UNIVERSITY OF CALIFORNIA, MERCED

Power and Justice in the Environmental Decision-Making Process: Kettleman City in KKK County

A Thesis submitted in partial satisfaction of the requirements
for the degree of Master of Arts

in

Sociology

by

Cintia E. Quesada

Committee in charge:

Professor Zulema Valdez, Chair
Professor Mario Sifuentez
Professor Paul Almeida

2019

The Thesis of Cintia E. Quesada is approved, and it is acceptable in quality and form for publication on microfilm and electronically:

Dr. Mario Sifuentez

Dr. Paul Almeida

Dr. Zulema Valdez, Chair

University of California, Merced
2019

Table of Contents

List of Tables

Acknowledgements

First, I would like to thank my advisor Dr. Zulema Valdez for her encouragement throughout this process. Thank you for your incredible patience, guidance, and support with this project and this academic journey. Thank you for showing me that my voice is valuable, and worthy of being heard. I would also like to thank my committee members, Dr. Paul Almeida and Dr. Mario Sifuentez, for their incredible support and for their valuable suggestions.

Second, I would like to thank the members of *El Pueblo* and *Greenaction*: Maricela Mares Alatorre, Bradley Angel, and Miguel Alatorre. Thank you for welcoming me to into your home and office. Special thanks to Janice Hunter and Sheridan Noelani Enomoto from *Greenaction*, who guided and assisted my travels to their San Francisco office. Thank you for the moments of laughter, encouragement, and meaningful conversions.

Next, I would like to thank my parents, Judith Adriana Quesada Paredes and Ramiro Quesada Marin, for the sacrifices made throughout their lives to support their children both financially and spiritually. Gracias por todo su apoyo y esfuerzo, especialmente sus palabras de motivación y memes que mandaron para hacer me reír mientras trabajaba. To Melissa, Nicole, Ramiro Jr, and Adriana (my siblings) — thank you all for the support and motivational words and a thank you to Melissa for listening to me talk about my project and for reading and reviewing my work. I would also like to thank mis amigas: Breanna Brock, Jocelyn Herrera, Jasmine Leiva, and Mercedes Rosales for all the encouragement and shoulders to lean on. A special shoutout to the artists whose music accompanied me during my writing sessions, particularly DJ Sizzle's cumbia and perreo mixes, El Conejo Malo, and of course the incredible Beyoncé Giselle Knowles-Carter.

Finally, I would like to thank my mentors and friends: Dr. Vera Kennedy and Dr. Jennifer Randles. Thank you for encouraging me to pursue a graduate degree and for always being available for a call or meeting. I would have never made it this far without your support, encouragement and guidance— muchas gracias!

Abstract

Despite persistent exposure to environmental hazards over three generations of grassroots organizing, residents in Kettleman City, a majority-Latinx immigrant rural town in the agricultural Central Valley of California, continue to live without a clean drinking water source. Their mobilization efforts have led me to ask how and why did this happen? What is the history of water in California's Central Valley? Who is responsible? What voices are silenced and ignored? Why does this continue to happen? I develop a case study of the permit acquisition process for a toxic dumping site owned by Chemical Waste Management, Inc. (Chem Waste). I focus on the time period from 2005, when the permit process began, to 2015, after the approval of permits is granted to Chem Waste--in spite of mobilization efforts by activists with El Pueblo para el Aire y Agua Limpia de Kettleman City (People for Clean Air and Water of Kettleman City) and Greenaction for Health and Environmental Justice. I examine how the decision-making process is shaped by intersectional dimensions of power. I use multiple forms of qualitative data for this project, including primary and secondary documents, and newspapers. I primarily draw from Greenaction's archival collection on the history of Chem Wastes' application for an expansion permit in Kettleman City. I use a framework rooted in critical environmental justice and intersectionality to observe how the permit acquisition process has functioned and evolved over time. My analysis reveals how meso and macro-level factors intersect in the political and institutional sphere of the environmental decision-making process.

Introduction

"There's a reason why it's called KKK County," Maricela remarked as we sat in her living room and I listened to her recount the history of *El Pueblo's* fight for clean drinking water in Kettleman City, California. Politics surrounding water have long been contested territory. This is especially true for the San Joaquin Valley (SJV), which includes communities in Fresno and Kings County. Previous environmental research has shown, access to the decision-making process is unequal and shaped by power (Mohai, Pellow, and Roberts 2009). It is often the most marginalized communities who face the greatest burdens but do not have a seat at the table where decisions affecting *their* everyday lives are being made (Bell 2016; Holifield 2012; Kojola 2018). In particular, scholars have challenged the objectivity of expert-driven policy, arguing that scientific knowledge is influenced by specific politics and values, with disproportionately negative effects for members of under-resourced, racial minority and immigrant communities (Kojola 2018; Fischer 2000). However, scholars have just begun to explore intersectionality and environmental justice. An intersectional approach offers a way to examine how structural forces and unequal powers produce and maintain environmental racism. Thus, the need for the emergence of an intersectional approach to race, racism, and power within environmental decision-making is needed.

The permit process that Chemical Waste Management Inc. (Chem Waste) undergoes in Kettleman City offers an emblematic case of environmental racism as Kings County, agribusiness, and private industry profit from ongoing *colonial ecological violence* (JM Bacon 2018). This paper examines how the environmental decision-making process is shaped by state power through the permit acquisition process for Chem Waste, also known as the Waste Management Kettleman Hills Facility (KHF), in Kettleman City from 2005 to 2015. Chem Waste is a 1,600-acre commercial hazardous waste treatment, storage, and disposal facility located 3.5 miles from Kettleman City. The hazardous facility is in Kings County and near the southwest section of Fresno County; a region with a history of oil-drilling by the Chevron Corporation and a site of environmental injustices. This region is also indigenous land, home to the Yokut tribes. Since 1979, Chem Waste has obtained permits to treat, store, and dispose of polychlorinated biphenyl (PCB) waste[1]. The Chem Waste facility has faced community contention over potential environmental and health impacts since Kettleman City residents were made aware of its existence in 1989. This led farmworkers to form a historical alliance with farm owners, after convincing them that their crops could possibly suffer due to the environmental pollution from the incinerator (PBS 2013). Residents formed *El Pueblo Para el Aire y Agua Limpia de Kettleman City* (People for Clean Air and Water of Kettleman City) in response to the hazardous facility siting and have mobilized for three generations for access to clean drinking water, the community's health, and against Chem Waste projects for a proposal to implement an incinerator, permit renewals, and a permit for site expansion. *El Pueblo*'s mobilization efforts dating back to the mid-80s have been

[1] This was made possible by Resource Conservation Recovery Act of 1976, which ensures the safe management of industrial hazardous and non-hazardous waste (EPA 2017).

possible with the help of *Greenaction for Health and Environmental Justice*, a grassroots organization located in San Francisco, California, which supports urban, rural, and indigenous communities along the western region of the United States.

I examine the archival collection documenting the events that led to state approval of three permits for Chem Waste. Although David Pellow's (2018) critical environmental justice (CEJ) framework--which identifies the state as an actor that produces and reproduces social inequalities--and environmental sociologists have predominantly employed intersectionality as an analytical tool, it remains underdeveloped as a theory. In this paper, I aim to build on CEJ using intersectionality as a theoretical approach within environmental sociology by examining how power shapes decision-making processes that create the conditions for the emergence and persistence of environmental racism. I assert that an analysis of the many ways power and privilege affect racialized bodies must include an intersectional approach to make visible the experiences of those living near environmental hazards. Moreover, intersectionality requires one to think about the historical and structural contexts that produce and sustain social inequalities.

I begin by providing an overview of the environmental justice (EJ) literature where I--theoretically and analytically--draw from three forms of scarcely overlapping scholarship: procedural justice literature on environmental decision-making; CEJ's pillar on the production and sustainment of social inequalities through state power; and scholarship on intersectionality as a theoretical intervention. Next, I provide historical context to illuminate how structural factors have contributed to economic, educational, and reproductive injustices in Kettleman City (US Census 2018, Perkins 2015). In discussing how historical patterns of racial, gendered, and class-based inequalities have resulted in the unequal burden of living near a toxic waste site for the community of Kettleman City, I shed light on the structural factors that further expose communities to social, economic, and political vulnerability, and ultimately environmental threats (Waldron 2018, Deacon and Baxter 2013; Almeida 2018). The historical context is followed by demographics for Kettleman City residents and the permitting process Chem Waste has undergone to treat, store, and dispose of hazardous waste--setting the stage for a case study of Kettleman City that elucidates the history of environmental injustices in this community. This study offers an emblematic case of environmental racism, demonstrating the influential power that actors like the United States Environmental Protection Agency (U.S. EPA), the California Environmental Protection Agency (CalEPA), and the Kings County Planning Agency Commission hold over toxic facility siting and its proximity to Kettleman City.

This paper concludes with a discussion on how legal violence (Menjivar and Abrego 2012) may provide a useful framework for understanding the ways the state has historically weaponized the law to enact racial and gendered violence among communities living near environmental hazards (Pellow 2018; Waldron 2018). This paper's primary contribution to environmental justice literature comes in the use of intersectionality as a theoretical intervention.

Literature Review

Environmental Justice: An Overview

In the United States, "environmental justice" became a household word in the early 1980s with the case of Warren County, North Carolina. When it was discovered that "midnight dumpers" were illegally dumping PCB (polychlorinated biphenyls) waste in a predominantly low-income African-American community, residents organized against the project (Bullard 2005). While the dumpers in Warren County were fined and jailed, it took the state over two decades to clean-up the site. Residents of Warren County continue to question the detoxification of the dump (Bullard 2005). Although Warren County is not the first case of a racialized and low-income community organizing against exposure to environmental hazards, it is regarded as the birth of the environmental justice movement. For example, Cesar Chavez organized Latinx farmworkers--in the early 1960s--for improved working conditions and against exposure to toxic pesticides (Shaw 2010). There are many more examples of communities resisting proposed waste facilities and hazardous exposure, but it is Warren County that brought the claim of environmental racism to the national stage. According to Szasz (1994), hazardous waste did not become a salient issue for the American public until the 1980s, with the deregulation of environmental laws in the 1970s also contributing to the sustainment of the environmental justice movement in the mist of other struggling movements.

When referring to environmental justice, I draw on Robert Bullard's definition that "all people and communities are entitled to equal protection of environmental and public health laws and regulations" (Bullard 1996: 495). Whereas, environmental *in*equality refers to the disproportionate effect of environmental hazards on a specific group, in this case, poor and working-class Latinx racial and immigrant minorities (Pellow 2000; Pellow 2018). Reverend Benjamin Chavez first coined the term "environmental racism" in 1981 while he was with the United Church of Christ Commission for Racial Justice in the United States. Environmental racism is generally seen as *one specific form* of environmental inequality, which Reverend Chavez defined as:

> …racial discrimination in environmental policy-making and enforcement of regulations and laws, the deliberate targeting of communities of color for waste facilities, the official sanctioning of the presence of life threatening poisons and pollutants in communities of color, and the history of excluding people of color from leadership of the environmental movement (quoted in Holifield 2001: 83).

Environmental racism also includes the exclusion of Indigenous and Black communities from the mainstream environmental justice movement and the decision-making process (Waldron 2018; Gilio-Whitaker 2019). Thus, when using the term environmental racism, I refer to the *issue* of unequal proximity to environmental hazards among people of color, while environmental justice is characterized as the *tools or strategies* used to address the issue of unequal proximity.

The Warren County case resulted in the first national study on race and the siting of waste sites, *Toxic Wastes and Race in the United States: A National Report on the Racial and Socio-Economic Characteristics of Communities with Hazardous Waste Sites*, which was conducted by the United Church of Christ's Commission for Racial Justice (1987) and led by Reverend Benjamin Chavez. The study found evidence that race was the main predictor of toxic exposure and proximity to hazardous waste facilities. Specifically, findings demonstrated that three of every five Black and Hispanic Americans and nearly half of all Asians, Pacific Islanders, and American Indians lived near unsupervised toxic waste sites. The report provided several recommendations, including a call for the U.S. president to draft an executive order requiring federal agencies to consider the environmental impacts of proposed policies, and that the Environmental Protection Agency (EPA) create an office dedicated to supervise the siting of hazardous waste in racial/ethnic communities (1987). Further evidence of racial/ethnic communities and their proximity to toxic waste sites has been associated with residential segregation, health disparities, and immigrant destinations (Cole and Foster 2001; Pellow 2004; Downey 2006; Taylor 2014; Alvarez and Norton-Smith 2018). Despite the overwhelming evidence linking race to toxic sites, there is also literature (see Friedman 1998) claiming that evidence has not been properly vetted or is not credible. This research suggests that majority non-Hispanic white communities are just as likely to be exposed to environmental hazards as communities of color. This continues to be a debate within EJ studies.

In a similar vein, one persistent question within EJ literature involves the minority move-in hypothesis (Been and Gupta 1997; Bullard, Mohai, Saha, and Wright 2007). This perspective investigates a chicken and egg situation: do polluters target communities of color for toxic site placement, or do racial and ethnic minorities move into already polluted neighborhoods? For example, Been and Gupta (1997) conducted a study of 544 communities that hosted active commercial hazardous waste treatment storage and disposal facilities in 1994, claiming that people of color move into polluted neighborhoods rather than being targeted by polluters (Been and Gupta 1997). The study finds no significant evidence that the percentage of African Americans or Hispanics affected the probability that a facility would be placed in a given community (Been and Gupta 1997). It concludes by indicating that processes do not intentionally or unintentionally target neighborhoods where the majority of people live below the poverty line; however, the researchers concede that working class and lower-middle-class income neighborhoods were at greater risk of being disproportionately selected to host toxic facilities (Been and Gupta 1997).

Law, Society, and Environmental Justice

In the 1970s, environmental justice found its way into the legal landscape through the advocacy for environmental policies such as the Clean Water Act (1972), the Endangered Species Act (1973), the Safe Drinking Act (1974), and the Toxic Substances Control Act (1976). This was made possible with the help of civil rights activists and

grassroots groups, i.e., the Congressional Black Caucus, Historically Black Colleges and Institutions or HBCUs, and legal clinics. The 1979 *Been v. Southwestern Waste Management Corp.* case became the first lawsuit against environmental racism to use civil rights law. In the '90s, after the First National People of Color Environmental Leadership Summit, the EPA established the Office of Environmental Equity and the Office of Environmental Justice, and President Bill Clinton issued Executive Order 12898 in 1994 (Gilio-Whitaker 2019). Executive Order 12898 is intended to reinforce Title VI of the Civil Rights Act of 1964--which prohibits discriminatory practices by recipients of federal funds--and the National Environmental Policy Act of 1970; requires federal agencies to report the potential environmental impacts of proposed federal actions on the quality of human health and the environment (Bullard 2005).

EJ scholars, like Pulido and colleagues (2016) and Mank (2008), have examined the policy and legal accomplishments of the EJ movement to identify various approaches and outcomes. For example, Pulido et al. (2016) identifies and examines four approaches activists have used to appeal to the state and the effects of each on fomenting change: lawsuits, Title VI complaints, Executive Orders, and regulatory enforcement. The first approach is the use of lawsuits based on the Equal Protection clause of the 14th amendment--eight EJ lawsuits filed to date. All have failed. The second approach consists of Title VI complaints, which mandates that public agencies receiving federal funds be non-discriminatory in their actions. According to Pulido et al. (2016), the EPA website in January 2014 stated 298 Title VI complaints had been filed by activists with the EPA. Pulido's (2018) analysis reveals that only one Title VI complaint has been upheld; a success rate of 0.3% (see also Mank 2008; Gordon and Harley 2005). The first year of Donald Trump's administration has been described by critics as an era of scientific censorship due to the removal of language addressing climate change and environmental activism by the EPA (Barron 2018). Currently, the EPA website does not provide information on Title VI complaints. While the EPA website does provide a 2017 snapshot, the only information available states, "The table 'Complaints Filed with EPA under Title VI of the Civil Rights Act of 1964' which provided information through 2014 is no longer updated or maintained; thus, the table has been removed from the EPA's website" (2019). In the third approach, activists have used Executive Order (EO) 12898. A 2003 report by the Civil Rights Commission found that agencies such as the EPA, Housing and Urban Development, the Department of Transportation, and the Department of Interior have all failed to incorporate EO 12898 (Pulido et al. 2016). Studies by Noonan (2015) and Guana (2015) examine how environmental agencies have performed and find they have failed to address EJ concerns. The fourth approach examines regulatory enforcement. Despite mixed literature examining environmental enforcement (Ringquist 1998; Atlas 2001; Spina et al. 2019), Pulido et al. (2016) notes there is strong evidence that regulatory enforcement is unequal among racial/ethnic and low-income communities (Bullard 2005; Lynch, Stretesky, and Burns 2004; Lavelle and Coyle 1992).

Procedural Justice

Procedural justice is regarded as a central tenet to EJ and essential to reaching distributive justice, as it used to examine "which rules, regulations, evaluation criteria, and enforcement are applied fairly, uniformly, and in a non-discriminatory way in all communities" (Waldron 2018: 38). Pellow (2018) argues that much attention within the EJ literature has been placed on distributive justice--the spatial patterning and unequal distribution of environmental burdens--as opposed to procedural justice, or the "fair and equitable institutional practices of a state (Schlosberg 2007:25), which include access to decision-making, regulatory practices, evaluation criteria, and enforcement (Walker 2012). According to Waldron (2018), procedural justice must be achieved democratically, through democratic rules and procedures within the decision-making process. Factors contributing to procedural *in*justice include decisions made undemocratically; exclusionary practices; information provided only in English; insufficient notice of public meetings being held by the state or industry group; public meetings held in faraway locations during strategic days or times and without adequate transportation for the community directly affected; and public meetings conducted only in English (Waldron 2018; Bullard 2002; Schlosberg 2003). Research on procedural justice has examined how exclusionary practices and closed decision-making processes have generated conflict over the evaluations of perceived environmental threats (Grimes 2005), as well as grassroots organizing against perceived procedural injustices (Boholm and Lofstedt 2004). Procedural justice is considered a necessary component for environmental claim-making (Walker 2012).

Previous research by environmental sociologists has challenged the objectivity of expert-driven policy and assessment, arguing that scientific knowledge is influenced by specific politics and values (Kojola 2018; Fischer 2000). Patricia Hill Collins (2009) argues that situated knowledge threatens the process used to create and justify conventional knowledge, adding that "if the epistemology used to validate knowledge comes into question, then all prior knowledge claims validated under the dominant model become suspect" (2009:290). Patricia Hill Collins' insight that scientific knowledge is not value-free has implications for the formation or establishment of conventional regulations and policies which are founded on claims of objectivity. A consideration or application of procedural justice in environmental regulations may expose or address exclusionary practices and create the conditions for more equitable policy.

A Critical Environmental Justice Approach

The (un)intentionality of toxic sitings in Latinx, Indigenous, and Black communities (Pulido 2000; Waldron 2018), including an analysis of the role that neoliberalism has in this process, has been examined, most recently in the Flint. Michigan water crisis (Benz 2017). Similarly, the works of Laura Pulido (2017; Pulido et al. 2016), Ingrid Waldron (2018), and David Pellow (2018) push for a structural examination of environmental racism. Pulido's (2017) work pushes environmental justice scholars to move beyond select, successful cases within the environmental justice movement because

singular successes do not represent nor generate structural change that improves the environments of marginalized communities. Pulido's scholarship goes a step further to suggest that while EJ victories are crucial for the communities directly affected, placing too much focus on those victories can conceal the macro-level structures that systematically work to oppress vulnerable communities (Pulido 2017; Pulido et al. 2016; Auyero and Swistun 2009). For Pulido (2016), environmental racism is an inherent component to racialized capitalism. In this conceptualization, not only does the state profit from the labor of racialized bodies but so do white bodies who are not exposed to environmental injustices to the same degree as people of color. It is important, as Pulido (2017) mentions, to identify the role of the state; not as an ally nor as a neutral party, but as a site of contested power.

Environmental justice scholars have long focused on one or two forms of environmental inequality, i.e. race and class, often examining them independent of one another (Pellow 2018). David Pellow's (2018) critical environmental justice (CEJ) framework offers four pillars as conceptual tools to address limitations within the environmental justice movement. The first pillar recognizes that social inequality and all forms of oppression intersect. Pellow extends this notion by including the more-than-human world, from animals and ecosystems to the relationship between "socionature" and urban cities (2018). The second pillar, scale, offers a multi-scalar approach that examines examining how "objects, ideas, bodies, beings, things, and environmental harms and resilient practices" are produced and how they are connected (2018:20), in the past, present, and future. The third pillar views social inequalities as embedded in the social structure and reinforced by the state. The persistence and reproduction of social inequalities effectively dismantles efforts at social and environmental justice. The fourth pillar, *racial indispensability*, emphasizes the *indispensable* role people of color play in the continued functioning, sustainability, resilience, and future of our society and planet.

I aim to engage with CEJ's third pillar which views social inequalities as deeply embedded, reinforced by state power, and a barrier towards social and environmental justice. As Pellow (2018) asserts, most EJ scholarship is not looking to move beyond the state, but instead, are searching for a different form of state intervention. Many EJ scholars and activists' vision for social change hinges on the expansion of the state for causes such as ecological protection, sanctioning violations of environmental justice, and civil and human rights.

Intersectionality

Building on the CEJ framework, I employ an intersectional approach that focuses on how power is used to determine who and what is included and excluded in the decision-making process for Chem Waste's permit acquisition. Centered in U.S. Black feminism and coined by Kimberlé Crenshaw (1991), intersectionality is a theoretical, analytical, or methodological tool (Cho, Crenshaw, and McCall 2013; Bowleg 2008) used to understand how multiple forms of social identities, i.e. race, gender, class, nativity, sexuality, etc., interlock with systems of oppression (Crenshaw 1991; Collins 2009). As

an analytical framework (Choo and Ferree 2010), intersectionality provides a way to understand how decision-making based on differential access to power shapes the environmental conditions of diverse communities in the SJV.

Intersectionality as a theoretical framework within environmental sociology has been underutilized, with an uneven number of scholars employing it as an analytical tool (Ducre 2018; Collins 2015). According to Jones, Misra, and McCurley (2013), 0% of the articles in the field of environmental sociology were intersectional, when they published a factsheet on the utilization of intersectionality within sociology. The *Environmental Sociology* journal published a section devoted to intersectionality in 2018. However, the lack of an intersectional approach serves to disguise the extent to which marginalized communities are exposed to environmental hazards and the structural powers that help maintain that exposure. More recently, scholars have pushed for the application of intersectionality--as a theoretical, methodological, and analytical tool (Pellow 2016; Richter 2018). For example, Olofsson, Öhman, and Nygren (2016) argue that the use of an intersectional approach presents an advantageous perspective over ecofeminism, feminist political ecology, and approaches that fail to acknowledge the role of hegemonic power structures. They argue this approach moves beyond categorizations to analyze power and privilege. They present an intersectional risk theory, which addresses risk as "performative and entangled with the norms and structures of power which, in turn, affects how inequality is and can be done" (346). According to Olofsson, Öhman, and Nygren (2016), environmental sociologists have analyzed a number of social categories and factors in relation to environmental exposure, however, those factors and their consequences have not been problematized, but rather regarded as given. Intersectional risk theory problematizes those factors and categories by examining the unmarked and marked categories of difference within environmental justice (Olofsson, Öhman, and Nygren 2016).

In addition, Malin and Ryder (2018) present the concept of "deeply intersectional environmental justice," drawing from the idea of deep ecology, with emerged as a response to EJ studies' examination of "surface-level problems, unidimensional suggestions, and/or short-term solutions" (Malin and Ryder 2018:4). This concept of "deeply intersectional environmental justice" seeks to bring a comprehensive analysis of the historical systems of oppression that have dominated marginalized communities and served to benefit the elite (Malin and Ryder 2018).

Limitations of the Environmental Justice Literature

Although previous EJ literature explores cases of environmental racism, much of the research in this area is limited in its recognition of the critical role race plays in policy-making and procedural *in*justice. This narrow conceptualization of racism can perhaps be attributed to the idea that it is solely individual racist acts, which require proof of intent, rather than systematic forms of racism that are embedded within institutional and decision-making practices (Pulido 2000; Waldron 2018). I employ an intersectional approach that focuses on how power is used to determine who and what is included and

excluded in the decision-making process. Intersectionality provides a way to make power and privilege visible in environmental decision-making and how it is utilized to sustain environmental racism.

While Pellow's (2018) CEJ framework aims to address the shortcomings of EJ issues--taking an analytical and additive approach to intersectionality by including the more-than-human world as a category--his examination of state power and its quotidian implications for communities is limited. More specifically, Pellow's (2018) use of intersectionality is limited to his first pillar, which recognizes that social inequalities and all forms of oppression intersect. This paper focuses on the discursive space that shapes power by the type of knowledge(s) and experiences that are deemed legitimate and illustrated by who and what is included and excluded in the decision-making process.

Positionality

Although I am critical and aim to problematize the way current scholars recognize their positionality and privilege, I am also trying to articulate my own social location without it reading simply as ornamental. I am a Queer-non-binary-Xicanx born to immigrant parents from Zacatecas and Guanajuato, Mexico, with a fair complexion, and pursuing a doctoral degree. I grew up working in the fields, peeling and packing garlic at a factory in Coalinga, CA as a teenager and into my early 20s. I lived near Pleasant Valley State Prison, and the solar panels and a landfill no one told the community were going to be built right outside the city, which may be contributing to cumulative health risks. I attended a private Christian high school, a predominantly white space, where I learned to interact with the white folks who claimed to be "saving the brown kids from the prison communities." All of that shapes how I approach my research; my social location granted my access to *El Pueblo* and *Greenaction*.

I first came into the doctoral program interested in researching gentrification and sprawl in Fresno, CA as a result of the community-engaged work I had been a part of as an undergraduate student at California State University, Fresno. After a semester in graduate school and reflecting on what my legacy as a scholar would be, I decided to study something close to home. As I was born and raised in the San Joaquin Valley (SJV), studying the SJV seemed ideal. In September 2017, my siblings and I were complaining about the water at home in Huron because it makes your skin and hair feel dry and smells like bleach. I remember when my parents received a bright yellow flier in the mail in the early 2000s, stating we could no longer drink water directly from the tap. We were told to boil the water for at least three minutes if we were going to use it for cooking purposes. Till this day my family does not consume the water directly from the tap. This is not uncommon or recent development in the SJV; the valley has some of the most contaminated aquifers in the nation (London et al. 2018).

Just a 20-minute drive southeast from Huron sits Kettleman City--host to the largest toxic waste dump west of Louisiana--where residents have mobilized to gain access to clean drinking water for over thirty years. I remember hearing about the birth

defects cluster (Netter 2010) in Kettleman when I was in high school in 2010. For many years, my mother would drive me and my siblings up the hills of Avenal, CA--also a 20-minute drive from Kettleman--three days out of the week to go to church. The *senioras* at church would talk about how *los bebes en Kettleman se estan muriendo* (the babies in Kettleman are dying) and born with birth defects. As of today, Kettleman City does not have access to clean drinking water, however, construction of a water purification system was set to begin in December 2018 (Greenaction 2018). The mobilization efforts of Kettleman City residents have led me to ask who was making decisions that affect the health and everyday lives of this community? What was the role of local, state, and federal government agencies in the permit acquisition process for Chem Waste?

Methods

Data

I develop a case study of the permit acquisition process for a toxic waste dump owned by Chemical Waste Management, Inc. (Chem Waste) located in Kettleman City. I employ qualitative methods using archival data sourced with permission from *Greenaction for Health and Environmental Justice*, which includes documents that detail the history of Chem Waste's application process for an expansion permit in Kettleman City. This collection includes newsletters, written testimonials from Kettleman City residents; flyers; *El Pueblo Para el Aire y Agua Limpia* meeting minutes; and written correspondence between *Greenaction*, *El Pueblo*, the California Public Health Department, the California EPA, and state-level government officials. I also use a health assessment conducted by *El Pueblo* and *Greenaction*, and government agency responses to said assessment. Although I have obtained institutional review board (IRB) approval from the university to conduct interviews with members of *El Pueblo*, securing formal interviews has been a slow process. Nevertheless, I rely on informal interviews and participant observation of *El Pueblo* and *Greenaction* activities to inform my analysis.

My study examines the case of Chem Waste in Kettleman City to reveal how the decision-making process is shaped by intersectional dimensions of power to reproduce environmental injustices among disadvantaged communities of color. I use an analytical framework rooted in critical environmental justice and intersectionality (Kojola 2018; McCall 2005) to observe how the permit acquisition process functioned and evolved over time. As I am interested in the macro and meso levels of power, I assess the role that formal institutions such as the United States Environmental Protection Agency (U.S. EPA), the California Environmental Protection Agency (CalEPA), the Department of Toxic Substances Control, and the Kings County Planning Commission play in environmental justice, by focusing on the archived documents. This data reveals the decision-making processes and justifications of federal, state, and county level actors to secure their interests. I focus on the time period from 2005 to 2015, which encompasses the start of the permit acquisition process to after the expansion permit was granted to Chem Waste.

Data Collection and Analysis

I collected archival data from 2005 to 2015. A total of 138 organizational documents collected consisted of newsletters, flyers, publications, and correspondence. I gained access to these materials with permission from the executive director of *Greenaction*. I electronically scanned materials and digitally uploaded them to Google Drive at the *Greenaction* office in San Francisco, CA.

Using Atlas.ti, a qualitative analytical software, I read documents and newspapers line-by-line to identify key patterns and concepts consistent with procedural justice perspectives and critical environmental justice frameworks, using open and focused coding. I coded all content relevant to water contamination and negative health effects. I created broad initial codes that include environmental risks, health impacts, economic inequalities, access, participation, knowledge, evidence, race, and environmental racism. My analysis focuses on how macro and meso level factors intersect in the political and institutional sphere of environmental decision-making.

Background on Kettleman City: A Site of Environmental (In)Justices

The modern-day rural geography of Kettleman City is constructed by a multilayered history that includes a space once home to the Yokut, who are an ethnic group of multiple tribes of Indigenous people from the San Joaquin Valley (Moreno 2018). Before the San Joaquin Valley (SJV) and California Central Valley became one of the largest agricultural regions in the nation, it held the largest concentration of Indigenous peoples in North America, including the Tachi Yokut Indians, one of the most famously known tribes in the region. (Asmatey 2013; Moreno 2018). Figure 1 shows the federally acknowledged tribes in the modern-day state of California (Native American Studies Collection 2015). Figure 2 illustrates the geographic dispersion of the various Yokut tribes in what is now known as the San Joaquin Valley in California (Southern Sierra High Adventure Team 2018).

Figure 1. Indigenous tribes in California (Native 2015).

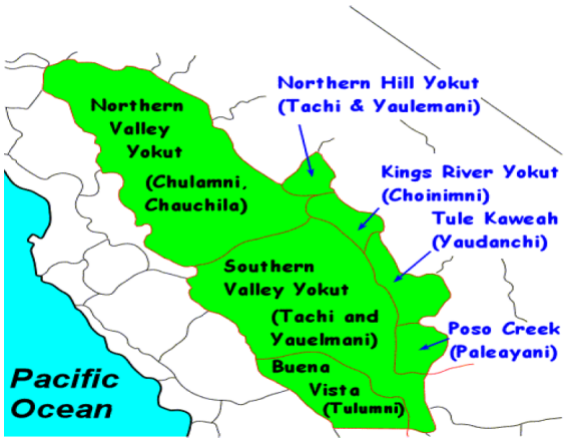
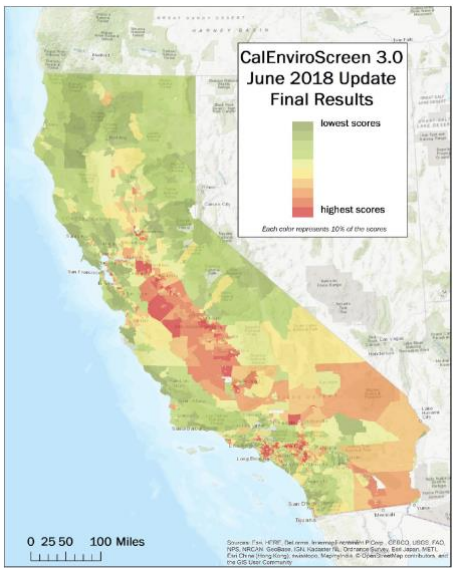


Figure 2. Yokut tribes in California (Southern 2018).

The relocation, disruption, and eradication of the Yokuts is attributed to the idea of Manifest Destiny and the influx of white settlers and later non-native people of color to the valley, as Cecilia Moreno (2018), a Tachi Yokut/Wukchumni member, declares. Furthermore, California has a long history of state-sanctioned violence against Indigenous people, as California's first governor, Peter Burnett, famously stated on January 6th, 1851, "That a war of extermination will continue to be waged between the races until the Indian race become extinct much be expected" (Burnett 1851).

During the mid to late nineteenth century, an economic shift driven by private business, the state, and the federal government transformed the SJV from fresh water lakes to a site for large-scale agricultural production (Arax and Wartzman 2003), consisting of large-scale water irrigation projects and the implementation of chemical inputs, i.e. pesticides and fertilizers (Richter 2018). The agricultural industry required the institutionalization of migrant labor. Armenian, Chinese, Japanese, Black American, Filipino, and Mexican workers migrated from their countries of origin to meet the demand for agricultural jobs in California (Almaguer 2008). According to Almaguer (2008), this time period set the stage for the solidification of white supremacy in California, as both native-born whites and European immigrants joined forces against people of color in the state. Federal investments and economic incentive systems designed for white men in agricultural production transformed land ownership, ecologies, and labor in the valley (Arax and Wartzman 2003). This is particularly illustrated by the Boswell family, who implemented Georgia's cotton slave plantation model in central California (Arax and Wartzman 2003). The Boswells purchased the largest body of freshwater in California, drained it, and built the largest privately-owned farm in the world (Arax and Wartzman 2003).

Today, residents of the San Joaquin Valley (SJV) live in what the Environmental Protection Agency (EPA) has labeled an "extreme non-attainment zone," which means that people who live and work here are exposed to "air quality *known* to harm human health" everyday (Richter 2018:112; Hall, Brajer, and Lurmann 2008). Tap water is so contaminated by agricultural and chemical waste that many residents in rural parts of the SJV purchase bottled water (London et al. 2018). In June 2018, The Office of Environmental Health Hazard Assessment (OEHHA) released an updated version of the California Communities Environmental Health Screening Tool, also known as CalEnviroScreen, which helps identify communities in California that experience an unequal burden due to the proximity of multiple sources of pollution by census tract (OEHHA 2018). Figure 3 (OEHHA 2018) shows the percent of communities in California and the SJV exposed to the most pollution, with red indicating those with the highest scores. The San Joaquin Valley holds the highest CalEnviroScreen scores. Figure 4 (Rowan 2019) illustrates the scale to which people in California are exposed to unsafe drinking water, which is contaminated by arsenic and nitrates from agricultural and farming production. Similar to the previous figure, those who experience the most exposure to contaminated water are noted with a dark red color. This includes 29,293 residents in Kings County with unsafe drinking water.



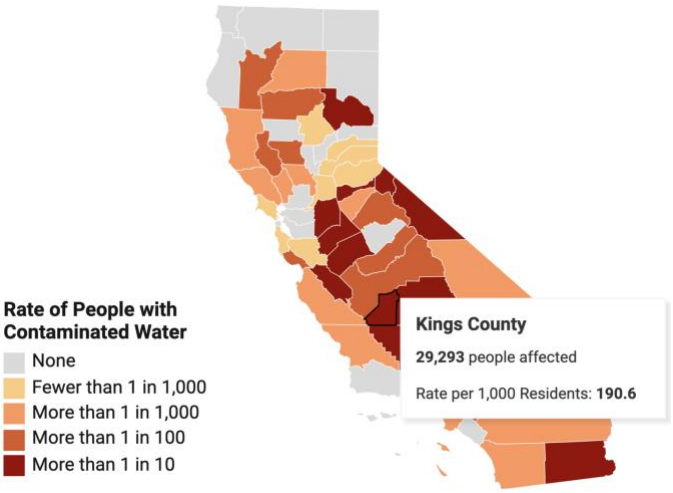


Figure 3 (on the left). Percent of communities by census tracts that are disproportionately exposed to multiple sources of pollution in California and the San Joaquin Valley (OEHHA 2018). **Figure 4 (on the right)**. Rate of contaminated water by county in California (Rowan 2019).

Established in 1893, Kettleman City is part of a wider group of counties with similar histories of environmental injustices in the San Joaquin Valley. The SJV is composed of eight counties, which form part of the larger California Central Valley. The San Joaquin Valley accounts for about $36 billion in annual agricultural revenues for the state. Landowners and agribusinesses dominate local politics and decisions made at the state and federal level. For example, the Westlands Water District, formed in 1952, is the nation's largest agricultural water district, taking up more than 600,000 acres of farmland in Fresno and Kings County; this District benefits forms government subsidies and controls water supply in the region. Although there is limited academic work specifically on the Kettleman case, a dissertation by Asmatey (2013) found that the power of these landowners and agribusinesses is significant to understanding the fight of Kettleman City residents. While corporate farmers seek to avoid political fallout and scientific scrutiny regarding health concerns in Kettleman City, they also stand to benefit from the role Chemical Waste Management, Inc. or "Chem Waste" holds in the state and agribusiness (Asmatey 2013).

The discovery of oil and natural gas in the Kettleman Hills and Kings County in the 1920s not only increased the county's wealth, as the largest site of petroleum and natural gas in the United States, it became a strategic place for the state and nation (Asmatey 2013). Today, Kettleman City is primarily known for being a highway pit stop between Los Angeles and San Francisco. It is a majority Latinx farmworker community with about 1,439 residents, 795 or about 55% of residents being foreign born. The male median income is $23,864, with 28.7% of the population living below the poverty line (ACS 2018). A large portion of Kettleman City residents are monolingual Spanish speakers (Griswold 2016). The county seat is held in Hanford, located in the northeast section of Kings County with 53,967 residents (US Census 2019). While Latinxs make

up 54.8% of the county and whites 32.1%, the Kings County Board of Supervisors--the governing body for Kings County--is majority white and male-dominated (US Census 2018; Kings County 2018). Kettleman City is also an unincorporated city--a region that does not have a local municipal government but falls under county jurisdiction or other subdivisions--and is host to the largest toxic waste dump west of Louisiana, located 3.5 miles from the town (Cole 1994). The dumping site is owned and run by Chem Waste, created in the late 1970s without the community's knowledge (Cole 1994).

Chem Waste and The Permit Process

Chem Waste acquired its site in Kettleman City during the late 1970s and subsequently obtained permits to treat, store, and dispose of hazardous waste and PCB waste. The Chem Waste facility or the Kettleman Hills Facility (KHF) relies on significant permits, namely the Resource Conservation and Recovery Act (RCRA) permit and the Toxic Substances Control Act (TSCA) PCB permit. Despite the facility's history of environmental violations, it is one of the Kings County's largest taxpayers, bringing in more than $1.6 million from franchise taxes and $380,000 from property taxes (Leslie 2010). The RCRA permit allows for the disposal of large volumes of hazardous waste. Chem Waste operates under a 2003 RCRA permit that underwent a modification process in 2007 for the addition of a bioreactor and to allow a site expansion in 2014. The TSCA PCB permit issued since 1981 allows for the disposal and storage of non-liquid PCB waste (EPA 2018).

In 2007, Chem Waste applied for the renewal of the TSCA permit (issued by the EPA) and a RCRA permit modification in December of 2006 with the Department of Toxic Substances Control (DTSC), a branch under the California Environmental Protection Agency (CalEPA). Though not the focus of this study, a power plant was proposed in Avenal (about a 20-minute drive from Kettleman), where Kettleman City residents were also involved in organizing against the project. Separate meetings for public comments were held among community members, and government agencies for the RCRA and TSCA PCB permits.

This study focuses on the RCRA and TSCA PCB permit approval processes. The RCRA permit modification consists of six elements, three of which DTSC was responsible for as the integrity of the hazardous waste containment system could be comprised. As the RCRA permit modification includes a full bioreactor, the project required the approval of other local, state, and federal agencies that hold jurisdiction over different aspects of the project. Under the California Environmental Quality Act (CEQA), Kings County was the lead agency, in a dual role as Planning Agency and Local Enforcement Agency (LEA). Additional government agencies with regulatory power for this project include: Kings County Planning Agency responsible for the Conditional Use Permit; Kings County Department of Public Health as the LEA for the Solid Waste Facility Permit modification; the Regional Water Quality Control Board in charge of Waste Discharge Requirements modifications; the California Integrated Water Management Board who was in agreement with the LEA; and the San Joaquin Valley Air

Pollution Control District that was responsible for issuing the authority to construct and a permit to operate the landfill gas flare (Appendix A).

Once a permit application has been submitted, the approval process for the TSCA PCB permit starts with a review of the application to ensure it meets state and federal regulatory requirements. Next, the application undergoes environmental impact assessments (EIAs), which examine the potential environmental effects of a proposed project on human health and the environment. Once the assessment is reviewed, a preliminary decision to either issue or deny a permit is made. A public notice is then issued, along with a period for public comments. Finally, once public comments are reviewed, a final decision on the permit is provided. The RCRA permit follows a similar approval process with the respective agencies.

Findings

Participation in the Decision-Making Process

As an aspect of procedural justice, the decision-making process is regarded as fair when those who are interested in the outcome and affected by the decisions made are able to participate (Maguire and Lind 2003). In the case of Kettleman City, it was primarily the members of *El Pueblo* and *Greenaction* (along with other EJ and legal organizations) who were in conversation with Chem Waste and state and federal agencies.

Chem Waste submitted an application with the Department of Toxic Substances Control (DTSC) for a RCRA permit modification on December 7th, 2006, which allows a portion of a non-hazardous section at the facility to be used as an anaerobic bioreactor, meaning the decomposition of organic material would be accelerated through the addition of liquids, high moisture content waste, and reuse of landfill leachate. Kings County was responsible for conducting a Draft Subsequent Environmental Impact Report (DSEIR) and approved the Final Subsequent Environmental Impact Report (FSEIR) on June 6, 2005. Throughout the archival collection these reports are referred to as an environmental justice assessment, a Draft Subsequent Environmental Impact Report (DSEIR), a Final Subsequent Environmental Impact Report (FSEIR). Throughout the EJ literature, they are often called Environmental Impact Assessments (EIAs) or Environmental Impact Reports (EIRs). For the purposes of this paper, I will use Environmental Impact Assessments (EIAs). The DTSC provided comments and used Kings County's EIA for their approval of the RCRA permit on September 21, 2007. An appeal to review the approved decision was filed on behalf of *El Pueblo*, *Greenaction*, *Lucha Por Salud Justicia Ambiental*, and *Kids Protecting Our Planet* (KPOP), however it was denied by DTSC on January 30th, 2008.

The hazardous waste permitting program exists under the Resource Conservation and Recovery Act (RCRA) to ensure the safe management of hazardous wastes (EPA 2017). On March 2009, the DTSC granted a Temporary Authorization for a Class 3 permit modification of the Hazardous Waste permit, which allowed design changes to the existing facility in efforts to better manage larger rain storms, despite the major drought

California experienced during this period. Although the initial steps in the decision-making process were carried out, namely the review of the application including an assessment of environmental and health impacts, and the proposed decision regarding approval of the permit, DTSC failed to provide a public comment opportunity to Kettleman City and Avenal residents on the proposed Class 3 permit modification.

On April 17, 2009, *Greenaction* filed an appeal with the Department of Toxic Substances Control (DTSC) against the "Temporary Authorization" of the Class 3 permit modification for failing to provide a public comment opportunity to Kettleman City and Avenal residents. Not only did DTSC fail to provide a period for public comment, but *Greenaction* further noted that the proposed notice of approval led to confusion among residents as it was made while decisions for at least three other Chem Waste permits were taking place simultaneously. During this time, *Greenaction* also found that a disproportionate number of Kettleman City's infants were born with birth defects, including cleft lip and cleft palate (Leslie 2010). *Greenaction* called for an investigation of the birth defects, stating that no permits should be granted to Chem Waste until DTSC or a third party investigates. Furthermore, *Greenaction* stated in the appeal:

> "The discriminatory and disproportionate impact of this decision includes the exclusion of residents from decision-making processes about this facility that poses a threat to public health. The Chemical Waste Management facility is the largest hazardous waste landfill in the western United States, and government decision-making regarding this facility has a several decade-long and well-documented history of systemic and de facto exclusion of residents from meaningful participation in permit and regulatory decisions. DTSC is well aware of this ongoing problem and concern, yet chose to issue a Temporary Authorization without any public input."

Approximately one month after *Greenaction* filed their appeal, DTSC responded on May 19, 2009 with an order denying the appeal stating, "California Code of Regulations, title 22, section 66270.42, subdivision (e)(1), allows the department to grant temporary authorizations, without prior public notice and comment." Regardless of DTSC's assertion that they did not need to provide public notice, they further stated that their department's administrative record showed that they had, in fact, provided public notice. Moreover, DTSC stated that *Greenaction's* reporting of confusion among residents "does not explain why there were no public inquiries or comments presented to DTSC in this regard." In other words, although DTSC stated they did not need to provide a period of public notice and comment, they also claimed they did so anyway; additionally, they maintained that resident's confusion about the permit process did not excuse their lack of public engagement or comment regarding the requested permit, nor require additional explanation or opportunity to comment. Furthermore, when a public meeting was held by DTSC, *Greenaction*, *El Pueblo*, *Lucha Por Salud Justicia Ambiental,* and *KPOP* raised concerns over improper translation:

> "[This] is an example of environmental racism, directly contradicting the testimony and concerns of Spanish-speaking residents who testified about poor translation and paraphrasing of testimony. DTSC claims the translation was 'quite adequate,' yet admits that paraphrasing did occur. Paraphrasing is not equivalent to full and accurate translation, and the result is that Spanish-speaking residents were denied their right to fully understand everything being discussed about this issue that will impact their community, health, families, and environment."

The location and timing of meetings limited participation and representation for Kettleman City residents. On October 5, 2009, *El Pueblo*, *KPOP*, and *Greenaction* wrote a letter to the Kings County Planning Commission and Community Development Agency (2019) detailing their opposition to a proposed Conditional Use permit, which forms part of the RCRA permit and allows the county to use a property that is not routinely allowed but can potentially be made compatible through a proposed project and site-specific conditions. Meetings were proposed during the week and at a time when most residents were still at work. Residents commented that even when they were able to attend meetings, those who supported Chem Waste were given priority and prime time hours to provide their testimony in favor of the project. In addition, *El Pueblo*, *KPOP*, and *Greenaction* raised concerns in this letter to the county over inadequate transportation for Kettleman City residents:

> "After community residents vocalized their objections to the location of the hearing scheduled to be held 35 miles from their homes, and after these concerns received significant press coverage, at the last minute a small notice was published in the Hanford Sentinel stating that transportation would be made available by the County. On the afternoon of Friday, October 2nd, just 3 days prior to the hearing, a small notice was seen that indicated a bus would depart from Kettleman City at 4:30 p.m. Most residents were not fully informed about this bus, but more importantly, residents who work during the day would not be able to get home in time to take the only bus being offered. When objections about this were relayed to County Supervisor Richard Valle about this, he attempted to get the time of the bus switched to 6 p.m. -- a time that would enable residents to come home from work and then get on the bus to the hearing. Shockingly, but not surprisingly, Kings County gave control over the timing of the bus to Chem Waste, and Chem Waste refused the request from Supervisor Valle made on behalf of residents to have the bus depart at 6 p.m. The County demonstrated its absolute bias and deference to Chem Waste once again by giving decision-making authority on a county matter to a polluter seeking a county permit."

El Pueblo, KPOP, and *Greenaction* asserted this violated the civil rights of residents, who are predominantly low-income and Latinx, and affected their ability to participate in the public hearing and thus the permit process. When Kettleman City residents were able to attend a public meeting in Hanford, the county seat, regarding the Conditional Use permit on December 07, 2009, they were met with police, a K-9 unit, and "a few hundred

Waste Management employees dressed in green company T-shirts, who filled the rear third of the auditorium" (Leslie 2010). In addition to being excluded from the permit decision-making process, there were additional exclusionary practices, such as inconvenient location, time, and transportation for the public to comment or participate. These practices of exclusion provide evidence of procedural *in*justice.

Use of Evidence and Knowledge(s)

In addition to limited participation, residents expressed concern over the evidence used to make a decision. Scientific knowledge is provided in accordance to local, state, and federal regulations, often in the form of environmental impact assessments (EIAs) and environmental impact reports (EIRs), which are meant to examine the potential environmental and health impacts for the community near the facility.

During the TSCA PCB permit process in 2007, the United States EPA conducted an Environmental Impact Assessment (EIA) that studied "30 environmental, community, health, economic, and social indicators in Kettleman City and Avenal." The US EPA concluded that based on their indicators no evidence was found that Kettleman City and Avenal would experience adverse impacts from the waste facility and reported "inconclusive findings" in regard to potential impacts (unrelated to Chem Waste) from diesel and pesticides that could harm the communities. On March 2007, a public hearing was held in Kettleman City on the TSCA PCB permit process, where Kettleman City residents raised concerns over the use of EIA and the potential site expansion. Steven Jawgiel, a public hearing officer for the US EPA, responded to questions raised by stating the following:

> "…I'm not here to answer questions. I'm – actually, let me do this. Let me explain my role a little bit more here. I'm actually a neutral here in that I have no decision-making influence on these permits."

Despite Mr. Jawgiel's response, Maricela, a lead organizer with *El Pueblo* raised concern over how the EIA was conducted:

> "I'm wondering, how did you do this without talking to the residents of Kettleman City? I know that you're not answering questions tonight, or until nine o'clock when most of us have to go home because we're hard working people here. But I'm just wondering how can you evaluate your own assertions here that say you need to talk to the community. Nobody ever talked to me. Nobody surveyed me. Did anyone survey anybody here? No. I'm just wondering how you can say that's a requirement and then violate it… I want a survey done. I want to be asked. I want a complete survey that does look into the cumulative effects because you tell us in every single one of your EIR reports that this little bit wouldn't affect you here and this little bit will not affect you here and this little bit will only affect one in a million."

Luke Cole--an attorney with The Center on Race, Poverty, and the Environment--who provided legal assistance and helped organize residents in Kettleman, echoed Maricela's concerns:

> "Kings County has done several environmental impact reports about expansions in the dump, about the incinerator and things like that. Now Kings County is among the more racist counties that I've encountered in California. Even Kings County found impacts on Kettleman City from the dump in their EIRs, they found impacts."

The comments from Maricela and Attorney Cole captures the sentiments of many Kettleman City residents. Their comments express concern that the Environmental Impact Assessments (EIAs) fail to adequately collect pertinent information from residents that demonstrate concern for their mental health and physical well-being. Moreover, residents and environmental justice advocates suggest that residents' experiences with racism and negative environmental impacts that stem from racism and unequal power relations between residents and Chem Waste, as well as local and state regulators, are not considered in scientific reports. Their claims demonstrate a need to further examine what is considered "objective" or "conventional knowledge." Beyond residents' and community organizers' claims of racism and negative health impacts is the empirical evidence that is dismissed from consideration.

Between 2007 and 2010, a total of 11 babies were born with birth defects, three of whom died as a result and one was stillborn (Leslie 2010). Due to the United States EPA's conclusions about a lack of potential adverse impact for Kettleman and Avenal residents, *Greenaction* responded with the following:

> "Residents report many incidences of birth defects, cancer, asthma and reproductive problems that potentially could be linked to exposure to toxic chemicals and other pollutants associated with exposures from the waste facility, yet no agency has investigated these health complaints… For this reason, Greenaction recently conducted a community health survey of Kettleman City in order to determine whether the public's health in Kettleman City has been disproportionately affected."

The health survey, however, was halted in order to launch a media campaign, which centered and publicized the narratives of the mothers whose children were born with birth defects (Leslie 2010). Once the stories gained national attention, the Kings County Board of Supervisors called for an investigation, while also approving an expansion permit for Chem Waste (Leslie 2010). The former governor of California, Arnold Schwarzenegger, ordered the Department of Public Health (DPH) to investigate the cluster of birth defects in Kettleman City and the California Environmental Protection Agency (CalEPA) to examine the possible environmental pollution in the air, water, and soil, which may have contributed to the increase of birth defects (Department of Toxic Substances Control 2013). After a 2013 report by the Department of Toxic Substances

Control (DTSC) was released, no significant connection between the landfill and an increase in birth defects was found. However, the report did state the water in Kettleman exceeded the acceptable levels of arsenic and benzene (Department of Toxic Substances Control 2013). A settlement was reached where Chem Waste agreed to: pay $100,000 for a health survey of Kettleman City residents; pay outstanding water service debts; provide documents in English and Spanish; provide an annual summary of the air and water quality monitoring reports to the community; among other things for the community (DTSC 2013). The national attention of the birth defect cluster proved to be unsuccessful in producing change or accountability on behalf of the polluter, i.e., connecting the birth defects to the dumping, or at the institutional level (Richter 2018). Nevertheless, it was successful in drawing support from external and elite allies, e.g., the support of nearly 70 organizations, which included local non-profits and environmental justice coalitions (Perkins 2015).

The Role of the State

Previous studies of procedural justice have demonstrated that the behavior or role of the authorities, i.e. the state, involved in the decision-making process is crucial to perceptions of fairness and acceptance of their decision to approve or deny a permit (Maguire and Lind 2003). Perceptions of the state as unbiased and fair are regarded as essential to procedural justice. Table 1 shows the number of participants represented in each category of the archival materials (N=138). The written correspondence between the grassroots organizations, state actors, and private industry refers to letters, grievances, and flyers. Whereas, legal documents indicate lawsuits (*El Pueblo and Kids Protecting our Planet v. Board of Supervisors of Kings County*) and legal orders such as an *Order Denying Petition for Review* of the RCRA permit decision issued by the Department of Toxic Substances Control (DTSC). The greater attendance of Kettleman City residents in public hearings is perhaps due to the meeting setup, where only three US EPA officials are present to conduct the public comment period, compared to the 19 residents[2] who provided comments (Table 1). Written correspondence and legal documents illustrate the lack of meaningful participation for Kettleman City residents and the dominance of the state. The 27 Kettleman City residents, along with the 48 environmental justice organizations who supported them, were outnumbered by the 135 state actors represented in the written correspondence documents.

[2] This does not include persons who did not provide comments or people under the age of 18 who were present at the public meeting but were recorded as "unidentified speaker/s" in the transcript provided by the US EPA.

Table 1: Total Count of Groups Represented in Archival Documents

	Public Hearings	Written Correspondence	Legal Documents
Kettleman City Residents	19	27	2
EJ Organizations	8	48	5
US EPA	3	35	6
DTSC[1]/CalEPA	1	43	3
Kings County	--	12	1
Other State/Federal[2]	3	45	--
Chem Waste	--	9	1
Total	34	219	18

1DTSC = Department of Toxic Substances Control; 2'Other State/Federal' includes the CA Department of Public Health, CA Air Resources Board, state politicians, CA Energy Commission, and NASA

Residents of Kettleman City and EJ organizers were well-aware of the dominance of the state, calling out their bias in regard to the EIAs used that failed to acknowledge the birth defect cluster and the ultimate approval of both the TSCA PCB and RCRA permits that favored Chem Waste. Both residents and organizers expressed their discontent with government agencies in an attempt to hold them accountable. For example, Marie Harrison, an organizer with *Greenaction*, communicated the following to the United States EPA during a public hearing in 2007 for the TSCA PCB permit:

> "Where we're from, children and people come first. In our book, the name that you carry means that your job and your charge is to protect the environment and by protecting the environment without the people, it's not only an environmental racist act, but it is taking justice to the lowest it can go. We're here to tell you that that must stop."

Jose, who has lived in both Kettleman and Avenal, also provided a statement that disapproved of the state's actions during that same public hearing:

> "I'm really tired of the government trying to apologize every time you put in a new waste dump, a new prison, every time you put this with people of color, because that's what it's affecting, people of color. Look at the community. Look at the community's faces, that's all you have to do in order to understand that this is racism...We demand that you hear us. We demand that you start doing what we say. And that's about it."

Not only did *El Pueblo* and *Greenaction* request that an EIA and investigation of the birth defect cluster be conducted by a third party, they declared the disregard of resident's voiced concerns as racial discrimination on behalf of the state. In a written testimony, Ramon L. Mares, member of *El Pueblo*, expressed in 2014 against approval of the RCRA permit and the possible increase of pollution due to the proposed Chem Waste expansion:

> "They think we are ignorant and don't know these things. That we just have to accept what they tell us. We are tired of this situation. It's not the first time that I have told an agency how racist they are. Basically, they are just as racist as the KKK, except they hold more power over us."

In addition to bias and racial discrimination, residents raised questions on the militarization of the state during the public comment period. Miguel Alatorre Jr., a member of *El Pueblo* and founding member of *KPOP*, stated in a written testimony against the RCRA permit:

> "I also went to several meetings where there were a lot of police around, acting like personal security guards for the company. There was even K-9 units and mobile sheriff's offices at several meetings. How were people supposed to participate under these circumstances? It was straight up racist. The permit decision just emphasized what everyone knows is true: white people with money will always be able to do whatever they want to poor people of color, just like they did in Kettleman City."

Despite claims by government agencies that a thorough investigation was conducted to evaluate the birth defects cluster and that the EIA used in the approval for the RCRA was unbiased and accurate, Kettleman City residents and EJ organizations did not perceive it as a fair and just process. The added presence of a militarized state during the public comment period affected residents' ability to participate in the permit process. The perception of an unfair and unjust process made it less likely that residents would accept the state's final decision and serves as an example of procedural *in*justice. Jose, Ramon, and Miguel's statements on racism highlight the importance of race and racism to the community's struggle. Moreover, Miguel's reference to "white people with money" doing what they please to poor people of color illustrates the history of unequal power relations between the economic interests of private industry and ultimately the state's decision to favor industry over the residents directly affected. These claims presented by residents show that racialized capitalism cannot be separated from environmental racism.

The Use of the Law

Literature on procedural justice notes that democratic rules and procedures must be conducted to avoid procedural injustice within the decision-making process practices (Waldron 2018). While EJ organizations in Kettleman City attempted to call upon existing federal actions created to ensure environmental justice like Executive Order 12898, government dismissed its merits. In regard to the TSCA PCB permit, hazardous waste facility siting, and adverse cumulative impacts, Bradley Angel, executive director of *Greenaction*, stated the following at a public hearing in 2007:

> "Lastly, EPA says well there's no laws to really govern this. Before this meeting started tonight, Enrique Manzanilla made an incredible admission. He admitted that the executive order on environmental justice issued by the President of the United States 13 years ago, has no legal affect whatsoever. It is not worth the paper it's written on. Our civil rights laws are not worth the paper they're written on. Laws that allows a polluter to dump toxic PCBs in a community without waiting ten years for a public hearing, that's outrageous. It's racist and it's an adverse impact."

Furthermore, not only were federal actions dismissed during the TSCA PCB permit process, but DTSC rules during the appeal process for the RCRA permit proved to be exclusionary as it limited who was able to participate in the potential review of a government agency's decision. For example, following the approval of the RCRA modification permit on September 21, 2007, an appeal to review the approved decision was filed before the October 29, 2007 deadline on behalf of *El Pueblo, Greenaction, Lucha Por Salud Justicia Ambiental*, and *Kids Protecting Our Planet* (KPOP). However, only *Greenaction* was deemed by DTSC to have standing for the appeal as they were the sole grassroots organization to submit comments on the draft RCRA Permit during a public comment period. The DTSC claimed the remaining organizations failed to provide comments or participate in the public comment period, despite *El Pueblo, Lucha Por Salud Justicia Ambiental*, and *KPOP*'s efforts to raise awareness about the permit and participation in a public hearing held by the US EPA earlier that year. The DTSC's standards to issue a review of the permit approval were conditional on participation during the draft permit decision; only person(s) who provided comments or participated in the public hearing were eligible to appeal/petition for a review of the final permit decision and only comments brought forth in the initial decision period could be addressed by the eligible party.

On January 30, 2008, the Department of Toxic Substances Control (DTSC) issued an Order Denying Petition for Review, citing the California Code of Regulations, title 22, section 66271.12 and the California Code of Regulations, title 22, section 66271.18(a) as appropriate for their decision to review the approval of the RCRA modification permit, the latter states that:

> "The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on: (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the Department should, in its discretion, review"
> (Order Denying Petition for Review 2008).

The DTSC determined that the "burden to establish that the Department should grant a review" was not met in the 16 comments presented in the appeal, essentially saying that

there was no evidence to uphold the assertions made by *Greenaction*. In a similar fashion, appeals filed by *Greenaction* in 2007 and 2014 requesting a review of the approvals for Class 3 Permit modifications, which were issued by the Department of Toxic Substances Control (DTSC), were also dismissed. In the responses given by DTSC, they stated the appeal process was not an appropriate venue to argue that Kettleman City resident's civil rights were violated. When *El Pueblo* and *KPOP* did file a civil rights complaint (*El Pueblo and KPOP v. Kings County 2010*), with the United States Department of Transportation alleging the county racial discriminated Kettleman City residents during the public comment period for the Conditional Use permit, the complaint was also dismissed by the Court of Appeals of the State of California Fifth Appellate District in 2012 due the claim that no sufficient facts were submitted to overturn the decision to approve the permit.

In 2015, an agreement was reached between the Department of Toxic Substances Control (DTSC), the California Environmental Protection Agency (CalEPA), and *El Pueblo* and *Greenaction for Health and Environmental Justice* for the treatment of Kettleman City residents in the approval of the Conditional Use permit to Chem Waste. The complaint was filed under Title VI of the United States Civil Rights Act of 1964 (*El Pueblo v. DTSC/CalEPA 2015*). This complaint documents that DTSC/CalEPA intentionally discriminated against a minority group by knowingly and purposefully using and depending on Kings County's studies and processes that were done and approved through the use of racially discriminatory procedures and rules, which included the intimidation of Latinx residents by police and county officials (El Pueblo vs. DTSC/CalEPA 2015).

The outcome of this Title VI complaint led to the reversal of the expansion permit. However, in 2016, Chem Waste "volunteered" to pay for the community's water debt and help establish access to clean water. It is crucial to note that this was contingent on Chem Waste receiving the expansion permit from Kings County, which was granted as a result. The construction of a water purification system was expected to start in December 2018, made possible by the mobilization efforts and legal struggles of *El Pueblo*, *Greenaction*, and *KPOP*, who were supported by over 40 grassroot environmental justice organizations, specifically California Rural Legal Assistance, Inc. and the Center on Race, Poverty, and the Environment. This case is an example of a Title VI complaint that was initially successfully. The examples provided also highlight how government agencies have utilized the law to legitimize their decisions to approve permits for Chem Waste and to exclude Kettleman City residents from proper engagement on the legal landscape.

Discussion

The Kettleman case illustrates exclusion in the decision-making processes which are used to produce and maintain environmental injustices. Although state agencies express the intention of working with the community and stress the need to obtain objective information, state actors directly contradict the claims made by said agencies.

In sum, government officials see themselves as "neutral" actors; the decision-making process ignores and excludes the voices of Kettleman City residents, privileging industry.

In regard to elements of procedural justice, the data from the archival collections suggests that the permit acquisition process for Chem Waste was exclusionary as it limited participation for residents from Kettleman City. If residents were provided access to the decision-making process, it was often limited participation, which demonstrates that access alone does not provide procedural justice. While some EJ organizers attempted to work with the state and hold them responsible for their decisions to grant permit approvals, the dominance and militarization of the state resulted in residents largely viewing the process as biased and racist. These findings are in accordance with Pellow's (2018) assertion that most EJ organizations seek to continue to work with the state and try to hold it accountable instead of moving beyond the state.

The findings presented in this paper show the need for further examination of what is considered "objective" or conventional knowledge, which is often delivered in the form of EIAs and used to justify the expansion of toxic waste sites by the state. An intersectional approach offers critical potential for inclusion of situated knowledges from residents. It is residents, particularly women of color--like those in Kettleman City--who over and over again give their time to devise a way to assess the needs of their community, conducting their own health surveys. This form of knowledge is often ignored by those in power. However, this knowledge can be used to challenge what is considered to be objective truth and the processes used to arrive at said truth.

This paper also illustrates how the state benefits from its ability to navigate the legal landscape over residents who lack the legal tools or legal literacy to make a case for their community's health and well-being. This case also presents an example of a briefly successful Title VI complaint that results to be in accordance with research on the percentage of Title VI complaints that are upheld in the long run; a total of 0.3% (Gordon and Harley 2005; Mank 2008; Pulido et al. 2016).

Conclusion

Three generations of Kettleman City residents have been fighting for environmental justice and their struggle for procedural justice remains just as relevant today. Although Kettleman City has received much academic attention (see Cole and Foster 2001; Asmatey 2013; Perkins 2015; Sze 2018; Richter 2018; Cannon 2019), there is a lack of research on power and how that power influences the environmental decision-making process for this community. Previous studies have largely focused on Kettleman City's history of mobilization, the tactics used, and the movement's outcomes. More broadly speaking, there is a lack of research that examines components of the critical justice framework, procedural justice, and intersectionality. This study aims to fill this gap by highlighting how power shapes decision-making processes that create the conditions for the emergence and persistence of environmental racism.

As this case of Kettleman City illustrates, procedural justice must be central to a critical environmental justice framework as it provides disproportionately affected communities with an opportunity for meaningful public participation and public deliberation in the environmental decision-making process, including environmental and health assessments. This case also demonstrates that one of the most significant challenges Kettleman City residents face in regard to environmental racism are the tools needed to address the deeply entrenched forms of white supremacy and racial capitalism within government agencies, more specifically the permit acquisition process. Government agencies, like the Department of Toxic Substances Control, have utilized the law to legitimize their decisions to approve permits for Chem Waste despite the community's outcry and legal efforts. Therefore, in order to address environmental racism and procedural injustices, a strategy must include a legal violence framework, a critical environmental justice approach and movement that centers power and race, and environmental policies that address the history of procedural injustices that have enabled the unequal siting of hazardous waste facilities in disadvantaged communities.

Notably, this paper was limited to one case study that offered a limited focus on the critical environmental justice framework, thus future research should examine the environmental decision-making process within a different setting and historical period. Future work could also consider a comparative study using the CEJ framework to explore patterns across sites. More research that centers the voices and lived experiences of communities is needed to further understand how justice is perceived within the decision-making process.

References

Almaguer, Tomás. 2008. *Racial Fault Lines: The Historical Origins of White Supremacy in California*. Berkeley: University of California Press.

Almeida, Paul D. 2018. "The Role of Threat in Collective Action." Pp. 43-62 in *Wiley-Blackwell Companion to Social Movements*, edited by David. Snow, Sarah A. Soule, Hanspeter Kriesi, and Holly J. McCammon. Oxford: Wiley-Blackwell.

Alvarez, Camila H. and Kathryn G. Norton-Smith. 2018. "Latino Destinations and Environmental Inequality: Estimated Cancer Risk from Air Toxics in Latino Traditional and New Destinations." *Socius 4*:1-11.

Arax, Mark, and Rick Wartzman. 2003. *The King of California: J.G. Boswell and the Making of a Secret American Empire*. New York: Public Affairs.

Asmatey, Yalda. 2013. "Corporation, People, and Government: A Look at the Rise of the Waste Management from Rural California to the Rest of the World." PhD dissertation, Department of Anthropology, University of California, Berkeley.

Atlas, Mark. 2001. "Rush to Judgement: An Empirical Analysis of Environmental Equity in U.S. Environmental Protection Agency Enforcement Actions." *Law & Society Review* 35(3): 633-682.

Auyero, Javier and Debora Alejandra Swistun. 2009. *Flammable: Environmental Suffering in an Argentine Shantytown*. Oxford University Press.

Bacon, J.M. "Settler Colonialism as Eco-Social Structure and the Production of Colonial Ecological Violence." *Environmental Sociology* 1-11.

Barron, Laignee. 2018. "Here's What the EPA's Website Looks Like After A Year Of Climate Change Censorship." *Time Magazine*. Retrieved from (http://time.com/5075265/epa-website-climate-change-censorship/).

Been, V., and F. Gupta. 1997. ''Coming to the Nuisance or Going to the Barrios? A Longitudinal Analysis of Environmental Justice Claims.'' *Ecology Law Quarterly 24*(1):1–56.

Bell, Shannon. 2016. *Fighting King Coal: The Challenges to Micromobilization in Central Appalachia*. The MIT Press.

Benz, Terressa A. 2017. "Toxic Cities: Neoliberalism and Environmental Racism in Flint and Detroit Michigan." *Critical Sociology* 1-14.

Boholm, Asa and Ragnar E. Lofstedt. 2004. *Facility Siting: Risk, Power and Identity in*

Land Use Planning. Earthscan Publications.

Bowleg, Lisa. 2008. "When Black+Lesbian+Woman ≠ Black Lesbian Woman: The Methodological Challenges of Qualitative and Quantitative Intersectionality Research." *Sex Roles 59*:312-325.

Bullard, Robert D. 1996. "Symposium: The Legacy of American Apartheid and Environmental Racism." *St. John's Journal of Legal Commentary* 9: 445-474.

Bullard, Robert D. 2002. "Confronting Environmental Racism in the 21st Century." *Global Dialogue: The Dialogue of Civilization* 4: 34-48.

Bullard, Robert D. 2005. *The Quest for Environmental Justice: Human Rights and the Politics of Pollution*. Counterpoint.

Bullard, Robert D., Paul Mohai, Robin Saha, and Beverly Wright. 2007. *Toxic Wastes and Race at Twenty, 1997-2007*. Cleveland, OH: United Church of Christ.

Burnett, Peter. 1851. *1st Governor, Independent Democrat State, 1849-1851. State of the State Address*. Retrieved from (https://governors.library.ca.gov/addresses/s_01-Burnett2.html).

California Department of Resources Recycling and Recovery. 2018. "Writing a Solid Waste Facility Permit. Retrieved from (https://www.calrecycle.ca.gov/swfacilities/permitting/permittype/fullpermit/writepermit).

Choo, Hae Yeon and Myra Marx Ferree. 2010. "Practicing Intersectionality in Sociological Research: A Critical Analysis of Inclusions, Interactions, and Institutions in the Study of Inequalities." *Sociological Theory 28*(2):129-149.

Cho, Sumi, Kimberlé Williams Crenshaw, and Leslie McCall. 2013. "Toward a Field of Intersectional Studies: Theory, Applications, and Praxis." *Signs 38*(4):785-810.

Cole, Luke W. 1994. "The Struggle of Kettleman City: Lessons for the Movement." *Maryland Journal of Contemporary Legal Issues 5:*67-80.

Cole, Luke W., and Sheila R. Foster. 2001. *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement*. New York: NYU Press.

Collins, Patricia Hill. 2009. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. Routledge.

Collins, Patricia Hill. 2015. "Intersectionality's Definitional Dilemmas." *Annual Review of Sociology* 41:1-20.

Crenshaw, Kimberlé. 1991. “Mapping the Margins: Intersectionality, Violence Against Women of Color.” *Stanford Law Review 46*:1241-1299.

Deacon, Leith and Jamie Baxter. 2013. “No Opportunity to Say No: A Case Study of Procedural Environmental Injustice in Canada.” *Journal of Environmental Planning and Management* 56(5): 607-623.

Department of Toxic Substances Control. 2013. Environmental Justice Review: The Kettleman Hills Facility Report. June 2013.

Downey, Liam. 2006. “Environmental Racial Inequality in Detroit.” *Social Forces 85*: 771-796.

Ducre, Kishi Animashaun. 2018. “The Black Feminist Spatial Imagination and and Intersectional Environmental Justice.” *Environmental Sociology 4*(1):22-35.

El Pueblo and *Greenaction* vs. *Department of Toxic Substances Control* and *California EPA*. 2015. Complaint Under Title VI of The United States Civil Rights Act of 1964. Retrieved from (https://www.documentcloud.org/documents/3041334-Title-VI-Kettleman-City-Civil-Rights-Complaint.html).

Fischer, Frank. 2000. *Citizens, Experts, and the Environment: The Politics of Local Knowledge*. Duke University Press.

Friedman, David. 1998. “The Environmental Racism Hoax.” *American Enterprise Institute for Public Policy Research*. Retrieved from (https://pdfs.semanticscholar .org/2cb9/a444d6cfeee1decf8a1e8663f040ca0c6cff.pdf).

Gilio-Whitaker, Dina. 2019. *As Long as Grass Grows: The Indigenous Fight for Environmental Justice, From Colonization to Standing Rock*. Beacon Press.

Gordon, Holly D. and Keith I. Harley. 2005. “Environmental Justice and the Legal System.” Pp. 153-70 in *Power, Justice and the Environment: A Critical Appraisal of the Environmental Justice Movement*, edited by David Pellow and Robert. Brulle. Cambridge: MIT Press.

Greenaction for Health and Environmental Justice. 2018. “Our Story.” Retrieved from (http://greenaction.org/our-story/).

Grimes, Marcia L. 2005. *Democracy’s Infrastructure: The Role of Procedural Fairness in Fostering Consent*. Goteborg: Goteborg University.

Griswold, Lewis. 2016. “Environmentalists, State Settle Differences Over Hazardous Waste Site.” *The Fresno Bee*. Retrieved from (http://www.fresnobee.com /news/local/article100013267.html).

Gauna, Eileen. 2015. “Federal Environmental Justice Policy in Permitting.” Pp. 57-83 in *Failed Promises: Evaluating the Federal Government’s Response to Environmental Justice*, edited by David Konisky. Cambridge: The MIT Press.

Gurr, Barbara. 2011. “Complex Intersections: Reproductive Justice and Native American Women.” *Sociology Compass 5*(8):721-735.

Holifield, Ryan. 2001. "Defining Environmental Justice and Environmental Racism." Urban Geography 22 (1):78-90.

Holifield, Ryan. 2012. “Environmental Justice as Recognition and Participation in Risk Assessment: Negotiating and Translating Health Risk at a Superfund Site in Indian County.” *Annals of the Association of American Geographers 102*(3): 591-613.

Jones, Katherine Castiello, Joya Misra, and K. McCurley. 2013. “Intersectionality in Sociology.” *Sociologists for Women in Society*. Social Action Committee. Factsheet.

Kings County. 2018. “Board of Supervisors.” Retrieved from (https://www.countyof kings.com/departments/board-of-supervisors).

Kings County Community Development Agency. 2019. “Article 17. Conditional Use Permits.” *County of Kings*. Retrieved from (https://www.countyofkings.com/ home/showdocument?id=19833).

Kojola, Erik. 2018. “Indigeneity, Gender and Class in Decision-making about Risks from Resource Extraction.” *Environmental Sociology*.

Lavelle, Marianne and Marcia Coyle. 1992. “Unequal Protection: The Racial Divide in Environmental Law: A Special Investigation.” *The National Law Journal* 15: 1-12.

Leslie, Jacques. 2010. “What’s Killing the Babies of Kettleman City?” *Mother Jones Magazine*. Retrieved from (http://www.motherjones.com/environment/2010/ 09/kettleman-city-toxic-birth-defect-cluster/#).

Lynch, Michael J., Paul B. Stretesky, and Ronald G. Burns. 2004. “Determinants of Environmental Law Violations Fines Against Petroleum Refineries: Race, Ethnicity, Income, and Aggregation Effects.” *Society & Natural Resources* 17(4): 333-347.

Maguire, Lynn and E. Allan Lind. 2003. “Public Participation in Environmental Decisions: Stakeholders, Authorities, and Procedural Justice.” *International Journal of Global Environmental Issues* 3(2): 133-148.

Malin, Stephanie A., and Stacia S. Ryder. 2018. “Developing Deeply Intersectional Environmental Justice Scholarship.” *Environmental Sociology 4*(1):1-7.

Mank, Bradford. 2008. “Title VI.” Pp. 22-65 in *The Law of Environmental Justice: Theories and Procedures,* edited by Michael Gerrard and Sheila Foster. Chicago: American Bar Association.

McCall, Leslie. 2005. “The Complexity of Intersectionality.” *Signs 30*(3):1771-1800.

Menjivar, Cecilia and Leisy J. Abrego. 2012. “Legal Violence: Immigration Law and the Lives of Central American Immigrants.” *American Journal of Sociology* 117(5): 1380-1421.

Mohai, Paul, David Pellow, and J. Timmons Roberts. 2009. “Annual Review of Environment and Resources.” *Environmental Justice 34*:405-430.

Moreno, Cecilia. 2018. “Native American Resilience: The Tachi Yokut Tribe and the Preservation of Tribal History and Tradition.” *The Undergraduate Historical Journal at UC Merced* 4(2): 19-26.

Native American Studies Collection. 2015. “California Counties and Corresponding Tribal Groups.” Retrieved from (https://eslibrary.berkeley.edu/NASsites/ california-counties-and-corresponding-tribal-groups).

Netter, Sarah. 2010. “No Cause for California Birth Defects, Health Officials Say.” *ABCNews*. Retrieved from (https://abcnews.go.com/Health/Wellness/birth-defects-kettleman-city-california-officials/story?id=9794655).

Noonan, Douglas S. 2015. “Assessing the EPA’s Experience with Equity in Standard Setting.” Pp. 85-116 in *Failed Promises: Evaluating the Federal Government’s Response to Environmental Justice,* edited by David Konisky. Cambridge: The MIT Press.

Office of Environmental Health Hazard Assessment. 2018. “CalEnviroScreen 3.0” Retrieved from (https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30).

Olofsson, Anna, Susanna Öhman, and Katarina Giritli Nygren. 2016. “An Intersectional Risk Approach for Environmental Sociology.” *Environmental Sociology 2*(4):346-354.

Pellow, David N. 2000. “Environmental Inequality Formation: Toward a Theory of Environmental Injustice.” *American Behavioral Scientist* 43: 581-601.

Pellow, David N. 2004. *Garbage Wars: The Struggle for Environmental Justice in Chicago*. The MIT Press.

Pellow, David N. 2016. “Toward a Critical Environmental Justice Studies: Black Lives Matter as an Environmental Justice Challenge.” *Du Bois Review* 13(2): 221-236.

Pellow, David N. 2018. *What is Critical Environmental Justice?* Polity.

Perkins, Tracy E. 2015. “From Protest to Policy: The Political Evolution of California Environmental Justice Activism, 1980s-2010s.” PhD Dissertation, Department of Sociology. University of California, Santa Cruz.

Public Broadcasting Service. 2013. “Environmental Justice: Opposing a Toxic Waste Incinerator.” *PBS LearningMedia California*. Retrieved from (https://ca.pbs learningmedia.org/resource/envh10.sci.life.eco.enhdiscrim/environmental-justice-opposing-a-toxic-waste-incinerator/#).

Pulido, Laura. 2000. “Rethinking Environmental Racism: White Privilege and Urban Development in Southern California.” *Annals of the Association of American Geographers 90*(1): 12-40.

Pulido, Laura. 2017. "Geographies of Race and Ethnicity III: Settler Colonialism and Nonnative People of Color." *Progress in Human Geography 42*(2):309-318.

Pulido, Laura. 2018. “Historicizing the Personal and the Political.” Pp. 15-24 in *The Routledge Handbook of Environmental Justice*, edited by Ryan Holifield, Jayajit Chakraborty, and Gordon Walker. New York: Routledge International Handbooks.

Pulido, Laura, Ellen Kohl, and Nicole-Marie Cotton. 2016. “State Regulation and Environmental Justice: The Need for Strategy Reassessment.” *Capitalism Nature Socialism* 1-20.

Richter, Lauren. 2018. “Constructing Insignificance: Critical Race Perspectives on Institutional Failure in Environmental Justice Communities.” *Environmental Sociology 4*(1):107-121.

Ringquist, Evan J. 1998. “A Question of Justice: Equity in Environmental Litigation, 1974-1991.” *Journal of Politics* 60(): 1148-1165.

Rowan, Harriet Blair. 2019. “A Million Californians Don’t Have Clean Drinking Water. Where Do They Live?” *California Healthline*. Retrieved from (https://california healthline.org/multimedia/a-million-californians-dont-have-clean-drinking-water-where-do-they-live/).

San Joaquin Valley Air Pollution Control District. 2012. “Title V Operating Permits.” Retrieved from (http://www.valleyair.org/busind/pto/titlev.htm).

Schlosberg, David. 2003. “The Justice of Environmental Justice: Reconciling Equity, Recognition and Participation in a Political Movement.” Pp. 77-93 in *Moral & Political Reasoning in Environmental Practice*, edited by Andrew Light and Avner De-Shalit. Cambridge, Massachusetts: MIT Press.

Schlosberg, David. 2007. *Defining Environmental Justice: Theories, Movements, and Nature*. New York: Oxford University Press.

Shaw, Randy. 2010. *Beyond the Fields: Cesar Chavez, the UFW, and the Struggle for Justice in the 21st Century*. University of California Press.

Southern Sierra High Adventure Team. 2018. “Yokuts.” Lands of the Yokuts and their Neighbors. Retrieved from (http://www.bellavistaranch.net/hat/indian_lore/maps.html).

Spina, Francesca, Philip D. McCormack, Kaityln Clarke, and Scott Walfield. “Environmental Enforcement: An Exploration of Latino Political Representation.” *Sociological Perspectives* 62(3): 308-324.

Sze, Julie. 2018. “Denormalizing Embodied Toxicity: The Case of Kettleman City.” Pp. 107-122 in *Racial Ecologies*, edited by Leilani Nishime and Kim D. Hester Williams. Seattle: University of Washington Press.

Taylor, Dorceta E. 2014. *Toxic Communities: Environmental Racism, Industrial Pollution, and Residential Mobility*. New York: NYU Press.

The Combahee River Collective: “The Combahee River Collective Statement.” 1977.

London, Jonathan, Amanda Fenci, Sara Watterson, Jennifer Jarin, Alfonso Aranda, Aaron King, Camille Pannu, Phoebe Seaton, Laurel Firestone, Mia Dawson, and Peter Nguyen. 2018. “The Struggle for Water Justice in California’s San Joaquin Valley: A Focus on Disadvantaged Unincorporated Communities.” *UC Davis Center for Regional Change*.

United Church of Christ. 1987. *Toxic Wastes and Race in the United States: A National Report on the Racial and Socio-economic Characteristics of Communities with Hazardous Waste Sites*.

U.S. Census Bureau. 2018. “Kettleman City CDP, California.” *American FactFinder*. Retrieved from (https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk).

U.S. Census Bureau. 2019. “Hanford City, California.” *American FactFinder*. Retrieved From (https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk).

U.S. EPA. 2017. “Hazardous Waste Permitting.” Retrieved from (https://www.epa.gov/Hwpermitting).

U.S. EPA. 2018. “TSCA PCB Permit.” Retrieved from (https://www.epa.gov/ca/kettleman-hills#permit).

U.S. EPA. 2019. “*Complaints filed with EPA under Title VI of the Civil Rights Act of 1964.*” Retrieved from (https://19january2017snapshot.epa.gov/ocr/complaints-filed-epa-under-title-vi-civil-rights-act-1964_.html).

Waldron, Ingrid. 2018a. “Re-thinking Waste: Mapping Racial Geographies of Violence on the Colonial Landscape.” *Environmental Sociology* 4(1): 36-53.

Waldron, Ingrid. 2018b. *There’s Something in the Water: Environmental Racism in Indigenous and Black Communities*. Nova Scotia: Fernwood Publishing.

Walker, Gordon. 2012. *Environmental Justice: Concepts, Evidence, and Politics*. New York: Routledge.

APPENDIX A

Appendix A: Overview of Federal, State, and Local Permits for Chem Waste

Permit	Description	Agency	Outcome
Hazardous Waste Facility Permit/RCRA Permit[1]	Allows for the disposal of large volumes of hazardous waste. Chem Waste is operating under a 2003 RCRA permit, which was modified in 2007 to allow for the addition of a bioreactor and to allow for a site expansion in 2014.	DTSC	Expired on 06/30/2013 Permit Modification Approved on 05/21/2014
Conditional Use Permit	Allows the county to consider a use of a property that is not routinely allowed but can potentially be made compatible through the application of project and site-specific conditions[2]. This permit is a key element for approval of the RCRA permit.	Kings County Planning Agency	Approved on 10/19/2009
Solid Waste Facility Permit Modification	Facilities such as landfills, transfer-processing stations, material recovery facilities, compost facilities and waste to energy facilities require this permit. It is meant to ensure the protection of the public health and safety and prevention of environmental damage[3]. This permit is also a key element for approval of the RCRA permit.	Kings County Department of Public Health and the Kings County Planning Agency	Approved on 11/28/2012
Authority to Construct Permit to Operate Title V Permit	Intended to further facilitate and enhance air quality planning, emission controls, compliance, and improve existing emission inventories[4]. These permits are also key for approval of the RCRA permit.	SJV Air Pollution Control District	Approved on 03/01/2018
TSCA Permit[5]	Allows for the disposal and storage of non-liquid PCB waste. Chem Waste operates under permits issued in 1981 (PCB waste), 1990 (storage units), and 1992 (landfill)[6].	US EPA	The US EPA is currently reviewing an application for renewal.

[1]RCRA = Resource Conservation and Recovery Act (US EPA 2018); [2]Source: Kings County Community Development Agency (2019); [3]Source: California Department of Resources Recycling and Recovery (2018); [4]San Joaquin Valley Air Pollution Control District (2012); [5]TSCA = Toxic Substances Control Act (US EPA 2018); [6]Source: US EPA (2018)