environmental justice scholarship consists of mapping or quantifying broad patterns of environmental inequality as they exist in individual locations around the country. In California, for example, empirical research demonstrates that race and income levels are linked to air pollution (Morello-Frosch et al. 2001; Pastor, Sadd, and Morello-Frosch 2007), the location of hazardous waste facilities, nitrate and arsenic contamination in drinking water (Balazs et al. 2011, 2012), pesticide exposure (California Environmental Health Tracking Program 2014), greenhouse gas emissions and their accompanying co-pollutants (Pastor et al. 2010), and the cumulative impact of a variety of pollutants measured together (London, Huang, and Zagofsky 2011). Activists have used this body of work to draw attention to the problem of environmental inequality in political and legislative arenas. Indeed, the research has helped contribute to a broad

familiarity with the concept of environmental justice amongst regulators that had to be cultivated over the decades.

### **Changing Political Context**

However, environmental justice activism's engagement in the policy realm has not only been a result of the successes and limitations of early efforts. It has also resulted from other trends in the broader political world that are not of their own making, including, 1) increasing opportunities to pursue policy work as California has become a majority people of color state in which the Latino Caucus has increasing clout, and 2) funder preferences.

### **Demographic change**

Other political opportunities have been created over time by California's transition to a majority people of color state in the year 2000. This demographic shift is largely driven by California's growing Latino population. The population of registered voters likely to participate in electoral politics is a smaller subset of the total population, but their numbers are growing too, and people of color are projected to be the majority of California's electorate by 2016 (Romero 2014).

The racial makeup of the state's elected officials does not match the demographics of the state's population. But, the demographic shift in the state's population has been slowly accompanied by the growing number of people of color in elected positions in state government. Between 1996 and 2007, the number of Latino



elected officials in California grew by 67.8% to 1,163 people (National Association of Latino Elected and Appointed Officials Educational Fund 2007). This mirrors national trends that saw the number of Latino elected officials at the federal level grow by 52.0% during the same time period (National Association of Latino Elected and Appointed Officials Educational Fund 2007).

The Latino Legislative Caucus in the state legislature in particular has growing political sway. At the time of writing, they count five Senators and seventeen Assembly Members among their number. Currently, caucus member Kevin de Leon is serving as the senate's leader in the role of President pro Tempore. De Leon represents the state's 24<sup>th</sup> district in the Los Angeles region, and has sponsored a number of environmental justice bills with the support of the California Environmental Justice Alliance (CEJA).

The opportunities created by demographic change are complemented by party affiliation and the results of political opinion polls. Of the 27% of Latino elected officials nationwide that serve in a partisan office or are publicly affiliated with a political party in 2007, 91% were Democrats (National Association of Latino Elected and Appointed Officials Educational Fund 2007). Democrats are more likely to support environmental legislation than Republicans. Recent polls also show that Latino voters and people of color believe the science of climate change and favor environmental legislation to slow it more than whites (Baldassare, Bonner, Petek, Shrestha 2012; Hertsgaard 2012; Sahagun 2010; Sierra Club 2008; Sierra Club and National Council of La Raza 2012).

Much of CEJA's legislative work hinges on the role of the growing people of color population in California. One of the two CEJA coordinators highlighted their importance in an op-ed published in the capitol's local newspaper:

In his inaugural speech, Gov. Jerry Brown promised to be a national leader on environmental issues. If California wants to pass big environmental policies, legislators need to look to people of color to lead the way...Across the state and the country, people of color bear the overwhelming brunt of environmental hazards and show support for progressive environmental policies at a higher rate than their white peers. To maintain support among California's new and growing majority, decision makers will need to give more weight in their agendas to the environmental concerns of communities of color. African Americans, Asian Americans, Latinos and other people of color make up about 60 percent of California's population. Voters of color were critical to the outcome of major climate change ballot measures in the past three years – passing Proposition 39, which is projected to generate up to \$1 billion each year to support renewable energy jobs by closing a corporate tax loophole; and defeating Proposition 23, which would have overturned California's landmark climate change law, Assembly Bill 32.... Political issues related to environmental justice – the disproportionate burden of pollution in low-income communities and communities of color and the harm to health and quality of life – cannot be sidelined any longer. They will be the most critical environmental policies for California in 2015. The constituencies most impacted by these policies are rapidly growing their political voice and power, demanding to be heard as California takes strides toward environmental health. (Cervas 2015)

One such example of the increasingly important “people of color vote” in California environmental politics is the 2010 rejection of Proposition 23, as described in chapter 2.

### **Institutionalization & professionalization**

Environmental justice activism has institutionalized within the nonprofit sector, which has itself become increasingly professionalized over the years.

## **Influence of prior activism**

Some of these changes are driven by activist needs and goals. One activist notes a need for legal, scientific and policy experts in order to complement his community organizing skills to achieve environmental justice goals:

You need the experts. You can't do without the experts. There are certain folks that are going to be needed to do all of those things, whether it's people to testify, the legal, the attorneys, and we're going to probably need some lobbyists. We're going to need other folks, but how does it get all run? I think you need to have the community, the residents, with everybody, all of the experts, doing the work... I mean, I don't have any expertise on how in the heck I'm going to do the bill, you know? But I do know that I like that bill, because I know it's going to help me with my water, or it's going to help me with this. Kettleman City, we changed the rules in DTSC; then it's going to help us with the birth defects, the cancer, and everything else that's happening there. That we know, and that, I will—what do you need me to go do with you? And I can certainly go and tell my story, because you, me, all of us, have a story to tell of what our life has been, period... If we think it's just, [me] becoming the expert on this, x, y and z? That's not going to happen.

Indeed, environmental justice activism's engagement with law, science, and increasingly, policy work, necessitates the involvement of experts in these fields that have high barriers to entry. While law is the only field of these three that requires a specific degree in which to practice it, science and policy, even when approached with an intent to involve non-professionals, require specialists who understand these fields well enough to do the translational work of helping non-specialists participate and engage in them.

The growth of interest in policy work, specifically, requires attention by activists who have regular access to e-mail, speak English fluently, can understand the ins and outs of policy language and the political process, and can make

themselves available on short notice to make decisions about key negotiations, compromises and votes in the state capitol. In practice, the activists at the forefront of most of these processes are professional nonprofit staff. Grassroots activists are most likely to be incorporated into this process on lobby days in Sacramento that are scheduled far in advance, and for which nonprofits provide the necessary funds for transportation; attending trainings on how to lobby; and/or participating in visioning sessions facilitated by nonprofit staff about what kind of political changes they would like to see.

The institutionalization and professionalization processes also overlap with the environmental justice movement's commitment to empowerment of grassroots activists. Activists can signal empowerment in multiple ways, including through the disruption of public hearings and participating in civil disobedience, occurrences that were more common the early days of the environmental justice movement. But activists also signal empowerment when they incorporate their community groups as nonprofits, create organizational websites, successfully apply for philanthropic or government funds, and many of the other indicators of institutionalization and professionalization. This incorporation into nonprofit structures can be a significant source of pride for people activists who have not previously had professional employment, and for the professionals who support their transition.

### **Broad trends in social movements and civic participation**

The institutionalization and professionalization of environmental justice organizations over time has also taken place within broader trends of social movement institutionalization and nonprofit professionalization in the US.

### **Social movements and civic participation**

Several scholarly touchstones ground this body of research. Classical social movement scholars use a “natural history” approach to argue that social movements typically progress through a series of stages towards institutionalization (Lang and Lang 1961; Turner and Killian 1957).<sup>5</sup> Other scholars locate the institutionalization of social movements in a historical context. Theda Skocpol, for example, situates this trend within the broader decline of membership organizations. She notes that professionalized social movement organizations began their ascent during the “long 1960s” between the 1950s and 1970s:

A confluence of trends and events sparked a shift from membership mobilization to managerial forms of civic organizing. After 1960 epochal changes in racial ideals and gender relationships delegitimated old-line U.S. membership associations and pushed male and female leaders in new directions. New political opportunities and challenges drew resources and civic activists toward centrally managed lobbying. Innovative technologies and sources of financial support enabled new, memberless models of association building to take hold. And, finally, shifts in America’s class structure and elite careers created a broad constituency for professionally managed civic organizing. (Skocpol 2004:178)

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<sup>5</sup> More contemporary social movement scholars often agree with the general trend toward institutionalization but also argue that classical theories of social movement stages “ignore variations in the experiences of different [social movement organizations] within” social movements (Staggenborg 1998:604).

Skocpol also links the growth of women in the workplace and the subsequent reduced availability of their time for voluntary purposes to the professionalization of civic engagement (Skocpol 2004). The rising cost of living over time also increases the amount of paid work the most people need to do just in order to make a living, with a subsequent reduced amount of time available for unpaid political activities.

### ***Funder preferences***

The increasing availability of foundation funding also encourages the institutionalization and professionalization of social movements (Jenkins 1983; McCarthy and Zald 1973, 1977). Brulle and Jenkins note that in 1970, twenty foundation grants were given to environmental organizations. This number grew steadily to 711 in the year 2000 (2005:157). However, these funds are not equally distributed throughout the environmental movement. In order to receive funds to support their work, activists must set up appropriate legal structures, find a fiscal sponsor, or incorporate as a nonprofit organization themselves. Applying for philanthropic or government funding also requires good writing skills, knowledge of the array of funding sources available or research skills to locate them, and specialized grant-writing skills. Although some funders explicitly target grassroots groups less practiced in these skills, most funders favor organizations with high level of professionalization and the bureaucratic infrastructure to receive funds, process them, and report on how they are spent. Brulle and Jenkins note that foundations “strongly prefer professional movement organizations, which are centralized, based

on professional expertise, use institutional tactics, and are seen as more accountable” (2005:160).

When foundations do fund engagement with the grassroots, it is often through “capacity building” efforts. Similar to the concept of empowerment discussed above, building grassroots “capacity” could be put into practice towards politically disruptive ends, but typically means instead helping people understand and participate in the formal political process, build formal institutions and organizations, or learn new professional skills such as how to work with Excel or Quickbooks.

Overall, environmental justice work remains underfunded as compared to the broader environmental movement. Bullard, Johnson, King and Torres note that

The [environmental justice] movement is still under-funded after three decades of proven work. This is true for private foundation and government funding. Overall, foundation and government funding support for environmental justice has been piecemeal. Environmental funders spent a whopping \$10 billion between 2000 and 2009. However, just 15 percent of the environmental grant dollars benefitted marginalized communities, and only 11 percent went to advancing “social justice” causes, such as community organizing. (2014:15)

They goes on to emphasize that “constrained funding has made it difficult for building organizational infrastructure, community organizing, leadership development and participating effectively in the policy arena” (Bullard et al. 2014:15).

Nonetheless, some environmental justice groups do successfully compete in the funding arena. Notably, many of the best funded California environmental justice groups are also among the six groups that make up the membership of the California

Environmental Justice Alliance (CEJA), which is currently at the leading edge of environmental justice policy work in California. While Brulle reported that in 1995 less than 3 percent of all US environmental organizations have “annual incomes exceeding \$1 million” (Brulle 2000:103), in 2012, five out of six of the CEJA organizations had annual revenues of at least \$1 million. None of the 48 member organizations of CEJC, the California Environmental Justice Coalition, had revenues of \$1 million or over in the same year.

### **Collaboration**

As noted in chapter 2, environmental justice activists are increasingly engaged in collaborative projects with state agencies through advisory boards, working groups, paid work as government contractors and environmental reporting networks. The nature of these groups does not foreclose the opportunity of more oppositional politics. Indeed, many environmental justice advisory groups have been sites of intense struggle between activists and state agencies, as Ch. 5 on the California global Warming Solutions Act will show. This overlaps with the fact that of all the collaborative spaces listed above, advisory boards are the oldest mechanism for incorporating environmental justice activists into environmental decision-making, and were therefore often spaces of conflict and oppositional politics. Taken as a group, however, these forms of work represent the increasingly collaborative nature of environmental justice politics in California.



## **Influence of prior activism**

This change towards increasingly collaborative work is due, in part, to the limitations of early forms of environmental decision-making, in which environmental justice activists were often treated poorly, or otherwise found it difficult to participate in the permitting hearings legally intended to be open to everyone. Therefore, activists consistently pushed for procedural improvements in decision-making.

Early victories on this front include work done by the activists in Southern California's Glen Avon, who lived next to the Stringfellow Acid Pits. In anticipation of heavy rains that might have breached the dam holding in liquid hazardous waste, landfill managers on several occasions intentionally released liquid hazardous waste into the ravine below, where it combined with floodwaters to flow through the roads and onto the sidewalks of the community of Glen Avon. Residents organized through the Concerned Neighbors in Action created a model for Community Action Committees that would participate decision-making around the cleanup process, and successfully institutionalized this process into the process of monitoring and cleaning up Superfund sites (Sarathy 2011).

The same limitations of early environmental justice activism that led some activists to new tactics such as policy advocacy, also led activists to try newer, more collaborative relationships with state agencies.

## **Changing Political Context**

### **Participation and Stakeholder Engagement**

However, the trend towards collaborative work with the state is not only a result of activist decision-making around strategy. It also fits into a larger trend towards stakeholder engagement and participation mechanisms across the country, and even internationally (Cornwall and V. S. Coelho 2007). Where faith in government and bureaucracy was high in the 1950s, the 1960s were informed by a

collective rejection of the idea that bureaucracies and their experts could be reconciled with broadly participatory democracy, and at the same time, could realize general social improvement and progress...Among many in these movements, participation was not simply understood as a check on the authority and power of experts, it was also understood as a tool for creating community and overcoming social alienation and the meaninglessness of consumer society.... The movements of the 1960s sparked a culture war between traditionalists and social liberals. What is less commented on is that it produced a general social consensus that participation was a good worth pursuing and institutionalizing. The very bureaucracies that were understood in the 1960s to produce alienation and arrogant experts now routinely make use of participatory practices...The valorization of participation in the 1960s was not simply pushed by movements. By the late 1970s, it was also widely adopted by government and private-sector organizations. Citizens gained access to policymaking, the management of agencies, the direction of scientific research, and even the capital allocation decisions of corporations. (Walker, McQuarrie, and Lee 2015:11–13)

Indeed, most of the environmental laws that enable participation in environmental decision-making in the first place were put into place during the 1970s.

### **Neoliberalism**

Scholars of participation and civic engagement, such as those cited above, help locate the increasing emphasis on stakeholder engagement and other forms of participation in government and industry in the anti-authoritarian counterculture of the long 1960s. Scholars of neoliberalism, on the other hand, highlight the rise of

stakeholder engagement mechanisms and other forms of participation as part of a neoliberal effort to roll back the state apparatus and increasingly rely on nonprofits and individuals to take on the work of what was once the state. In one such example, in the late 1980s and early 1990s, George Bush popularized the phrase “a thousand points of light” to describe the country’s many volunteer organizations, which were emphasized in place of government action as the solution to deep-rooted social problems.

Other scholars have emphasized how neoliberalization reduces the power of the state by decentralizing power into local decision-making mechanisms, and promoting public-private partnerships between government and private industry as well as collaborative, stakeholder and consultative politics more generally. This is often accompanied by a depoliticization of the political process in which participants are encouraged to seek out “win-win” solutions that benefit everyone. Jessop writes that under neoliberalism, “a shift also occurs from government to market forces and partnership-based forms of governance, reflecting the neoliberal belief in the probability, if not inevitability, of state failure and/or the need to involve relevant stakeholders in supply-side policies” (2002:454).

Although some scholars locate environmental justice activism in opposition to neoliberalism (Faber 2008; Harrison 2008), Ryan Holifield analyzes the areas of overlap between neoliberalism and environmental justice (Holifield 2004). Specifically, Holifield analyzes President Clinton’s 1994 Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-

Income Populations,’ as a tool that deepened the creation of neoliberal forms of environmental management. He notes that the federal government did not use the executive order to attempt to redistribute environmental risk, but rather emphasized studying environmental justice communities, “empowering” them, building trust for the state and, most importantly here, managing their participation in decision-making. As Holifield writes, “In another time and another place, environmental justice policy might have called for a federally managed redistribution of environmental risk. But under the Clinton administration, it focused on defining and managing the “EJ community’” (Holifield 2004).

The neoliberal trend can be increasingly seen in a number of places in California’s evolving environmental justice activism. As described in chapter 2, a number of organizations are creating local environmental reporting and enforcement task forces in collaboration with state officials intended to make it easier for residents to report environmental problems and have them acted on by the state. They feature websites in which residents can report their complaints, and these complaints are generally reviewed and forwarded to the appropriate government bodies by the task force. Participation by state officials is voluntary. These projects include the Imperial Valley Environmental Report, the Kern Environmental Enforcement Network, the Fresno Environmental Reporting Network, and the Los Angeles Area Environmental Enforcement Collaborative. The California EPA’s Assistant Secretary for Environmental Justice and Tribal Affairs has also recently created a new Environmental Justice Compliance and Enforcement Working Group at the level of

the state (California Environmental Protection Agency 2013).

In some ways these projects fit within the rubric of neoliberalism that focuses on voluntarism, the shifting of responsibility for environmental management from the state to the community and state-non-state-collaboration. However they also emphasize the limited reach of neoliberalism in interpreting state-society collaboration. Environmental justice groups support these initiatives because they believe the state does not adequately enforce existing environmental laws in their communities. If successful, these programs will contradict an important aspect of neoliberalism by *increasing* the reach and efficacy of the state. However, the long-term outcomes of these programs in improving environmental regulation remain to be seen. And, it is fair to assume that part of the reason these programs are taking off at all is that they fit within a broader political environment in which voluntary participation, collaboration, and information-based political processes are popular techniques of governance.

Some activists express concern that the close nature of the relationships being built between activists and regulators through programs such as these will undercut activists' likelihood of engaging in more contentious, oppositional politics with state agencies when needed. This echoes concerns that also arise when some activists accept financial contributions to their communities from their polluting corporate neighbors through corporate social responsibility and good neighbor initiatives, which also feature voluntary rather than mandated action on the part of polluters.

Environmental justice activists have long promoted participation in local

decision-making and state politics among their constituents, and have advocated for government practices to be more accessible to low-income people's working schedules and ability to travel, as well as to residents who do not speak English. This emphasis overlaps neatly with neoliberalism's privileging of local politics, public-private partnerships, and stakeholder politics, but is driven by a fundamentally different political logic. This long-standing effort to make political participation less likely to be influenced by race, class and language is, again, motivated by a desire to make the state more responsive to low-income people of color living in disproportionately polluted communities. These efforts have resulted in calendars filled with meetings, hearings and phone conferences as part of activists' roles on multitudes of national, state, local, academic and nonprofit advisory boards. However, even as activists continue to push for "a seat at the table," they express widespread skepticism about the efficacy of these initiatives and push to also help "determine the menu." They criticize many of these boards for the ways in which they use up activists limited time and resources on processes that often do not result in tangible benefits for environmental justice communities, and note that in some cases their participation is tokenized.

Finally, environmental justice activists are increasingly expressing their interest in being "for something" rather than "against something." This represents a significant shift in environmental justice activism, which as described above has historically fought reactive battles against environmental "bads" rather than proactive battles for environmental and social "goods." In some cases this shift in emphasis

occurs when environmental justice campaigns to shut down polluting facilities are won. For example, Pacoima Beautiful in Los Angeles County successfully pressed for cleanup of the Price-Pfister Faucet Plant Superfund site in their community, and then invested significant energy into the creation of new jobs through the construction of a shopping area on the same site that now contains a LEED certified Costco and other big box stores. Youth United for Community Action in East Palo Alto won a landmark campaign to shut down Romic Environmental Technologies' hazardous materials recycling facility and is now working with the city to create a business park on the same site. The Coalition for a Safe Environment, in Los Angeles County's Wilmington, has worked tirelessly to reduce diesel emission in the Los Angeles and Long Beach ports, and is now also forming relationships with clean technology companies to promote the development and adoption of newer, cleaner infrastructure and transportation tools. Finally, the seven groups that make up the California Environmental Justice Alliance (CEJA), have partnered with the solar industry to help promote a legislative agenda for rooftop solar power.

Forming these new partnerships can at times cause controversy among activists who historically defined themselves in opposition to corporations and the state. CEJA's partnership with the solar industry, although formed to promote their rooftop solar agenda, also means that they are partnering with an industry that is primarily oriented around the construction of large solar farms in the California desert. Other environmental justice activists oppose these solar farms for their potential to destroy the traditional lands, sacred sites, and historic artifacts of the

Native American tribes who call those lands home. For example, CEJA has partnered with the Solar Energy Industries Association, which supports the Ivanpah solar project in Barstow that has also been sued by a local organization dedicated to preserving Native American sacred sites and cultural artifacts in the area.

Creating collaborative relationships with industry and legislators complicates intra-movement environmental justice politics when some groups form relationships with legislators who are supporting them on their issue area but working in opposition to other groups' issue areas. These relationships can create fissures in the environmental justice community by splitting groups investing in collaborative, proactive, insider politics from those who remain committed to older, more confrontational tactics.

## **Funding**

Finally, as philanthropic priorities have changed over time, environmental justice activists have tried new methods of funding their work, including working as paid contractors for state agencies that facilitate stakeholder engagement projects around environmental planning and decision-making:

Interviewee: Funders have been kind of changing their focus, and funders always do that. And it has been, I think, overall away from environmental justice, and made us have to characterize it in different ways than as EJ.

Interviewer: What kind of framing?

Interviewee: More like community development, community assistance... Actually, one of the things that we've been doing to address some of those changes and priorities with foundations is doing more of these pilot projects, where we're kind of consultants on projects. So we're doing the community



engagement piece, or the community facilitation piece, and getting paid for that.

Interviewer: For a project done by the county?

Interviewee: The county. So basically, in a couple of projects there's been funding given to the county, or we've gotten the county to apply on behalf of communities, or other agencies to apply. There's Integrated Regional Water Management Plans, and different water agencies that we've gotten to apply on behalf of communities, to do planning. These so far have mostly been water-related planning, where we've been contracted to do the community facilitation piece, community outreach and facilitation. So that's been really good, both to help ensure that we can be funded to do this work, and also to make sure that it's done in a way that we feel like is addressing community needs, and having those really drive the project. And so we do a lot—as contractors, we do a lot of internal advocacy within the contracting agencies and parties, that's sort of behind the scenes, about how the project should be run, and how to develop recommendations out of it. And I think that's a good fit. It's been a good fit for us so far, but it's a really different kind of funding. It's meant we've really had to figure out, like I said, how do we walk that line, then, when we're advocating with those agencies? And then a lot of practical stuff, like how do we set ourselves up internally to be able to bill like a consulting firm, you know? [Laughs]

## **Conclusion**

In the end, the changing face of environmental justice activism is not due to any single factor. Rather, it is the outcome of some activists' reflections on the limitations of early environmental justice activism, and a desire to do things differently, combined with the ways the successes of early environmental justice activism changed the political landscape. These both interact with broader political and social changes outside the scope of influence of environmental justice activism. In the chapters that follow, I use two case studies to explore these trends in greater detail.

## **Ch. 4: Kettleman City: Three Generations of Environmental Justice Activism at the West's Largest Hazardous Waste Landfill**

### **Introduction**

To many Californians, Kettleman City is best known, if it is known at all, as a place to stop for gas and a snack on the long drive through the Central Valley's agricultural landscape when travelling between Los Angeles and the San Francisco Bay Area. But to a certain subset of California and the nation, tiny Kettleman City, population 1,439, has an outsize reputation due to its history of environmental justice activism and struggles with the world's largest waste company, Waste Management.

Hazardous waste landfills and polluting industries are often seen as undesirable neighbors. Local responses to get rid of them earn the nickname of NIMBY struggles by their detractors, for efforts to locate these industries "somewhere else," as long as it is "Not In My Backyard." But poor communities of color typically have fewer political resources available to them to keep these facilities out, resulting in a pattern of polluting industries being disproportionately located within them across the country. Kettleman City is no exception, as evidenced by the fact that residents did not even know about the dump until after it had been permitted and built in 1979. Their town's demographics are comparable to many other places that host hazardous waste facilities: 100% of the community is Latino (U.S. Bureau of the Census 2013a), and 57.5% of residents over 25 have less than a 9<sup>th</sup> grade

education (U.S. Bureau of the Census 2013b). Average per capita income is \$15,656 per year (U.S. Bureau of the Census 2013c).

The fight against a proposed hazardous waste incinerator at the landfill in Kettleman City was a paradigmatic early case in the environmental justice movement. Kettleman City's early activism against the incinerator received widespread treatment in the press and regular references in the scholarly literature on environmental justice activism (Bullard 1993; Cole and Foster 2001). However, scholars have yet to revisit the case and ask what has happened since. This chapter traces the 28-year history of environmental justice activism in Kettleman City. I situate Kettleman City's experience of environmental justice activism within the broader evolution of environmental justice activism described in chapter 2 in order to both provide evidence for those broader trends as well as a fine-grained analysis of how they play out on the ground.

Specifically, the experience of Kettleman City exemplifies the successes of early environmental justice activism in preventing the construction of new "locally unwanted land-uses," (LULU's) especially incinerators. It also shows how these successes, as important as they are, were, 1) less successful at addressing already existing unwanted land-uses and the effect of multiple sources of contamination in one location, 2) not necessarily sufficient to sustain broad levels of local activism after the defeat of the LULU in question, and 3) unable to change the broader structural conditions creating the disproportionate location of pollution in low income communities of color.

Many in the environmental justice movement have used the limitations of fighting individual, defensive battles site by site as a reason to scale up into statewide policy advocacy and collaborative work with state agencies. However, much of the work of environmental justice activists in Kettleman City continues in a vein of more oppositional relationships to the state. As such, the case of Kettleman City underscores the links between scaling up, institutionalizing social movement organizations, and collaborative tactics through a counter example of locally focused, oppositional work. Kettleman City's role as host of the first meeting of the newly formed California Environmental Justice Coalition, formed at least in part as an alternative to the already-existing California Environmental Justice Alliance, also shows how the scaling up process has exacerbated internal movement schisms amongst those embracing policy advocacy, professionalization, and collaborative work with the state, and those that continue to pursue more disruptive strategies. Finally, in the face of skepticism about the value of participating in government advisory committees and improving the public's ability to participate fairly in environmental decision-making, Kettleman City's history also shows why activists worked towards these goals in the first place.

### **The Anti-Incinerator Campaign**

In the late 1970s, Chemical Waste Management, Inc. created a hazardous waste landfill 3.5 miles away from Kettleman City on land formerly used to store waste-mud from nearby oil drilling. As a Class 1 landfill, the facility takes almost any

hazardous substance up to, but excluding, radioactive nuclear waste. The landfill is managed by Chemical Waste Management, which is a subsidiary of Waste Management Inc. It is the largest hazardous waste landfill west of the Mississippi. Nonetheless, the landfill is not easily visible from the road, and residents did not discover its presence until after it was built, some in the early 1980s and some even later (Cole and Foster 2001).

In the 1980s, Chemical Waste began the permitting process of adding a toxic waste incinerator to the existing hazardous waste landfill. The incinerator would burn garbage instead of landfilling it, thereby adding dangerous toxins to the air. Maricela Mares Alatorre remembers those years as follows:

I was about 16 or so when people from Greenaction came to our town. Actually, it was called Greenpeace then. They came to our town and knocked on our door and said, "Hey, did you know that there is an incinerator, a toxic waste incinerator that is going to be put into your town?" And we said, "What's that?" And my parents got very involved, them being homeowners in Kettleman City. And we had no idea what it was. We really had no idea that we were living next to California's largest toxic waste dump. It was a first for us. We didn't know until someone came, and knocked on our door, and said, "Hey, you know, they're having a meeting for this." And we said, "Meeting?"

So my parents, initially, they got involved. They started going to meetings, and of course I would tag along with them. And we started finding out that we live next to a very big dump that stored very highly toxic chemicals. And we were appalled. We were really shocked, you know, to find out that these were our neighbors, and that this was another project that they were going to bring in that it was going to be California's first toxic waste incinerator. And we had no idea what it was, what it was going to do, how it was going to affect us.

And then when we started attending these meetings, we noticed that they were never in town, they were usually in the middle of the day, 45 miles away, where they weren't really accessible to people. And if you could get there, they didn't translate them into Spanish when most of the town speaks Spanish. And we started finding out that there was a pattern to the way these things

happen. We started researching company. We were informed about the Cerrell Report. It was a 1984 document, which was commissioned by the California Waste Management Board where they said how you should choose a town for these kinds of projects. And we found out that they were going around choosing towns that had a large minority population<sup>6</sup>, where people didn't speak English, large immigrant populations, low education, and Catholic. That was actually in the report: Catholic.

And we were -- we were shocked because we really had no idea. I had no idea that environmental racism existed until we were made aware of that document. And it's like you don't want to have to go to a meeting. You don't want to have to, you know, spend all your time in these boring hearings, and sometimes you don't understand what they're saying. But it makes you mad when we saw the pattern. And we talked to people from other towns, and we started networking, and we saw how they deliberately chose people like us to do these things to. It makes you mad.

Mares Alatorre's story was a common one in communities fighting incinerators and other waste facilities in the 1980s. In Kettleman City, advocates pursued local direct-action and community organizing strategies. Their legal partners at California Rural Legal Assistance (CRLA) pioneered the use of civil-rights law to address pollution in communities of color. In addition to their work with Greenpeace and CRLA, the activists attracted support from the Southwest Network for Environmental and Economic Justice, the Mothers of East Los Angeles, Citizen Action, Rev. Jesse Jackson and a wide array of others (Cole and Foster 2001).

One of the most iconic moments in the anti-incinerator campaign took place at a public hearing about the toxic waste incinerator proposal in 1988. Cole and Foster (2001) describe the location and layout of the hearing:

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<sup>6</sup> The Cerrell Report itself does not specify race as a category by which location for incinerators should be chosen, but many of the proposed locations were nonetheless in communities of color.

The public hearing on the incinerator was scheduled not in Kettleman City but forty miles away, in the county seat of Hanford. It was held in the largest venue in Kings County, the County Fairground building, which is about the size of a football field. The hearing room was set up with a raised dais in the front, with a table at which sat the Planning Commission, looking down on the room. Then there was an open space; beyond that, two microphones set up for the public. Behind the microphones were about fifty rows of seats, and there were some bleacher seats at the back of the room. Behind the bleachers was empty concrete floor back to the very rear of the auditorium, about 300 feet from the Planning Commission.

Kettleman City residents showed up at the meeting in force. About 200 people came by bus and carpool from Kettleman City, and, as one of their leaders made clear, "We're here, we want to testify on this project, and we brought our own translator." The chair of the Kings County Planning Commission looked down on the crowd and said, "That request has been denied. The translation is taking place in the back of the room and it won't happen up here." Residents looked at where the Planning Commissioner was pointing: they looked from the Planning Commission up on their dais, they looked at the open space and the microphones, they looked at all the rows of chairs, and they looked at the bleachers. And then they looked way back behind the bleachers, nearly at the rear of the room, where there was one forlorn man sitting surrounded by a little circle of about twenty-five empty chairs. The Planning Commission chair said again, "Why don't you go back there? There are monitors back there. We are all in the same room." (2001:6-7)

One activist I interviewed remembers the location of the event with similar skepticism, and describes what unfolded after residents were told to go to the back of the room for translation:

So we're waiting for the one main meeting where everybody can really speak, and that was to be held in Hanford, the county seat. And it was in the middle of the winter. It was freezing cold. So we had this meeting. Guess where the meeting was held at? It was held at the fair grounds in an exhibit barn for arts and crafts, or your animals or whatever. One of those big galvanized buildings made out of sheet metal or something. It's cold. Cement floor. OK? So the meeting is held there. Do you believe it? That they put us in that kind of a building? Hanford has a theater that they use for meetings -- nice and warm. They have a high school auditorium that's nice and warm. Right in downtown Hanford they have a big, big hall, they use for dances and weddings. It's a big

hall that's nice and heated. And there's other buildings that where they could have held it. No, they put us out there where it's freezing cold. I know that they put us there because of who we are, you know?

So before this meeting, I'm at my home, and we said, "Well, whenever we don't like something, we're going to have to let them know." All their same lies. So I made hundreds of copies of this piece of paper with the word "NO" real bold on it. It's just that, "NO". I said, when we don't like something, we're going to scream "No!" So we all had those with us. And we go to this meeting. It was supposed to be open all day for people that wanted to go and say whether they're for [the incinerator], against it, or have questions for the supervisors. And we had a certain time we were supposed to be there. We were bused over there. Some people took their cars, and some people went on their own, but when we got there they didn't let us speak 'til about 9:00 or 10:00 that evening. They let other people speak first that should have spoke during the day. They were getting us to be tired so we would just go home, you know, and leave them alone. Then they didn't have the translators they were supposed to have had. They had some translators. We asked for the translators and then they said, "Well, the translators are going to be in the back of the building. Go to the back." They told us to go in the back! Go to the back of the room for the translators. And we all went, "No!" You know, "You bring the translators to us when we're up there speaking!" So we go, "No!" And then we said, "Adelante!" and we all went forward with our "No! No!" "We're not going to go to the back of the room!" Put us in the back of the room! So we said, "No," and we went forward with a "NO." And they were shocked that we did that. Why would they send us to the back of the room? That's discrimination there in itself. So they didn't have translators, and it was just waiting for somebody to do something wrong, to jump on us, to fight with us. You couldn't even go to the bathroom, 'cause they were waiting for you in there to do something, the Chemwaste employees. It was just really, really bad. OK, so we're there. We're freezing to death. There's no heaters. The supervisors are sitting in the front at this long table and that heater is up there for their feet. They have heaters and have hot coffee going on for them. They're nice and warm. It was just a big chaos. That's how we were treated, always discriminated, always putting us down because we were Hispanic Mexican people. And that was the main meeting, where everybody could go and say what they wanted to say, why they opposed it, why they didn't want it in their back yard, why they didn't want it by their farming, why they didn't want it by their jobs, by the canal, by the water, by the schools, everything. It was just really, really bad.

In addition to this hearing, another memorable moment took place when



activists blockaded the entryway to the landfill with an old school bus and chained themselves to its axle the day before another hearing. An activist who had been part of a successful campaign to oppose the construction of another incinerator in nearby Alpaugh helped out in Kettleman City as well. Here she describes the blockade:

We were fighting the incinerator proposals. We beat the one in Alpaugh, and we were fighting the one in Kettleman City. Bradley [Angel, who was with Greenpeace at that time] called me up and asked if they could put a school bus on our property, to store it on our property there in Alpaugh. I said, "What are you going to do with it?" He said, "Well, we plan on using it for a demonstration at some point in Kettleman." So it was there about six months before they decided they were going to have this hearing in Hanford about the incinerator and they wanted to draw attention to the hearing. So the day before the hearing they were going to blockade the dump with the bus. They were going to have people in the bus and they were going to have one guy chained underneath, under the bus, once they parked it crossways in the entrance...

They also wanted to know if they could use my house as a planning area for this demonstration, and so I had like, 20 people in my house for 4 or 5 days mostly from San Francisco and LA, all these young people that were going to be in the bus. My kids were at the time probably seven and nine, or eight and ten. And so I had all these people in my house. They had to share the rooms and I had them all on the floor and they were everywhere. I remember one thing, a picture in my mind where they were all giving each other a massage. I'm a vegetarian so it all kind of worked well because my kids got to see all these other vegetarians. My first husband and my current husband aren't really vegetarians, but it was all kind of cool because you know, they got that exposure to this whole group of people that thought differently, and they were really, really polite and kind and helpful and it was just a really neat experience. It was difficult in a way - one time my son was irritated because he couldn't watch his TV show or something, because there were people everywhere. But they dug it, and then the day that there was a demonstration I took them out of school. I wanted them to see it. So we stood outside and we watched it. God, it was incredible. All these trucks waiting that couldn't get into the dump. We had the guy underneath the bus, and at one point one of the guys from the dump got really pissed off and backed his truck up next to the bus and started gunning his motor so all the exhaust was going under the bus on purpose, it was obvious. So people were yelling and screaming and that was a big deal. Greenpeace was negotiating with the owners of the dump who were saying, "OK, if you leave by 6 o'clock we won't arrest anybody." And at that point Bradley said, "OK, we've got the attention," the news was there and

that was the whole point of it. Nobody was arrested, so I could have gotten away with it. But I didn't know. And they were sure that everybody would be [arrested], you know. I mean obviously it's illegal. But that was pretty cool. That was I guess a pretty cool experience, another turning point.

And then at the hearing the next day, I was astounded by how many people from Kettleman were participating. They bussed them in. Greenpeace had hired a big bus and, you know, got the people there. And the people in Kettleman were fabulous. But they didn't... I guess they didn't feel like they could take the chance of getting arrested, that's why they weren't going to go on that bus and I didn't feel I could either.

On protest days such as those described above, residents from other affected communities such as San Francisco's Bayview Hunters-Point, East Los Angeles, and Alpaugh visited Kettleman City to lend their support. Kettleman City activists likewise traveled to Los Angeles and other California locations, New York, Alabama and Playas de Rosarito, ten miles south of the US-Mexico border. One Kettleman City activist remembers those days fondly:

I think all of it was a high point. I was really amazed that people outside Kettleman City actually cared for us, what happened to us. We started networking and all these people came to our aid. Who were they? Why did they care? We couldn't understand that. Like Bradley [Angel] and his organizations, and Luke Cole with the lawyers. Why did they care? We're just a poor Hispanic migrant little town, you know? But they knew more of what Chemwaste was doing. We were not the only site in the United States. We found out later that there were other dumpsites, and that they have the same pattern [of locating dumps in politically disadvantaged communities] throughout.

In spite of overwhelming opposition by residents of the community in which it was to be located, the Kings County Planning Commission voted to approve the construction of the incinerator. Kettleman City is an unincorporated community, which means they have no local governance structure of their own but rather are ruled

from a distance by the county board of supervisors, located 40 miles away in the whiter and more affluent county seat of Hanford. At that time Kettleman City had little representation on the Planning Commission, which was mostly made up of people who did not live near the dump. The County also stood to increase its revenues through taxing the landfill operators.

Kettleman City activists, who by now had formed a group called *El Pueblo para el Aire y Agua Limpio* (People for Clean Air and Water), appealed the decision to the Kings County Board of Supervisors, who also approved the incinerator proposal. In response, *El Pueblo* filed a class-action lawsuit against Kings County in 1991. In 1992, a superior court judge overturned the Kings County approval of the incinerator on the basis of an inadequate environmental impact report and the failure to meaningfully involve the local population in the public permitting process. Residents in the predominantly Spanish-speaking town had never received the relevant documents translated into Spanish that would have allowed them to participate more meaningfully. Chemical Waste Management filed an appeal, but then withdrew the incinerator application in 1993.

Kettleman City residents were victorious in their fight against the incinerator, which was often framed as an epic David vs. Goliath battle between the largest waste management company in the world and a tiny, low-income Latino community in a largely forgotten part of California. One activists describes the immense relief she and her friend felt after winning the long, protracted campaign:

[My friend] and I just cried and cried the day we got the announcement. The reporter came first to my house, saying, "Tell us what you're doing, what's your next this and that, your next strategy," and then along came the general manager of Chem Waste and he comes up to us and he says, "It's over. The lawsuit, it's over. We're withdrawing the plan to put in incinerator." I said, "What?!" He said that they are not doing the incinerator. "Oh, I gotta go see [my friend]!" And I go to [my friend's house] and we just hugged and cried and cried. It was ten years of struggle, you know, it was great. It was so good.

The defeat of the incinerator proposal became an inspirational struggle to other environmental justice activists elsewhere, and a symbol of the vitality and potential of the environmental justice movement in the academic literature. And, the visits that Kettleman City residents both undertook and received from other communities confronting similar problems with waste facilities knit their issues together in ways that both politicized many individual residents, and helped form the broader California environmental justice movement.

### **Kettleman City and Early Environmental Justice Activism**

By the time Kettleman City's activists began their anti-incinerator campaign, the anti-toxics movement was in full swing, and the overlapping environmental justice movement had already begun as well. African Americans in Warren County, North Carolina had made headlines for laying down in the road to block trucks from transporting soil contaminated with polychlorinated biphenyls (PCBs) into their community. Their experience had already led to the first use of the term environmental racism in 1982. The General Accounting office had conducted research on the "racial and economic characteristics of communities surrounding four

hazardous waste landfills in three southeastern states,” finding that three of the four landfills were sited in predominantly black communities (1983). And, the infamous Cerrell Report commissioned by the California Waste Management Board on the “Political Difficulties Facing Waste-to-Energy Conversion Plant Siting” had already been written (Powell 1984).

Kettleman City residents were unaware of these events, as were many other communities fighting pollution in California. As an activist living in the Mojave Desert tells it,

I know a lot of people talk about the beginning of the environmental justice movement was by Warren County. Well, nobody in California knew about the fight in Warren County. They didn't know anything about that. They were just fighting what was going on in their neighborhoods.

Kettleman City's activism was not catalyzed by environmental justice activism in Warren County or elsewhere. Instead, it was catalyzed by Greenpeace organizer Bradley Angel. Angel was the first person to notify residents of the proposal to build the incinerator. He also told them about the Cerrell Report and how its recommended locations for incinerators fit their town's profile.

Other key events in national environmental justice history took place during the anti-incinerator campaign. The landmark report written by the Church of Christ that documents the disproportionate location of hazardous waste landfills in communities of color was published at the very beginning of the anti-incinerator campaign (Chavis Jr. and Lee 1987). In 1990, the Southwest Organizing Project sent their now-famous letter to mainstream environmental organizations, which criticized

their lack of attention to environmental problems in communities of color. The landmark First National People of Color Environmental Leadership Summit was held in Washington D.C. in 1991, and the Church of Christ paid for several members of *El Pueblo* to attend.

Kettleman City's anti-incinerator campaign is representative of the environmental justice activism of this period in a number of ways.

### **Outrage and Hazardous Waste as a New Social Issue**

The anti-incinerator campaign in Kettleman City coincides with the relatively early years of hazardous waste as an established social problem that could generate widespread alarm in society. Andrew Szasz (1994) writes that through the mid 1970s, hazardous waste was a poorly understood issue. Regulators did not know how much hazardous waste there was, where it was located, how it was being disposed of, or what its potential environmental and health impacts might be. Hazardous waste was a largely unregulated industry until the passage of the Resource Conservation and Recovery Act (RCRA) in 1976, and public opinion polls showed that it "had not yet coalesced into a distinct entity in public opinion" (1994:13). Indeed, Szasz writes that a 1973 survey showed citizens to be

remarkably unruffled by the prospect of having a hazardous waste disposal facility for a neighbor: 60 percent of respondents favored or strongly favored placement of [a National Disposal Site] facility in their own county; 58 percent thought that such siting would either leave property values unchanged or actually increase those values ... [and] almost 60 percent of the sample

were willing to live within five miles of a hazardous waste disposal facility. (1994:14)

It wasn't until 1978, with the advent of Love Canal and other toxic disasters, that hazardous waste became recognizable as a social problem and widely perceived as a threat. Press coverage stressed the Love Canal story as a disaster in which "everyday life had come to a halt" (Szasz 1994:47) within the "total disruption of community [and] of settled, everyday life" (Szasz 1994:44).

By the time the anti-incinerator campaign began, Kettleman City residents were still in the process of learning that they lived near a hazardous waste landfill in the first place. The newness of this discovery, combined with a new threat in the form of the incinerator proposal, galvanized action. Interviews with activists reflect a sense of outrage at the new discovery that hazardous waste landfills and incinerators were disproportionately located in communities of color across the country. They also show that residents were galvanized by the discovery that state agencies designed to protect their health and the environment did not appear to be on their side, but instead appeared to be aiding and abetting the industries in question. This new perspective piqued many residents' sense of outrage and made them likelier to take political action in Kettleman City and elsewhere.

## **NIMBYism**

Similarly, activists were likely able to draw on the NIMBY impulse among residents who did not want the incinerator to be located in their town and thought it should be put elsewhere, although the leading activists developed broader political critiques over time. One activist describes how her thinking changed as she met more people from affected communities in other parts of California:

We started going to statewide conferences and meeting other people who were fighting other terrible stuff. There was Stormy Williams, she was fighting in the Mojave Desert. Everybody says, “Why can’t you put this incinerator in the desert or somewhere where people don’t...?” And she would get up and say, “Wait a minute, I live in the desert!” [Laughter] At first, you are so ignorant that it’s easy to say, “Put it in the desert,” but you start meeting people and you start understanding that there is no place to put an incinerator because the air belongs to everybody and it has currents and it goes around and comes around. You just cannot put anything into the air.

This experience is consistent with Szasz’s description of hazardous waste activism during this period, in which activists attempted to instill broader political critiques that went beyond the NIMBY perspective. However, he also notes that these attempts were not always successful:

Of course, in spite of all encouraging and cajoling, most people’s participation will be limited and of short duration. Lois Gibbs has noted that, “for the vast majority of groups in the Movement, the local fight is everything” (in Zeff et al., 1989:39)...As Marty Chestnut put it, “Most groups are one-issue groups. Once they win a case, they fold up and go away. One or two people will want to continue, get fired up. (Szasz 1994:160)



## **Anti-Incinerator Campaigns**

The Kettleman City campaign took place at a time when hazardous waste incinerators were being proposed across the country. Indeed, although early environmental justice scholarship focused largely on hazardous waste landfills, incinerator proposals played a key role in galvanizing activism and public support during the early years of the environmental justice movement, especially in California. Kettleman City's success in fending off the incinerator proposal in their town is representative of the activism of that time as well. Time after time, towns across the country successfully defeated incinerator proposals, resulting in a 17-year period in which no new commercial incinerators were constructed. The defeat of these multitudes of incinerator proposals stands as one of the largest accomplishments of the combined anti-toxics and environmental justice movements. See Table 6 for a list of the locations of California three operating incinerators and 31 proposed incinerators.<sup>7</sup> See Table 7 for a list of the same facilities organized by approximate date defeated, or if still operating, date constructed.

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<sup>7</sup> Tables 6 and 7 cover incinerators designed to process solid and liquid hazardous waste, radioactive waste, municipal solid waste, and medical waste. They do not cover biomass facilities designed to process agricultural waste and/or sewage sludge.

**Table 6. California incinerators and proposed incinerators, listed by location**

<b>Region</b>	<b>Town or neighborhood</b>	<b>Status</b>
San Joaquin Valley	Alpaugh	Defeated
	Crow's Landing	Operating
	Kettleman City	Defeated
	Chowchilla	Defeated
	Hanford	Defeated
	Arvin	Defeated
	Stockton	Defeated
	McKittrick	Defeated
Sacramento Valley	Sacramento	Defeated
	Red Bluff	Defeated
San Francisco Bay Area	East Oakland	Closed
	San Leandro	Defeated
	Richmond	Closed
	Livermore	Defeated
	Martinez (1)	Defeated
	Martinez (2)	Defeated
Los Angeles County	Vernon	Defeated
	South-Central Los Angeles	Defeated
	Commerce	Operating
	Long Beach	Operating
Central Coast & Salinas Valley	Watsonville	Defeated
	Gonzales	Defeated
Inland Empire	Romoland	Defeated
	Cabazon Indian Reservation	Defeated
	Ontario	Defeated
Imperial Valley	Calipatria	Defeated
	Mesquite Lake	Defeated
	Brawley	Defeated
Tehachapi Mountains	Lebec	Defeated
	Maricopa	Defeated
	Taft	Defeated
Mohave Desert	Rosamond	Defeated
San Diego County	La Jolla	Defeated
	La Posta Reservation	Defeated
Sierra Nevada Foothills	Ione	Defeated
Lassen County	Susanville	Defeated

**Table 7. California incinerators and proposed incinerators, listed by approximate date**

<b>Date</b>	<b>Location</b>	<b>Status</b>
1980s	South-Central Los Angeles	Defeated
	Vernon	Defeated
	Alpaugh	Defeated
	Crow's Landing	Operating
	Long Beach	Operating
	Commerce	Operating
	Richmond	Closed
	La Jolla	Defeated
	Ontario	Defeated
	Maricopa	Defeated
	Ione	Defeated
	La Posta Reservation	Defeated
	Taft	Defeated
	Arvin	Defeated
	McKittrick	Defeated
	Van Nuys	Defeated
Calipatria	Defeated	
Mesquite Lake	Defeated	
1990s	Cabazon Indian Reservation	Defeated
	Kettleman City	Defeated
	Stockton	Defeated
	Martinez (1)	Defeated
	Martinez (2)	Defeated
	Susanville	Defeated
	Livermore	Defeated
2000	East Oakland	Closed
	Chowchilla	Defeated
	San Leandro	Defeated
	Romoland	Defeated
	Sacramento	Defeated
	Red Bluff	Defeated
	Hanford	Defeated
	Watsonville	Defeated
	Gonzales	Defeated

## **Local, Disruptive Tactics**

Finally, Kettleman City's anti-incinerator campaign was representative of the environmental justice activism of that era through its local scale and disruptive, oppositional tactics. Activists focused explicitly on responding to toxic threats in their own towns, and typically on a single project in that town. When they worked with other activists elsewhere, it was also to support similarly local organizing. The disruptive tactics that they used to do so are visible in the interview excerpts provided at the beginning of this chapter, in which activists described blockading the entrance of the dump, and coming to a hearing with signs that read, simply, "NO," prepared to use them loudly, which, in fact, they did. These disruptive tactics are partly due to the key role that Greenpeace, long known for its theatrical approach to environmental activism, played in supporting early activism. But they also match the anger and outrage that residents felt about the incinerator proposal as well as the demeaning process of participating in the public hearings for it. Public hearings about newly proposed toxic facilities across that state at this time were frequently dramatic sites of protest in which residents chanted, blew whistles, stormed the front of the room, took over the microphone, stole the chairs of the corporate and industry representatives as they stood to speak, and chased the corporations proposing the incinerators out of town.

## **Kettleman City Now**

Today, much has changed in Kettleman City, but much also remains the same. The anti-incinerator struggle has been a long, if now largely invisible, victory. There is no hazardous waste incinerator on the site of the landfill, and therefore the dioxins and other pollutants that would have resulted from it are not being added to the air hour after hour, month after month, and year after year. But in spite of this victory, residents still live with a hazardous waste landfill as their neighbor, and their struggles continue.

Some activists have since moved away, as have many of the farmworkers that make up much of the population of this town, and whose employment makes it hard to stay in one place for long. Others left for a time and came back, and some who were children during the anti-incinerator campaign now participate as adults, at times with their own children as well.

*El Pueblo's* external support evolved over the years as well. Greenpeace played key organizing roles in the early campaign, but closed down its U.S. grassroots toxics campaign in 1997. The Greenpeace organizer most involved with Kettleman City, Bradley Angel, formed his own organization, Greenaction for Health and Environmental Justice, which continues to support environmental justice organizing in Kettleman City. Similarly, the legal support provided by California Rural Legal Assistance (CRLA) continued in the guise of lead lawyer Luke Cole's new organization, the Center on Race, Poverty and the Environment. Cole passed away in 2009, but his organization survives him.

There has been plenty to keep activists busy. As one activist puts it, “I ended up coming back to live in Kettleman City after college. And I found out that even though we had defeated the incinerator, there was still lots of activity up there that they were trying to bring in.” In the 1990s, an unwanted toxic was moved from place to place throughout the county and eventually ended up in the landfill. In 1997 *El Pueblo* sued the company over flaws in its Environmental Impact Report for a new development on the landfill. On the advise of their lawyer, *El Pueblo* settled the case for \$75,000 of seed money that helped them create a foundation to look for further funding to build a community center, which is now up and running. In 2006 it appeared possible that the landfill was illegally accepting radioactive waste, or at least pursuing efforts to be able to do so legally in the future, but quickly issued a statement that they would cease these efforts after state Senator Barbara Boxer expressed her opposition (Boxer 2006) and activists threatened a lawsuit.<sup>8</sup> In 2005, a proposal to build the Westlake Farms Composting Facility was approved in order to import human sewage from Los Angeles, compost it, and then spread it on King’s County farmland. In 2008 a bioreactor was permitted to enable the landfill to use liquid to speed up the decomposition of waste that does not include hazardous waste.

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<sup>8</sup> In 2006, Senator Barbara Boxer wrote a letter to the CA Secretary of Energy on this topic. She writes, “I am writing to request that you confirm some deeply disturbing information regarding the disposal of radioactive waste material from the Santa Susana Field Laboratory to the Kettleman Hills landfill in Kettleman City, California. This landfill is not specifically designed to receive radioactive waste, and has apparently broken a pledge not to take this material” (Boxer 2006). It is unclear whether the landfill did in fact accept the waste, but it did later pursue efforts that would allow them to receive radioactive waste legally. However, the company pledged once more not to accept radioactive waste after being discouraged by Kings County Supervisor Richard Valley and facing pressure from environmental justice activists, including the threat of a lawsuit.

And throughout it all, the landfill has grown in size with regular expansions permitted by the California Department of Toxic Substances Control.

### **The Birth Defect Cluster**

Responding to these types of ongoing developments occupied activists over the decades after the anti-incinerator campaign. However, they were all smaller scale efforts than the incinerator campaign and received little publicity. But close to twenty years after the incinerator struggle, the town found itself once again in the spotlight.

Over the years there had been scattered health complaints that Kettleman City residents suspected might be linked to the hazardous waste landfill. Concerns about the possible negative health impacts of the landfill on local residents were prominent.

As Mary Lou Mares describes one such incident in a 2007 interview,

There was a friend of ours - her child was born with that open-head syndrome, I don't know what you call it. A lot of people blamed Chem Waste, but how can you prove it? They keep saying the incinerator was going to dump only minute amounts of particles per day, which at the end of the year was gonna look like a mountain, you know. And then, the supervisors would say, "Well, you don't know technology. You don't know about new stuff." But we know you are trying to experiment on us with the new stuff, and I don't want to know more about it. Find out on yourself if you want it so bad.

In 2009, more widespread health concerns surfaced. Activists conducting a community-led health survey discovered five children born with cleft palette and other birth defects within a 15-month period between 2007 and 2008. Three of the infants died within their first year of life. The survey turned up five original cases, and 9 more have since been discovered. In a town of just under 1,500 residents, these numbers were alarmingly high, and above the statistical average. Even the activists

conducting the study, who were well versed in the pollution to which they were daily exposed, were surprised by their findings.

The discovery of the birth defect cluster launched *El Pueblo* and their allies into a new phase of work. They spent considerable time trying to get health authorities to acknowledge the birth defects, many of which had not made it into the government's official health records, and then in getting the authorities to undertake their own health studies. In the face of resistance from the local health authorities, activists targeted the politicians in the state capital instead. Finally, then-Governor Schwarzenegger intervened and ordered the State Department of Public Health and the California Environmental Protection Agency to investigate the birth defects.

Among other things, the preliminary results of the study focused attention on the mothers as a potential cause of the birth defects due to the possibility that they drank, smoked, did drugs or ate poorly during pregnancy. The California Department of Health also claimed that the birth defects were not higher than what would be expected in a town of that size. After public outcry and further study, the final report removed this content and asserted that the mothers had taken appropriate precautions to protect their fetuses while pregnant, and that the number of birth defects were in fact above average for a town that size. However, when the health studies were completed, their authors found no common cause between the birth defects and the hazardous waste landfill or other environmental contaminants. The study did help publicize the little known fact that the town's residential drinking water is contaminated with arsenic and benzene above legal limits.



After the health study vindicated their claims, Chemical Waste moved forward with their plans to double the size of the landfill. The company also moved forward with efforts to extend the permit of the site's relatively new bioreactor. Activists were unhappy with the health studies and the way they were being used, however. Their critiques pointed in two directions. On the one hand, they were unhappy that the study had not been more extensive. For example, no tissue samples were taken to see the extent to which environmental contaminants might be present within residents' bodies, nor had any soil samples outside the landfill been collected and tested. On the other hand, activists also called for regulating according to the precautionary principle, in which the burden of proof shifts from a need to prove harm to a need to prove safety. Their concerns about the study and its findings are similar to those of many other communities near toxic facilities across the nation that have experienced cancer clusters and other mysterious ailments with health studies that did not link the health outcomes to the nearby potential, or actual, pollution source (Brown and Mikkelsen 1997; Brown, Morello-Frosch, and Zavestoski 2011).

As a result of the birth defects, some residents signed up with personal injury lawyers, and others worked with a lawyer who wanted to get the entire town relocated. The mothers of the children with birth defects, or of those who had died, gave countless interviews to the press. Meanwhile, activists worked to block Waste Management's permit to increase the size of the landfill. However, in 2014, the County Board of Supervisors approved the permit, allowing the landfill to expand to

accommodate an extra 5.2 million metric tons of waste. Legal challenges have not yet proven fruitful.

During this time activists also pushed the EPA to pay closer attention to the landfill's management. This tactic coincided with the appointment of Jared Blumenthal, a new Obama era official, to head the EPA's Region 9 offices that oversee California. Blumenthal began an internal investigation into his agency's dealings with the landfill, and in April of 2010 the EPA charged Chemical Waste with violating PCB disposal rules. Activists discovered that they had found traces of PCBs in soil near the facility as early as 2007 but hadn't done anything about it.<sup>9</sup> The EPA also found that Chemical Waste had disposed of prohibited waste for 5 years between 2005 and 2010, and that their lab analyses were flawed due to problems with the calibration of their measurement tools, resulting in a fine of \$400,000 and \$600,000 in laboratory upgrades. Nonetheless, the EPA asserted that none of these problems posed a health threat to local residents. Several months later the California Department of Toxic Substances Control fined Waste Management \$46,000 for failing to report spills of toxic materials as required by law. These violations continue a long history of violations as documented by the California Department of Toxic Substances Control between 1983 and 2012 (2012).

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<sup>9</sup> The event most frequently used to signal the beginning of the environmental justice movement also centered on PCB disposal. African American residents of Warren County, North Carolina blockaded trucks entering their community to dump PCB's in 1982, resulting in hundreds of arrests.

## **Cumulative Health Impacts**

Even as the controversy around the birth defects and the proposed expansion of the landfill continued, activists responded to other potential pollution threats as well. Around this time they learned that a new 600-megawatt power plant slated for construction in the neighboring town of Avenal was being exempted from the most up to date versions of federal clean air regulation, and instead grandfathered in under older, less stringent rules. Activists were also concerned about a project being developed to spread 500,000 tons of sewage sludge from Los Angeles each year on farmland outside of town. Residents also lived with the persistent air pollution of the Central Valley, one of the most polluted air basins in the nation, in addition to the localized pollution experienced from living directly adjacent the Interstate 5, a core north-south transportation corridor heavily travelled by diesel trucks. Finally, the health studies conducted in response to the birth defect cluster raised public awareness about the contamination of the town's drinking water with benzene and arsenic, and also pointed to the presence of traces of pesticides in the air inside Kettleman City homes.

Activists tackled these sources of pollution in a variety of ways. They applied for and received a small grant from the EPA to post signs asking the truckers who left their engines on for long periods of time while idling in town to turn their engines off. They also joined a statewide initiative to reform the regulation of freight and goods movement.

Plans were also made to try to get access to clean drinking water for town residents. In the end Kettleman City was able to secure permission to draw from the water flowing by in the California Aqueduct, instead of the groundwater they had been relying on previously. The water in the aqueduct originates from the snowpack in California's Sierra Nevada mountain range, where it flows downhill and is channeled into the California Aqueduct and the Central Valley Water Project canals. The water makes its way south through the San Joaquin Valley, where it is used for irrigating farmland, and is pumped up and over the Tehachapi mountains into Los Angeles, where it is used as drinking water. This clean water passes by the many small Central Valley towns like Kettleman City. Instead, they drink the groundwater underneath the industrial agriculture landscape. This water is often polluted from fertilizers, pesticides, and other contaminants that make their way into the water table over the decades.

It is unusual for a small town to get permission to use this surface water from the Sierra Nevada in a state in which water rights have a long, complex history and are still hotly contested. Nonetheless, Kettleman City did get that permission. However, the town could not afford to build a new water purification system to treat the water and hook it up to the existing water infrastructure. Waste Management volunteered to help pay off the debt on the existing water system in order to make it financially feasible to build the new system needed to use the water from the California Aqueduct. However, Waste Management later made the donation contingent upon the approval of their permit to double the size of the landfill. They

claimed that without the expansion, they would not be able to afford the donation. Environmental justice activists were appalled, and claimed that the company was taking the town's drinking water supply hostage in order to expand the landfill. To date, the drinking water problem has not been resolved. The benzene from the well water is being removed from the water and vented directly into the air in Kettleman City, and the arsenic in the tap water remains above legally allowable limits at the time of this writing.

### **Civil rights law**

Activists in Kettleman City and their legal representatives filed a complaint with the EPA's Office of Civil Rights over the fact that their original complaint alleging racial discrimination in the siting of California's three Class 1 hazardous waste landfills in Latino communities had not been responded to in a timely manner. Sixteen years had passed from the time the original complaint was filed without any response from the state, a fate common to many civil rights complaints lodged within the EPA.

### **Kettleman City and the changing Environmental Justice Movement**

Kettleman City's experience over the years represents a number of trends of the broader environmental justice movement as it has evolved over time, as described below.

## Issue expansion

Like many other environmental justice activists, Kettleman City activists' early focus on toxic waste has grown to include a broader focus on pollution in general in order to respond to the array of different pollutants to which residents are daily exposed, as residents have learned more about these multiple sources of exposure. This expansion of their issue area has been accompanied by an adoption of the use of cumulative impacts framing in order to underscore the need for extra caution, even beyond what the existing regulatory infrastructure provides, in permitting new projects in over-polluted areas such as their own. As Maricela Mares Alatorre put it in 2007, when describing her opposition to the addition of a bioreactor at the landfill,

What an anaerobic bioreactor does is they add water to municipal waste, which they're layering on top of toxic waste, because that speeds up the decomposition. And they're going to put in a complex system of pipes that's supposed to capture the gas that's emitted. Because any time that something's breaking down, gas is emitted, right? And they're going to capture this methane gas, and they're going to use it to power tractors and stuff like that. But when we've questioned them on what percentage of the gas will be captured, all they can tell us is the majority. They can't give us the percentage. And to me, that's frightening. We already live in an area that's highly toxic from pesticides because it's an ag area. We live next to the I-5 corridor and Highway 41. That's the intersection of two major thoroughfares where diesel trucks pass everyday. We know diesel emissions cause cancer, and now there's going to be something else added? And nobody ever studies the cumulative effects of anything. It's always, "Oh well, this won't be harmful for you. This and this amount will be harmful to you." This won't be harmful to you, but how about all together? Nobody's talking about that.

Although Kettleman City activists have expanded their focus beyond hazardous waste, the hazardous waste landfill remains a core concern. And, unlike other streams of contemporary environmental activism, they have not expanded their

issue area into work on creating environmental amenities such as parks and community gardens. Nor has climate change become a core component of their work. In this way *El Pueblo* retains much of the character of the early efforts of the environmental justice movement.

### **Scaling Up**

As described in chapter two, California environmental justice activists slowly scaled up over the years into the realm of policy advocacy at the state capitol. Some of these campaigns had the potential to affect Kettleman City. These campaigns had varying degrees of involvement by activists living in Kettleman City, and when local involvement was low, tensions ran high.

Statewide, activists pursued policy advocacy relevant to the hazardous waste landfills in Kettleman City and the two others in the state through Assembly Bills 1330 and 1329. These bills were promoted by the California Environmental Justice Alliance (CEJA), of which neither *El Pueblo para el Aire y Agua Limpio* nor its nonprofit partner Greenaction for Health and Environmental Justice were members. Kettleman City activists' legal representatives at the Center on Race, Poverty and the Environment, however, were part of CEJA. AB 1330 was introduced by Assembly Speaker Perez to, among other things, identify "environmental justice communities" and prioritize their receipt of state resources that would help reduce the disproportionate environmental impacts they suffer. It would also have required the

creation of a Hazardous Waste Reduction Advisory Committee, which would work with the Department of Toxic Substances control to,

prepare and submit to the Legislature the state hazardous waste reduction plan that identifies measures necessary to achieve significant reduction in hazardous waste generated and disposed of in California by 2025 to the maximum extent practicable. The bill would require the department, on or before January 1, 2017, and biennially thereafter, to report to the Legislature on its progress toward achieving the reduction goals in the plan. (California Legislature 2014b)

The bill was amended multiple times, resulting in the removal of the above language, but in the end did not pass.

On the other hand, AB 1329, also introduced by Perez, was passed in 2014.

The bill requires the Department of Toxic Substances Control “to prioritize an enforcement action affecting communities that have been identified by the California Environmental Protection Agency as being the most impacted environmental justice communities.” One CEJA activist, not from Kettleman City, describes the bill’s history as follows:

Interviewee: There was Kettleman City, there was Buttonwillow [another Class 1 hazardous waste landfill in the San Joaquin Valley]. They were both going through hazardous-waste expansion permits. There were also proposals to ship radioactive waste to the hazardous-waste facilities. At the same time, there were a lot of illegal-dumping issues that were coming up, and there were a lot of bio-solids issues.

Interviewer: The sewage sludge stuff.

Interviewee: Exactly. There was stuff going on in Hinkley, and stuff going on in the [San Joaquin] Valley. Our new lawyer’s project was to tackle all of these different things. This was a real civil rights issue. All of the Class 1 hazardous waste in California, all of those processing facilities are in low-income communities of color. So it started off as, the DTSC, the Department of Toxic Substances Control, needs to create a plan for how to reduce these impacts on communities. One of the frustrations we often have is that the legislation says, “Create a plan,” but then there’s no requirement to actually



do anything with the plan. So the original bill was: you create a plan, and then DTSC needs to create regulations to implement what comes out of the plan.

Interviewer: And the plan would be to mitigate?

Interviewee: To mitigate and to reduce those disproportionate impacts. They've created plans before on, like, how do we reduce waste, and how do we divert more into recycling, and stuff like that. But they haven't talked, specifically, about, how do we reduce the disproportionate impact?

Interviewer: Okay. And even those other plans - they would make plans, and then they wouldn't implement them?

Interviewee: They don't necessarily, they kind of sit on a shelf. And so this bill was, we create a plan, and we create regulations based on that plan, that then get implemented, that actually will reduce the impact.

Interviewer: And having the legislature force the issue.

Interviewee: Forcing it, and also creating a mechanism where there'd be some oversight, so if they didn't do that, then we could go back to the legislature and be, like, "Hey, look, the bill said this. You're not doing that," as opposed to just leaving it up to them to decide what to do. That didn't get very far with DTSC and the various committees, because it was a little, like, "What's all this about?"

In that original conception, there was this enforcement piece, to make sure that enforcement happens in the communities that are housing these things. And so that was a piece of it. The great irony was that the language around developing the plan, and around the regulation coming out of it, sort of got taken out of 1329. We were left with the enforcement piece. And then in July, DTSC announced that it was proposing to grant the expansion permit for ChemWaste in Kettleman City. They said, "Hey, we're going to [let the Kettleman City landfill double in size], but we're also going to create a plan to reduce hazardous waste disposal in the state by 50 percent by 2025." So we had language in 1329 about a plan that they didn't like, but they came back and they took the idea of a plan, and they were, like, "We're going to give this permit out now, but we're going to create a plan."

This activist was not happy with the replacement of a legislatively mandated plan to reduce waste with a voluntary plan. And, the fact that the announcement of the new voluntary plan coincided with the announcement of an intent to approve the permit to let one of the state's three hazardous waste landfills double in size felt disingenuous. Nonetheless, activists did win language that prioritizes the enforcement

of environmental laws in communities identified by the California Environmental Protection Agency as being “the most impacted environmental justice communities” (California Legislature 2014a).

Therefore, activists have also been working on the development of the California Communities Environmental Health Screening Tool, or CalEnviroScreen. This tool was designed by the Office of Environmental Health Hazard Assessment to quantify and map the most environmentally burdened and socially vulnerable communities in the state. It was created after the passage of Senate Bill 535 in 2012, which CEJA had promoted in spite of some opposition within the California environmental justice community, as described in chapter 5. SB 535 responds to Assembly Bill 32, the California Global Warming Solutions Act of 2006. As described in chapter 5, AB 32, among other things, resulted in the creation of a cap-and-trade program as the cornerstone of California’s efforts to reduce greenhouse gas emissions from industrial sources. The funds generated from the sale of the greenhouse gas emissions permits go into the Greenhouse Gas Reduction Fund. They are intended to be spent on projects to reduce greenhouse gas emissions further. SB 535 mandated that one quarter of the proceeds in the Greenhouse Gas Reduction Fund benefit disadvantaged communities, and that 10 percent of the Greenhouse Gas Reduction Fund be spent directly in those communities. The bill tasked the California Environmental Protection Agency with creating a system to identify those communities.

Kettleman City was included on the list of disadvantaged communities released in late 2014 for the purposes of fulfilling AB 535. In addition, CalEnviroScreen will likely be used for other legislative purposes as well, such as fulfilling the mandate of AB 1329 to prioritize environmental enforcement in “environmental justice communities.” Given the landfill’s long history of legal violations, extra attention to the enforcement of environmental laws will be useful, especially if future administrators of EPA Region 9 are less sympathetic to the environmental justice cause than the current Obama appointee Jared Blumenfeld. However, improved enforcement of existing environmental law will not resolve the problem of the cumulative impact of multiple, legally allowable pollution sources that concentrate disproportionately in low income communities and communities of color.

Many environmental justice activists hope that CalEnviroScreen can be used for more aggressive purposes in the future. Here, a Kettleman City activists describes her hopes for the tool:

I think that the whole cumulative impact movement—that’s the big deal right now, cumulative. And that’s fantastic. But they’re using it to leverage funding to vulnerable communities, like CalEnviroScreen.... They’re using it to leverage those funds that are available for environmentally impacted communities. We need to go a step beyond that, and make sure that they use that for the planning process, that if you say, for example, Kettleman City, that’s designated as the top ten percent of California communities that are environmentally vulnerable. When you see that, you say, “Oh, I’m not going to permit this new project that’s going to pollute there, because they’re a vulnerable community. It says over here, on their screening tool.”

I think that that’s the logical next step, that we use that for the permit process, not just for leveraging funds. Because leveraging funds is just throwing money at the problem after. It needs to be a preventative thing, too, and they need to use it when they’re even thinking about signing these facilities. I guess

that would mean that we have to work on legislation, and lobby, and all that stuff.

While some activists hope the tool can be used to limit new industrial development in already “over polluted” communities, commercial interests are afraid that the tool could be used for exactly those purposes, and are working to make sure that does not happen.

In the case of Kettleman City, the scaling up process of California environmental justice activism has meant that at times residents have not had direct involvement in the process of creating legislation that would directly affect their communities, when this legislative process is undertaken by other environmental justice organizations. This lack of involvement has deepened fractures within the environmental justice movement.

### **Participation, Public Relations, and Access**

When Kettleman City residents participated in the formal permitting process for the incinerator proposal in the late 1980s and early 1990s, many experienced the process itself, as well as the actions of both state agency representatives, local politicians, and company representatives, as hostile and discriminatory. Over time, and partly in response to pressure from activists, many of these processes have improved. Together, these comments from a leader of the anti-incinerator campaign and a current leader, sum up this shift:

When we would go to the meetings, we could round up a couple of people, but some didn't understand English or speak English. So we had to ask for translation and they didn't want to give it to us at first. But then afterwards, they had to. After they did one thing that sounded and smelled like, you know, a civil rights, Alabama-type thing. When they said, "Well, people who want translation go to the back of the room..." Everybody got up and said, "No, no! Why?" After that, we made such a thing about it because it was so insulting. After that, they have translation for, you know, everything. They get bad translators or they get very good translators, but they were there. And then, when the people that needed the translation started understanding what they were trying to do to them and how they were being disrespected, that made them more active. So that's how we got more people to get into the fight for the incinerator.

And as another Kettleman City activist puts it:

Interviewee: I think in the past, it was easier to fight, because the racism was more blatant. It's different now... I remember during the incinerator fight when I was a teenager, the big talk was the meeting where they told everyone, "If you speak Spanish, go to the back of the room." And now they have interpreters there, and they ask you, "Do you need a headset to interpret?" and all that. You know, they're smarter about it. They'll hire people that speak Spanish, that look like us, culturally, that act like us, culturally, but that are really company people.

And then you're working—and I'm speaking about Latinos, but this could apply to any race, no matter where you're working—where we have certain cultural sensitivities, like we respect authority. And so when you have someone going around in the company, and talking to people, people are going to be polite, and they're going to invite them in, and they're going to shake their hand, and all that. And they're not going to necessarily know or understand that this person is a company person, and that they're working toward something that's harmful for them. So, it's difficult to fight that, for us, as environmentalists.

And that wasn't something that they've had before, since I've been involved in the environmental justice movement. For example, we are fighting the expansion of the dump in Kettleman City. I've seen company spokespeople come and go, come and go, in the past 25 years. But the most recent one is Latino. He speaks Spanish. They brought him to live in the town, and so people relate to him. He goes to church with everybody. His wife started teaching Catechism. He goes around shaking everyone's hand after church. People relate to that. And the companies weren't that smart before, but now they are.

This activist's reflections coincide with reflections from other environmental justice activists in other parts of the state. There are still sporadic problems, such as a recent occurrence in which Spanish speaking residents were given half as much time to speak as English-speakers by counting the translation of their comments as part of their allotted speaking time during a public hearing. However, in most places the process of participating in public decision-making has improved from the early days of the environmental justice movement. This activist describes the trend as follows:

While some agencies will say that there's no legal requirements [to translate documents and hearings], we have been using, in various types of advocacy, whether it be just written communications or actually Administrative Civil Rights Complaints, the argument that the state and federal civil rights laws, which prohibit agencies from taking actions that have discriminatory impacts on, say, non-English speakers, requires it. Because an agency, say, in the Salinas Valley is making decisions, and all the documents are in English, and the people speak Spanish, that's having a discriminatory impact... It's basically still being fought out. What we are seeing as a result of a lot of this advocacy is more and more agencies translating a lot of documents. It's hit and miss, it's not institutionalized or systemic. But there's been a lot of progress.

We've been using the argument about civil rights, and getting traction on it. So the San Joaquin Valley Air District, they now have to do all the Spanish language translation, of notices, and some permit documents. But that was the result of our federally mediated civil rights complaint. So progress has been made. One of the other things there is now—the state of California, following the 2009 so-called public hearing in Hanford, on the Kettleman toxic waste dump, where [one resident] was dragged out of the hearing, when [several of us] loudly objected to the racist hearing rules that gave half the time for testimony to Spanish speakers as English speakers? The law has now changed, so that is no longer legal. I don't know that it ever was legal.

We'd like to see agencies and legislatures put this into the law. There's a huge amount of work still left to be done on this.

While much of these improvements come in the form of Spanish language translation and interpreting, some places are also working on multilingual efforts:

The Bay Area Air District has also... taken a lot of steps around multilingual translation. So it's not just around Spanish. It's definitely not just around Spanish. So some agencies are making changes now. For example, when the water board or the US EPA, or the Department of Toxics have hearings in Spanish-speaking communities, they're now doing translation, both written and oral. On notices and documents. So there's been, at least in California, some significant progress, but it's not pervasive everywhere, even in California.

In addition to the greater availability of multilingual documents and interpreting at public decision-making forums, industries have hired community relations specialists to help build support for their facilities in host-communities, as well as learned to treat the people who live in those communities better. This is likely due to recognition that host communities can cause delays and sometimes even limits to their industrial processes that hurt their bottom line. As a result there has been a growth of public relations efforts targeting local residents. In Kettleman City, this includes, among other things, providing tee shirts for the local soccer team, and inviting schoolchildren to tour the landfill as a class field trip. This better treatment and the PR efforts overlap with broader societal trends towards reduced displays of overt racism discussed in chapter 3.

However, some Kettleman City residents describe how merely having a friendlier landfill administrator does not change their stance on the landfill itself:

Interviewee 1: Bob Henry's the general manager [at the landfill]. He's a very nice man. I mean, it's his job, and I understand. He's never told us - at least not like Sylvia Vickers - remember their old manager? Who would call us ignorant people, and stupid people? He's pretty smooth. But his business is detrimental to our health, so unfortunately --

Interviewee 2: Yeah. He -- he is a nice person.

Interviewee 1: He's a nice man.

Interviewee 2: We've got nothing bad to say about him. He's never treat us bad or, you know, stuff like that. It's just like she said, it's his business. And it's our business, you know, to be against it, so -- always that low conflict. But he is a nice person to talk to and stuff. He doesn't make you feel bad. Like that day [on the tour of the landfill], he didn't make me feel bad or say, "Oh, you're with them." He's like, "Oh, go take a tour. Go have something to eat." You know, he was really nice. But, yeah, and they had a pretty clean and -

Interviewee 1: But the bottom line is they still store chemicals there.

Interviewee 2: Yeah.

Interviewee 1: They still have, you know, 98 diesel trucks per day running through our town. They're still going to have gases escaping. Just last year they got slapped on the wrist by EPA because they didn't have their water, their liquid monitors on in the -- the municipal and toxic waste that was layered. So there was leakage there for ten years that was never monitored. They've gotten fined for improper storage of PCBs. You know, no matter how nice they are, no matter how many tours there are you go on, that doesn't make that go away. And like we said he's a nice man, but you know, he's in a business that we don't agree with.

Activists find that some of these changes are only skin deep. In another incident, one recounts taking a tour of the municipal landfill in neighboring Avenal, where Kettleman City youth attend high school:

You know why they give money to schools. It's like the municipal dump in Avenal. I took a tour of that a couple of months ago, and the manager said the worst thing when he came out. We're concerned about [that landfill] 'cause it's a local community, our kids go to high school there, we don't have a high school. They go to Avenal High School. He came out, and the first thing he did was extend his hand and say, "Do you know how much money I've given to Avenal High School?" Before he said anything else. [Laughter] And then we took the tour, and they had these long pipes in the landfill that monitor liquid leakage and gas emissions. And we said, "Well, how much is going to be leaking out? I mean you have all these monitors." "Oh, EPA requires them, but we don't expect anything to leak. Nothing's going to leak." I said, "Why would EPA require leakage monitors if they didn't expect it to leak?" I said, "Everything leaks when it's breaking down." I said, "I'm not a scientist, but I know when stuff is decomposing, it turns to liquid." "No, not here." And then we saw these big, huge holes and all this machinery moving all this dirt around. And we said, "You know, there's a very high incidence of Valley



Fever here in Avenal and Kettleman City." I said, "And I can't imagine that you moving these tons of earth is going to help it." I said, "What are you going to do to prevent that? I mean, is there a plan?" And he says, "Oh well, you have to resign yourself to the fact that living in the Valley, you're going to get Valley Fever. So you might as well get it over with." The attitude is like, you're going to get sick anyway, why fight it? Just unbelievable the arrogance in people that work in these businesses. They can explain anything away. They can justify anything.

However, although this activist is unmoved by the increasingly friendly landfill staff, the same cannot be said of all residents.

Activists are also now better able to participate in decision-making in other ways outside of formal permitting processes. Again, a Kettleman City resident and activist reflects,

I think we have an unprecedented access to people at agencies that are making decisions. I mean, when my parents were involved in the struggle, I don't recall them being able to call up someone at [the Department of Toxic Substances Control], and get a meeting now. So we have an access that wasn't there before, and that's because we work in coalitions, and we get them to come out and listen to problems... So that's a good thing, that we have that kind of access. How much of a difference does it make? I don't know. But, we can get them!

In the end, improved processes of participation and access to state agencies have had mixed results. On the one hand, improving these processes is a victory in and of itself for environmental justice activists, who have long been concerned with both procedural and distributive forms of justice. On the other hand, as processes of participation improve, the radicalizing influence of the once overtly racist, classist and sexist processes wane, thereby shrinking one avenue by which activists draw more people into their campaigns.

## **Sustaining long-term community activism**

All these years later, residents in Kettleman City remain active. As a Kettleman City activist told me in 2007, even before the birth defect cluster was known:

On and off, depending on what we have going on, we have a core group of about five to seven members. But when we have big meetings, we can count on more people coming and supporting. I think everybody's concerned... I mean, you don't want your kids playing next to toxic waste.

However, keeping people involved over the long term is challenging. In 2014, this same activist had the following to say:

Interviewee: It's hard to sustain that kind of anger and indignity for as long as we have. But every time I say, "Oh, this is it." You know, "I could go work somewhere else, and not be hassled, and not have the headache, and all that stuff." But someone needs to do it. It's the right thing to do.

Interviewer: How has *El Pueblo* changed over the years?

Interviewee: I was a kid when they first got together, and I eventually ended up going to college during their incinerator fight, and not living in town with it. There was a lot of older folks that had been there for years, and years, and years, and worked very hard to bring this to attention, to speak out, and to say this was wrong. There was farmers that were helping, as well. And those folks have ended up moving out of town, because they were afraid of getting sick, or they died out because they were our older residents. So we're down to people that—of course, that was around initially. Again, it's been hard to keep them involved over that long a time.

Nonetheless, this activist and her family remain core leaders of the environmental justice activism in Kettleman City:

I ended up coming back to live in Kettleman City after college. And I found out that even though we had defeated the incinerator, the proposed incinerator, there was still lots of activity up there that they were trying to bring in... So we've kind of stayed involved [laughter]. I'm raising a child now, in Kettleman City, he's a third generation environmentalist. And not because we want to. It's not that we don't have other things to do [laughter]. It's just we know better. And we can't not care. Sometimes we wish we could, but we can't not care. There -- you just turn your back and they're going to sneak something else in.

This person's continuing work on this front is supported by the extent to which it is part of an intergenerational family project. It has also been supported by being part of a broader network of people working on similar issues:

We've been very fortunate to have strong supporters everywhere. People see the injustice of it outside of Kettleman City, where they're not held hostage by promises like, "Oh, we'll give you clean water if you support the [landfill] expansion." So we've been fortunate to have allies from all over the state, that have dropped everything at a moment's notice, and gone to agencies and demanded that there be justice for Kettleman City. It's important to keep up that network, no matter what. And we've been around for other communities as well... We come out and we speak about other things going on in the [San Joaquin] Valley. Without allies, we couldn't have gone on.

Clearly, not everyone will be able to sustain the long-term time commitment and emotional drain of activist. To this end, the role of activists working within institutionalized nonprofit structure provides a key support mechanism. To the extent that nonprofits can pay people for their time on activist causes, they can sustain the knowledge and political presence on the issues between larger upwellings of support from unpaid activists. The increasing cost of living, along with women's growing

participation in the work force and reduced time for community work, makes this kind of support ever more valuable.

### **Collaborative vs. oppositional politics**

Improved processes of participation and improved access to legislators and state agency representatives intersect with the slow, uneven shift away from oppositional to collaborative tactics in California environmental justice activism. As described in chapter 2, this broad shift is visible in an array of stakeholder engagement initiatives organized by state agencies, collaborative work creating environmental reporting networks on top of existing state infrastructure, and the increasing numbers of environmental justice activists, and people of color, in state government. However, not all environmental justice activists across the state participate equally in these new forms of collaboration with the state. Kettleman City activists remain skeptical of these forms of collaborative work, and often continue to use more oppositional, confrontational tactics. In thinking through some limitations she would like to see imposed on constructing new polluting facilities in communities already overburdened with pollution, a Kettleman City activist offers the following:

I guess that would mean that we have to work on legislation, and lobby, and all that stuff. The thing with that is that you have to be nice, and you have to be polite, and all that stuff. And sometimes I don't want to be nice or polite! [Laughs] I think that's the organizer part that I like, because people say, "Oh, you're angry," and all that. Well, you know what? I feel like I'm fighting for my life, and my community's life.

As this activist describes, some personalities are better suited for collaborative work and some for more confrontational tactics. She describes another environmental justice activist with whom she works closely, here called Matt:

You can't compromise that way. That's the thing that I learned about Matt. Matt drives me nuts sometimes, because Matt's a crusader. Matt should have been born in another era, because he has a crusade, and he's going to—to the death. And a lot of people don't understand that, but I admire that, because there is no compromising with Matt—none! None. It's a source of frustration, and it's a source of pride, too, because if we had more people like that, this would be a very different movement. It would probably be a more poor movement! [Laughs]

She also recalls the action of her son, when he was younger:

My son is involved in a group that was formed last year called KPOP. It's Kids Protecting Our Planet. He's gone to a lot of hearings since he was very, very little. My son's been involved in a lot of protests, he's passed out a lot of fliers. He's very outspoken... They were at a protest in March, the KPOP kids, where they almost got arrested. It was kind of scary. You never want to see your kid arrested like that. The EPA was having a hearing about whether Kettleman City is an environmental justice community or not. The kids wrote a list of 50 things that they'd rather be doing than coming to the hearing. They'd rather be watching TV, they'd rather be skating, they'd rather be playing basketball, they'd rather be playing soccer. On and on and on. They said, "And you still think that I'm not affected by having this in my community? Come on." And then these little radicals went out and got garbage bags, and they came in, and they propped them up in front of the EPA people, and they said, "You dump your garbage here all the time, why don't you take some of our garbage home? Don't you like it? It's safe. It's not even toxic." And then, they went and they opened the bags, and they dumped them on the table in front of the EPA people. And of course, they had policemen in the audience. They always do, I don't know why. They're always scared like we're going to, you know, act up or do something horrendous. And he and the other KPOP kids they dumped the garbage on the table, which I wasn't expecting. I wasn't necessarily, you know, proud of that. But they were passionate, and they felt it, and it was important to them. And I remember one of the Chem Waste people getting up in my face and saying, "You don't even know how to raise a kid. Look at how your kid acts." He said, "My kid wouldn't do that." I said, "At least your kid doesn't have to be here defending

his life. Mine does." They were so angry. They wanted the kids thrown out, they wanted them arrested, they were so angry at these kids who were just there defending themselves. Really, I mean, the garbage was nasty, but it's nothing compared to what they do every single day up there.

Nonetheless, while so-called "win-win" solutions don't always end up benefitting everyone equally, "win-lose" tactics necessarily involve the risk of losing. As an activist put it when reflecting on more oppositional legal strategies, "Not all lawsuits are positive; sometimes you lose. Somebody has to lose, I hope it's not us."

### **Outcomes**

A hazardous waste landfill that is only one of three of its kind in the state is unlikely to be closed without significant political will. Instead, it is more likely to expand and attract other similar land uses over time. Since the anti-incinerator campaign, Kettleman City activists have succeeded in improving the process of political participation, and they have significantly delayed some landfill developments, such as the approval of its most recently expansion permit. They have also been able to extract limited amounts of funds from the landfill owners. Most prominently, the town's community center was begun with seed money from Waste Management. This activist describes the development at the landfill that was at the origins of the community center's creation:

They put in a proposal to layer toxic waste with municipal waste, which was a first for any dump in California. And when we read the EIR report, we found out that they left a whole section of town out. It's like it didn't even exist. They said that there was nothing on the Eastern side of Highway 41, which is totally untrue. There's a whole number of houses on the other side of 41.

However, as this activist describes, activists decided to settle the resulting lawsuit on the advice of their lawyer, Luke Cole:

So, we were fighting this and Luke says, "Well, I don't think we are going to win this case." And, the people from Butonwillow [which has one of the two other Class 1 hazardous waste landfills in California], lost their case. And they were all scared 'cause they were going to have to pay lawyers and all that. I didn't want to leave the people in Kettleman City with a debt that they would have to pay for the lawyers' fees and all that. So we sat down and we talked about it [with Chem Waste], and they said, "What do you want?" And I said, "Well, I want you to be a better neighbor to us." They came up with the money to start the community building and the money to maintain it. The more toxics they accept, the more money the community building gets. We have the Head Start program in there. We have other county people that come in, like once a month, immunization or stuff like that, coming out of the building. Then, we have the community building. It's small, but it's good enough for the people to have meetings or parties or whatever. But, it's still maintained with Chem Waste money... [My friend] was one of those people that didn't think it was right that we built that community building with that money... At that point, I was almost the last one, and people look to me to make decisions. And it's hard when they put that kind of burden on your shoulders, and you try to make the best decision for everybody. I know this building, it's maintained with blood money, but I hope some good comes out of it. I hope so.

Activists are glad for the community center, but wary about it being used by Waste Management to improve their image in the community, or to silence further critique of the company:

Part of the monies to build this community center came from community block development grants. I talked to one of the county supervisors, because she wanted to know if we really wanted part of those monies to help us build the community center. And I said, "Well, we do." Cause we were still protesting against Chem Waste at that time, even though we had already won that settlement, which was just seed money to build the community center. It wasn't enough to build the community center. And she said, "Well, I don't understand. Why are you guys still complaining? Do you want this or do you

not want this? Do you want this building?" I said, "Yes, we want the building. But we don't want it to buy our silence."

Last year the general manager of Chem Waste approached us and he had the gall to ask us whether we would be willing to let them name this the Chem Waste Kettleman City Community Center if we would accept more settlement funds. So we've constantly, constantly had to keep on our toes. A few years back Congress woman Maxine Waters and a couple of other Congressman formed a committee where they went out and talked to communities that had large landfills among them to ask them what benefits they've gotten from living next to these facilities. And of course Chem Waste was there with a big, long list of stuff that they donate to the community and whatnot. And one of the things that they listed as having donated to the community was the community center. And I said, "Wait a minute." I said, "You didn't donate it. That was because we sued you." And the Congressmen were there. They said, "Is that true?" I said, "Yes, it's true. We sued them. This didn't come out of their pocket. This was from lawsuit funds." So it's like if we just turn our backs or let our guard down a little bit, and something new will happen.

Kettleman City's funds to begin the process of building their community center were won through a legal settlement they made because they feared losing the case otherwise. Other communities win funds and other benefits not only through legal settlement, but also through voluntary Good Neighbor agreements, direct donations from the company in question, and legally mandated mitigation projects designed to make up for the impact of new noise and pollution sources.

Environmental justice activists work hard for these concessions, but would often rather new facilities not be permitted, or pollution levels reduced, instead. And, these "good neighbor" interactions can undercut community opposition to the industry in ways that make it harder to build the political willpower to regulate them more tightly.



## Scale and Professionalization

Environmental justice activism in California has, broadly speaking, scaled up and professionalized over time. An activist who participated in Kettleman City's anti-incinerator campaign reflects on the grassroots nature of their work at that time:

When all this started, no one had a computer. I still don't have a computer. I had one before it broke down. I just never replaced it. I replaced it for my grandchildren, but I have never bought another one. But, anyway, I was the only one who was financially – who had more to offer to the community to help on these issues. I had a copier to make copies and I had a little office. And I offered everything that I had in that office, for People for Clean Air and Water, *El Pueblo*. I remember doing these fliers -- I still have them -- that I would just sit down and write, in English and in Spanish. Would write them and pass them out by the hundreds to the people in town, door to door, when we were going to have meetings or when something was coming up, to let people know what was going on. And everything came out from my office. And one time I housed a lot of people from Greenpeace at my house. They were at my house for almost two weeks, and they camped in my back yard. They came to canvas. I didn't even know what that word meant. Greenpeace stayed at my house to come into Kings County to canvas for our cause. I didn't know nothing about that, what it was about. But I remember seeing them coming in with money in the evening. I didn't even know what was going on. We were so green to all this. So I was asked if I could house them and I said, "Yeah." Well, they all came over to help us and I don't even know who they were. And I remember that I used to cook for them. They would not eat meat, so I would cook a big pot of pinto beans every day, and they would eat the whole damn pot – [laughter] -- of beans and salsa. I always had that, and I don't know who furnished the pasta, but they always had big bags of pasta and I would cook the pasta. And they stayed at my house for that long. The posters were made in my back yard. The canvas banners were done there. I housed a lot of people throughout the years in my home -- strangers, you know? Strangers because I never seen them before, but they came to help. I didn't even know what the organization Greenpeace was, or who they were, who Bradley [Angel] was, you know? But I learned throughout the years.

Although the broader environmental justice movement has been increasingly scaling up to address statewide policy issues, Kettleman City activists are part of

another stream within that movement that remains focused largely on local, and to some extent regional, concerns. This is due in part to the fact that *El Pueblo* remains a grassroots community group with limited capacity to take on unpaid work. However, they remain intimately tied to the nonprofit Greenaction for Health and Environmental Justice, where one Kettleman City resident took on a part-time staff position in 2011. However, her new role at Greenaction has at times caused problems for her work in Kettleman City:

Interviewee: One of the new things that they try to attack—the company spokesman has gone out and told people, “[She] works for Greenaction. She’s a paid advocate. She’s a paid advocate. She makes all this money to go out and oppose. She wouldn’t be opposing if she didn’t make all that money.” And I tell people, “Well, number one, ask him how much money he makes. Ask him how Spain was on his honeymoon, because I struggled to get to Disneyland, much less Spain.” I said, “Number two, yeah, I’m a paid advocate. I’m fortunate that my parents supported me, and I went to school, and I was able to get a good job.” I said, “However, before I had this job, three years ago, I was saying the same thing that I’m saying now. And if I lost this job tomorrow, I would keep saying the same thing that I say now.” I said, “I think that my record of 25 years in the environmental justice movement should speak for the fact that I believe in what I’m doing, whether I’m paid or not.” I said, “And I’m sorry that I have to have a job to feed my family, but my message wouldn’t change, whether I was being paid or not.”

Sometimes I think that—it makes me mad that they say that, and I think, well, you know what? I’m going to quit, and I’m going to get another job, and I’m going to do this on the side. What are they going to say then? But then, why should I quit? Why shouldn’t I making a living doing something that I was going to do anyway? But that’s a new thing that they’ve got me and [the other resident who works for Greenaction], that we’re paid advocates.

At the September 18<sup>th</sup> meeting, the company spokesperson walked in with all these people with these shirts that said, “I’m a Kettleman City resident, and I support Waste Management.” And it was disheartening. Our first reaction was, “Oh, let’s pack up and go home. The people want this.” But then I started looking at those people, and those people have been here less than five years. They don’t own homes; they’re all renters. A lot of them don’t have documents. They’re undocumented. So, he’s talking to them, and sounds real

nice, and he's giving them a tee shirt, and they showed up. But do they, in their heart—does anyone in their heart, could they say, "I want more toxic waste where I live," with a straight face? I dare them to say that.

Interviewer: So this was a meeting in town, in Kettleman City?

Interviewee: Mm-hm. And it turned really ugly, because they were going for personal attacks. When I went up to speak, all of those people were shouting, "How much money do you make? How much money do you make? Tell us how much you make!"

Connections to nonprofits, and the ability to be paid for one's work, have provided immeasurable support for the environmental justice cause in California. However, as seen above, these kinds of connections can sometimes also reduce activists' ability to represent themselves as an "authentic" voice of the community. The necessity to fundraise in order to pay activists for their time can also limit the kinds of things activists do. One activist describes her observations on this subject below:

Interviewer: So how does EJ now compare to in the earlier years, when you were younger, and just getting started, and when everyone was getting started with this stuff?

Interviewee: I think it has to be more strategic now, and I'm not sure if that's a good thing, or a bad thing. I mean, I think it's good to have a mission, and a focus, but strategically, you have to work towards wherever your funding stream is, and so I think that limits people. That limits them on which fights they're going to pick up, and that's unfortunate, because it's a different feeling than when you would say, "This is wrong. We're going to go and fight that." Now it's like, "This is wrong, but I don't know if we have any funding to work towards that." So that kind of gives people what I call "cubicle mentality," where you're working towards whatever your grant is. And that's—it's a little constricting.

Interviewer: So in the earlier years, what would you do if you didn't have funding? How would you get around that?

Interviewee: You'd pick up and go. You'd get people to pitch in. You'd pass the hat to get a tank of gas. You'd get people to donate water, sodas, food, their home for people to stay over. And I think—and don't get me wrong, but

I think that [we aren't] as constricted as some, but some of our coalition members, I've noticed that is difficult for them.

### **Divergent tactics and movement schisms**

The process of scaling up, professionalizing, and engaging in increasingly collaborative politics has happened unevenly across California environmental justice groups. Statewide policy advocacy is inherently more technical, and more geographically removed, than doing local community work. This makes it increasingly difficult to stick to the “We Speak for Ourselves” slogan of the early environmental justice movement that prioritized the voices, and strategic decision-making capacity, of grassroots activists. Policy work is complex, highly technical, fast-paced, and often hinges on necessarily exclusive behind-closed-doors negotiations. At a state-level, it is also harder to reach agreement across the increased number of environmental justice activists than it might be on the small scale of the individual town. These tendencies, combined with personality conflicts and other areas of difference, have caused a rift between Kettleman City activists, Greenaction for Health and Environmental Justice, and some of the other participants of the California environmental justice movement.

In the fall of 2014, Kettleman City hosted the first meeting of the newly formed California Environmental Justice Coalition (CEJC), as described in chapter 2. CEJC is an open organization, that is, in part, a response to dissatisfaction with the existing statewide California Environmental Justice Alliance (CEJA), which is a closed organization made up of six environmental justice groups, and which no other groups are allowed to join.

## **Conclusion**

In conclusion, Kettleman City's 28 years of environmental justice activism highlight a number of dilemmas for contemporary environmental justice activism. First, the history of how residents were limited from participating in legally required public processes of environmental decision making shows how important improving these decision-making processes has been, but also that improved processes of decision-making do not necessarily result in more favorable outcomes for activists. And, by reducing negative interactions with state agencies that provoke a sense of outrage among residents, these improved processes of public decision making undercut activists' ability to draw more residents into activism. Second, their experience shows how nonprofits can play an important role in sustaining community activism over time, but can also provide an opportunity for opposing industries to target paid activists as an inauthentic voices of the community controlled by outside political forces. Kettleman City activists' long relationship with Waste Management shows that financial mitigation efforts and "good neighbor" practices and hiring PR staff who look like local residents can be used to burnish a polluter's public image, and undercut local opposition to their ongoing practices.

## **Ch. 5. New Frontiers: Environmental Justice Interventions in the California Global Warming Solutions Act of 2006**

The experience of activists in Kettleman City helps tell the story of the early environmental justice movement and its oppositional relationship to the state. In the face of broad changes over time in which activists have engaged more collaboratively with state agencies, Kettleman City activism highlights current tensions over its often continuing oppositional approach. On the other hand, California environmental justice activists' experience trying to shape the state's landmark climate change bill in the 2000s and 2010s, the California Global Warming Solutions Act of 2006 (AB 32), features a more recent face of environmental justice activism. First, it provides an example of environmental justice activists' engagement with climate change as their issue area has expanded over the decades. More centrally to my argument here, this case also illustrates the increased emphasis on scaled up, professionalized policy advocacy at the level of the state, and the opportunities and challenges that this newer emphasis of environmental justice work entails.

After outlining the case, I situate it within the broader activist trends presented in chapter 2. First, I analyze the limited power of the governmental environmental justice advisory committees that participated in shaping the implementation of AB 32 in the context of environmental justice activists' long-standing efforts to create these kinds of advisory bodies, and their similarly long-standing dissatisfaction with them. Then, I situate environmental justice activists' opposition to cap-and-trade within their long-standing opposition to market-based environmental governance. Finally, I

show how this led to conflict between environmental justice activists and national environmental groups that favored cap-and trade, and later how schisms developed amongst California environmental justice activists as some embraced efforts to seek revenues from California's cap-and-trade programs while others continue to oppose it wholesale.

### **Environmental Justice Activists and the California Global Warming Solutions Act of 2006 (AB 32)**

California has long been seen as a trendsetter for United States environmental policy, and is a leader in the effort to reduce greenhouse gas emissions at the state level in the face of failure at the national level. California now operates the second largest cap-and-trade market in the world. This makes its experience particularly worth analyzing.

#### **Introduction to AB 32**

Efforts to respond to climate change within a regulatory context began in California during the late 1980s. The state's pioneering work in establishing the nation's first fuel efficiency and other energy efficiency standards and clean air regulations paved the way for later regulation of greenhouse gases (Hanemann 2007). After years of failed policy efforts targeting climate change, the state passed Assembly Bill 32, the Global Warming Solutions Act, in 2006.

The Global Warming Solutions Act requires greenhouse gas emissions to be reduced to 1990 levels by 2020 and to reduce emissions to 80 percent below 1990 levels by 2050. It charges the California Air Resources Board (ARB) with developing a plan to do accomplish this. The Air Resources Board is governed by a board of 11 people appointed by the governor. Six are technical and scientific experts, while the rest are elected officials. ARB “oversees the activities of 35 local and regional air pollution control districts. These districts regulate industrial pollution sources. They also issue permits, develop local plans to attain healthy air quality and ensure that the industries in their area adhere to air quality mandates” (California Environmental Protection Agency Air Resources Board n.d.).

AB 32 gives the Air Resources Board the ability to regulate greenhouse gas emissions either through traditional command and control regulation or through the establishment of market-based mechanisms. In the former, the state sets pollution reduction targets for specific industries and/or plants, while in the latter, market incentives, rather than direct regulation, encourage polluters to reduce their emissions.

Over time, the Air Resources Board developed a complex plan to implement AB 32 that included both command and control and market based mechanisms. The centerpiece of their plan to reduce greenhouse gas emissions from industrial sources, however, is through a market-based cap-and-trade system.

Under a cap-and-trade plan, the state sets the amount of allowable carbon emissions – this is called the cap. The state does not reduce emissions at any particular point of origin at a plant, industry, or regional scale. Rather, the emissions



cap is set at the level of the state. A market is created in which the rights to emit greenhouse gases are bought and sold. This gives individual emitters the option to either reduce their own emissions or purchase emission credits from other emitters who have unused emissions credits that they can sell. Often “offsets” are built into the system as well. For example, individual plants may continue to emit greenhouse gases by paying for environmental benefits elsewhere, such as paying to keep a forest from being cut down so it continues to absorb and withdraw carbon dioxide from the air.

The sections below describe the involvement of environmental justice activists in 6 key stages of the California Global Warming Solutions Act: 1) Creating and passing the bill, 2) advising ARB on the first Scoping Plan that would guide the bill’s implementation, 3) suing ARB over the first Scoping Plan, 4) working with Latin American indigenous activists in an attempt to halt an international offsets program added to the implementation plan for AB 32, 5) advising ARB on the 5-year update to the Scoping Plan, and, 6) trying to direct revenues resulting from the cap-and-trade plans into “environmental justice communities.”

### **Passing AB 32**

Early versions of AB 32 included a directive for the Air Resources Board to use a cap-and-trade system in its efforts to limit greenhouse gas emissions. However, as noted above, the final language of the bill gave ARB the option to use a cap-and-trade system, but did not require it. This change is largely due to the influence of environmental justice activists in the legislative process.

## **Opposition to Cap-and-Trade**

Environmental justice activists generally opposed a cap-and-trade system. One primary concern was that the cap-and-trade system would fail to deliver results in reducing greenhouse gas emissions at the statewide level. Another was that cap-and-trade would deprive low-income communities and communities of color of the accompanying air pollution reduction and health benefits that they might receive from other approaches. Finally, some worried that cap-and-trade could even increase greenhouse gas emissions and their accompanying air pollutants in industrial “hot-spots,” even while reducing the level of greenhouse gases emitted by the state as a whole.

Instead, environmental justice advocates favored direct regulation of greenhouse gas emissions. However, among market-based alternatives, they preferred a carbon fee program, also known as a cap and fee program, in place of a cap-and-trade program. In a cap and fee program, carbon fees are applied by the state to increase the price of fossil fuels in order to spur the use of renewable energy sources, which are currently the more expensive option.

Environmental justice groups typically have a number of concerns about cap-and-trade, many of which relate to the way it interacts with existing patterns of inequality. Greenhouse gas emitting facilities are disproportionately located in low-income communities and communities of color (Pastor, Morello-Frosch, Sadd and Scoggins 2010), and while greenhouse gas emissions alone are not thought to pose a direct health threat to surrounding communities, they are usually accompanied by

emissions of other air pollutants that do.<sup>10</sup> If the new legislation causes carbon emissions to increase in some locations, even while causing a net reduction at the level of the state, local air pollution could increase as well. One way this could happen is if industries in low-income communities, as they expand their production over time, decide it is cheaper to purchase carbon credits than to reduce carbon emissions. This could result in not only localized increases in air pollution, but also an increase in the level of inequality between parts of the state suffering from poor air pollution and those with cleaner air. As Pastor et al. write,

It is important to recognize that cap-and-trade is inherently unequal. The cap part is, of course, equal: everyone gains from a regional reduction in [greenhouse gases] and the slowdown in climate change that might be induced. But the trade part is inherently unequal – or why would anyone trade? Indeed, trading is justified on the grounds that reducing pollution is more efficient in some locations compared to others, and thus where reductions will occur is a decision such a system leaves in the hands of the market and businesspeople – neither of which have any incentive to lower emissions in order to benefit the low-income and minority communities hit hardest by concentrated pollution. (2010:3)

In place of cap-and trade, environmental justice advocates argue that making the combustion of fossil fuels more expensive through a carbon fee would result in more even reductions of greenhouse gas emissions across all sectors, and thereby also lower air pollution felt in nearby communities. These concerns are relevant not only to low-income people, but also specifically to people of color regardless of their

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<sup>10</sup> AB 32 regulates the following greenhouse gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Some of these gases have health consequences after exposure to them in a concentrated form, such as with their use in the workplace. Exposure levels in the outdoors from the sources at issue here are much more dilute. Most advocates and regulators focus on carbon dioxide since it is the largest contributor to climate change.

income level. Although the likelihood of living near a greenhouse gas emitting facility decreases with increasing income, people of color at all income levels are more likely to live near a greenhouse gas emitting facility than their white counterparts at the equivalent income level (Pastor, Morello-Frosch, Sadd and Scoggins 2010).

Environmental justice groups are also concerned about the reduced opportunity for community input regarding local land use decisions made available under market-based mechanisms, as opposed to direct government regulation (sometimes known as “command and control” regulation). Low-income people do not have the financial capital necessary to be involved in any system of buying and selling greenhouse gas credits in order to influence the spatial distribution of emissions and their accompanying air pollution. However, they do have the ability to use their voices in political systems that funnel decisions about industry emissions and location through processes of public comment mandated by the environmental regulations passed in the 1970s. As Hecht (2011) writes,

By their nature, trading programs leave little to no opportunity for community input. This may be the [environmental justice] community’s most fundamental objection to trading programs. Command-and-control regulation typically provides opportunities for community input on a case-by-case basis. Local communities can influence the regulatory process by participating in permitting proceedings and variance proceedings, by commenting on proposed rules, and by undertaking or intervening in direct administrative or court enforcement actions or urging regulators to pursue these actions. By contrast, once a trading program is in place, the regulated parties, entities that control and regulate the pool of available offsets, and investors and traders will form the system that dictates the regulatory outcome on a local level by controlling available carbon emission allowances. If one believes – as EJ advocates believe – both that the lineup of players in the process affects the outcome, and that the engagement of local interests is a crucially important

feature of a regulatory program in its own right, regardless of the outcome, it's not surprising that one would oppose emissions trading systems.

Or, as Kaswan writes,

Market-based regulatory approaches provide opportunities for public input at the threshold regulatory level; the public can comment on cap-and-trade rules, offset rules, and other program parameters. However, cap-and-trade and other market-based mechanisms allow individual facilities substantial flexibility to make autonomous emissions decisions. Facilities must report their emissions and demonstrate that they hold sufficient compliance instruments to cover their emissions, but there is no public process for determining the level of emissions or the steps they will take to reduce emissions. Facilities have full autonomy to reduce GHG emissions or purchase compliance instruments without prior consultation with government or community members.... to the degree that GHG allowance decisions implicate associated co-pollutants in ways that trigger the need for permit modifications, the public could indirectly become involved. Nonetheless, many GHG decisions, because they concern the degree of reductions, not potential increases, will not trigger co-pollutant permitting processes and will therefore occur without public participation. (2014:34–35)

While direct regulation provides multiple opportunities for engagement in regulation of greenhouse gas emissions at individual facilities, market-based solutions do not. However, between the options of cap-and-trade or carbon fees, carbon fees are widely understood to be the simpler and more transparent policy solution. As Mac Taylor from the state government's Legislative Analyst's Office writes,

Carbon markets are, by their very nature, complex. In general, the more complex the markets are, the more challenging it will be to regulate them, and the more susceptible they become to manipulation and fraudulent activity. The cap-and-trade system as designed by ARB is particularly complex, in that it has a multitude of complex design features that are intended to address various policy objectives. (2011)

Aside from the potential for fraud, environmental justice advocates generally prefer policy systems that encourage transparency so they can more easily track and

organize around the issues that affect their constituents. Under a cap-and-trade system, affected parties do not know where emissions are traded to until after the fact. Even then, the information can be difficult to come by, as the names of the companies that participate in auctions, as well as the bids they place, are not made public (Hull 2013).

Environmental justice groups are also often skeptical that cap-and-trade programs will reduce greenhouse gas emissions at all, regardless of their accompanying effects on the distribution of air pollution. In this they are in agreement with more radical environmentalists also at odds with the mainstream environmental groups over cap-and-trade. If the state sets the carbon cap too high (McAllister 2009), or allows offsets that do not truly reduce carbon emissions (Wara and Victor 2008), the primary goal of the legislation could fail. Offsets fail, for example, when they are allocated to conservation projects already planned that would happen even without the offset. Offsets also fail when they are allocated to avoid forest destruction in one location, but result in forest destruction moving elsewhere. In policy language such failures are referred to as problems of “additionality” and “leakage.” Environmental justice advocates also argue that cap-and-trade programs present too many opportunities for greenhouse gas emitters to cheat, and not actually reduce their emissions levels in spite of the new regulations. Important details of the design of cap-and-trade programs are vulnerable to corporate lobbying, and the complexity of the system, which requires the creation of an entire new bureaucracy to administer, could make cheating easier. On the other hand, a carbon fee would be put in place

through existing government structures. It's simplicity and relative transparency could make it less vulnerable to these problems. Meanwhile, advocates argue that cap-and-trade sets up the possibility for unwarranted windfall profits to polluters (Ejmmatters.org 2006).<sup>11</sup>

### **Environmental Justice Safeguards in AB 32**

AB 32 was supported by two large, mainstream environmental groups: the Environmental Defense Fund and the Natural Resources Defense Council. These two groups were widely understood to be the bill's co-sponsors, along with the legislators who formally introduced it. However, the bill's promoters made a point of including environmental justice advocates in the creation of the bill. They did so, at least in part, because they were worried that the environmental justice community in California could enlist the Latino Caucus and other minority legislators in blocking AB 32 if it was not sufficiently to their liking (Sze et al. 2009). For their part, environmental justice advocates were involved in the legislative process both to help address climate change and to make sure that reducing greenhouse gases at the statewide level would be accompanied by public health improvements at the local level, or at the very least not actively worsen air pollution in low-income communities of color.

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<sup>11</sup> Though environmental justice advocates remain supportive of a state-level climate change policy in general, others have raised concerns about the efficacy of *any* non-global efforts to slow climate change. For example, researchers find that greenhouse gas emissions have declined in developed countries in part by offshoring industry to poorer countries, which changes the distribution of global greenhouse gas emissions without actually reducing them (Peters et al. 2011).

Like most bills, the final climate change bill was passed through a multifaceted political process involving not only environmental and environmental justice advocates, but also party politics, pressure from the chamber of commerce, and voter preferences. Environmental justice advocates successfully lobbied to have a number of key elements included. These are important to understand because many of these same advocates later argued that the Scoping Plan subsequently developed by the Air Resources Board to actually carry out the Global Warming Solutions Act does not fulfill the environmental justice requirements that they worked so hard to add to the bill's language.

First, the bill included language that allowed the implementation plan to use market-based regulation of greenhouse gas emissions (broadly understood to mean cap-and-trade specifically, not carbon fees, which are also a market mechanism) but did not actually require it. This language represented a compromise between two groups: on the one side, the Republican Party, then-Governor Arnold Schwarzenegger, and the Environmental Defense Fund favored a cap-and-trade mechanism to reduce greenhouse gas emissions. On the other side, Democratic representatives and the environmental justice community were against the use of a cap-and-trade mechanism (Hanemann 2007; 2009). One interviewee describes this process as follows:

I was involved in that process, and in one particular phone call where we were negotiating with the Schwarzenegger administration. It was over what would be in and what would be out and how it would be worded, and they wanted us to sign off on the difference between “may” and “shall” on cap-and-trade. And there was just no way that environmental justice advocates were going to say that this program “shall” include cap-and-trade, and that's what the



governor's office wanted. We told them, "Look, we're not going to do it. We're just not going to support it. We will bite our tongue with "may," but if you put in "shall," we're going to oppose, and we're going to oppose as forcefully as we possibly can, and we will do everything we can to stop this bill from going through."

This compromise effectively postponed decision-making about cap-and-trade to the implementation phase of the bill. However, within a year after the bill was passed, and before the Air Resources Board had created a plan to implement it, Gov. Schwarzenegger began negotiating regional and international cap-and-trade programs (Martin 2006).

Second, environmental justice groups successfully lobbied for consideration of "the potential for direct, indirect, and cumulative emissions impacts" (Health and Safety Code Section 38570) from the chosen greenhouse gas reduction strategies within communities that already have high levels of air pollution. AB 32 also requires the prevention of increases of criteria air pollutants as defined by the Environmental Protection Agency (EPA) - ozone, particulate matter, lead, carbon monoxide, sulfur oxides and nitrogen oxides. The inclusion of this language was significant for environmental justice activists because it indicated a willingness by legislators to ensure that not only will specific air pollutants not increase under the plan, but also that the cumulative toxins to which low-income communities of color are exposed will not increase. Cumulative impacts are a key environmental justice concept used to aggregate all the pollutants to which communities are exposed. Environmental justice advocates frequently push for regulatory bodies to make decisions based not just on legally acceptable increases in individual pollutants, but on the ways that individual

pollutants add to the toxic burden of already highly polluted communities in ways that are legal, but nonetheless unhealthy. Currently, an overwhelming majority of public policy does not incorporate an analysis of cumulative impacts in decision-making (Morello-Frosch, Pastor, and Sadd 2001; Rechtschaffen et al. 2009).

Three other provisions in the bill directly addressed additional environmental justice concerns. AB 32 mandated the creation of an environmental justice advisory committee to advise the Air Resources Board on the development of the plan to implement the bill. This committee was required to be made up of “representatives from communities in the State with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both” (AB 32 Section 38591). The bill also required public workshops to be held in low-income communities of color living with disproportionate exposure to pollution. This would enable people living in places with the heaviest air pollution to comment on plans for achieving the mandated greenhouse gas emission reductions. Finally, the bill included a “Community Empowerment Amendment” that ensures that “activities undertaken... do not disproportionately impact low-income communities” (AB 32 section 38562). The bill also states “The state board shall ensure that greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California” (AB 32 section 38565).

The ability of environmental justice activists to influence the final form of the bill and win concessions from its writers shows their growing influence in the legislature and ability to successfully navigate policy advocacy in the state capitol. However, this moment turned out to be a high-water mark for activists’ ability to influence the political process on this bill. The next section shows what happened when it came time to actually implement the bill.

**Implementing AB 32**

**The Environmental Justice Advisory Committee, Round 1**

AB 32’s Environmental Justice Advisory Committee was designed to enable the environmental justice community a formal space in which to advise the Air Resources Board on the “Scoping Plan” it developed to guide the implementation AB 32. A number of leading environmental justice advocates participated in the Environmental Justice Advisory Committee. They were convened through an informal process in which Jane Williams of the California Communities Against Toxics played an important role. See Table 8 for a complete list of participants.

**Table 8 Members of the Environmental Justice Advisory Committee to the California Air Resources Board, Round 1**

<b>Round 1: 2007-2010</b>		
<b>Name</b>	<b>Organization</b>	<b>Region</b>
Angela Johnson-Meszaros (co-chair)	Physicians for Social Responsibility	Los Angeles
Jane Williams (co-chair)	California Communities Against Toxics	Los Angeles
Martha Dina Arguello	Physicians for Social Responsibility	Los Angeles
Tom Frantz	Association of Irrigated Residents	Central Valley

Jose Carmona	Clean Power Campaign	Central Valley
Avinash Kar	Center on Race, Poverty and the Environment	Central Valley
Chione Flegal	Latino Issues Forum	Bay Area
Henry Clark	West County Toxics Coalition	Bay Area
Bill Gallegos	Communities for a Better Environment	Bay Area/Los Angeles
Diane Takvorian	Environmental Health Coalition	San Diego
Jesse Marquez (alternate)	Coalition for a Safe Environment	Los Angeles
Shabaka Heru (alternate)	Society for Positive Action	Los Angeles
Azibuike Akaba (alternate)	Latino Issues Forum	Bay Area
Erica Swinney (alternate)	Greenaction for Health and Environmental Justice	Bay Area, Central Valley
Phillip Huang (alternate)	Communities for a Better Environment	Bay Area/Los Angeles
Margaret Gordon (alternate)	West Oakland Indicators Project	Bay Area
Carolina Simunovic (alternate)	Fresno Metro Ministries	Central Valley
Rosenda Mataka (alternate)	Greyson Neighborhood Council	Central Valley
Caroline Farrell (alternate)	Center on Race, Poverty and the Environment,	Central Valley
Marlene Grossman (alternate)	Pacoima Beautiful	Los Angeles
Laura Hunter (alternate)	Environmental Health Coalition	San Diego

Members of the Environmental Justice Advisory Committee were appointed in January of 2007 and conducted meetings through 2010. During this time they met with CARB staff to learn about the agency's work on the bill, and made recommendations to the staff for how the bill should be implemented across a number of highly technical areas. They made official recommendations for revisions to CARB's report on Early Action Measures, the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, the draft and final Scoping Plan to

implement AB 32, the low-carbon fuel standard, and the proposed screening method for identifying low-income communities with heavy air pollution. The Scoping Plan, in particular, was the focus of much of their work.

The Environmental Justice Advisory Committee proposed a three-pronged approach to reducing emissions that combines direct regulation, financial incentives and support to help industry reduce their emissions, and a carbon fee (Environmental Justice Advisory Committee on the Implementation of the Global Warming Solutions Act of 2006 2008). Indeed, as time progressed, concerns that cap-and-trade would be ineffective in reducing greenhouse gas emissions appear to have merit. As Alice Kaswan writes,

The risks of a lax cap are most evident when caps are based on inflated projections based on either past or expected future emissions. Because California's cap is derived from the legislatively-set goal to attain 1990 emissions levels by 2020, it avoids the risk, experienced in the European Emissions Trading System, of basing the cap on overestimates of future emissions. Nonetheless, the most recent projections for California suggest a lax cap: the number of available allowances, combined with offsets, is expected to exceed the level of actual emissions throughout most of the life of the program. Analysts attribute the low level of existing and projected emissions to the economic recession and the effectiveness of the state's complementary reduction measures (like the Renewable Portfolio Standard and auto emission standards). The low level of existing emissions, coupled with the availability of offsets, is likely to result in little demand for allowances (and few program-induced emission reductions) through 2020. The California program will partially constrain the effects of oversupply through a price floor mechanism. If allowance prices fall below the price floor, that mechanism will withhold allowances from quarterly auctions, effectively lowering the short-term cap. California's cap, and the cap-and-trade program, may therefore do relatively little to achieve emission reductions in California; other programs appear to be generating most of the emissions reductions. (2014:37)

Environmental justice advocates on the committee supported many of the

tools included in the draft and final Scoping Plans, such as energy conservation measures and increases in the production of renewable energy. However, the committee also criticized the Air Resources Board for not meaningfully responding to their suggestions, nor incorporating them into the Scoping Plan (Environmental Justice Advisory Committee on the Implementation of the Global Warming Solutions Act of 2006 2008). One member of the committee writes that, “While the ARB followed the letter of the law in creating the committee, it did not live up to the spirit of the law,” and that committee members, “consistently felt as if the ARB had already made up its mind on key aspects of implementation of AB 32 before EJAC had the opportunity to provide input” (Farrell 2012:58). In particular, committee members worried about the plan’s inclusion of cap-and-trade mechanisms as a key measure to reduce greenhouse gas emissions from industrial sources.

### **The Lawsuit**

After ongoing conflicts with the Air Resources Board, in 2009 a number of environmental justice advocates and organizations, including several that had been members of the Environmental Justice Advisory Committee, sued the Air Resources Board over the Scoping Plan. The plaintiffs included the Association of Irrigated Residents, California Communities Against Toxics, Communities for a Better Environment, Coalition for a Safe Environment, Society of Positive Action, West County Toxics Coalition, and advisory committee members or alternates Angela Johnson Meszaros, Caroline Farrell, Henry Clark, Jesse N. Marquez, Martha Dina

Arguello, Shabaka Heru and Tom Frantz. They were represented by lawyers at the Center on Race, Poverty and the Environment and Communities for a Better Environment. The plaintiffs charged that the outcomes of implementing the Scoping Plan as it was written would violate a number of the elements of the original bill. They also charged that the process of creating and adopting the plan violated procedures required by the California Environmental Quality Act. An overview of all of the claims made in the lawsuit is provided in Tables 9 and 10. The cap-and-trade proposal is at the heart of many of them.

**Table 9 Allegations supporting the claim that the Scoping plan's outcomes will violate AB 32, as summarized by Judge Goldsmith**

Allegations supporting the claim that the Scoping Plan's <i>outcomes</i> will violate AB 32, as summarized by Judge Goldsmith (Anon 2011). <sup>12</sup>
1. "ARB ignored its charge to make a Plan for achieving maximum technologically feasible reductions and instead placed an artificial limit on the amount of reductions the individual measures of the Scoping Plan can achieve."
2. "ARB determined the costs only of its chosen measures [to reduce greenhouse gas emissions] and used those measures to establish the range of cost-effectiveness of specific measures. Instead, ARB should have established the range of cost-effectiveness before it chose its preferred measures."
3. "ARB failed to include direct emissions reduction measures from the agricultural sector without finding that existing technologies and policies already in use were not feasible or cost-effective. In relying on voluntary reductions, ARB fell short of AB 32's legislative mandate to facilitate maximum reductions."
4. "Although AB 32 allows ARB to include a market-based compliance mechanism in the Plan such as cap and trade, that mechanism is allowed only to the extent that it "facilitates the achievement of the maximum feasible and cost effective reductions of greenhouse gas emission by 2020." Therefore, ARB must determine whether the reductions from the cap and trade program will likely achieve reductions that are at least the equivalent to

<sup>12</sup> Citations omitted.

those that could be achieved through direct regulation.”
5. “ARB did not analyze the public health or environmental impacts of the voluntary or incentivized reductions.”
6. “ARB did not provide any evaluation of whether or not its decision not to mandate agricultural emissions reductions would disproportionately impact low-income communities, interfere with ambient air quality standards, or maximize other co-benefits. Without this evaluation, ARB cannot conclude that this is the best policy choice for AB 32 implementation.”
7. “ARB’s public health evaluation of its cap and trade and regulatory approaches was conclusory [asserted with no supporting evidence] and incomplete.”
8. “[ARB failed] to consider all relevant information regarding [greenhouse gas] emission reduction programs throughout the United States and the World, as required by AB 32, prior to recommending a cap and trade regulatory approach.”

**Table 10. Claims supporting the allegation that the process of creating and adopting the Scoping Plan violates procedures required by the California Environmental Quality Act, as summarized by Judge Goldsmith**

Claims supporting the allegation that the <i>process</i> of creating and adopting the Scoping Plan violates procedures required by the California Environmental Quality Act, as summarized by Judge Goldsmith (Anon 2011). <sup>13</sup>
1. “ARB improperly deferred analysis of the impacts of potential future biofuel production facilities, refineries and power plants... The FED <sup>14</sup> estimates that as a result of the proposed [Low Carbon Fuel Standard] identified in the Scoping Plan, 10-30 new biofuel production facilities will be built in California. The FED includes a map of current and proposed biofuel facilities in the state, and provides a general description of where potential future facilities might be located. ARB concluded that the “conversion of biomass feedstocks into energy can result in air quality impacts... [c]riteria and toxic pollutants, as well as greenhouse gas emissions, will need to be assessed for these facilities during the siting and permitting processes.” Petitioners argue that because ARB knows where these facilities will likely be located, a more detailed impacts analysis must be included in the Scoping Plan FED.”
2. “ARB’s discussion of cumulative impacts is overly broad, conclusory and contradictory. The FED states that overall, the Scoping Plan is expected to

<sup>13</sup> Citations omitted.

<sup>14</sup> FED stands for “Functional Equivalent Document.” The FED summarizes the Air Resources Board’s assessment of the environmental impact of the Scoping Plan in place of an Environmental Impact Report.



<p>“substantially improve air quality.” Petitioners argue that this conclusion is unsupported by facts or data and is contradicted by evidence in the record that some of the Scoping Plan’s proposed measures may actually cause localized pollution hotspots.”</p>
<p>3. “ARB’s discussion of alternatives is unsupported by facts or data and therefore gives the public no indication as to why ARB chose the Scoping Plan over the other alternatives.”</p>
<p>4. “ARB improperly approved and began implementing the Scoping Plan prior to completing its obligation to review and respond to public comments.”</p>

Shortly after the environmental justice activists filed their suit, the Environmental Defense Fund asked the court for permission to intervene in the case on the side of the Air Resources Board. After they began formal legal action to oppose the environmental justice advocates’ lawsuit, relations between the two groups quickly became chilly (Newell 2011). EDF is a staunch supporter of market-based environmentalism in general, and cap-and-trade in particular. They made a name for themselves through early adoption of a collaborative approach with business that they call “Third Wave Environmentalism.” Longtime executive Director Fred Krupp first described this approach in print, fittingly, in the logging industry’s trade journal *Pulp and Paper* (Krupp and Horn 2008; Krupp 1994; Ruta 2010).

The judge who heard the case did not allow the Environmental Defense Fund to intervene in the law suit in support of the Air Resources Board, but did later allow them to participate as an *amicus curiae*, or “friend of the court.” This gave the Environmental Defense Fund the ability to participate in the court case by offering information relevant to the case, but not the right to actually join the case as a directly affected party. Unlike EDF, the Natural Resources Defense Council, another key

organization in the passage of AB 32, did not try to intervene in the suit against the environmental justice advocates. However, they continued to support the inclusion of cap-and-trade within the Scoping Plan (Eberhard 2011).

Alice Kaswan describes this lawsuit, the administrative civil rights complaint described later in this essay, and one other lawsuit filed against CARB by environmentalists as follows:

The lawsuits were intensely controversial, not only to the state regulators struggling to launch the nation's most comprehensive and far-reaching climate change program, but to the mainstream environmental community who believed that the lawsuits would frustrate sorely needed and hard-fought progress in climate regulation. The lawsuits could have two possible legacies: greater division and resentment between mainstream environmental and environmental justice constituencies, or—whatever the perceived merits and drawbacks to the decision to sue—a greater and broader awareness of the environmental justice community's substantive concerns. (2014:2)

While environmental justice groups were suing the Air Resources Board over some parts of the Scoping Plan, they were simultaneously participating in a successful campaign to protect the Global Warming Solutions Act in the 2010 elections by defeating Proposition 23. If passed by voters, this proposition would have suspended the enactment of the new law until state unemployment levels dropped below 5.5% for four consecutive quarters. The fact that unemployment has dropped to below 5.5% only three times since 1976 (Legislative Analyst's Office 2010), and that the proposition's two largest funders were oil companies, led to a widespread belief among environmental justice advocates and others that the proposition was less about protecting jobs than it was about thwarting California's effort to slow climate change (Roosevelt 2010b).

In the trial court, Judge Goldsmith eventually ruled against the environmental justice advocates' claims that the plan developed by the Air Resources Board violates the intent of the original Global Warming Solutions Act.<sup>15</sup> He decided that the Legislature intended the Air Resources Board to draw on its own expertise to interpret the Global Warming Solutions Act. Therefore, in weighing the allegation that the Air Resource Board improperly interpreted the law, Judge Goldsmith applied the standard of judicial deference to agency rulemaking. In order to overrule the Air Resources Board's interpretation, the court ruled that it would have had to find their decision-making process not merely flawed but "arbitrary, capricious or without reasonable or rational basis," which it did not do.

In responding to the individual allegations detailed by the environmental justice groups, the judge repeatedly stressed this deference. For example, he writes "Given the latitude of ARB's quasi-legislative powers, it is within its discretion, right or wrong, in interpreting AB 32, to choose cap-and-trade as the primary methodology." And in sum, "While there may be flaws in [ARB's] analyses, Petitioners fall short of demonstrating that ARB was arbitrary and capricious." The Court that heard the subsequent appeal filed by environmental justice advocates upheld this decision, writing, "It is not for the court to reweigh the conflicting views

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<sup>15</sup> However, he did write in support of one of their claims in this section of the case. While assessing the claim that the Air Resources Board did not evaluate the potential health effects of their proposed plan for the agricultural sector, and in response to the Air Resource's Board's assertion that they did, Judge Goldsmith writes, "an examination of the Agricultural Working Group's document "The Agriculture Sector Summary and Analysis" reveals that the health evaluation merely consists of two sentences... In the analysis of voluntary and incentivized measures for the agricultural sector, the record does not demonstrate that ARB used the best available models as required by AB 32" (Anon 2011) (Citations omitted). However, he then does not refer to this point again, nor require the problem to be remedied.

and opinions that were expressed on these complex issues, which in the end are largely matters of judgment in all events” (Anon 2012a:17).

However, Judge Goldsmith did rule in the environmental justice advocates’ favor on one of their arguments that the Air Resources Board did not follow the procedures required by the California Environmental Quality Act in creating the Scoping Plan. He writes,

The Scoping Plan fails to provide meaningful information or discussion about the carbon fee (or carbon tax) alternative in the scant two paragraphs devoted to this important alternative. The brief fifteen-line reference to the carbon fee alternative consists almost entirely of bare conclusions justifying the cap and trade decision... ARB seeks to create a *fait accompli* by premature establishment of a cap and trade program before alternatives can be exposed to public comment and properly evaluated by ARB itself. (Anon 2011:31–32)<sup>16</sup>

This ruling placed a temporary halt on the implementation of all aspects of AB 32, which caused consternation amongst much of the broader environmental community. With the support of environmental justice activists that brought the suit, the court later allowed the Air Resources Board to continue to move toward implementing everything in the Scoping Plan except the cap-and-trade mechanism. Kaswan writes that:

At the time, the environmental justice groups who had brought suit hoped that the Court’s ruling would create a window of opportunity for the newly-elected Governor, Jerry Brown, to re-think ARB’s commitment to cap-and-trade and change course toward more direct regulation or a carbon tax. In July 2011, forty-one organizations from California, the U.S., and other countries signed a letter to Governor Brown requesting that he “rescue the California Global Warming Solutions Act of 2006 (AB 32) from the uncritical trust in markets that characterized [former Governor] Arnold Schwarzenegger’s approach to

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<sup>16</sup> Citations omitted

addressing climate change.” (2014:14)

However, this proved not to be the case. After ARB appealed the Superior Court’s decision, the Court of Appeals quickly ruled that the cap-and-trade program could also continue to move forward while the Air Resources Board added to the Scoping Plan the necessary analysis about alternatives to cap-and-trade. The Air Resources Board later added the required analysis to the Scoping Plan that Judge Goldsmith had found lacking, without changing their final decision to pursue a cap-and-trade program. As one activist put it,

We were not very successful, basically because it was -- we didn't recognize that it was primarily a political engagement that the governor had in mind. He wanted a market-driven program. He was going to get a market-driven program. He replaced people in ARB to get the folks that were going to support that. And we focused more -- we were kind of naively focused on -- we're just going to bring up good recommendations, technical recommendations. We can show that this is doable. And we should have understood, I think, from the beginning that this was a political project, that if we could have the best ideas in the world without the political means to back it up, we weren't going to get anywhere. But we didn't recognize that ‘til it was too late. So, basically, except for a few recommendations that got included, we got our ass handed to us. So, the final Scoping Plan did not include a significant number of the recommendations that we particularly wanted.

See Table 11 for an overview of the lawsuit.

**Table 11. Lawsuit Timeline**

<b>Date</b>	<b>Court</b>	<b>Event</b>
June 2009	Superior Court of San Francisco County	Environmental justice (EJ) groups sue California Air Resources Board (CARB)
August 2009		Environmental Defense Fund (EDF) attempts to intervene in suit.
September 2009		CARB files paperwork expressing non-opposition to EDF motion to intervene. Environmental justice groups file paperwork expressing opposition to

		EDF's motion to intervene.
October 2009		Court denies EDF's petition to become an intervener.
July 2010		EDF petitions to participate in case as an amicus curiae.
August 2010		EJ groups oppose EDF petition to participate in case as an amicus curiae.
August 2010		Court accepts EDF as amicus curiae
January 2011		Court arrives at tentative statement of decision in favor of the part of the lawsuit arguing that CARB did not appropriately consider alternatives to cap-and-trade.
March 2011		Statement of final decision.
May 2011		Judgment filed, CARB ordered to stop work on implementing AB 32
May 2011		CARB appeals judgment
June 2011	Court of Appeal	Lower court's decision is stayed, pending appeal. (Appellate court rules CARB can proceed with cap-and-trade while Supreme Court decides whether they adequately considered alternatives to cap-and-trade)
July 2011	Superior Court of San Francisco County	EJ advocates cross-appeal lower court decision.
August 2011		CARB approves revised analysis to continue with cap-and-trade
February 2012	Court of Appeal	EDF approved as an amicus curiae (on behalf of CARB), Bay Area Council approved as an amicus curiae as well (on behalf of EJ groups)
June 2012		Court finds for CARB, against EJ advocates

While this lawsuit was making its ultimately unsuccessful way through the courts between 2009 and 2012, environmental justice activists continued their work on AB 32 through other means. As described below, they were joined in their work

by the addition of two new sets of actors during this time: Latin American indigenous groups, and a second Environmental Justice Advisory Committee.

### **International Offsets and REDD**

In late 2010, another policy addition to California's emissions restriction plan brought groups from abroad into the fray as well. Just before the end of his term, Governor Arnold Schwarzenegger signed the first ever sub-national, state-to-state memorandum of understanding with Chiapas, Mexico and Acre, Brazil that, if put into practice, will allow California carbon emitters to continue to emit carbon locally through the purchase of offsets abroad (Roosevelt 2010a; Schwarzenegger, Marques de Almeida Júnior, and Guerrero 2010). There are signs of concern from indigenous communities in Chiapas and Acre that the agreement, as part of a larger global project to monetize the functions of natural habitats through what are often known as payment for ecosystem services programs, will result in the loss of land for the people who currently live in those natural habitats (Assentamento de Produção Agro-Extrativista Limoeiro-Floresta Pública do Antimary et al. 2011; Conant 2011a; Conselho Indigenista Missionário Regional Acre 2012; Council of Traditional Indigenous Doctors and Midwives from Chiapas 2011; Sanchez 2012). Early reports from the field are contradictory about the degree to which the anticipated offsets, which have not yet been formally implemented in California, are already impacting communities in Chiapas (Conant 2011b). At the time of this writing, offsets in this program will be limited to 8% of California's overall emissions.

In July of 2012, over 30 California groups wrote a letter to Governor Brown opposing the carbon offsets plan, including several environmental justice organizations. In October of 2012, Friends of the Earth and the Indigenous Environmental Network brought a delegation of indigenous leaders from Acre, Brazil, Chiapas, Mexico, and Ecuador to California to speak out against offsets generally and the memorandum of understanding.

### **The Environmental Justice Advisory Committee, Round 2**

The Environmental Justice Advisory Committee was never formally ended by the Air Resources Board, nor did its members have fixed terms of service. Nonetheless, the committee stopped meeting shortly after many of their members lost faith in the efficacy of the advisory committee and many decided to sue the Air Resources Board instead. However, the language of AB 32 requires that the Environmental Justice Advisory Committee advise the Air Resources Board on the updates to its Scoping Plan that happen every five years.

Accordingly, ARB sent out a request for environmental justice representatives to join the Environmental Justice Advisory Committee to advise the agency on the development of the 2013 Scoping Plan Update. The new committee met during 2013 and 2014.



After the committee’s first experience with ARB ended badly, few of the original members signed up to be on the committee for a second time. Indeed, several activists noted that the first committee was never officially disbanded:

They were never dissolved, okay? The board didn’t meet; there was no point in us meeting. [CARB] had decided what they were going to do; we had litigated against them. And they were moving forward. Basically, they created their cap-and-trade program, and then they were going to redo part of the scoping plan. And all of the sudden, here’s the thing that says, “We’re going to reinstitute the board.” Well, you never dissolved the old board. So they basically fired all of us, illegally, right? Because they didn’t like the outcome, because we were basically butting heads. So it was just like, wow, that just goes to show. I went to the legislature and they’re like, “Yeah, they’re nuts, man. Is it worth the fight?” I’m like, “Nah. It’s not worth the fight.” So that’s how it goes down.

The second committee therefore included a broader array of organizational representatives, not all from groups that older environmental justice organizations saw as environmental justice organizations. In particular, the organizations End Oil, Urban ReLeaf, San Diego Housing Federation, and the Greenlining Institute were seen as groups that weren’t necessarily “environmental justice” organizations. See a comparison of the participants in the first and second Environmental Justice Advisory Committees in Table 12.

**Table 12. Members of the Environmental Justice Advisory Committee to the California Air Resources Board, Rounds 1 and 2**

<b>Round 1: 2007-2010</b>			<b>Round 2: 2013-2014</b>		
<b>Name</b>	<b>Organization</b>	<b>Region</b>	<b>Name</b>	<b>Organization</b>	<b>Region</b>
Angela Johnson-Meszaros (co-chair)	Physicians for Social Responsibility	Los Angeles	Gisele Fong	End Oil	Los Angeles
Jane	California	Los	Luis	Comite Civico	Imperial

Williams (co-chair)	Communities Against Toxics	Angeles	Olmedo	Del Valle	Valley
Martha Dina Arguello	Physicians for Social Responsibility	Los Angeles	Martha Dina Arguello	Physicians for Social Responsibility	Los Angeles
Tom Frantz	Association of Irrigated Residents	Central Valley	Tom Frantz	Association of Irrigated Residents	Central Valley
Jose Carmona	Clean Power Campaign	Central Valley	Kevin Hamilton	Clinica Sierra Vista	Central Valley
Avinash Kar	Center on Race, Poverty and the Environment	Central Valley	Rey León	Valley LEAP	Central Valley
Chione Flegal	Latino Issues Forum	Bay Area	Kemba Shakur	Urban Releaf	Bay Area
Henry Clark	West County Toxics Coalition	Bay Area	Mari Rose Taruc	Asian Pacific Environmental Network	Bay Area
Bill Gallegos	Communities for a Better Environment	Bay Area/Los Angeles	Monica Wilson	Global Alliance for Incinerator Alternatives	Bay Area
Diane Takvorian	Environmental Health Coalition	San Diego	Nicole Capretz*	Environmental Health Coalition	San Diego
			Susan Riggs*	San Diego Housing Federation	San Diego
			Ryan Briscoe Young*	The Greenlining Institute	Bay Area
Jesse Marquez (alternate)	Coalition for a Safe Environment	Los Angeles	no alternates		
Shabaka Heru (alternate)	Society for Positive Action	Los Angeles	no alternates		
Azibuike Akaba (alternate)	Latino Issues Forum	Bay Area	no alternates		
Erica	Greenaction	Bay Area,	no		

Swinney (alternate)	for Health and Environmental Justice	Central Valley	alternates		
Phillip Huang (alternate)	Communities for a Better Environment	Bay Area/Los Angeles	no alternates		
Carolina Simunovic (alternate)	Fresno Metro Ministries	Central Valley	no alternates		
Rosenda Mataka (alternate)	Greyson Neighborhood Council	Central Valley	no alternates		
Margaret Gordon (alternate)	West Oakland Indicators Project	Bay Area			
Caroline Farrell (alternate)	Center on Race, Poverty and the Environment,	Central Valley	no alternates		
Marlene Grossman (alternate)	Pacoima Beautiful	Los Angeles	no alternates		
Laura Hunter (alternate)	Environmental Health Coalition	San Diego	no alternates		

The early defeats suffered by the first committee, combined with a new population of committee representatives and the hiring of a professional facilitator to guide the process led to a markedly different experience. Where the relationship between the first committee and the Air Resources Board was frequently marked by tension and disagreement, the second environmental justice advisory committee experienced a more amicable relationship with CARB staff and representatives. For example, the Air Resources Board staff and the environmental justice committee members went out to dinner at the end of the second round of committee meetings. As one activist who participated in both rounds of the committee observed, “That

would never have happened during the first round.” Similarly, the evaluation of the committee’s experience during the second round conducted by the UC Davis Extension Collaboration Center notes that “Both ARB staff and EJAC members were respectful and went out of the way to not repeat the experiences of the previous EJAC; everyone worked together and not everyone had to agree, which was fine” (Zagofsky 2014:2). Other comments in the evaluation include the following:

Very different from initial concerns that the process would be contentious and not meaningful based on the experiences of the previous EJAC. Unfortunate that there was considerably less public interest in the EJAC this past year based on the outcome of the previous EJAC. (Zagofsky 2014)

Very positive experience; many Committee members said they would like to continue to serve and would recommend others to serve on the EJAC. One Committee member said he/she felt honored to be a part of EJAC and had never worked on a committee where staff was so welcoming, helpful, and responsive. (Zagofsky 2014)

EJAC members felt supported by ARB staff. There was no lack of support or interest in getting EJAC members’ questions answers (at meetings and on calls). ARB really listened, asked what Committee members meant, everyone tried to pay attention to each other. ARB staff was always available to talk and help EJAC members learn, also responsive to Committee feedback which was very good to see. ARB team was very respectful, inclusive, patient, generally positive, honest, and incredibly responsive. (Zagofsky 2014)

### **Accessing Cap-and-Trade Revenues**

At the same time that many environmental justice activists were opposing cap-and-trade, others were beginning to think about how to get access to the revenues that cap-and-trade would create if it became the law of the land. One activist describes the process as follows:

[He] had this idea that since cap-and-trade was going to happen, that Coalition for Clean Air should work to make sure that money that was generated from

cap-and-trade, which was obvious was going to be billions of dollars, that some, at least minimal amount of that money should be committed to environmental justice communities, to be invested in those communities, to help those communities deal with their environmental justice problems. Well, there are two things you have to think about in this. One is the policy and two is the process.

My biggest problem with it, and I had a huge problem with it, was the process by which Coalition for Clean Air decided to move forward with this proposal, because it was being done in the context of an ongoing battle of whether or not there would be a cap-and-trade program. And environmental justice advocates don't like cap-and-trade for a lot of different reasons, but mostly because you don't have environmental justice protection built into cap-and-trade. So, the trading can happen, and EJ communities could be worse off. So, the EJ groups were very much involved in a really heated and ultimately unsuccessful battle to stop this cap-and-trade program from being established in the first place. And Coalition for Clean Air decided to start working on this policy of making sure that cap-and-trade revenue would be spent in EJ communities without coordinating well with those environmental justice organizations.

And what happened is, it gives [agency] people something that point to it and says, "Oh, well, we'll take care of you with this..." The policy is a good policy, but it shouldn't have been proposed at a time where the whole idea of cap-and-trade was still a little bit iffy. The organization should've worked more closely with the environmental justice allies that were involved in it, so it was better coordinated... Now there's going to be hundreds of millions of dollars spent in environmental justice communities as a result of the success of the policy. But it's a little tainted in terms of... it was a very difficult process, and relationships were really strained over it. And I'm hoping that this all works out successfully in the end. The chances of cap-and-trade going away at this stage are pretty slim. But the concerns of environmental justice still exist.

Ultimately, the bill that was passed in 2010 (SB 535) requires the California Environmental Protection Agency to identify disadvantaged communities in which to invest a portion of the revenues created by the cap-and-trade system. 25% of the funds in the Greenhouse Gas Reduction Fund will be invested in projects that benefit disadvantaged communities, directly or indirectly. 10% of the moneys in the Greenhouse Gas Reduction Fund must be spent on projects physically located within

disadvantaged communities. Although some traditional environmental justice organizations supported the bill, others opposed and many remained ambivalent.

### **Administrative Complaint**

After losing the lawsuit against CARB, environmental justice activists filed a civil rights complaint about AB 32 in 2012, but their complaint was quickly dismissed. The EPA found that the complaint was not yet “ripe” for review as it addressed the possibility of future racialized air pollution outcomes resulting from cap-and-trade that had not yet happened. The groups that filed the complaint were critical of the application of this legal standard, for, among other reasons, requiring communities to wait until after “the ax falls” before trying to remedy the problem instead of taking preventative action (California Rural Legal Assistance Foundation et al 2013:17). Advocates challenged the dismissal of the complaint unsuccessfully.

**Table 13. Timeline of Key Events**

<b>Date</b>	<b>Event</b>
2006	Assembly Bill 32 Signed by Governor Schwarzenegger
2007-2010	Environmental Justice Advisory Committee meets to advise Air Resource Board on AB 32 Scoping Plan
Dec. 2008	CARB approves Scoping Plan with cap-and-trade
June 2009	Environmental justice activists sue CARB
2010	California Voters Defeat Proposition 23
2010	Assembly Bill 1405 vetoed by Governor Schwarzenegger
Sept. 2010	Senate Bill 535 signed by Governor Brown
Dec. 2010	Gov. Schwarzenegger signs memorandum of understanding to create carbon offsets system between California, and the states of Chiapas, Mexico and Acre, Brazil
Jan. 2011	Governor Brown takes office
May 2011	Court halts implementation of AB 32
June 2011	Appeals court allows implementation of AB 32 to continue, pending

	outcome of appeal.
January 2012	Cap-and-trade program begins.
June 2012	Appeals court finds against EJ groups
June 2012	Environmental justice advocates file civil rights complaint with the US EPA
July 2012	Civil Rights complaint dismissed by US EPA
November 2012	First auction of greenhouse gas allowances
2013	Greenhouse gas emissions caps begin to be enforceable
2013-2014	Environmental Justice Advisory Committee Reconvenes to advise CARB on the first five year update to AB 32 Scoping Plan

### **The AB 32 Campaign and Contemporary Environmental Justice Activism**

This section analyzes the engagement of California environmental justice activists with the California Global Warming Solutions Act of 2006 through the broader trends described in chapter 2.

### **Government Advisory Committees and Oppositional Tactics**

As noted in Chapter 2, the Environmental Justice Advisory Committee described in this chapter is just one of many similar bodies operating throughout the state. Environmental justice activists use these committees to gain better access to the state in the hope that if agencies have improved understanding of their concerns, their regulatory outcomes will be more favorable. However, this is not always the case. The first Environmental Justice Advisory Committee to AB 32 failed bitterly. The second one operated in a more collaborative space, but their influence on the Air Resources Board was small.

This change in the tone between the first and second versions of the

Environmental Justice Advisory Committee is due to several factors. Most importantly, the second advisory committee was made up of different people, and different kinds of people, than the first. The first advisory committee was made up of long-time environmental justice leaders who pursued a hard line against the Air Resources Board, buoyed by their recent legislative successes in getting environmental justice interests into the language of AB 32. As Kaswan puts it, “The explicit attention to environmental justice considerations throughout the statute undoubtedly created expectations within the environmental justice community that their concerns would play a key role in the statute’s implementation” (2014:5). When participants in the first advisory committee were alienated by the process to the extent that they stopped meeting and sued the agency they were “advising,” many of them understandably chose not to engage in a second round of work with the same committee. For example, one observer describes the first round of the advisory committee as follows:

Luke [Cole] used to say that getting community members at the table would change outcomes. He would say, “If you’re not at the table, you’re on the menu.” But what I’ve seen in actual practice, with the NEJAC, the EPA Advisory Committee, or the AB 32 Environmental Justice Advisory Committee, is that the community gets a seat at the table, or they’re represented there. They got a seat at the table, but they were still on the menu. The menu didn’t change, despite them being there. And the frustration and anger that those members had about what it was like to be on the AB 32 Advisory Committee... It was a great case study on why being at the table not only doesn’t help you, but it sucks your time and energy. And you end up with nothing... It would be my view that these advisory committees really are just a waste of time.



In spite of their frustrations with the first committee, two people did participate in both, and a third organization was represented on both committees but changed the person who represented them. This means that of the 12 participants in the second committee, 75% of the organizations and 83% of the people participating in the committee were new. One person who participated in both committees described the decision to pursue the lawsuit among the members of the first environmental justice committee:

We were pretty united. Nothing like that could happen with the current committee. We would never be united enough to sue ARB. Most of them wouldn't want to. It was different this time around. It was a much less radical group in total. A lot of the people were there because they're concerned about housing, and planting trees... This time I was one of the most radical people on the committee, because the old guys were all gone, and the new group they got was pretty much mainstream environmentalism. It was not an environmental justice committee any longer. Because it wasn't made up of people who work on the ground with communities any longer, like it was the first time. So you're not environmental justice if you're not working with—hand in hand, side by side with people who fit the environmental justice community. You know, they're not representing people. They're representing ideas.

Skepticism with advisory committees is widely shared across the environmental justice community. As one observer comments,

The organizers with whom I've worked, and many of them elsewhere, say, "Advisory committees are a bunch of bunk. Don't go to anybody's meeting unless it's your agenda. And if it's not your agenda, make it your agenda." So there's a particular agitational component to that, which doesn't necessarily lead to one getting invited back.

But if the "agitational" types of participants don't get invited back, or choose not to participate, who does? Their absence creates a vacuum into which less confrontational participants step.

As reflected in the official evaluation, some of the EJAC participants seemed to feel that the less confrontational tone of the second round of meetings is in and of itself a good thing. But did the more amicable process lead to better outcomes for environmental justice communities? The evaluation leaves this unclear. The following language in the evaluation suggests that participants feel that the recommendations of the EJAC had an impact on the drafts of the 2013 Scoping Plan Update to AB 32:

Important difference from last EJAC was this time ARB responded to the recommendations and took them under consideration. EJAC members glad to see a shift in direction and language in the draft [sic] based on their input; would also like to see more changes. (Zagofsky 2014:2)

On the other hand, the following language suggests that the committee members are nonetheless unclear how much of an impact their work will have in the long run.

Process ended with a promise that the EJAC recommendations would be included, but EJAC needs to continue to meet – and not wait every 4-5 years – to answer key questions such as: Did we do what we said we were going to do? Are we creating unintended consequences? Are we achieving co-benefits for EJ communities? (Zagofsky 2014:2)

The nature of the recommendations made by the first and second EJACs shifted as well. As one observer describes the first set:

Those recommendations were outstanding. They would have made this the most farsighted, innovative effort to reduce greenhouse gas emissions with equity at the center in the whole country, it would have been amazing. And [ARB would] be farther along in achieving some of their goals, if they had taken some of our recommendations.

Another participant describes the second round of recommendations less glowingly:

Interviewee: We made recommendations, and they ended up being pretty generic. They ended up being so generic in some cases that ARB totally agrees with them. [Laughs] Which probably shouldn't happen, if you're a true environmental justice committee. But just to get them to move a little bit in that direction sometimes is worthwhile. And that was the reason I thought I would be on the committee again, just to try and get a few small changes.

Interviewer: So have you found in round two that any of your group's recommendations have been adopted?

Interviewee: Not the good recommendations.

This same participant reflects further on the process as follows:

Interviewee: We could have been more forceful if we'd had more people on there who wanted to be that way. As it was, we had a real cordial meeting with the staff all the time. On the last day, I said, "Unfortunately, I really feel your whole plan is fatally flawed." And they didn't want to hear that, but I had to tell them that. I mean, that's what I was thinking. I wasn't being belligerent about it.

Interviewer: The first environmental justice committee was more forceful, and it wasn't particularly any more effective...?

Interviewee: No, we may have actually been more effective this time, by making small gains. But we're not saving the planet, either. You know, we're not doing what's needed. That's the bottom line.

On the other hand, other committee members see long-term benefits to their participation, even when it seems not to be making a difference immediately.

The first step is getting it in there as policy, is getting it recognized as something that needs to be considered. And as frustrating as it is, ARB is actually now taking up some of the issues that we were concerned about in 2008. So they're looking at agriculture, they're looking at more industry regulation, they're looking at the effect of co-pollutants. Who knows what they're going to do with this stuff, or if we're going to like any of it. But they're at least beginning to take the things that we had talked about, and they're actually starting to look at them. So, there's always this delay. There is the time when we've talked about it, and the time when there's action. Our struggle is trying to get that delay to be less and less and less, until actually people are looking at this before they do their policy choices, that they're actually considering these kinds of impacts earlier, rather than after the fact.

Although environmental justice activists share a widespread skepticism about the value of advisory committees, many continue to participate in them nonetheless. So, what do they get out of their involvement when they have low expectations of being able to change the policies in question? In some cases advisory committees provide a movement-building mechanism where activists who work on different issues in different parts of the space can come together, meet and learn from one another. This appears to have been the case with the early work on AB 32:

What I witnessed is one of the things that brought a lot of folks together was AB32. When the bill was being designed, a fairly broad sector of the EJ movement engaged in that process, gave a lot of input to the governor's office, and actually I think strengthened the bill. It did seem to us like it did engage a broad cross-sector of the movement, and when the bill was passed and they created the AB32 advisory committee. Again, it brought a fairly decent cross section of the movement together. There were the members of the advisory committee and their alternates, but in those discussions about what we wanted to see, it engaged a much larger representation from the movement. So, that's one of the things that I've seen is that there was -- it was a specific focus. It wasn't an intentional "We have to build kind of an institution which brings us together." It was like "Well, AB32 was out there, so obviously we're going to have a fusion of that, so let's come together around that." And so, for several years folks worked together. Folks that ordinarily only worked together in kind of local issues or tactical issues, were working together to try to come up with a plan that was really going to benefit our communities and benefit mother earth.

In other cases, the advisory committees help activists learn the details of what is happening behind the scenes at relevant agencies.

In and of itself, government advisory committees typically have no direct power to influence legislation and its implementation through voting or creating binding agreements. Their power exists only in their powers of persuasion. One participant in both advisory committees to AB 32 underscores this point by noting the

process by which the second iteration of the committee was disbanded by the agency it was advising:

So this time, they said, “Okay, you’re done. We’re disbanding the committee. In five years, we’ll have another update.” And I said, “Wait a minute! You’re promising over the next few years to work on these different issues. I think we should meet at least once or twice a year to be updated on how things are going, and to give you more advice.” They didn’t say anything.

Advisory committee recommendations are just that, recommendations that the agency that they are advising has no obligation to adopt. So clearly, the power of these committees, to the extent that they have any, derives from elsewhere.

In the case of AB 32, some environmental justice activists’ original power came from their connection to Latino legislators representing swing-votes for the passage of AB 32, which was the reason there is an EJ committee at all. But after the legislation is passed and the bill goes into the implementation phase, these legislators no longer exert as much power. Rather, the agencies become the key actors, and EJ connections to legislators of color have less salience within the agencies. Similarly, EJ advocates have less legal and scientific capacity to operate effectively in the agency arena than their better-funded opponents in the polluting industries. Environmental justice advocates have long critiqued the kinds of expertise represented by the Air Resources Board that the courts deferred to in their lawsuit, and the EPA’s Office of Civil Rights has a long history of problems, in one case documented by a report they commissioned themselves (Deloitte Consulting 2011). As the appellate court in this case writes, AB 32’s directives are,

exceptionally broad and open-ended. They leave virtually all decisions to the

discretion of the [Air Resources] Board, from determining the nature of a scoping plan, to determining the best available research techniques, to determining incentives for emissions reduction that are “necessary and desirable,” to weighing economic, environmental and public health benefits, to determining what is most “feasible and cost-effective.” (Anon 2012a:8–9)

Or, as Bigger writes, “AB 32, only 13 pages long, allowed significant discretion in implementation. In contrast, the [national] Waxman-Markey climate bill in 2009 was over 1400 pages long and encompassed almost every consideration” (2014:4).

The courts’ deference to the Air Resources Board’s expertise is not unusual in California legal practice. However, it is noteworthy in the context of environmental justice advocacy, which has a long history of critiquing scientific and regulatory experts for not sufficiently attending to the problems of low-income communities of color. Environmental justice advocates are sensitive to forces with more political and economic power having the ability to manipulate research and regulation. They are also sensitive to the ways in which research and policy created by people who are not intimately familiar with the local context sometimes ignores questions that are important to them or misunderstands the local environment in ways that have significant results for research findings and policy outcomes (Corburn 2005; Minkler and Wallerstein 2011; Morello-Frosch et al. 2005; Oreskes and Conway 2010). The environmental justice slogan, “We Speak for Ourselves,” illustrates their effort to push back against the experts that would speak for them on a variety of issues and assert that the lived experience of people from polluted communities forms its own kind of expertise that must be incorporated into scientific and regulatory processes.

Therefore, advocates tend to pursue multi-pronged approaches to their campaigns that involve using existing science as well as cultivating relationships with researchers to pursue questions of interest to them. They also use explicitly political strategies such as voter registration and education, lobbying, community organizing, local community development projects and, infrequently, direct action. Lawsuits such as the one described here rely on their limited supply of legal experts who are able to sift through the policy details, scientific studies and analyses of existing cap-and-trade programs in order to understand how the law is likely to affect their constituents and, in turn, take legal action in response. In this case, the environmental justice advocates were able to mobilize their political allies in the legislature to influence the content of what became the Global Warming Solutions Act. However, once the action moved out of the legislative arena and into the arena of the experts at the Air Resources Board who had the power to interpret and implement the law, advocates' ability to influence the process diminished.

Nonetheless, some of the power of the EJ advisory board derives from their moral authority as self-appointed representatives of low-income communities and people of color. They also provide a place for sympathetic regulators to engage with these issues. And, sometimes, they provide a window into arcane bureaucratic processes to other movement actors. These are the sources of power that the EJ advisory committee brings to their work, which explains in part why their efforts were not met with more success. Other committees had better luck.

Consider, for example, the experience of the environmental justice advisory committee as compared to other stakeholders involved in the process of creating and implementing AB 32. Bigger theorizes the range of stakeholders involved in the AB 32 process as a “carbon community ... comprised by a tight-knit group of regulators and stakeholders who have muddled through the implementation of cap-and-trade in California, building relationships through late nights, tight deadlines, and endless meetings” (2014:5). However, environmental justice activists, despite making up one of only two advisory committees mandated by the language of AB 32 itself, fall largely outside of this carbon community. When Bigger writes that “The carbon community makes for strange bedfellows – it is not uncommon to see big oil representatives socializing with environmental lobbyists, asking after each other’s families, and arguing about where to have lunch,” (2014:5) he is referring to environmental lobbyists, not environmental justice lobbyists.<sup>17</sup>

Bigger also analyzes the role of financial actors in the creation of AB 32 in particular. Their efforts on the Economy and Allocation Advisory Committee had a much different outcome than that of the Environmental Justice Advisory Committee. As Bigger writes,

The committees of economists have enormous clout in shaping the central epistemic framework [of AB 32]. Their analyses are the most commented-upon documents of the market design process and the focus put on their work serves to make the language of neoclassical economics the lingua franca of California’s climate change policy... Financial actors are quite comfortable with this language and interact with regulators and other stakeholders using it. Morgan-Stanley Capital Group (MSCG) has been among the most active participants... In comments from the most intense period of rule making, most

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<sup>17</sup> Patrick Bigger, in-person communication, May 14, 2014.



of MSCG's recommendations for financial participation were eventually adopted, though its positions on power import accounting were not. There are clear traces of these interests in the way regulations are written, given the ability for finance to play a role in the market at all, and in shaping current regulatory thought on the importance of financial participation. (2014:7)

Clearly, part of the power of the committees Bigger describes comes from the fact that "Regulators cannot accomplish their mandate without the participation of financial capital" (Bigger 2014:15). Bigger writes that Dr. Cliff, "the man responsible for overseeing implementation of Assembly Bill 32" in his role as the Assistant Division Chief for Climate Programs at the California Air Resource Board, frequently tells members of the carbon community that "We couldn't have done it without you guys" (2014:1). Bigger agrees: "To achieve its regulatory goals [CARB] relied on non-regulatory actors to design, build and operate this new market" (2014:1). Again, environmental justice activists fall outside of the audience to whom he addresses these remarks. CARB may not be able to do without financial actors such as the Morgan-Stanley Capital group, but it can certainly accomplish its mandate, or at least its own interpretation of it, without the participation of environmental justice representatives.

### **Navigating Market-Based Environmental Governance**

Environmental justice activists have long had an anti-corporate ideology that makes their opposition to market-based governance, and cap-and-trade in particular, unsurprising. Indeed, the Principles of Environmental Justice formalized at the First National People of Color Environmental Leadership Summit of 1991 include as one of

their 17 key points the statement that “Environmental Justice opposes the destructive operations of multi-national corporations.” The timing of the emergence of environmental justice activism in the 1980s also led some to see it as an explicit alternative to the dominant market-based discourses of the time. As one interviewee described it,

The principles of EJ are so critical. “We speak for ourselves.” It's rooted in organizing and the folks that are most impacted. It said no to market-based mechanisms, that any alternative needed to envision something different. It really up-fronted the sovereignty, indigenous sovereignty in land and made the call for broader movement though, really looking at the integrated ways in which, you know, environment and economic justice and social justice in a very broad, encompassing view, where we lived, played and worked. It was trying to be holistic.

The power of EJ is in its vision. We went into the EJ Movement because in the late 80s, early 90s... Remember in 1989, there was the fall of the Soviet bloc. You had Margaret Thatcher saying, "There is no alternative." You had Reaganomics really going after "welfare queens," et cetera. You had the attack on the urban poor. So, where do you go when you want to talk about a fight for self-determination? You went to EJ Movement. The EJ Movement was putting race first. It talked about self-determination, it had a holistic view. It talked about not using market-based mechanisms, how to have an alternative. So to us the EJ Movement, in its vision, was broad and inspiring in a time that we really needed that as a Left and as a movement. To us, EJ was very radical. It was a very counter-hegemonic movement.

Environmental justice activists were widely opposed to cap-and-trade.

Nonetheless, engaging with climate change policy in California has led environmental justice activists to reconsider how much to engage with this market-based mechanism. Some advocates tried to find ways to direct the profits from greenhouse gas auctions back into their communities. A supporter of SB 535 describes her thought process as follows:

[The California Environmental Justice Alliance, or CEJA,] sponsored SB 535, which looked at AB 32 funds, which ended up being cap-and-trade funds, basically. Taking a percentage of those funds, and designating those funds for low-income communities - EJ communities. So CEJA engaged in that. We became sponsors of that bill. 1405, I think, was the original number when it was first introduced, and then when it got reintroduced, became SB535. So CEJA was in it when it was 1405. And the reason we engaged in that bill was because we felt like AB 32 is an important law in California, and the EJ groups that were part of CEJA worked really hard to make recommendations so that the state wouldn't mess it up in implementation, and to make sure that environmental justice communities were prioritized in the implementation of AB 32. We were in it to make sure that AB 32 got implemented correctly, and that some of those funds would get into EJ communities, and also so that the funds would stay revenue-neutral, meaning that it wouldn't be cap-and-trade money. And at some point, because of the policy process, the funds did purely become cap-and-trade funds. At that point CEJA decided to pull out of being a sponsor. We just felt too uncomfortable. There were a couple of lawsuits that CBE and CRPE had filed around cap-and-trade. So we felt like it was going against what we were standing for. And then at some point, last year, I think, we decided to re-engage again, because after a lot of conversation around: these funds are moving, and whether we like it or not, they're either going to get into EJ communities, or they're not. And if they do get into EJ communities, they can actually pay for all these things that we want. Like if we wanted Solar for All, and we wanted solar projects in low-income communities, people are constantly asking, "Where are you going to get the revenue, and the funds?" This could be a huge place to get that. So after a lot of conversation, we came to an agreement that CEJA should support the bill. APEN was leading that effort. They became a sponsor after CEJA decided not to. We decided to support APEN's leadership in this, and I think APEN also felt kind of alone, as the lone EJ voice in this, and not having any of the environmental justice groups' backs on this, we felt like we needed to support that work, and also fight for funds that could potentially be getting into low income communities. So that's a bill where we felt like we were in, and then we were out, and then we were in again.

As alluded to in this quote, efforts by some environmental justice activists to secure access to the profits of cap-and-trade were beginning while other environmental justice activists were still working to stop cap-and-trade. The resulting differences of opinion fragmented activism. One environmental justice activist

describes this approach as a band-aid solution that will pit groups against each other as they try to access the money:

Interviewee: The groups within the California Environmental Justice Alliance mostly support this idea of getting cap-and-trade money, and they basically want to use that money themselves, to do their programs. I don't think they're ever going to get much money, and I know they're going to be fighting for it, hard, even with each other, in the end. Because they're going to have to apply for that money, and they're going to have to write grants for it, and it's going to be everybody trying to get the same small crumbs from cap-and-trade. And personally, I just won't go there. Money's not the issue to solve environmental justice—it's putting a band-aid on environmental justice problems. It's like they say, "Yeah, we got \$100,000 now for south and west Fresno that we can use to help subsidize you buying electric cars, or hybrids, or something. Or insulating your homes." It won't be enough money to do much. It'll make a few jobs, and it'll be like a band-aid, yet the big companies will still keep polluting the air in those areas. Nothing will change, in terms of pollution. The few hybrid or electric cars they get, you would never notice it in terms of air pollution. Yet everybody would think that they're taking care of those communities.

I mean, we need a massive effort to take care of those communities! You need every car in those communities to be an electric car with a range of 150 miles. And then they need solar panels on every rooftop, and of course, every home needs insulation, and low water appliances, and fixtures, and all of that.

Interviewer: And you've still got the pollution from industry.

Interviewee: Yeah. You've still got to get rid of that, you know. So, I don't know. I just don't like band-aid approaches, where the polluters think they reluctantly did something because it's the right thing to do, maybe. Because in the end, I don't see that much change. What I do see is more and more stuff actually is coming up to the Valley to be dumped up here.

Other groups feel caught in the middle:

Interviewee: We're still in the middle of it. I don't think we know what to do. MTA just raised the fares last Thursday. They're not raising it for everyone. We were able to stop a part of it, but not stop the whole. It's just very complicated, because they're saying, "Well, maybe we can try to find funds out of the AB 32 fund." And they say "No REDDs." We have EJ folks on the advisory [committee]... a lot of folks. I'm not sure. It's a serious contradiction. What if they tie any of the monies we want in terms of funds for our communities to cap-and-trade?

Interviewer: Isn't that the whole point, that it would come out of cap-and-trade revenues?

Interviewee: But then it would tie us to the whole mechanism. To the REDDs, to the offsets. We're not super active in it. I think the cap-and-trade piece presented a big contradiction to us. You know, we're talking to [other groups], and I think... we don't know. CBE tried to stop it with the lawsuit and it didn't go through. We definitely supported the lawsuit. I don't know. We're in the middle of it.

Environmental justice activists' experience with AB 32 also underscores that neoliberal logics of governance that define value in economic terms make it easier to get partial "pollution mitigation" measures that have been monetized, than it is to get direct reductions in pollution.

### **Conflict Between Environmentalists and Environmental Justice Activists**

Environmentalists and environmental justice groups have made progress in building solidarity in the past few decades. But many of those advances are now being strained by the massive environmental threat that was not much on the public's radar in the beginning of either of these movements, but can now hardly be avoided: climate change.

In the effort to slow climate change, conflicts between social justice and environmentalism are most often discussed at the global scale. Low and middle-income countries often argue that they should not be held to the same level of greenhouse gas emission restrictions as wealthy countries, whose early industrialization meant they played a larger role in causing climate change. Low and middle-income countries also often argue that severe limits on greenhouse gas emissions would deprive them of the opportunity to go through the same industrialization processes that wealthier countries have already gone through, which

would, in turn, reduce the possibility for them to attain first world standards of living and health. Climate justice activists argue that some of the currently favored strategies to reduce climate change, such as placing large swaths of land in countries of the Global South into reserves in which human use is limited, may deprive indigenous communities of their traditional lands and result in widespread human rights abuses among the people already living there (International Council on Human Rights Policy 2008; International Human Rights Law Clinic, Miller Institute for Global Challenges and the Law, Center for Law and Global Justice 2009).

These conflicts also exist within the US, as Park's report "Everybody's Movement: Environmental Justice and Climate Change" (2009) details. One of the primary tensions identified is the tendency for environmentalists who work on climate change to focus on national and international scales, while environmental justice advocates who work on climate change target more local scales of action. Park argues that when environmentalists frame greenhouse gas emissions as a global problem and a global pollutant, they fail to link climate change to people's daily and local concerns, resulting in a missed opportunity to widen their political base.

Park offers two reasons why environmentalists should be making more effort to reach out to environmental justice advocates about climate change. First, the demographics of the United States are changing, and by 2042 the majority of its population are projected to be people of color. Given these demographic changes, reaching out to people of color is crucial for creating and sustaining effective climate change responses. Environmental justice advocates already work within communities

of color and are a logical bridge to reach them. Second, even within the current demographic makeup, climate change advocacy faces steep barriers within the United States. A large percent of the population does not believe climate change is real, and a broader base of support is desperately needed. Park argues that environmental justice advocates can help reach communities of color by linking climate change to more immediately felt issues such as transportation, public health, jobs and local pollution from industrial facilities.

In spite of these opportunities, Park details ongoing tensions between environmental groups and environmental justice groups that are similar to those first identified over twenty years ago in the early days of environmental justice advocacy:

Currently, climate change is not everybody's movement in the United States. While many people of color and low-income communities regard climate change and the environment as priorities, the climate change movement still remains highly homogenous by race and class and significantly by gender in its leadership... To many in the environmental justice movement, bringing up issues of race, class and power is like the burden of Sisyphus, the protagonist of the Greek myth who was forced to roll a boulder up a steep hill, only to have it roll down so he could roll it up again. There is immense frustration in raising the same issues and naming the same dynamics, over and over. At the same time, they are often maligned for being overly sensitive or stuck on this "race issue" in a dynamic similar to what other subordinated groups experience when they flag discrimination or disparate impact, intentional or not. (2009:8, 28)

Park describes tensions based on competition for funding; different scales of action; different preferences for inclusive or hierarchical decision-making; different socio-economic backgrounds, life experience and training; and charges by environmental justice advocates that the larger environmental groups are racist, condescending, and that they tokenize leaders who are women and/or people of color.

The Environmental Defense Fund's attempt to intervene in the suit in opposition to the environmental justice advocates reveals the continuing tensions among the environmentally-concerned about how best to slow climate change. Large, mainstream environmental organizations in the United States, with the partial exception of the Sierra Club, (Fimrite 2011; Magavern 2011), have largely supported a cap-and-trade approach to containing climate change, while environmental justice groups and other smaller environmental groups have been critical of it. In fact, at various points in the legal maneuvering surrounding the California Global Warming Solutions Act, environmental justice advocates found themselves at odds with an array of larger environmental groups including the Environmental Defense Fund, the Natural Resources Defense Council, the Union of Concerned Scientists and the Nature Conservancy (Anon 2012a). Press coverage tended to draw simple distinctions between environmentalists on one side of the conflict and environmental justice groups on the other. However, the environmental justice community in California is not alone in its opposition to cap-and-trade. The Sierra Club, Greenpeace, Friends of the Earth, Rainforest Action Network and the Center for Biological Diversity are several environmental groups among the many that have publicly called for cap-and-trade and international offsets to be reconsidered (Activist San Diego et al. 2012; Magavern 2011). This case shows that although the broad tensions between the environmental movement and the environmental justice movement remain, the borders between these two groups are increasingly murky, with "pro" and "anti" cap-and-trade groups both containing organizations that fit the "environmentalist" model



better than the “environmental justice” model.

The “pro” and “anti” cap-and-trade camps differ on a variety of questions about political strategy and the analysis of current events.<sup>18</sup> Opposition to the environmental justice lawsuit hinged on arguments that speak to the larger divides between environmentalists and environmental justice advocates, and between larger, politically mainstream environmental groups and their usually smaller, more radical counterparts. These are summarized in Table 14.

**Table 14. Arguments for and against the environmental justice lawsuit brought against the California Air Resources Board**

<b>Critiques of the lawsuit</b>	<b>Environmental Justice responses</b>
Cap-and-trade/offsets will not produce toxic hot spots	Cap-and-trade/offsets likely will produce toxic hot spots, but even if they do not, cap-and-trade deprives communities living near industrial sources of pollution from the air quality improvements that would accrue from direct regulation or carbon fees
Cap-and-trade, if done right, will reduce carbon emissions	Cap-and-trade is likely to be gamed and not reduce carbon emissions
Anything other than cap-and-trade is politically infeasible	Better options are possible and should be fought for
Carbon taxes will increase energy costs, which is bad for low-income people	Proper design of a carbon tax could compensate for higher energy prices
Compromise with industry is necessary to get things done	Too much compromise with industry gets something that benefits industry more than the public
Cap-and-trade in California can avoid	Cap-and-trade in California is likely to

<sup>18</sup> These broad groups differ not only in their political strategy and analysis of current events, but also in their funding. Environmental justice groups have historically received dramatically less funding than mainstream environmental groups (Brulle and Jenkins 2005; Dowie 2001). In the context of climate change, environmental justice groups and the other environmental groups that oppose cap -and -trade find it particularly difficult to fundraise for their activities, as the bulk of the large foundations support cap -and -trade and the associated offset schemes. See the “Open Letter of Concern to the International Donor Community about the Diversion of Existing Forest conservation and Development Funding to REDD+” for one articulation of what critics call the resulting “financial censorship” (The No REDD Platform and Rising Tide et al. 2011:3).

the problems it has had elsewhere	repeat the problems it has had elsewhere
Climate change legislation should be used to reduce carbon emissions, not air pollution	Climate change legislation should be used to achieve broad environmental benefits, and AB 32 specifically mandates a reduction of air pollution in addition to carbon
AB 32 does not need to address air pollution because other laws already cover that	Existing air pollution laws are inadequate safeguards for low-income communities of color
Only 20% of the overall greenhouse gas reductions will be achieved through cap-and-trade measures	The Scoping Plan plans cap-and-trade to be responsible for the vast majority of reductions among the industrial sources of greenhouse gas emissions that low-income communities of color live close to
Cap-and-trade is better than doing nothing	“Doing Something Dysfunctional Is Not Better than Doing Nothing At All” (Ejmmatters.org n.d.:5)

First, contrary to environmental justice activists beliefs, the Environmental Defense Fund and a number of other commenters claim that the Scoping Plan for the Global Warming Solutions Act will not exacerbate existing toxic hotspots as environmental justice advocates claim. However, researchers are divided on this point, both in relation to the projected effects of carbon trading itself and past experiences with other kinds of pollution trading.<sup>19</sup> Authors of a Natural Resources Defense Council issue paper write that implementation of AB 32 will reduce air

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<sup>19</sup> Corburn writes that during the first few years of the USA’s Acid Rain Program, emissions trading did not concentrate sulfur dioxide in low-income communities of color (Corburn 2001). In assessing the same program, Ringquist found similar results for communities that were largely Black or Latino, but found that poorly educated communities did experience increases of sulfur dioxide emissions (2011). Environmental justice advocates argue that the Acid Rain Program is not comparable to AB 32’s cap-and-trade plan (Ejmmatters.org n.d.; Environmental Justice Advisory Committee on the Implementation of the Global Warming Solutions Act of 2006 2008). Drury et al. write that the Los Angeles program to allow stationary source polluters to avoid cleaning up their emissions by purchasing credits created by the destruction of older vehicles resulted in increasing environmental inequality, and that the city’s urban smog-trading program (RECLAIM) may have (Drury et al. 1999). Lejano and Hirose suggest that RECLAIM increased air pollution levels in at least one low income community in Los Angeles (Lejano and Hirose 2005).

pollution in California (Bailey, Knowlton, and Rotkin-Ellman 2008). On the other hand, Roland-Holst (2009) predicts that the use of out-of-state or out-of-country offsets as part of AB 32 will result in increases in pollution levels experienced in California. The California Department of Public Health's health assessment of the cap-and-trade plan writes that some communities could theoretically suffer increases in local air pollution even as statewide pollution levels decrease (California Department of Public Health 2010), and Pastor et al. (2013) allow for a similar possibility. Overall, it is unclear exactly how pollution patterns will be affected by market-based policy solutions such as cap-and-trade in the future, but the fact that polluting industries and low-income people already often live in close proximity owes much to past and existing market forces (Cole and Foster 2001; Rechtschaffen et al. 2009). As the Environmental Justice Advisory Committee to AB 32 put it,

It is market-based decisions, within a framework of structural racism in planning and zoning decisions, that has created the disparate impact of pollution that exists today; relying on that same mechanism as the "solution" will only deepen the disparate impact. (Environmental Justice Advisory Committee on the Implementation of the Global Warming Solutions Act of 2006 2008:8)

Regardless, environmental justice advocates argue that cap-and-trade deprives communities living next to industrial polluters from the on-site pollution reductions that would result from direct regulation of greenhouse gases or the application of a carbon fee.

In addition to the cap-and-trade mechanism, implementation of AB 32's Low Carbon Fuel Standard may also result in localized pollution increases as new biofuel

plants are built that emit fewer greenhouse gases than other kinds of power plants, but nonetheless still emit other kinds of toxic pollution that add to the existing pollution levels of the communities near which they operate (Shonkoff et al. 2009). Judge Goldsmith noted that the Air Resources Board is aware of this: “ARB recognizes that while the cumulative impact of implementing the [Low Carbon Fuel Standard] measure may be to decrease emissions, there could be localized air quality impacts in areas where future natural gas generation facilities are sited” (Anon 2011:27). Environmental justice advocates are particularly concerned about the construction of new biorefineries in the Central Valley, which is already one of the most polluted air basins in the nation (Center on Race Poverty and the Environment 2011; Meszaros and Williams 2009).

These groups also differ on their analysis of the likely economic impact of cap-and-trade alternatives such as a carbon fee. Opponents claim that the resulting increases in the cost of energy would negatively impact the poor, who cannot afford higher energy prices. Proponents counter that cap-and-trade in the European Union also raised electricity prices and that the associated “green jobs” created in the process of manufacturing and installing solar panels and other renewable energy infrastructure would increase economic development and provide more employment for low income communities (Ejmmatters.org 2006). Also, the proper design of a carbon fee could reduce the burden of increased energy costs. For example, the increased fees charged for fossil fuel use could be paired with equivalent reductions in income tax, making the overall financial impact “revenue neutral” while

simultaneously reducing greenhouse gas emissions and associated air pollution.

Economists sometimes favor this approach as an example of a “Pigovian tax.”

Environmental justice advocates also sometimes argue that the investment in renewable energy technology and infrastructure that would accompany the increasing cost of fossil fuel use will drive economic development and job growth.

Second, commenters often argue that using climate change legislation in order to address air pollution is inappropriate. Dan Scopec represented this point of view succinctly during his tenure as the undersecretary for the California Environmental Protection Agency<sup>20</sup>:

[A] lot of people use the issue of global warming to tackle the problems that they've been working on for the last 10, 15, 20, 30 years, and I think that these problems are not necessarily related to global warming. I think that's a folly that we all have to be careful about... The challenge is so great that it should be the sole focus of this effort. Using the umbrella of global warming to satisfy other agendas is really going to distract from the solution and create inefficiency. So as we go forward, I hope that we can all focus in this effort on the problem of reducing greenhouse gases and not try to solve everyone else's unsolvable problems in other areas. (Anon 2007:42)

However, the language of the California Global Warming Solutions Act specifically calls for the process of reducing greenhouse gas emissions to “maximize cobenefits” such as reductions in air pollution.

Third, commenters also often write that cap-and-trade is the only politically feasible option. This kind of analysis often goes hand in hand with a belief that it is possible to address the concerns of the environmental justice community within a trade-based emissions reduction system:

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<sup>20</sup> Scopec held this position from 2006-2007. Now he is the vice president of regulatory and legislative affairs for San Diego Gas & Electric (SDG&E) and Southern California Gas Co.

The EJ groups also gloss over the specifics of carbon market design elements that could address their specific objections. Dislike giveaways? Well, CARB could auction 100% of permits. Dislike offsets? Ban 'em. What about inequality in the use of allowance value? A Cap & Dividend, or Carbon Share, approach addresses this directly. (Sandler 2011)

Others call for the creation of special funds created from the profits of carbon trading to be spent on projects in low-income communities of color such as those represented by environmental justice groups. However, the environmental justice advocates described in this paper do not favor this approach. As Hemphill (2012) writes, “Angela Johnson Meszaros, co-chair of CARB’s Environmental Justice Advisory Committee, quipped that she’d “rather have clean air than a gold-plated inhaler.””

For their part, the Environmental Defense Fund (EDF) makes a point of their general willingness to compromise with corporations. They made a name for themselves through early adoption of a collaborative approach with business that they call “Third Wave Environmentalism” (Krupp and Horn 2008; Krupp 1994; Ruta 2010). In their own words,

EDF... is more than willing to stand up to polluters – but it will also sit down with them if there’s a chance to make progress on key goals... They deal with the world as it is, not as they wish it to be. (Pooley 2011)

Though seen as a pragmatic approach by some within the environmental community, the Environmental Defense Fund’s approach has also inspired vehement criticism. In an article titled “Environmental Defense Fund: Stop Your Sell-Out to the Gas Industry,” the executive director of Food and Water Watch responds to the Environmental Defense Fund’s effort to promote a middle path between the interests

of anti-fracking activists and anti-regulation businesses. She writes that the

Environmental Defense Fund will be

swooping into states where there is a strong grassroots movement against fracking and shilling for the oil and gas industry. They will claim to represent environmentalists while they promote regulation that is so weak even the gas industry can live with it. Of course, everyone in the environmental movement knows that this is EDF's modus operandi. In fact, for years, public interest advocates have rolled their eyes and complained to one another in private about how EDF undercuts their work time and time again. But, everyone is afraid to speak out because they might upset funders, who are turned off by disagreements among environmentalists. Maybe it's time to redefine exactly what protecting the environment means. People are ready to fight for what they really want. They don't want to settle for some weak compromise that was negotiated without a strong fight. (Hauter 2012)

Like the Environmental Defense Fund, environmental justice advocates also recognize the need to attract more support for climate change legislation, but see victims of disproportionate pollution in low-income communities of color as a logical place to draw support for climate change legislation (Park 2009), as opposed to partnering with polluters.

Cap-and-trade supporters also often argue that the problems associated with this approach in other places (see, for example, Anon 2012a, Anon 2012b; Hood 2010 and McAllister 2009), can be avoided in California through design improvements. Environmental justice advocates and their allies point to these prior problems as examples of what is likely to happen again in California as industries unwilling to be regulated assert their power. Cap-and-trade proponents sometimes also argue that AB 32 does not need to address air pollution, as existing laws such as the Clean Air Act already cover that problem. In response, environmental justice advocates point to the existing disproportionate burden of air pollution in low-income communities of color

to argue that existing air pollution laws are inadequate safeguards for their constituents. Specifically, they note that the Clean Air Act regulates industries facility by facility without adequately addressing the cumulative impact of air pollution felt by the communities that live near multiple facilities.

Finally, some critics of the environmental justice lawsuit point out that the cap-and-trade plan that is at the heart of the suit will only be responsible for 20% of the Scoping Plan's overall reductions to greenhouse gas emissions. The implication is that since 80% of the reductions will come from other mechanisms, the focus on the cap-and-trade mechanism is overstated. However, the cap-and-trade mechanism is the primary part of the Scoping Plan that will control greenhouse gas emissions from industrial sources, as a staff member of the Legislative Analyst's Office writes:

At 23 percent of the state's total estimated [greenhouse gas] emissions, the industrial sector – including power plants, refineries, and cement plants – is the third largest producer of [greenhouse gas] emissions. Since industrial facilities generally also have significant emissions of other types of air pollutants, such as oxides of nitrogen (NO<sub>x</sub>) and particulate matter, measures designed to reduce [greenhouse gas] emissions from these facilities may also serve to reduce these other pollutants and provide immediate public health benefits. Yet, currently, less than 1 percent of 2020 [greenhouse gas] emission reductions in the Scoping Plan are intended to come from direct command-and-control regulation of the industrial sectors. In short, as planned under the current Scoping Plan, the industrial sector's contribution to emission reductions is to come almost entirely through its compliance obligations under cap-and-trade. (M. Taylor 2011:10)

Environmental justice activists live disproportionately near industrial facilities. Accordingly, any regulation that affects greenhouse gas emissions at these industrial facilities, and therefore their creation of other kinds of air pollutants as well, matters a great deal to them. Also, the Environmental Justice Advisory



Committee to AB 32 wrote that the cap-and-trade plan could grow beyond accounting for only 20% of the reductions in greenhouse gas emissions:

The Committee is deeply concerned that the Draft Scoping plan has presented a list of measures with estimated reductions that total exactly equal to the amount of reductions needed to meet the 2020 goal – with 35 MMTCO<sub>2</sub>E reductions, the largest “measure” in the plan, attributed to a free-trade international “cap-and-trade” scheme. Staff has been clear in discussions when we have raised the issues, that should any of the other measures fail to reach predicted goals, those emissions will be ‘made up’ by the “cap-and-trade” scheme. (2008:16)

Reform-oriented organizations each choose their own way to try to achieve their goals. For some this means partnering with more powerful entities while compromising some of their goals; for others this means trying to pull together enough popular power to force more powerful entities to change course. As Park writes, the urgency of climate change brings these differences in approach to the fore:

The time pressure of climate change can exacerbate the power dynamics within progressive movements. Environmental justice organizations often lack the staffing and access to information and networks that larger nonprofits take for granted. Urgency also privileges an action orientation that can come at the expense of building longer-term sustainable partnerships, particularly among groups who are not familiar with each other and who bring different perspectives to potential collaborations. (2009:19)

Some also believe that “large, powerful organizations can use immediacy as an excuse to avoid building strong links with grassroots movements” (Park 2009:19). As ron davis [sic] points out, “We have to take the time to do it right or we will hurry up and do it wrong” (Park 2009:19).

While mainstream environmental groups are often wary of partnering with environmental justice groups, if they consider them at all, environmental justice

advocates have their own reservations about collaborating with mainstream environmental groups. One environmental justice advocate involved in the AB 32 struggle described here puts it bluntly: “Usually in this type of arrangement when mainstream environmental and environmental justice groups collaborate on a single issue, we get “screwed”” (Sze et al. 2009:183).

### **Conflict Between Environmental Justice Activists**

In addition to tensions among a broad array of environmental groups over how to best tackle climate change, tensions within and among environmental justice groups exist as well. In some ways these internal tensions mirror the original critiques that environmental justice activists made of the “Group of Ten” environmental organizations in the early 1990s. Among other things, environmental justice activists were critical of their inside-the-Beltway lobbying and middle-of-the-road policies.

The compromises required in the policy process around the California Global Warming Solutions Act served to fragment environmental justice activists. The interviewee below observes that the early legislative and advisory committee work around AB 32 served to help unite environmental justice activists, but then a series of losses and differences of opinion on how to best proceed eroded that sense of solidarity.

Those recommendations were outstanding. They would have made this the most farsighted, innovative effort to reduce greenhouse gas emissions with equity at the center in the whole country, it would have been amazing. And they'd be farther along in achieving some of their goals, if they had taken some of our recommendations. After that a number of things happened.

People were demoralized. It was the end of [the 2008] recession, everybody is scrambling to make sure that they just kept their doors open. There were efforts to kind of regroup the folks around AB32. We made several efforts to kind of get people together and we couldn't do it. You couldn't blame them. I'm not critical of them at all. I'm just saying that's where the movement was at. So, in the meantime CEJA developed, and that's of the six base building organizations, with this specific idea of bringing our resources together to really carve out a community voice and statewide policy in order to have some resources, a social force behind it, our networks, our experience. So, that happened during this period and CEJA started to assert itself on a statewide level in 2009-2010, but pretty much the movement fragmented. Fragmented is the word.

We weren't coming together. [One group] was doing this thing, and [other people] were doing their thing. Folks that are doing work around water, folks that were doing work around ag, everybody doing good stuff, but no communication, there's no cooperation. We'd go to Sacramento and see each other, "Oh, what are you doing up there?" We didn't know, which was not a good thing. That's just where things were. And the movement hasn't quite regrouped since then from my perspective, the California EJ movement. They're still pretty fragmented. So, the California movement, it's looked to a lot as a movement that achieved a lot. And taken together we're pretty strong. But I think people don't realize just still how disjointed we are, and that's a problem.

## **Conclusion**

Getting more people to believe the science that tells us climate change is both real and extremely serious, and then getting legislators and voters to do something about it, are both daunting tasks. Even when these two goals are accomplished, however, shaping what kind of intervention to make is also a battle. Environmental justice advocates are not the only ones who have filed legal challenges to California's Global Warming Solutions Act, but so far they are the only ones to do so from the perspective that the law does not go far enough. To date, almost all of the other legal challenges have come from groups that seek to weaken, not strengthen, its provisions

(Hurley 2012). Many environmentalists find themselves caught uneasily in the middle.

The environmental justice legal challenge to California's Global Warming Solutions Act and the effort by the Environmental Defense Fund to intervene in the suit against them reveals the continuing tensions about how to respond to climate change. Should solutions prioritize countering global warming at the planetary level? Or should we take our lead from those likely to be most impacted by climate change and champion the even more politically challenging solutions that seek to attend to local concerns while we address a global threat? Should we work with industry in the hopes that it will become a serious partner in the effort to slow global warming, or should we work against them to try to force their reform? Should we rely more on markets or more on governments?

The level of change required from corporations, governments and communities to respond effectively to climate change is staggering. If history is any judge, the powerful are likely to offload as many of the costs of the changes away from themselves as possible, leaving the less powerful to bear much of the burden. Although mainstream environmental groups have made progress in responding to the criticisms leveled at them by environmental justice groups over the last several decades, the dramatic and urgent nature of climate change is likely to exacerbate old divides as the stakes of different courses of action, and inaction, loom ever larger.

## **Ch. 6. Dilemmas of Contemporary Environmental Justice Activism**

### **Assessing the achievements of the environmental justice movement**

Over the course of my conversations with environmental justice activists across the state, I heard both enthusiastic descriptions of all that has been accomplished and demoralized accounts of how the more things change, the more they stay the same. Both are legitimate responses to the facts at hand. One activist has received a great deal of attention for her work in high-profile, successful battles with the Port of Los Angeles, next to which she lives, yet she has a hard time feeling celebratory:

We were very cutting edge 10 years ago. We were the first ones to do a lawsuit.... It's perceived that we've had a lot of success. And I understand that perception, but I guess what I'm telling you is, as soon as you win, you lose, because as soon as you win, the effort is to try to make sure your win is minimized. I can't bring that point home enough.

The idea that, okay, we won this \$50 million, but then they decided, okay, well they're not going to fund the nonprofits we've been funding forever; we're going to send them over here. And even with the Harbor Community Benefit Foundation—less, because we're keeping an eye on it, and we're very sensitized to it. So the port is continuing still to give money, but not as much money. And the other thing is that when you win, in order to keep it a win, you have to stay in the game. Otherwise it changes, especially if you create an organization. That can change so quickly, what the mission is, what the perspective of the board is. It can become desensitized to their original goals in the first place. It's very easy. Middle of the night. So you never get to really walk away.

In spite of the environmental justice movement's many accomplishments since the 1980s, low-income communities of color continue to live with serious environmental problems, as well as a disproportionate burden of pollution as

compared to whiter, more affluent communities. Changing this pattern of pollution distribution would require not just passing new laws, tightening existing laws, and better business practices. It would also require a fundamental restructuring of American and global society in ways that erase the deeply rooted inequalities associated with race and class difference. One activist speaks to the size of the challenge at hand as follows:

I think there's been a big change in a lot of our agencies, with people of color now in there. But I keep insisting that unless we dismantle the system and remantle it, or redo it, or put it back together, it's always going to be difficult even if everybody was people of color. They want to do the good thing, their heart is in the right place. You have somebody that [thinks], "I'm gonna go in there and I'm gonna tear this whole thing apart." They go in there and they try to tear it apart, and pretty soon they're like, "Wow, it doesn't allow me to do this, it doesn't allow me to do that. I can't do this, I can't do that"... When somebody with all good intentions and everything goes to EPA, goes into the Department of Toxic Substances Control, they start out gung ho, and then they go in and they realize that the system doesn't let them to do what they wanted to do... I think we need to change the system and I don't have the answer for that. How do you reform a hundred years of system building? How do you dismantle that?

Another activist echoes these sentiments:

You have to have pretty close to a revolution to be acknowledged. That's a scary thought. And even then, you don't know what you're going to wind up with. Probably not good. History will tell us.

Assessing movement strategy and outcomes is difficult in light of the enormity of the task at hand. It draws as much on one's propensity to see things through the lens of "glass half empty" or "glass half full" as it does on movement outcomes. These varying assessments of past strategy also inform decisions about current strategy. This activist recounts a conversation about past, oppositional

strategies to resist new toxic facilities, a strategy to which he is still committed, with another activist whose organization has shifted their emphasis to the policy, planning and electoral realm, and is one of the six member groups of the California

Environmental Justice Alliance:

Interviewee: I'll just quote the director of one of the six groups. It's a very long time and well-respected activist who I have a lot of respect for, but I'm disappointed. She told me, "Well, other things haven't worked." And I'm like, "Gee, that's funny, because let's see. There were no hazardous waste incinerators ever built, and Casmalia was closed."

Interviewer: Meaning other strategies?

Interviewee: Yeah, and I just disagree. And so I think there's just a dramatic lessening of solidarity. And it's having a harmful effect, not just in steering foundation money away, but lack of coordination about strategies.

Yet, many activists continue with their efforts, even when they don't achieve their biggest goals, or know what the best way to achieve them would be. To my question about what keeps her going, this California environmental justice activist simply says the following:

One of the things that keeps me going, is that when I'm on my deathbed, I can say to myself, "I didn't stick my head in the sand, I didn't just let it all happen." It might not have had the outcome I would have hoped for, but I know I tried. Once you're aware of something and your heart tells you it's not right, if you don't take action, you're going to have regrets. If you do take action and you fail, you'll be disappointed, heartbroken, but you won't have regrets. You won't hold it against yourself. So that's just really important to me, and I think that's sort of an activist thing, you know? It comes down to who you are as a person. Are you a person who can watch and say nothing, or are you a person who sees and has to do something, whether it's going to make a huge difference or not? You're never guaranteed anything, but you have to try.

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Social movement scholars know that political opportunity structures, cultural meaning making, emotion, strategy, framing, activist biography, social networks and social movement organizations, among other things, are important variables in determining movement formation and outcomes. Nonetheless, there is still an element of mystery involved in social movements. They draw on not only the variables identified above, but also the chance configurations of history.

I have argued that the changes in the environmental justice movement can be better understood by placing them in the context of these larger historical changes in which they are enmeshed. However, while understanding this trajectory can shed light on how environmental justice activism has come to where it is, it cannot decisively answer the fundamental question that motivates activists: How can we make deep, lasting improvements to the world we live in? This project suggests that in their efforts to answer this question over the decades, environmental justice activists have tried new strategies to achieve broader social changes, but that these new strategies too fall short of the vision of environmental justice, as most social change efforts do. These changing strategies, and the changing political terrain in which they operate, provides new challenges for activists. I end here with a discussion of the political dilemmas facing contemporary environmental justice activists, and highlight the tradeoffs inherent in the environmental justice movement's political evolution.



## **Contemporary dilemmas of the environmental justice movement**

### **Growth in Numbers and the Expanding Frame of Environmental Justice**

The number of people and organizations who are familiar with and identify with environmental justice activism has grown dramatically since the 1980s. This success at promoting a justice-oriented frame for understanding environmental issues is one of the core achievements of the environmental justice movement. But this accomplishment has its drawbacks. As more groups enter the arena of environmental justice work, they create increasing competition for limited funding available for the already existing groups. When the newer groups are bigger, more professionalized organizations (such as the national mainstream environmental groups, whom environmental justice activists have long pressured to do more environmental justice work), they can make it more difficult for the already existing environmental justice groups to access funding. Finally, as more and increasingly diverse organizations adopt the language of environmental justice, its meaning becomes increasingly diffuse.

This diffusion of meaning overlaps with a reduction in the sense of environmental justice activism as a coherent social movement rather than a wide array of loosely connected organizations pursuing their own roughly overlapping goals. The diffusion of meaning of the term “environmental justice” also parallels its use by government agencies and polluting industries to mean improvement in the fairness of the processes of environmental decision-making, rather than improvements in the fairness of the outcomes of those decisions.

## **Institutionalization and Formalization**

Activists' institutionalization into nonprofit structures provides them with important financial resources to pursue their work. This is especially important for low-income activists who already work long hours with little extra time available for social change organizing. Nonprofits also sustain attention to the issues during the inevitable lulls between large campaigns that draw larger numbers of people into the fray. Staggenborg (1998) also shows that institutionalized social movement organizations are better able to facilitate coalition work by providing staff resources to support communications, schedule meetings, and other important functions necessary to bringing people together across different organizations, locations, and issue areas.

Formalized groups find it easier to work with, or hire, legal, scientific and policy experts who support their cause. They are also better positioned to create clear systems of decision-making and accountability, though this outcome is by no means guaranteed. In contrast, informal social movement organizations are more at risk of the "tyranny of structurelessness" described by Jo Freeman (1973).

However, the institutionalization and professionalization of social movement organizations into nonprofit organizations also comes with political tradeoffs. Nonprofits' dependence on outside funding makes activists vulnerable to funders' political priorities around both the issues on which they will work and the political strategies used. An unusually explicit example of this can be seen in one California

environmental justice organization's experience of being defunded by a Foundation after taking action to stop the inclusion of cap-and-trade in California's Global Warming Solutions Act of 2006.

Institutionalized social movement organizations are also more likely to pursue institutionalized political tactics and steer clear of direct-action tactics (Piven and Cloward 1977; Staggenborg 1998). As Staggenborg writes,

The association between formalization and institutionalization of strategies and tactics occurs for two reasons: (1) As environmental developments push a movement into institutionalized arenas, SMOs [social movement organizations] often begin to formalize so they can engage in tactics such as legislative lobbying (cf. Cable 1984). Formalization allows SMOs to maintain the routines necessary for such tactics (e.g., ongoing contacts with legislators) through paid staff and an established division of labor. (2) Once SMOs are formalized, institutionalized tactics are preferred because they are more compatible with a formalized structure and with the schedules of professional activists. For example, institutionalized activities can be approved in advance; the amount and type of resources expended for such efforts can be controlled; and activities can be planned for the normal hours of the professional's working day. (1998:599)

Similarly, as environmental justice activism professionalizes over time, some experience it as less of a "social movement" than it once was, and rather as a diverse set of organizations working on loosely similar goals. So, the benefits of the increased expertise provided through professionalization can be accompanied by a loss of movement energy and community leadership.

## **Tactics**

### **Participation in Public Decision Making**

Environmental justice activists have long sought better access to environmental decision-making and procedural improvements in those processes. To a certain extent, they have gotten their wish through innumerable environmental justice advisory boards, closer connections to state agencies, and a growth in the availability of Spanish language interpreting in public hearings. But although these improvements give activists more voice, they do not necessarily change the outcomes of the decision-making process. When participation in government advisory councils fails to impact the outcomes of the decision-making bodies, they take up valuable time that activists could have used on projects. In other cases, the mere existence of the advisory councils can be used to delegitimize activists' critiques of the outcomes by saying that they were fully involved in the process of making the decision. As Cornwall and Coelho write, "as 'invited spaces', the institutions of the participatory sphere are framed by those who create them, and infused with power relations and culture of interaction carried into them from other spaces" (Cornwall and V. S. P. Coelho 2007:11). And, as processes of participation improve, the radicalizing influence of the once overtly racist, classist and sexist processes wane, thereby shrinking one avenue by which activists draw more people into their campaigns.

Nonetheless, many activists continue to participate in environmental justice advisory structures and other forms of participation in government decision-making. In some cases their involvement in these processes bear fruit. For example, one activist suggested in the course of our interview that environmental justice participation in the Governor's Drinking Water Stakeholder Group in 2012 was

influential in shaping the discussion about how drinking water problems could be understood and solved. This experience was part of a larger, ultimately successful effort promoted by environmental justice activists and others to relocate the management of the state's drinking water from the Department of Public Health to the State Water Board. However, it can be hard to tell in advance whether participation will have an impact. This same activist's experience suggests that creating spaces for environmental justice activists in diverse advisory and stakeholder groups can be more effective than advisory groups that are made up entirely of environmental justice activists, and are vulnerable to being separated from the meaningful spaces of decision-making and have little impact.

Even when decision-making outcomes are not changed by the participation of the environmental justice activists, activists sometimes feel that participation is a useful way to get a number of environmental justice activists who may not typically work closely together in the same room at the same time. These processes can build social and professional ties amongst environmental justice activists that strengthen the movement's internal networks, as some activists experienced with the first round of the Environmental Justice Advisory Committee to the Global Warming Solutions Act of 2006. Similarly, participation in advisory committees sometimes offers insight into how government works, and who knows who, in ways that activists find useful later as they continue to pursue other campaigns.

### **Scaling Up: Policy Advocacy, Electoral Politics, and Becoming the State**

As activists have scaled up their work over the years, their prospects for achieving change that affects the entire state, rather than individual communities, has increased. However, the scaling up process also presents new challenges. As activists work to increase their reach, they also pursue policy efforts that would impact people beyond the communities in which they are based. This increases the possibilities of intra-movement conflict as communities are impacted by policy decisions made by organizations that do not necessarily have a base within them. Indeed, scaling up to work at the level of the state necessitates either a messy process of trying to make decisions across all of the state's environmental justice organizations, or of making policy decisions that impact all of the groups' members without including all of the groups in the decision-making process about policy priorities, which has proven divisive. Achieving policy victories typically means compromising away many of the original goals of the policy in question, and the more people affected by the compromises, the harder it is to achieve consensus about when to compromise and when to draw the line.

For example, as described in chapter five, environmental justice activists split over the question of whether to promote legislation that would direct a portion of the revenues of the state's cap-and-trade program into environmental justice communities. This plan was first pursued by some activists on the fringes of the environmental justice movement while others more centrally located were still actively trying to prevent the creation of a cap-and-trade system in the first place. When cap-and-trade became a fact rather than a likelihood, more environmental

justice groups supported policy advocacy to direct revenues into their communities, but others remained opposed.

Policy work at the state level also creates more opportunity for intra-movement conflict as groups choose politicians with whom to work on their policy agendas. These politicians may support a cause that one group is working on, while working against a cause another group is working on in a different location. For example, the California Environmental Justice Alliance has partnered with Senator Ricardo Lara on a number of bills. However, Lara also drew opposition from long-time anti-incinerator organization Greenaction for Health and Environmental Justice for his policy efforts to allow the electricity created from burning waste at the state's three existing incinerators to qualify as renewable energy. If passed, this would have undermined work to prevent the construction of a new incinerator in the Salinas Valley town of Gonzales. While some activists see these relationships with particular legislators as extending only as far as their interests coincide, others locate these partnerships within a breakdown of movement solidarity over time:

In a movement, you have to have solidarity, in my opinion. And so [in the 1980s] people knew that if the toxic dump in Casmalia was closed, it would mean more toxic waste would go to Kettleman. They also knew it might increase the pressure to site a hazardous-waste incinerator, of which there's dozens being proposed [at that time]. Yet everybody, even if they would be on the receiving end of more waste, or more at risk, supported the closure of Casmalia. Kettleman went to East LA to help march against the Vernon incinerator, even though that might increase pressure to support Chem Waste getting an incinerator in Kettleman... Without a doubt, there was strong unity, diversity of the movement, the feeling that an injury to one is an injury to all. And then jumping ahead to 2013, what do you have?... I think there are some real policy problems, exemplified, for example, by the recent *Congreso* in Sacramento about a month ago, where they invited and featured Senator

Ricardo Lara, and wrote a glowing bio of him in the conference packet that, honestly, could have made me puke. And you can quote me, because Lara sponsored one of the worst pro-polluter bills in the state legislature this year. And that information was censored by CEJA. When I tried to raise it in their meeting, in a discussion about renewable energy, I was literally cut off. And he was invited to speak at an environmental justice rally at the exact same time a lot of EJ communities and Greenaction were fighting it. So it's like night and day, compared to, I think, real social justice movements, the beginning of the movement in California for many years, which was really based on solidarity, and the belief that an injury to one is an injury to all.

Activists scaling up to work within the state through appointed and elected positions also face new challenges less prevalent in the early years of the environmental justice movement. Two relevant bodies of thought within Marxist discussion of political life in the US provide insight. Instrumentalists argue that reform efforts are limited by the ruling class, who sit in positions of power in government and industry. Therefore, instrumentalism implies that the main task of a reform-oriented group is to elect people from outside of the ruling class or to marshal enough political power to push ruling class leaders to rule against their personal economic interests and training. This body of thought aligns with environmental justice activists' efforts to create social change by replacing existing politicians and agency staff with environmental justice activists.

Structuralists, on the other hand, point to the limitations of this approach by arguing that reform is limited by the power of capital, regardless of who sits in the positions of power within government. The officials' hands will be tied by the larger structure of the state, and their options for pursuing a reformist agenda will be limited without further structural changes.



Activists who move into the government may also find their ability to push for environmental justice goals limited by the dominant logical and political culture of the new institution in which they are enmeshed, which may punish them for being perceived as “biased.” As one environmental justice activist who transitioned into government puts it,

On the outside, you're expected to push your agenda, whereas in the administration, in the agency world, you cannot be perceived in any way, shape, or form as pushing a particular agenda. The minute you're doing that, you're discredited. And so, if you have the moniker of environmental justice, you're automatically perceived as pushing that agenda. Once you step inside the administration, you really do have to take off your advocate hat, not because you don't still believe in the same things, but because you do have to balance a lot of different things, and you don't have the flexibility to just take that one narrow viewpoint.

### **Collaboration**

Collaboration with state agencies similarly creates both opportunities and risks for activists. On the one hand, collaborative work with the state can help activists better understand how government works, and how to strategically promote their causes. It also helps connect activists to agency staff who are sympathetic to environmental justice concerns, and to find ways to work together towards common goals. On the other hand, forming these new partnerships can cause controversy among activists who historically defined themselves in opposition to both corporations and the state.

Collaborative efforts can also take place with industry in ways that complicate relationships within the environmental justice community. For example, CEJA's

partnership with the solar industry, although formed to promote their rooftop solar agenda, also means that they are partnering with an industry that is primarily oriented around the construction of large solar farms in the California desert. Other environmental justice activists oppose these solar farms for their potential to destroy the traditional lands, sacred sites, and historic artifacts of the Native American tribes who call those lands home. CEJA has partnered with the Solar Energy Industries Association, which supports the Ivanpah solar project in Barstow that has also been sued by a local organization dedicated to preserving Native American sacred sites and cultural artifacts in the area.

The director of one CEJA member organization responds here to my question about the tensions between the local/distributed solar that CEJA is promoting, and the utility-scale solar/solar-farms that their partners in the solar industry are promoting in addition to distributed solar:

Our focus has been pretty much on local solar. But I would take it kind of closer to home. We're working at the LA Department of Water and Power [DWP]. We want them to adopt a comprehensive clean energy program. So, they're saying, well, we're getting off of coal. By 2020 to 2025, we're going to end our contracts with folks in Utah and Arizona. But we're going to replace them with natural gas. They're talking about San Onofre, and we replace that with natural gas. So, we want them to -- and we think it's doable. Technically, we can show how they can adopt a comprehensive clean energy program, and it's cost effective, it's reliable and so on. But we had to get the union on board. We had to get IBEW Local 18, they're the big union in LA DWP. So, the question we're having is, will we have to support some utility scaled solar? And if we did, what would be the conditions under which we would support that?

So, part of that would be, what do the folks where these projects are happening, what do they say, what are their demands? So, we're looking at that. Our preference is for total local solar, but we don't know if we have the

strength to achieve that. And if we don't, is labor going to fight us, and then we end up with natural gas? Because right now, their thing is "Let them build natural gas, we get the jobs." So, we said, "You can get the jobs, but you've got to support X amount of local solar and most importantly, X amount of utility scale solar. I don't know. It's a discussion that is going on, but it hasn't been resolved yet.

In addition to the possibility of environmental justice activists dividing over the question of local vs. utility scale solar, as the broader environmental movement has already done, the relationships that environmental justice activists form with particular legislators also complicates, and sometimes erodes, intra-movement solidarity among disparate activist groups, as described in the section above.

### **Being “for something”**

Activists are working toward proactive solutions to contemporary environmental and social justice crises in an effort to solve problems at their roots, rather than continuing to continually fight defensive battles. If successful, this approach would result in changing the landscape of the political world in ways that dramatically improve the lived experience of low-income communities of color. And yet, people are often more easily united around opposing polluting projects than proposing proactive solutions to complex social problems such as racism and classism. So, this shift from reactive to proactive tactics can also strain movement solidarity and contribute to growing internal divides.

In the face of the pressure to be “for something,” some scholars point to the risks of activist accommodation of the neoliberal trends that overlap with market-based “solutions” such as organic agriculture, and the power of more confrontational

tactics. Jill Harrison describes California pesticide drift activism as an exception to larger patterns of agro-food activism that emphasize more collaborative, apolitical strategies. She writes that pesticide activists' confrontational tactics have been "crucial to the movement's success with bringing visibility to this issue and with gaining traction in the political arena" (Harrison 2008:abstract).

And, given the limited capacity within environmental justice organizations, shifting strategies into new directions may also divert work away from still-important defensive battles. Environmental organizing in particular requires constant attention to defensive campaigns. As Rebecca Solnit writes, "Environmentalists like to say that defeats are permanent, victories temporary" (2004:60).

### **New Localism**

While many environmental justice activists are scaling up their work, some are simultaneously, or instead, engaging in new forms of local work such as community gardening, promoting bicycle riding, and the creation of worker-owned cooperatives. Some scholars of the alternative food movement have critiqued these tactics as apolitical interventions unlikely to significantly change low-income people's opportunities that neatly map onto neoliberalism's emphasis on individual responsibility instead of regulatory politics (Brown and Getz 2008; Guthman 2008; Mares and Alkon 2011). However, environmental justice activists approach these interventions in ways that both align with and complicate neoliberal environmental governmentalities.

While in other contexts the above strategies can be seen as sharing with neoliberalism a rejection of state-action, when implemented in environmental justice organizations they function slightly differently. Most of the environmental justice leaders I interviewed who pursue this kind of programming within their organizations emphasized that these kinds of community-oriented, local, pleasurable, non-confrontational activities can function as a way to draw residents into their broader political work targeting corporations and the state. Some also emphasize the need for activities like these that provide short-term payoff and sense of accomplishment, a rich sense of community, and tactile pleasures in the face of political campaigns that can last years and years with little tangible results to show for it. Nonetheless, there still exists a tension between how much energy activists devote to big picture efforts towards structural change and how much they devote to these local, more individualized tactics.

### **The Long Road Ahead**

In spite of the environmental justice movement's continuing efforts since the 1980s, low-income communities of color continue to live with serious environmental problems, as well as a disproportionate burden of pollution as compared to whiter, more affluent communities. But without their efforts, low-income communities of color in California would be worse off. Environmental justice activists have had many victories in their decades of work in California, as documented in chapters two and four. Their early efforts in community organizing and lawsuits were key in the

many proposed incinerators and waste facilities that were never built, polluting factories that were closed, and toxic sites that were cleaned up. However, early environmental justice victories are typically invisible. As polluting factories that never got built, they are absences on the landscape that are easily forgotten by society.

One such example sits at East 41<sup>st</sup> and South Alameda in South Los Angeles, where the Concerned Citizens of South-Central Los Angeles fought to prevent the construction of a three-incinerator complex, and later other residents fought to keep an urban farm. The large plot of land on which the incinerator was to be built is storied with the lives and efforts of the Concerned Citizens of South Central Los Angeles and their allies, but also with other campaigns since the incinerator was defeated in 1991. Between 1994 and 2006, it was the site of South Central Farms. Local residents planted food crops, many from their home communities in Latin America, and built a thriving community on what became the largest urban agriculture site in the country. In 2004, the city sold the property to a private developer, who intended to build warehouses and a distribution center there. The farmers protested through both legal means and acts of civil disobedience, and refused to abandon the property.

The South Central Farm became a cause célèbre amongst the burgeoning food justice movement. It gained broader attention through the involvement of Hollywood celebrities such as Darryl Hannah, Danny Glover, Martin Sheen, Leonardo Di Caprio, musicians such as Joan Baez, Willy Nelson, and Rage Against the Machine, and

activists and political figures such as Ralph Nader, Julia Butterfly Hill, and Dennis Kucinich. Farmers and their allies occupied the property in an effort to retain their farms. Nonetheless, on June 13 of 2006, the Los Angeles County Sheriff's Department surrounded the property in the pre-morning hours. At 5am, they gave the farmers 15 minutes to evacuate the land, and the next month, the farm was bulldozed. The events at the farm were the subject of a PBS documentary, "South Central Farm, Oasis in a Concrete Desert," and an Oscar-nominated feature length documentary, "The Garden."

When I visited the site in 2014, the plot of land that had been subject to so many struggles over the decades remained empty. I walked the edges of the property, documenting its high fences and barbed wire with my camera, and examining the remains of what appeared to be old banners attached to the chain-link fence for traces of the site's history. As I did so, a car on the road beside me slowed down so the driver could see what I was doing. He asked if the property was finally going to get built out, perhaps assuming that I was a developer or government representative. I replied that I didn't know. The man worked in a facility directly overlooking the site, and hadn't ever seen it be used for anything. I asked him if he remembered the South Central Farm and the anti-incinerator fight, but he had never heard of either. Indeed, he was incredulous to learn that anything of interest had ever happened in the empty plot of land bordering his workplace, let-alone been the subject of an Oscar-nominated movie. I told him that if he had a Netflix account he could watch the

movie online, and as we went our separate ways, he was enthusiastically set on doing so.

The LANCER incinerator fight on this property was a major victory in the fledgling environmental justice movement, and the South Central Farm was a high-profile case in the fledgling food justice movement. Their victories and losses are invisible at the site, which today remains just another empty lot in an industrial landscape.

The buffer zones created to limit pesticide drift in four San Joaquin Valley counties between 2008 and 2010 provide a more recent example to think through the legacy of environmental justice activism, as well as the problem of invisibility. In Tulare, Madera, Stanislaus and Kern Counties, activists' efforts resulted in the creation of buffer zones in which the aerial spraying of restricted pesticides is banned within a quarter-mile of schools. Three of these counties include farm-labor camps and residential areas in their protections as well.

These buffer zones do not revolutionize agriculture. Growers still use highly toxic chemicals, and the state is still responsible for a disproportionate share of the nation's pesticide use. But residents report that buffer zones make a difference in their daily lives, and that matters. These incremental improvements are hard fought, and hard won. In a current campaign to create similar buffer zones in Watsonville and the Salinas Valley, local activists remember the difficulty of earlier fights to simply label the pesticides used in the fields with public signage. They remember the teachers who



worked to achieve this signage even though they risked losing their jobs when they did so. Now, signs are common practice.

Sometimes the signage isn't enforced, and farmworkers get put to work in fields still dripping with pesticides. And even when the signs are in place, they don't fix the larger problems facing farmworkers, local residents, and California agriculture. But today's activists working to create buffer zones build on a lineage of other activists who pushed for signage. Perhaps the activists of tomorrow will build on today's buffer zone campaigns to accomplish more than can be accomplished now.

In spite of the serious, ongoing environmental problems experienced in California's low-income communities of color, it is important to remember that things could be even worse than they are, but for the work of activists like the Concerned Citizens of South Central Los Angeles, pesticide drift activists, and their counterparts across the state. As Rebecca Solnit writes so eloquently, "It's always too soon to go home. And it's always too soon to calculate effect" (2004:3).

## Appendices

### Appendix 1: California Environmental Justice Alliance, legislation supported and opposed 2013

Text below quoted from the California Environmental Justice Alliance 2013 Environmental Justice Scorecard (California Environmental Justice Alliance 2014).

#### Summary of 2013 bills

##### **BILLS WE SUPPORTED**

**AB 145 (Perea) – Consolidation of Drinking Water Program.** Held on Senate floor.

Would have transferred the state drinking water program under the California State Drinking Water Act, including the Drinking Water Fund, from the California Department of Public Health (CDPH) to the State Water Resources Control Board (SWRCB), to consolidate state drinking water programs in one agency with a strong track record.

**AB 1165 (Skinner) – Occupational Health and Safety.** Vetoed by Governor. Would have required an employer that is cited for a “serious,” “willful,” or “repeat” violation of employee safety rules to abate the hazard identified by the citation, even if the employer appeals the citation. This would ensure that unsafe working conditions are corrected in a timely manner. The bill was a response to the massive 2012 Chevron refinery explosion that sent over 15,000 people to the hospital in a predominately low-income community of color, and would have made a small step towards ensuring worker safety at large facilities that employ many of people of color.

**AB 1329 (VM Pérez) – Hazardous Waste.** Signed by Governor. Hazardous waste facilities in California are located disproportionately in low-income communities and communities of color. This bill directs the Department of Toxic Substances Control to prioritize enforcement of environmental laws at hazardous waste facilities in low-income communities and communities of color.

**SB 43 (Wolk) – Shared Renewable Energy Self-Generation Program.** Signed by Governor. Establishes a “Green Tariff Shared Renewable Program,” a 600-megawatt pilot program that allows customers of Pacific Gas & Electric (PG&E), Southern California Edison, and San Diego Gas & Electric (SDG&E) to purchase up to 100% of their power from renewable energy facilities. It reserves 100 megawatts of program for low-income communities of color to build small-scale renewable energy

in these communities. The bill gives environmental justice communities, homeowners, businesses, schools and local government more access to renewable energy.

**SB 448 (Leno) – Oil Price Manipulation Study.** Vetoed by Governor.

Would have required the California Energy Commission (CEC) to identify which data currently being collected would help in determining whether fuel price manipulation is occurring, and to establish an analytical methodology to evaluate that data. This would have been an important step towards accountability of an industry whose activities have severe health consequences for communities of color across California and whose influence and power runs practically unchecked in the state.

**SB 605 (Lara) – Global Warming Solutions.** Held in Assembly Appropriations  
Would direct revenues above the \$500 million borrowed by the Governor from the Greenhouse Gas Reduction Fund into disadvantaged communities. It would also limit the emission offsets used by greenhouse gas polluters to comply with AB 32 limits to those offsets originating and achieved within the US. The California Air Resources Board would be directed to create regulations to reduce short-lived climate pollutants, which have much higher global warming potentials than CO<sub>2</sub>.

**SB 691 (Hancock) – Air Penalty Violations.** Held on Senate floor by author  
Would have held major single-day pollution violators accountable for causing a severe disruption to the community by increasing the penalty for an offense from \$10,000 per day to \$100,000 per day. Ensuring that polluters are held accountable for their violations, especially like the large Chevron refinery explosion in Richmond, would be an important step towards reducing the disproportionate burden in communities of color.

**SB 811 (Lara) – Environmental Health and Justice for Communities.** Vetoed by Governor

Would have required the California Department of Transportation to include in the environmental review document an analysis of the community alternative developed for the I-710 Corridor Expansion Project. It would have helped ensure that the freeway expansion is completed with the interest and safety of neighboring communities in mind, which are predominately low-income communities of color.

**BILLS WE OPPOSED**

**AB 327 (Perea) – Electrical rate reform.** Signed by Governor

Removes the suspension on the solar net metering program and removes the 33% ceiling in the Renewable Portfolio Standard. Despite these advances in renewable energy, the bill locks in mandatory minimum revenues for utilities from customers by increasing a fixed charge for most residential customers to \$10 per month (or \$120 annually), and up to \$5 per month for low-income customers. The fixed charge disproportionately puts an economic burden on low-income customers who use less

energy, but will pay more.

**SB 4 (Pavley) – Oil and gas – well stimulation.** Signed by Governor  
Requires regulation of fracking and acidization by 2015 but allows fracking and acidization to continue unregulated in the meantime. However, this bill would potentially allow fracking and acidization to escape comprehensive California Environmental Quality Act review. Requires disclosure of chemicals but not until after fracking has occurred. It does not address the increase in deadly air pollutants or reduce the climate impacts of dirty oil.

## **Appendix 2: California Environmental Justice Alliance, legislation supported and opposed 2014**

Text below quoted from the California Environmental Justice Alliance 2014 Environmental Justice Scorecard (California Environmental Justice Alliance 2015).

### **SUPPORT**

**AB 543 (Campos)** Vetoed by the Governor.

CEQA translation: Requires guidelines for translation of California Environmental Quality Act laws.

**AB 1634 (Skinner)** Signed by the Governor.

Refineries: worker safety. Requires polluter to abate the most serious workplace hazards, even during their appeal of a violation.

**AB 1739 (Dickinson)** Signed by the Governor.

Groundwater management: together with SB 1168, creates a new, regional system for monitoring and managing groundwater.

**SB 605 (Lara and Pavley)** Signed by the Governor.

Short-lived Climate Pollutants: Ensures the California Air Resources Board will develop regulations for short-lived climate pollutants.

**SB 712 (Lara)** Signed by the Governor.

Hazardous waste permitting: authorizes temporary suspension of any facilities operating under an expired permit.

**SB 812 (De León)** Vetoed by the Governor.

Hazardous waste: series of reforms at the Department of Toxic Substances Control.

**SB 1132 (Mitchell and Leno)** Failed on the Senate floor.

Fracking moratorium: would have halted fracking until a study could be completed on the health and environmental risks.

**SB 1168 (Pavley)** Signed by the Governor.

Groundwater management: together with AB 1739, creates a new, regional system for monitoring and managing groundwater.

**SB 1204 (Lara and Pavley)** Signed by the Governor.

Clean Trucks and Buses: creates a new program to fund electric trucks and buses.

**SB 1275 (De León)** Signed by the Governor.

Electric vehicles: Creates a new program to get 4 million electric vehicles on the road by 2023.

**SB 1371 (Leno)** Signed by the Governor

Natural gas leakage abatement: Requires natural gas home pipelines to be fixed.

**OPPOSE**

**AB 1763 (Perea)** Held in the legislature.

State Energy Planning: Requires the California Energy Commission to prepare a report containing a state energy plan for 2030 and 2050.

**AB 2145 (Bradford)** Held in the legislature.

Electricity - community choice aggregation: prohibits cities and counties from grouping together to form community choice programs.

### **Appendix 3: Community Water Center 2013 Legislative Advocacy Overview**

Text below quoted from the Community Water Center website (Community Water Center n.d.).

#### **Legislative Bills Signed By Governor Brown**

- **AB 21 (Alejo)** – This bill creates the Small Community Grant Fund administered by the California Department of Public Health or the California State Water Resources Control Board. This program provides grants to small, disadvantaged and severely disadvantaged communities for the construction of wastewater collection, treatment, and disposal projects. The bill was sponsored by CWC and allied groups.
- **AB 30 (Perea)** – AB 30 removes the sunset date and augments funding for the Small Community Grant Fund Program. The bill was sponsored by CWC and allied groups.
- **AB 115 (Perea)** – This bill authorizes the eligibility of multi-agency applications for the Safe Drinking Water State Revolving Fund. One of the main objectives of this legislation is to increase cooperation between small, disadvantaged water systems and larger systems that have the expertise to address contamination of drinking water sources. It also clarifies applicant eligibility for the Safe Drinking Water State Revolving Loan Fund. The bill was sponsored by CWC and allied groups.
- **AB 120 (Committee on Environmental Safety and Toxic Materials)** – Allows school districts to apply for reimbursement from the School Districts Account within the Underground Storage Tank Clean-Up Fund by adjusting the underground storage tank permit requirements. The bill was supported by CWC and allied groups.
- **AB 240 (Rendon)** - Requires mutual water companies to comply with open meeting, public record, and budget requirements, and allows them to impose liens to collect unpaid charges. This legislation also allows grants to improve drinking water infrastructure in communities served by mutual water companies in the City of Maywood. The bill was supported by CWC and allied groups.

#### **Ongoing Two-Year Legislative Bills**

- **AB 145** would transfer the Drinking Water Program, currently at the California Department of Public Health, to the State Water Board. This proposal is currently the subject of a stakeholder process convened by the Governor's office and could be implemented as part of the 2014-2015 budget process.
- **AB 69** would establish a fee for the use of fertilizers that would then be used to address drinking water contamination in small, disadvantaged communities. AB 69 is stalled in the Senate Agricultural Committee. CWC and allied

groups will continue to advocate for this effort in 2014.

**Additional Two-Year Efforts and Stalled Efforts**

- **AB 1331 (Rendon) & SB 42 (Wolk)** – CWC and allies continue to be very involved in bond conversations, and we have provided bond language to ensure funding and technical assistance for disadvantaged communities is in both the Assembly and Senate water bond bills. Negotiations are expected to continue through July 2014, or beyond.
- **AB 467 (Stone)** – This was originally a fertilizer fee bill, but was amended and is no longer a drinking water bill.
- **AB 1 (Alejo)** – This bill failed to make it out of the Assembly Budget Committee. It would have provided \$2 million to the State Water Resources Control Board to fund the Greater Monterey County Regional Water Management Group to develop an integrated water plan. This water plan could have begun to address the drinking water and wastewater needs of disadvantaged communities suffering from wastewater discharges into the County’s groundwater in the Salinas Valley.



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