

“...to educate and enlist humanity to protect and restore the quality of the natural and human environment...”

# EJ TIMES

The Environmental Justice Newsletter from Sierra Club  
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## *In this Issue*

Welcome .....	page 1
Guest Columnist Mike McCloskey .....	page 2
The Beginnings of a Movement: A Story of Hope .....	page 4
Short Takes .....	page 6
Baltimore Neighborhood Relocated .....	page 7
Legislative Update .....	page 8
Si, se puede!: Environmental Justice for Farm Workers .....	page 10
A Victory in the Making .....	page 12
Environmental Justice: A Burning Issue in Detroit .....	page 14
Convent, Louisiana, Takes on Shintech .....	page 16
Environmental Justice Principles .....	page 18

## **Welcome to the first issue of EJ Times!**

The Environmental Justice Committee of Sierra Club hopes you will find this to be an enjoyable as well as useful publication. With regular guest authors and columnists, it is intended to bring a variety of perspectives and ideas to our readers. In turn, we encourage our readers to find ways to contribute to EJ Times - through story suggestions, accounts of their own struggles, letters to the editor, original writings, etc.

In addition to sending it to various Sierra Club environmental justice activists and other Club leaders, we intend to circulate this newsletter to environmental justice organizations and coalitions throughout the country. Also, in order to reach the largest audience possible while keeping costs down, it will soon be available in pdf form on the Sierra Club website.

Our first issue focuses on some of the quintessential struggles within the environmental justice movement. In fact, they have to a large degree defined the movement itself. Warren County, Shintech, and Ward Valley in particular often need no introduction. The Sierra Club has been involved in some of these, not in others. We share them in this first issue to show how very different struggles have similar themes, and to bring you up to date - many of these battles have yet to be completely won.

Our first guest columnist is Mike McCloskey, certainly an enormous force within the environmental community for many years. Mike has devoted a career to Sierra Club, most recently serving as the Club's Chairman. He retired from this position in the spring of this year.

Also in this issue are the Environmental Justice Principles approved by Sierra Club's Environmental Quality Strategy Team (EQST), which oversees all national level pollution work of the Club. These principles will serve as a guidance document for Club activists on EQST and all of its subentities. Your comments are welcome.

Regular features we plan on presenting are legislative and regulatory updates, websites we have found to be interesting and useful, and "short takes" - brief descriptions of ongoing campaigns with contact information for those of you who may wish to get more involved. Other ideas include featuring, over time, all eight of Sierra Club's National Priority Campaigns and Programs and their EJ connections; theme issues that go into greater depth of complex issues; and interviews with activists of all stripes.

One of the most exciting happenings in Sierra Club with respect to EJ is the

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The Environmental Justice Committee and its liaisons comprise the Editorial Board of the EJ Times. As this newsletter is intended to provide a forum for a wide range of contributors, including non-members of Sierra Club, views expressed in these articles may not represent Sierra Club policy or opinion.

## **New Challenge to the EJ Movement**

*by Mike McCloskey*

The quest for environmental justice is based on the principle that environmental protection must serve everyone, not just the privileged. Solutions that shift burdens to the poor, minorities, and the defenseless are no solutions at all. We must lift the burdens on all and move toward solutions that change the way we do business.

Early in the environmental movement's progress, the Sierra Club stood for comprehensive solutions; it rejected the idea of pollution havens and "sacrifice zones". And it has not accepted patterns of progress limited to "advanced" places. However, it has not been willing to turn away from piecemeal progress either; but it does want everyone to catch up. There have been times, though, when the Club has focused on defending places where it could win. In the process, it may have been complicit in leaving defenseless areas to a bad fate.

The Club was slow in recognizing that minorities and the poor didn't want pollution and degradation in their lives anymore than anyone else. It didn't do enough to reach out to them. Early on, though, it sought to cooperate with organized labor. It supported a strike at a Shell refinery in 1973 and supported efforts of the Oil, Chemical, and Atomic Workers Union and other unions to eliminate toxics in the workplace. It also supported efforts to buffer the effects on workers of decisions by management to close old, polluting plants - instead of cleaning them up. But it wasn't willing to buy the argument that clean-up had to force closures and layoffs. The Club has never bought the argument that environmental protection entailed tradeoffs with jobs. In fact, the record shows that areas with strong programs to protect the environment do not suffer from higher unemployment.

Nor should we buy into a beguiling new argument that is being widely preferred now. Governors in Western states (via their Enlibra program) and the Clinton Administration (via its Council on Sustainability) have been pushing the idea that future environmental decisions should be made on a decentralized basis through collaboration at the local level among all stakeholders. This sounds like a way to empower communities that have been victimized in the past. It sounds much like the call in the EJ community for inclusiveness and rights to participate, which we fully support. However, there is more to this notion than may be apparent at first glance. We need to keep our eyes on our end - which is substantive protection, and not be misled by processes which can turn out to be a double-edged sword.

Collaboration can mean various things: "simply working together," or it can imply that a consensus must be reached; many insist on this. If it means consensus, it can mean that all must assent to the outcome sought. In that case, any party can stand in the way and exert a veto. If we are trying to prevent something bad from happening (e.g., a bad, new polluting plant from being built), then having a veto would allow a

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*(Welcome, cont'd.)*

minority community to protect itself, and that would be desirable. On the other hand, if we are trying to clean up an existing polluting facility, a veto could be used by the business community to defeat clean up efforts, and that would not be desirable.

In some cases, the community may consist mainly of the poor or people of color, but in other cases the community may be mixed and consist of many parties with different interests. Vetoes can be used by vested interests in these cases to block reform and to entrench the advantages they enjoy under the status quo. The potential to exert vetoes may not always work on behalf of the ends of environmental justice.

Moreover, putting power in each community to make siting decisions and decisions on the degree of pollution control may not help communities of color protect themselves from pollution from plants upwind or upstream of their communities. These communities might be smitten with the jobs argument and decide to accept dirty plants, particularly if the pollution would be visited mainly on those away in the distance. In such cases, the disadvantaged community would gain nothing from having a veto; their community would not be making the decisions in question.

Some would address this problem by the artifice of an elastic definition of what constitutes the community. It could expand to any size, depending on the area affected by a given decision. However, in few cases are the impacts confined to any neat line of demarcation. Factories release greenhouse gasses that girdle the globe, and other air pollutants can travel thousands of miles; endocrine disrupting chemicals move across the northern hemisphere to the arctic.

We need to face the fact that we live in an inter-connected world. Trying to balkanize decisions on pollution control makes no sense. The drive to de-centralize decision-making and hand-out veto rights to localities is a prescription for disaster. It is part of the agenda of those who wish to dismantle the federal pollution control program. While that program has its problems and is frustrating, it is far better than this alternative. It is at least looking at the greater good.

This deceptively attractive notion amounts to a stealth attack on the programs that we have worked so long to bring into existence. It will not serve the ends of environmental justice. Rather than empowering such communities, it will really serve to victimize them even more.

recent grant award to hire four new environmental justice grassroots organizers! These organizers, still to be hired, will collaborate with suffering communities in Los Angeles, Memphis, Washington, D.C., and New York City. The organizing philosophy will mirror that which has been used so successfully by activists and staff in the Southeast - provide assistance to communities who ask for it, respect and encourage the leadership already present within the community, and always allow the community to speak for itself. We will profile the new organizers and the communities they will be assisting in an upcoming issue.

In our next issue we plan on presenting a theme issue featuring urban/suburban sprawl and the accompanying environmental justice implications.

We are certain this newsletter will evolve over the next several months as we figure out what works - we welcome your comments and suggestions as this process unfolds.

Until next time,

Kirstin L. Replogle  
Chair, EJCom

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## **Committee Vacancy...**

The Sierra Club Environmental Justice Committee seeks one more member. In order to expand geographic and issue diversity, we are particularly interested in an activist from the West/Southwest who has forged relationships and worked cooperatively with Native Americans. Membership on the committee is via appointment by EQST. If you or someone you know are interested in working with us to advance environmental justice through the Sierra Club, please contact Kirstin Replogle to discuss the application process. Thank you.

## **The Beginnings of a Movement: A Story of Hope**

*by Phaedra Pezzullo*

[Our story] is about a poor, predominately black community standing against the powerful State. I think that's what's motivating. And in terms of where we are now, I think people still are amazed that people are still fighting the fight and are still struggling and are still willing to make the State live up to its promise.

—Dollie Burwell, Warren County resident, February 19, 1998

Despite the debt to longer historical traditions (i.e., the civil rights movement), according to most accounts, what Warren County residents and their allies did from 1978-1982 transformed their community into the “symbolic center” and “birthplace” of the environmental justice movement.” After those events, according to the Washington Post (10/12/82), the “marriage of civil rights activism and environmental concerns” was explicitly linked for the first time in the United States. Yet, there has been a shadow over the ending of Warren County's story for many years: despite their ability to draw national attention to the correlation between social injustices and environmental degradation, the landfill they initially protested is still in their county. This summer, the ending of that story has begun to change. So, in honor of our debt to Warren County and the renewed hope that they bring to all of us, let me again start with the beginnings.

In the summer of 1978, PCB-contaminated transformer oil was illegally dumped on the shoulder of 210 miles of North Carolina state roads in 14 counties. After discovering this dumping site of 32 cubic yards, an investigation found Ward Transformer Company to be the guilty party and pressed charges. This still left the state with the dilemma of removing the chemicals and finding a new, safer storage place. That winter, the state proposed 142 acres of land in Warren County to become the site of the landfill. In 1979, the federal Environmental Protection Agency (EPA) claimed the site could be made safe with engineering.

Warren County took the State to court on several

accounts in order to protest the decision. Finding no clear evidence for their case, the federal court rejected their suit. Since Warren County did not think their environment was the most ecologically sound choice, they began to question the political reasons for why their community was chosen. Being a predominately poor and black population, a second lawsuit was filed based upon discriminatory intent. However, it too failed. In 1982, therefore, the state began trucking the contaminated soil to the site in Warren County. Residents and civil rights leaders attempted to stop the trucks with six weeks of peaceful civil disobedience. Over 523 arrests resulted, and Warren County became a national news story.

In response to the strong vocal protest in Warren County and nationally, Gov. Hunt wrote an open letter to the community stating “that Warren County was chosen for the site solely on the basis of technical reasons” and promised to detoxify the site “when feasible technology is developed” The following year, the General Assembly also committed the state to detoxify the landfill “as soon as the technology for doing so is available.”

Although the landfill was not stopped, many successes have been attributed to the efforts of those involved in Warren County's struggle. First, citizens in Warren County challenged the common assumption that waste must be made and, therefore, it has to go somewhere. Warren County residents drew a line and said there must be social concerns for public health when making environmental decisions. Second, those involved in the protests named their experience “environmental racism.” When Warren County residents articulated the concepts of “environmental” and “racism” together, they not only gave language to a process of domination, but they also expanded the existing definitions of each of these terms.

In denaturalizing the process of articulating political influences and scientific sitings, residents of Warren County created the impetus for several studies which have provided empirical evidence of systematic inequities in U.S. toxic and solid waste disposal policies (Bullard, 1990; Bullard & Wright, 1987; United Church of Christ Commission for Racial Justice, 1987; Lavelle & Coyle, 1992; U.S. General Accounting Office, 1983). These studies offered quantitative evidence that prompted further discus-

sions to interrogate the relationship between socio-political standing and environmental decision-making. The environmental justice movement, therefore, is indebted to the residents of Warren County for initiating the framework of a movement that has “the capacity to transform the political landscape of this nation” (Chavis, 1994, p. xii). Yet, the story continues.

Ten years after the building of the landfill, the state announced up to 1.5 million gallons of water was trapped inside. They agreed to meet with the citizens of Warren County to decide what would be the best means to detoxify the site. As a result, the Warren County Working Group was formed with members representing local citizens, state employees and various environmental organizations. For the past five years, they have met regularly to discuss how the state may deliver on their/our commitments. They hired independent scientists to characterize the site, assess the integrity of the landfill, and determine technical feasibility. As a result of that analysis, the scientists have concluded that it is not only technologically feasible to detoxify the site, but it is also necessary due to the conditions of the site. Based upon this scientific expertise, the Working Group began to lobby Gov. Hunt and the General Assembly to fulfill their promises and fund detoxification now that it is possible. This summer, as a result of their efforts, the General Assembly allocated \$7 million dollars towards detoxifying the site, and the Governor renewed his commitment to keep his word and end this story.

As of this writing, the people of Warren County are still awaiting funding for the detoxification of the landfill. Releasing funds from the state is predicated upon acquiring matching funds from the federal government. Budget negotiations being what they are, the approval of matching funds is yet to come.

If Warren County residents have set a precedent in the past, they are certainly providing another today by working with the state and environmental groups to find common ground. If you are interested in more information on their story and strategies to make environmental justice a reality, please contact the Working Group’s Office in North Carolina: (252) 257-1948.

## Hey all you internet junkies...

Following are some web pages that may be useful and interesting... or may lead you somewhere new! (all are prefaced with <http://>, but you knew that!)

Sierra Club:  
[www.sierraclub.org](http://www.sierraclub.org)

U.S. Environmental Protection Agency:  
[www.epa.gov](http://www.epa.gov)

EPA’s EJ website:  
[www.epa.gov/oesa/oelj](http://www.epa.gov/oesa/oelj)

EcoNet’s EJ page:  
[www.igc.apc.org/envjustice/](http://www.igc.apc.org/envjustice/)

The Right-to-Know Network  
[www.rtk.net/](http://www.rtk.net/)

Environmental Research Foundation - Home of Rachel’s Environment & Health Weekly:  
[www.rachel.org](http://www.rachel.org)

Farm Labor Organizing Committee (FLOC)  
[www.iupui.edu/~floc/home.html](http://www.iupui.edu/~floc/home.html)

Louisiana Environmental Action Network (LEAN)  
[www.leanweb.org/](http://www.leanweb.org/)

Bay Area Nuclear (BAN) Waste Coalition  
[www.enviroweb.org/wardvalley/](http://www.enviroweb.org/wardvalley/)

Are you involved in a campaign to promote environmental justice? Would you like to share your story with the readers of EJ Times? We will be continually seeking both feature-length and short articles for this newsletter. Publication is quarterly. If you are interested in making a story suggestion or would like to be considered as a contributing author, please contact Kirstin Replogle by telephone at (217)344-3809, or via email at <[treehggr@excite.com](mailto:treehggr@excite.com)>.

Full contact information for the entire Committee is found on page 2.

## Short Takes

by Annette Hewlett

The Delta Chapter EPEC campaign is working with the Concerned Citizens of Norco (CCN) in Louisiana to publicize the plight of the community that lives on the fenceline of the Shell-Norco Manufacturing Complex, and find fair and equitable solutions. A grant recently approved by the Sierra Club to Earthjustice and CCN is providing exciting new tools to increase public awareness about what this community lives with every day.

In April, 1999 citizens from Norco, and from the Concerned Citizens of the Agriculture Street Landfill traveled to Geneva, Switzerland as part of the U.S. Environmental Justice Delegation to the U. N. Human Rights Commission. They first received training at the International Human Rights Law Group in Washington, D.C. on the nitty gritty of U.N. operations, and the integration of environmental justice issues in key international treaties and agreements. Their message - that communities in the United States suffer environmental racism due to toxic dumping - was of great interest to the U. N. representatives.

The Sierra Club grant also provides funding for a Bucket Brigade in the Norco community. The Bucket Brigade is an innovative citizen air monitoring program. Community members take bucket samples of air at times when they smell or see things out of the ordinary. The samples are sent to an EPA approved lab for analysis for pollutants. The resulting information is compared with the release reports that industry is required to submit when emissions exceed reportable quantities. Combined with wind and weather information, a picture can be provided of what the community is exposed to, and where the pollution might be coming from. The community of Mossville is currently using this approach to expose levels of pollutants in air far higher than applicable standards.

Finally, the Delta Chapter/Norco FlareCam is now online. This internet camera broadcasts pictures of the Shell Chemical Plant flare at [www.home.gs.verio.net/~ccn/](http://www.home.gs.verio.net/~ccn/). Flare activity can be indicative of plant conditions at a particular time. A yellow, smoky flame indicates bad engineering and a poorly run plant. They are by law only

supposed to burn for 15 minutes at a time. The flare should burn cleanly, indicating complete combustion of pollutants. If it is burning large, smoky, or for long periods of time, the community may be exposed to pollution from incomplete combustion, or an upset may be occurring at the plant requiring routing of excess chemicals to the flare. The FlareCam will allow the community to directly share the injustice they are experiencing with the world. Anyone, anywhere in the country will be able to log on to the web site to observe the size and status of the Shell Norco Chemical Plant flare, and help us hold them accountable for their pollution and the impact it has on the residents of Morgan City.

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Another community in Louisiana is fighting to keep Marine Shale Processors closed. Kevin Moody, President of GTX, Inc., plans to reopen Marine Shale Processors as a commercial hazardous waste incinerator in Amelia, St. Mary's Parish, LA. Marine Shale was shut down in 1996 after the U.S. Environmental Protection Agency (EPA) found evidence that it was illegally operating a hazardous waste incinerator. Mr. Moody is currently seeking permits from the Louisiana Department of the Environmental Quality (LDEQ) to burn hazardous waste near residents in the Atchafalaya Basin. If permitted, Mr. Moody's GTX facility would be the nation's largest hazardous waste incinerator.

GTX, Inc. proposes to locate in St. Mary's Parish which ranks second in the state for toxic air emissions, and among the top 50 in the US. This parish already has 3 confirmed hazardous waste sites, 18 potential hazardous waste sites, a permitted landfill, 19 unpermitted dumps, a commercial oil field waste disposal facility, 140 closed oil and gas pits, 27 open pits, and over 600 oil and gas wells. The people of this community should not be forced to deal with the potential health hazard of yet another hazardous waste facility. Additionally, GTX plans to dump stormwater runoff from the facility into Bayou Boeuf, the drinking water source for area residents, and a popular recreational and commercial fishing area.

For more information, contact Sarah Craven via email at [se-la.field@sierraclub.org](mailto:se-la.field@sierraclub.org) or call (404) 888-9778 ext 223.

**Baltimore Neighborhood Relocated:  
Surrounded by chemical plants, tank farms,  
and a sewage treatment facility,  
the cancer-riddled neighborhood of  
Wagner's Point gets a way out.**

*by Terry J. Harris*

People visiting Wagner's Point for the first time are invariably amazed. Unless masked by irregular but horrible odors from the sewage treatment plant across the street, a vague but acrid chemical odor constantly burns at the nose and eyes. Massive petroleum tanks sit across an alleyway from tiny rowhouse back yards. Trucks rumble every minute or two past a clean and neat city block filled with kids. Tiny Wagner's Point is like nowhere else - a living breathing close-knit community smack in the middle of a post-industrial world of tank farms and chemical plants.

Now, after several major chemical accidents and the cancer deaths of two neighborhood leaders, the residents of Wagner's Point will finally be getting out of harm's way. After a year of pressure, the City of Baltimore has agreed to buy Wagner's Point for a future expansion of the sewage treatment plant. With help from the state and federal governments, and with a promised contribution from the chemical industry, residents start moving out this summer.

Wagner's Point is located in Baltimore's most heavily industrialized peninsula near the Baltimore Harbor Tunnel. The tiny century-old neighborhood is three blocks long and one block wide and consists of some 270 people, including 70 children. Most of the residents can be counted among the several generations of some 10 extended families. The community was built originally on farmland to supply housing for workers in a cannery. Now, the area where the neighborhood is located remains largely isolated from the rest of the City but includes more than 50 industrial facilities including large chemical manufacturing plants and bulk petroleum storage facilities. The cannery is now a chemical plant.

The sudden cancer-related death of life-long resident and community activist Jeannette Skrzecz brought neighborhood concerns into a desperate focus: more than twenty residents of the tiny neighborhood had died of cancer in the past decade;

some of Jeanette's activist work found that nearby monitoring equipment had detected the levels of some cancer-causing chemicals in the air at thirty times a health-based screening level. Tired of fighting battle after battle, environmental permit by permit, Jeanette made it known in the weeks before her death that it was time for Wagner's Point to move.

Jeanette had begun to build a strong coalition of support for Wagner's Point. In particular, she worked with the Cleanup Coalition, a small local non-profit group working on toxics, and law students from the University of Maryland Environmental Law Clinic which represented the community. But mostly, Jeanette worked with a collection of grandmothers from nearby neighborhoods who had already fought many battles against the overwhelming presence of industry in South Baltimore. By the time Jeanette died, she had extracted promises from each and every person she knew to keep fighting for Wagner's Point.

In the six months after Jeanette's death, there were two major accidents at nearby chemical facilities - an explosion and fire at the Condea Vista chemical plant in October injuring one worker, and an earlier accident at the FMC chemical plant in May that released a cloud of chemical gas over the neighborhoods. In both accidents, the single access road was clogged with emergency equipment, reminding all involved that evacuation of the communities in a serious incident is a practical impossibility. The neighborhood had been asking for a way out, but only after the Condea Vista explosion did the efforts gain momentum. Maryland Governor Parris Glendening and U.S. Senator Barbara Mikulski visited the community and pledged their financial support for relocation. Senator Mikulski obtained \$750,000 from the federal government for relocation expenses, the State provided low-interest loan programs and other housing opportunities. The City of Baltimore decided to use powers of eminent domain to take the properties for the expansion of the sewage treatment plant across the street.

Nothing involving government is simple, however. Buyout negotiations with the City in particular were acrimonious and painful. Residents who had moved to Wagner's Point and purchased homes long before the chemical factories arrived asked only for comparable housing in comparable neighborhoods -

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*(Baltimore, from p.7)*

places where the threat of chemical accident and exposure wouldn't be imminently dangerous. The City, however, made no special effort to accommodate the depressed value of the Wagner's Point homes. Then another death. John Regic, another long-time resident and community leader died of leukemia. Quoted in his front-page obituary in the Baltimore Sun, Mr. Regic said "my wish is to be the last person to die in Wagner's Point."

The battle continues, however. The City, under lame duck Mayor Kurt Schmoke, has not yet made any effort to purchase a handful of houses just outside the immediate neighborhood of Wagner's Point but suffering from the same dangers. The chemical industry has offered to purchase those remaining homes, but only if residents sign a liability release

against future lawsuits.

Nevertheless, in the summer of 1999, the residents are moving away. Some to West Virginia, others to Maryland's eastern shore, or to nearby Baltimore suburbs. All away from the smokestacks and smells of the old neighborhood. Away from the cancer. Away from the danger. But also away from lifelong neighbors and friends and family. Indeed, as the community history of Wagner's Point comes to an end, most residents agree the losses far outweigh the bittersweet victory of relocation. Wagner's Point is a horrifying example of what goes wrong — the failures of environmental permitting, zoning, land use planning, emergency response systems, and the fundamental lack of respect for neighborhoods. One hopes we will learn from this.

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## Legislative Update...

*by Annette Hewlett*

The 106th Congress has been quite busy during this legislative session. Never being a group to shy away from destroying our environment, they're hard at work. Representative Boehlert's (R-NY) bill, the "Recycle America's Land Act," H.R. 1300, would roll back the polluter-pays principle, lower cleanup standards, and increase litigation while slowing down cleanups.

This bill contains over 20 provisions that automatically exempt or make it far easier for polluters to escape from paying to clean up their toxic waste sites that threaten human health and environmental quality. While it mandates funds for some exemptions, it fails to mandate funds for cleanups.

H.R. 1300 guts Superfund's main protection for human health and environmental quality and replaces them with an anemic balancing test for determining how to clean up a site and weak provisions for maintaining any long term protections. These changes will increase the number of people that live with contamination in their neighborhoods, allow clean groundwater to become contaminated, and decrease protections for human health and environmental quality.

H.R. 1300's litany of unwieldy new terminology will

result in increased litigation under Superfund. For example, currently the EPA can only recover for cleanup costs that are not inconsistent with regulations that dictate the cleanup process. However, the bill invites increased litigation by adding that such costs must be "not unnecessary." Polluters can argue that virtually any cost is unnecessary because there was a less costly way to conduct an action. It also gives large polluters an automatic right to challenge small party settlements. Additionally, it contains an allocation process that would spawn litigation and increase costs for small parties. Other examples of such litigious language and unwise provisions abound.

H.R. 1300 will be ready for full Commerce Committee mark-up in mid-October. We need your help! Below is a target list of Commerce Committee members. If you see your Representative's name, please call him/her and register your disgust.

*Greenwood (PA)	*Vern Ehlers (MI)
*Rush Holt (NJ)	*David Wu (CA)
*Lazio (NY)	*Cox (CA)
*Bilbray (CA)	*Hall (TX)
*Capps (CA)	*Luther (MN)
*Barrett (WI)	*Strickland (OH)
*McCarthy (MO)	*Green (TX)
*Wynn (MD)	*Sawyer (OH)
*Engel (NY)	*Stupak (MI)
*Eshoo (CA)	*Gordon (TN)

Additionally, Representatives with excellent environmental voting records are also supporting this bill, such as DeFazio (D-OR), Matusi (D-CA), Sanders (I-VT), and Frank (D-MA). There are some bright spots - Henry Waxman (D-CA), John Dingell (D-MI), and Dick Gephardt (D-MO) are all on our side. Also, Ed Markey of Massachusetts, who sits on the Commerce Committee is on our side.

Keep your eyes on this one... and be heard!

Sample letter to the editor for H.R.1300:

Congress is attempting to rollback environmental protections and allow polluters to sneak out of paying to clean up toxic messes they have created.

Clean-up of our nation's toxic waste sites is a critical issue for all Americans, especially minority neighborhoods and children. Nobody is quite sure how many toxic waste sites there are in America, although one estimate by the General Accounting Office is 425,000! The Environmental Protection Agency data shows 10 million American children live within a bike's ride of one of these dangerously polluted sites. Many of the chemicals found at these sites pose health threats - including higher rates of cancer for people living near by.

H.R.1300, "Recycle America's Land Act", a bill that would weaken the Superfund law, is currently being debated in our nation's capital. Under Superfund, the industry that creates the pollution must pay to clean it up. That makes sense to most Americans! Well, this supposedly budget-conscious Congress wants to shift the burden of clean-up to the taxpayers and let the polluters off the hook. Not only would H.R.1300 let the polluters get away without paying a penny for clean-up, but it would relax the standard for what is deemed clean. This would mean that many sites would be considered clean even though toxic chemicals remain present and hazardous.

As cancer rates sky-rocket in our society, Congress should be acting to protect us from hazardous chemicals and force polluters to clean up their waste. We need to tell our Representatives that Americans want a clean environment free of toxic chemicals and we do not support H.R.1300 because it would let polluters off the hook.

\* \* \*

Another hot topic facing this Congress is the issue of Right-to-Know. As we all know, chemical

accidents are real, and they threaten us at home and at work. Amendments to the 1990 Clean Air Act require that facilities that handle dangerous, toxic chemicals determine what would happen should they suffer a worst-case scenario release and develop a plan to handle potential accidents.

Unfortunately, this Congress is considering limiting the public's access to this vital information. The chemical manufacturers are arguing that making this information public would give terrorists a roadmap to potential targets. The FBI and other government agencies have determined that chemical facilities have never had a chemical attack. Not only that, the site security is so poor at most facilities, you could walk right up to the tank of toxins and not be stopped or questioned. But proposed legislation would do nothing to address site security. The bills would only keep you in the dark, while doing nothing to reduce the accidents that cause hundreds to die every year.

The Clean Air Act required chemical facilities to report this information to the EPA by June 21st of this year. Congress was determined to pass a bill to protect the chemical industry before that date.

Senators John Chafee (R-RI) and James Inhofe (R-OK) have a tremendously restrictive proposal - S.880 - which shuts out the public while doing nothing to improve site security or reduce hazards. Further, it throws State and local officials - including librarians and volunteer firemen - in jail if they release this information to the public.

Senator Frank Lautenberg (D-NY) has prepared an alternative that allows local officials charged with protecting your community to do so without limitations. It maintains the public's right-to-know while addressing the problem of chemical site security. Action is also expected in the House any day now. H.R.1790 is nearly as bad as Senators Chafee and Inhofe's S.880. Representative Henry Waxman (D-CA) will also offer an amendment to protect your right-to-know.

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Finally, the House has placed one of its infamous riders on the VA-HUD-EPA-Independent Agencies Appropriations bill (H.R.2684). This rider bars the EPA from investigating claims of discrimination in the permitting process and enforcing Title VI.

*(Update, cont'd. p.16)*

## Si, se puede!: Environmental Justice for Farm workers

by Phaedra Pezzullo

*There are two spiritual dangers in not owning a farm. One is the danger of supposing breakfast comes from the grocery, the other that heat comes from a furnace* (Leopold, 1966, p. 6).

In his now classic environmental text, Aldo Leopold (1966) proposes two ways to evade the above risks: first, “plant a garden, preferably where there is no grocer to confuse the issue”, second, “lay a split of good oak in the andirons, preferably where there is no furnace” (p.6). For those of us who live in areas where grocers and furnaces abound and vacations to the woods are scarce, there is another strategy: support Farm workers. Their work might not directly address the issue of heat, but it definitely has a lot to remind our souls and our minds regarding breakfast, lunch, and dinner.

In 1962, CBS produced a documentary, *The Harvest of Shame*, which aired the conditions of farm laborers’ lives for the first time on national television. To commemorate this historical event in journalism, CBS consequently produced *The Legacy of Shame* (1995). Anchorman Dan Rather reports oppressive conditions and illegal practices of the current U.S. agricultural system. He, however,

concludes that these findings have constituted the way life has been long before the original CBS documentary and will continue to be indefinitely: “This agricultural system has been in place since the end of slavery and few actually want to change it.” Luckily, those “few” are growing in numbers. One of the main campaigns attempting to challenge the conditions in which our food is produced is the Farm Labor Organizing Committee’s (FLOC) boycott against the North Carolina-based Mt. Olive Pickle Company.

FLOC is a union founded in 1967 by Baldemar Velasquez in Ohio. Since then, the union has signed contracts with Campbell Soup, Vlasic, Heinz, Green Bay, and Aunt Jane’s corporations. What is unique about their strategy is that they encourage three-way contracts between growers, workers, and food distributors. Although their primary efforts have focused upon farm workers, they believe both growers and workers are being exploited by the large corporations that sell the final products.

FLOC began visiting North Carolina two years ago to explore the conditions of people who work with/ for Mt. Olive. According to their literature,

“Behind the jar, there’s plenty to hide. The ingredient list doesn’t mention human beings working 12-hour days, six or seven days a week during the growing season, with no minimum wage standards enforced and squalid, substandard housing. It doesn’t mention daily exposure to toxic

### WHAT YOU CAN DO:

#### •Spread the word.

The Sierra Club’s Midwest Regional Conservation Committee and the Sierra Club Board of Directors have given approval for groups and Chapters within the midwest (Iowa, Illinois, Indiana, Kentucky, Minnesota, Michigan, Missouri, Ohio, or Wisconsin) to officially join the boycott. If your midwestern Group or Chapter wishes to join, you may obtain a sample resolution by email from <marti.sinclair@sierraclub.org>.

•If you live where Mt. Olive products are sold—**BOYCOTT!**

•**Write a quick note** to the President of Mt. Olive to express your concern:

Mr. William Bryan, President  
Mt. Olive Pickle Company  
Cucumber & Vine  
Mt Olive, NC 28365  
bbryan@mtolivepickles.com

•**Find out more information** by contacting the SC EJ Committee or FLOC at:

FLOC  
1221 Broadway St.  
Toledo, Ohio 43609  
<http://www.iupui.edu/~floc/home.html>



### ***Pickles on Parade!***

*FLOC activists dressed as pickle jars (lots of long green balloons) marched in Cincinnati's Northside 4th of July parade beneath a red, white, and blue banner designed and assembled by the Sierra Club. "Justicia? Si! Mount Olive? NO!"*

*Over 600 leaflets describing the boycott were distributed to the enthusiastic crowd of onlookers.*

pesticides or that many workers who even have access to portable toilets or hand-washing facilities.”

FLOC attempted for the past two years to convince Mt.Olive that a three-way contract was the right thing to do. Like so many corporation today, Mt.Olive is attempting to evade responsibility: “We don’t employ Farm workers; the growers do.” Yet, as FLOC points out, on Mt. Olive’s web site, they “set specifications which the grower must meet...(and) monitor the growing to ensure our standards are met.” So, what are their standards? Why doesn’t a company that feels it can insure the quality of their product feel it can insure the quality of their employees’ lives?

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*Like so many corporations today,  
Mt. Olive is attempting to evade  
responsibility.*

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FLOC has responded with their last resort: a boycott of Mt.Olive products (which includes Food Lion and Harris Teeter brands). So far, over 2,000 workers have signed FLOC authorization cards. In addition, over 200 diverse groups from the Midwest Chapter of the Sierra club to the AFL-CIO have endorsed the boycott. According to Velasquez, the mission of the campaign is as follows: “This fight is not about overpowering an opponent....It’s about reconciling the exploiter with the exploited—for everyone’s good.”

As the Environmental Justice Committee of the National Sierra Club, we encourage you to support this campaign. From a Sierra Club policy standpoint, we stand on firm ground. Our Sierra Club mission statement commits us to restoring “the quality of the natural and human environment”; our national Environmental Justice Policy states that “...we must attain social justice and human rights at home and around the globe”; our Immigration Policy states that “The Club remains committed to environmental rights and protections for all within our borders, without discrimination based on immigration status”; our Environmentally Hazardous Substances Policy states that “[t]he release of any environmentally hazardous substance should be prohibited, unless the environmental benefits clearly outweigh environmental damage. Safety and environmental quality are the primary factors in deciding whether or not to use such a substance. In each case, strict limits to the use of the substance should be established and followed. This [policy] will protect worker and community health, conserve resources and improve environmental quality.”

However, commitment to this issue does more than advance our policy goals. Working on this issue with FLOC may help us avoid the dangers which so often accompany our modern lifestyle. As environmentalists, we cannot ignore the danger of supposing pickles and relish come from the grocery store. Let us nourish our common vision as protectors of the earth and fight for a less shameful legacy.

*This article was originally published in the summer issue of Winds of Change and is reprinted here with permission from the author.*

## **A Victory in the Making: Native American and environmental activists battle the proposal for a nuclear waste dump at Ward Valley.**

*by Philip M. Klasky*

*These Tribes are the Indigenous People of this region and hold an extreme, and solemn relationship with the Land, Animals and Water. The retention of culture, native language, traditions and land based reference areas prominent in native song and oral history is our main objective ... - from the Resolution of the Colorado River Native Nations Alliance.*

Before sunrise, the slow beat of a drum drifts among the tents and trucks parked on an abandoned landing strip in a pristine desert valley. Sleepy campers emerge from their tents and shuffle over to a prayer circle where a persistent wind whips a small mesquite fire. As radiating streaks of light reach into the eastern sky, Corbin Harney, Western Shoshone spiritual leader, begins the five songs he must sing each morning before the sun rises. A diverse group of people — Indians, activists, elders, city folk and locals — holding hands in a circle around the fire grow from a handful of shadows dancing in the dark to over a hundred dedicated participants moving as one. They dance in deliberate steps to the cadence of the drum. Corbin's song is as ancient as the desert canyons illuminated by the creeping golden light of the sun. As I watch the circle grow, I envision a ring of protection around the entire valley and become convinced that despite great odds, the people will persevere in the protection of these lands.

Corbin pauses for a moment to warm the face of his drum by the fire and to rest his voice. He rubs the skin of his drum with the heel of his hand in circular motions.

“You people have come here to help protect this place. It is good what you are doing here. Mother Earth likes it when we dance on her. When I sing my songs in my language and when I pray I want you to pray your way not my way. Pray your way.”

Nearly a thousand people from across the Southwest have come to a place called Ward Valley in a remote corner of California's East Mojave Desert to confront the nuclear power industry's attempts to build a radioactive waste dump on lands considered sacred aboriginal territory for the five lower Colorado River Indian tribes.

The story of the diverse movement that rose from the threat of nuclear contamination tells of the tenacity of grass roots activists to overcome one of America's most powerful industries and the challenges facing cross-cultural alliances. Protest actions, legal challenges, public opinion, scientific and economic analyses and a recent court decision have all dealt major blows to the dump proposal. All that remains is for California Governor Gray Davis to withdraw former Governor Pete Wilson's request for federal land at Ward Valley to stop the dump proposal once and for all. The hard won victory will contain valuable lessons and far-reaching repercussions.

For the last decade a coalition of environmental and social justice activists and Native Americans have battled plans by the nuclear power industry to bury long-lived and highly radioactive wastes, mostly from nuclear power plants, in shallow, unlined trenches, above a major aquifer, just twenty miles from the Colorado River, in critical habitat for the threatened desert tortoise and on sacred Indian lands.

US Ecology, the contractor chosen by state agencies to build the facility, has left a trail of leaking dumps and litigation across the nation. All four of their nuclear waste dumps are leaking radioactive poisons into the surrounding land and ground water systems. Proponents have promoted the dump as a repository for short-lived medical wastes such as hospital gowns and booties, but Department of Energy documents reveal the fact that the vast majority of the wastes slated for Ward Valley would come from nuclear power reactors. The push behind the facility has come from nuclear utilities anxious to pay a one time fee to remove long-lived wastes from their problematic real estate and transfer liability for long-term containment to the taxpayer.

The Ward Valley issue represents a confluence of environmental and social justice concerns about safe

containment of radioactive waste, the rights of indigenous peoples to protect sacred lands, the strength of environmental justice mandates, the protections afforded critical habitat for endangered species and the future of nuclear power in America.

The diversity of issues and the groups and individuals involved in the Ward Valley struggle is matched by the variety of strategies employed to defeat the project.

Scientists with the United States Geological Survey put their jobs on the line when they issued a report warning that buried nuclear wastes would travel through a fractured matrix of rock underlying the valley and eventually make their way to the Colorado River. As a result of his activism, one of the scientists was removed from his post, but was eventually reinstated when an advocacy group of whistle-blowers successfully sued the federal government. Economic analyses have shown that due to a precipitous decline in the amount of waste produced over the last decade along with excess storage space at existing dump sites, the Ward Valley facility was not necessary and would not be financially viable.

Research into the importance of Ward Valley for the recovery and survival of the threatened desert tortoise led to the designation of 6.4 million acres of critical habitat for the beleaguered reptile and a court injunction against a federal land transfer that would have destroyed sensitive habitat to build the dump. The process by which the legal strategy evolved illustrates the potency of cross-cultural cooperation. At a meeting at the Fort Mojave Tribal offices on the banks of the Colorado River, Mojave elder Llewellyn Barrackman reminded a group of activists that Ward Valley was “headquarters” for the desert tortoise, an animal considered to be sacred to the Mojave people. A survey of the literature showed that although the tortoise had been placed on the endangered species list, the United States Fish and Wildlife Service had failed to protect the habitat essential for the recovery of the animal. When the federal government attempted to transfer public land for the purpose of constructing the dump, a coalition of environmental groups and Indian tribes blocked the attempt in federal court with the protections of the Endangered Species Act.

Federal and state legislators, such as Senator

Barbara Boxer and Congressman George Miller, have joined with grass roots activists to oppose the ill-fated dump. The Reverend Jesse Jackson and other religious leaders have advocated for social justice and the protection of indigenous land and religious rights and a number celebrities in the entertainment industry have helped to expand public awareness of the issue. Bonnie Raitt, John Trudell, Jackson Browne and Tracy Nelson held concerts to spread the word and provided needed financial support.

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*“...Ward Valley, we call it Silyaye Ahease, is our history, our culture and our future.  
-Steve Lopez, Fort Mojave Tribal Leader*

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Efforts to seek environmental justice have become a potent tool to protect sacred lands. Native American leaders from the Fort Mojave, Chemehuevi, Cocopah, Quechan and Colorado River Indian Tribes have asserted their sovereignty and religious rights at federal hearings, in the courts and at meetings with government officials. The tribes brought their case before the Environmental Protection Agency’s National Environmental Justice Advisory Council which was formed to advise the Agency on government actions that could violate environmental justice mandates. In 1998, in an unprecedented move, the Council recommended that the Agency act to stop the dump project. But even with this clear direction, the Environmental Protection Agency stopped short of fulfilling its role as defined by the federal mandate on environmental justice casting doubt on the government’s commitment to the protection of sacred lands.

Last year, Native American and environmental activists defied federal government orders to vacate a protest camp located on the proposed dump site. A sacred fire, traditional song and dance and Indian elders stood at the heart of the protest action. After a historic 113 day non-violent occupation of the land, federal law enforcement officials retreated from their threat of arrest and Department of the Interior representatives began long overdue government-to-government negotiations with the tribes.

“This is a sacred place to us. There is no church or cathedral out here. The entire valley is sacred to us.

*(cont’d. next page)*

*Ward Valley, from p.13)*

Ward Valley, we call it Silyaye Ahease, is our history, our culture and our future.”

-Steve Lopez, Fort Mojave Tribal Leader

The Mohave people call themselves the Bipa Aha Macav or Keepers of the River instructed by their creator to protect the river and surrounding lands. The indigenous people of the region have consistently warned that they cannot and will not move from lands that they have inhabited “since time immemorial.” This depth of commitment has inspired the environmental activists to find sources of strength and meaning in the wellspring of traditional culture and a profound relationship with the land.

The environmental justice movement is a living laboratory for cross-cultural coalition building and faces the same challenges as a stratified society with a history of colonialism and ethnic tension. Attempts to seek common ground and consensus within a multi-cultural environment are rare in modern social institutions. The focus on a collective goal can be an organizing force, but prejudice and misunderstanding can find its way into the best of intentions. Interaction between diverse social and cultural groups in the pursuit of justice can lead to fruitful dialogue, lasting friendships and effective alliances. During the long battle to save Ward Valley, the endeavor to achieve consensus has been as laborious as childbirth, but the result is a movement that succeeded in merging environmental protection with social justice and cultural preservation while engaging in the act of healing some of society’s deepest wounds.

*Philip M. Klasky is a writer, teacher and co-director of the Bay Area Nuclear Waste Coalition. He holds a Master’s degree in Cultural Geography and is director of the Storyscape Project of Cultural Conservancy, a non-profit indigenous land and cultural rights organization. For more information regarding the Bay Area Nuclear Waste Coalition (BAN Waste Coalition) or Ward Valley, Philip can be reached at (415) 752-8678, or 2760 Golden Gate, San Francisco, California 94118. Via email, <pklasky@igc.org>.*

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## **Environmental Justice: A Burning Issue in Detroit**

*by Anna Holden, Chair,  
Sierra Club Southeast Michigan Group*

A year ago, the Southeast Michigan Group of Sierra Club and the Ecology Center of Ann Arbor asked the Henry Ford Health System (HFHS) to shut down the waste incinerator at its flagship hospital in Detroit. At subsequent meetings, Henry Ford Hospital and HFHS executives were urged to replace incineration with a safer waste disposal alternative, to reuse and recycle, and institute “green” purchasing practices.

A year later, the trash is still burning and the number of community and environmental organizations opposing the Henry Ford Hospital incinerator has grown to ten. The coalition now includes two neighborhood associations, the Virginia Park Citizens District Council and the Wabash, Vermont and Marquette Block Clubs. Detroiters Working for Environmental Justice, the Sugar Law Center for Economic and Social Justice, the National Wildlife Federation, and the Michigan Chapter of the American Lung Association have joined the appeal to close the incinerator. Two grass roots group opposing incinerators in their own communities are also supporting the effort—the Hamtramck Environmental Action Team and Clean Air, Please! of Madison Heights. Gary Cohen, national co-chair of the Health Care Without Harm Coalition participated in one of the meetings with HFHS executives, and Wayne County Commissioner Jewel Ware, who represents the District, is working with the coalition. Commissioner Ware sponsored a Town Hall Meeting on the incinerator May 25 at a church across the street from the hospital. The HFHS has stuck with its decision to continue burning trash in spite of appeals, adverse publicity, and mounting community pressure.

Environmental justice is the overriding issue to Detroiters. The hospital is located in a mixed commercial and residential neighborhood section a few miles from downtown Detroit. Residents are predominantly African American. There are many older, single family houses in the neighborhoods and some new high rise apartments that—unfortunately for the tenants—rise higher than the Henry Ford Hospital smoke stack. Long-term residents

have been aware of black smoke and pollution from the incinerator since it opened in 1980. There have been periodic violations of opacity limits, the only emission controlled by the hospital's permit. The new element energizing the protest is the discovery that Henry Ford's two suburban hospitals, Cottage Hospital in Grosse Pointe Farms and Henry Ford Wyandotte Hospital, send their medical waste to a commercial autoclave in Toledo. The autoclave process, which sterilizes infectious waste by a steam process, is an alternative method of hospital waste disposal recommended by Health Care Without Harm. Community leaders are incensed by the injustice of the HFHS's differential treatment. At the Town Hall Meeting, May 25, James Ribbron, Chair, Detroiters Working for Environmental Justice, stated, "Environmental racism has invaded our community. . . . Henry Ford Hospital is disregarding and disrespecting us. . . . I want to be alive to be part of the rebound of Detroit."

The Henry Ford Hospital incinerator is permitted as a medical waste incinerator, but burns all the hospital's trash—paper, packaging, Styrofoam dishes, patient's disposable plastic cups and jugs, sheets, pillows, and construction debris, as well as infectious medical waste. Its Wayne County permit limits opacity only. New federal guidelines requiring pollution controls for mercury, dioxins, heavy metals, and acid gases have not been implemented in Michigan. There is virtually no regulation of existing medical waste burners.

Community activists are aware of the harmful health impacts of pollution. James R. Williams, who lives across the street from the hospital, testified at a Wayne County public hearing March 9 that he wanted to be a "good neighbor" to the hospital, but "I don't want to be your patient, too." Area residents attending the May 25 Town Hall Meeting quoted a recent television report linking incinerators with high rates of asthma and cancer in a cluster of zip codes surrounding the hospital. The report was based on research published by Wayne State University and the Michigan Department of Community Health. The Michigan Department of Community Health's study found that the area surrounding Henry Ford Hospital has one of the highest rates of children hospitalized for asthma in Wayne County and the state of Michigan. The report documented a cluster of zip codes in the area where children under 15 are hospitalized for asthma more than three times

as often as children in Wayne County outside Detroit. The report also stated that the asthma rate for African American children in Detroit is increasing. Block club leader Charles Simmons said, "I was surprised, shocked, and outraged to find out that hospitals are causing health problems. . . . Dumping hazardous waste in the environment is in the category of a crime and is considered a crime in some countries." There was recognition that the hospital is not the only polluter in the area, but also an understanding that the sources of pollution must be "removed one by one." Other polluters in the area include industries, Detroit's mammoth municipal waste incinerator, and the commercial City Medical Waste Incinerator in Hamtramck.

Emission limits are a critical issue. A public hearing March 9 centered on a proposed settlement for 1996 HFHS permit violations that resulted in \$110,000 in fines from the Wayne County Air Quality Management Division. To settle these fines, HFHS proposed applying most of the fines to new air control equipment for the hospital incinerator. In return, the hospital would voluntarily meet EPA's 1997 guidelines for medical waste incinerators. Environmental groups opposed the Consent Order because the EPA standards are far too lax and the Consent Order lacked provisions for enforcement. Both Sierra Club and the National Resources Defense Council are suing EPA over the inadequacy of the 1997 guidelines. A week before the hearing a federal district court sent the guidelines back to EPA with the comment that they were "hopelessly irrational." Although the Consent Order has not been approved by Wayne County, HFHS completed the planned retrofit and resumed operation of the incinerator.

In addition to letters, meetings and testimony at hearings, hundreds of post cards have been mailed or delivered to the HFHS President and CEO, Gail L. Warden, and the HFHS Board of Trustees. These cards ask the Board to "adopt policies and practices that minimize the environmental impact of the Henry Ford Health System" and urge the Board "to switch to alternatives to the incineration waste, expand recycling efforts, and purchase less toxic products wherever possible."

There are now a few hopeful signs resulting from community pressure. Wayne County Commissioner Ware was asked to join a community advisory committee being formed, and Hospital officials agreed to meet with her following the May 25 Town

*(Detroit cont'd. next page)*

*(Detroit, from p.15)*

Hall Meeting. The Public Responsibility Committee of the HFHS discussed the hospital incinerator June 16 and met with representatives of the coalition on July 21. Willingness to discuss the community's issues at a higher level suggests awareness of the degree of community concern. In earlier talks, HFHS administrators stated they would explore methods of waste minimization and work toward "greener" purchasing on a long-term basis, regardless of continuing incineration. Progress in these two areas will be welcome, but incineration of trash is still the burning issue.

As this was going to press, our coalition was greatly encouraged by the decision of the University of Michigan hospital in Ann Arbor (situated about 45 miles west of Detroit) to shut down its own incinerator and dispose of its waste using steam sterilization. We hope that Henry Ford will follow the University of Michigan's example and improve the quality of life for Detroit's residents, especially those who live near the hospital. This is an opportunity for Henry

Ford Hospital to take the challenge of meeting its mission.

For questions or comments, call Anna Holden at (313) 331-0932, or e-mail Lydia Fischer at lydfisch@mindspring.com.

*National Sierra Club and the Natural Resources Defense Council are suing EPA because the guidelines it issued in 1997 are too lax to meet the requirements of the Clean Air Act. According to Dr. Neil Carman, an incinerator expert who testified for Sierra Club at the March 9th hearing on the Henry Ford Hospital, "Well controlled medical waste incinerators emit 10 to 100 times less pollution than EPA allows." A few days before the hearing, March 2, a federal district judge described these guidelines as "hopelessly irrational" and sent them back to EPA for reconsideration. Frequent failure of control technology, especially in older plants, was also stressed in Dr. Carman's Detroit testimony.*

*(Legislative Update, from p.9)*

Senator Wellstone (D-MN) has circulated a "Dear Colleague" letter among Senate Democrats in opposition to this rider. The letter will go to VA-HUD-EPA conferees. This letter closes with, "People in all communities across this nation deserve to have clean air to breathe, clean water to drink, and clean land to live on. No communities should have to endure disproportionate environmental burdens because of their race or national origin. The House provision to block EPA's Title VI guidance for another year is a backdoor attempt to undermine these goals. We strongly encourage the Senate conferees to remove the House anti-civil rights, anti-environmental provisions from the conference report."

More to watch.

For these issues and more, the Capitol Switchboard number is (202)224-3121.

## **A Place in History: The Community of Convent, Louisiana, takes on Shintech - and a whole lot more**

*by Kirstin Replogle*

When the people of St. James Parish initiated their fight against the proposed Shintech, Inc., PVC plant, they probably could never have predicted the series of events that began to unfold. What started as a neighborhood saying "enough is enough," evolved into a struggle against a government biased against them, and culminated in fundamentally altering resources available to struggling communities.

Convent, in St. James Parish, is at the heart of Cancer Alley - that stretch of the Mississippi River from New Orleans to Baton Rouge littered with refineries and chemical manufacturing plants. With a population that is 83% African American, the residents of Convent are exposed to 2,277 pounds of toxic air emissions per person per year - 325x the exposure level of the average American. Cancer, asthma, and other illnesses occur here at rates well above the national averages.

So when Shintech proposed building a \$700 million

facility to make polyvinyl chloride (PVC), which meant an additional 600,000 total pounds of toxic emissions, including dioxin, per year, Convent had had enough.

Jobs and economic prosperity were dangled in front of them. Even if true, these enticements were not worth the additional impacts to the lives and health of an already overburdened population. As community activist Emelda West pointed out to her neighbors, Shintech was “not jobs for the jobless, nor hope for the hopeless.” Past history bears this out.

Nearby Iberville Parish is home to 10 chemical facilities that have a total workforce of 1,878 people. Of those, only 164 are from the surrounding area. Applying the same percentages to the situation with Shintech would mean approximately 14 of the proposed 165 permanent positions would go to nearby residents. Upon closer inspection of the numbers touted by the “economic developers”, the purported prosperity promised to the region fell apart. Louisiana is the only state in the country where tax exemptions for industry directly affect public school revenues. Over the 10 year life of the Industrial Property Tax Exemption, approximately \$27 million would have been lost by St. James Parish schools. Another \$101 million that would have been available for essential public services would have gone to Shintech instead.

The people of Convent began organizing themselves - to protect themselves and their families. In September of 1996, just two months after Shintech applied for air emission permits for the Convent site, St. James Citizens for Jobs and the Environment was formed, headed by Pat Melancon. Shintech publicly announced it had chosen the site in Convent in October of 1996. Later that month, SJCE&E accidentally finds out that Shintech had been granted permission by the Louisiana Department of Environmental Quality (DEQ) to begin site preparation - before receiving all of its permits. This is in direct violation of state law.

People all over Louisiana had an early indication of Governor Foster’s commitment to protecting the environment and the lives of Louisiana citizens when he changed the name of the state’s DEQ Environmental Justice Office to “Community and Industry Relations Group”. Even that does not prepare one for discovering how his administration

was trying to assist Shintech in the permitting process. A mere 30 day public comment period was granted for the thousands of pages of technical documents relating to the multiple Shintech permits. Contrast this with the 100 days given for a sewer expansion project with documents totaling less than 100 pages, and one gets the idea that the DEQ wanted this project very much.

Shintech needed multiple permits for their plant. They needed four toxic air permits (one each for PVC, vinyl chloride, ethylene dichloride, and chlor-alkali). They needed a Water Pollution Discharger Permit (since they had plans to discharge six million gallons of toxic wastewater into the Mississippi every day). They needed a hazardous waste permit in order to operate their incinerator - and spew dioxin into the air. And, they needed a coastal use permit. Clearly a complex process.

In November of 1996, SJCE&E gains legal representation by the Tulane Environmental Law Clinic, part of the Tulane University Law School. The Clinic allows second and third year law students, closely supervised by professors, to represent low income people, free of charge, in front of state courts and agencies to gain practical experience. The law Clinic and the citizens of Convent find multiple errors and inaccuracies in many of the permit applications.

In May of 1997, SJCE&E filed complaints with the EPA challenging the DEQ’s handling of the permitting process. The complaints were lodged under Title V (the Clean Air Act) and Title VI of the Civil Rights Act of 1964. Governor Foster did not appreciate Tulane’s participation in this matter. Speaking to the New Orleans Business Council, he accused the Clinic of being “modern day vigilantes who are just making up reasons to run businesses out of state.” He also encouraged business leaders to withhold contributions to the University until the Clinic is reigned in. When later asked if the poor, black residents of Convent deserved legal counsel, he responded, “Let them use their own money, not Tulane’s.”

Time after time, the people of Convent are obstructed in their fundamental right to participate: \* public hearings are stacked with out-of-town Shintech supporters; those opposed to the plant are put last on the list of speakers - many go home

*(Shintech, cont’d. next page)*

(Shintech, from p.17)

before their names are called well after midnight;  
\* comment periods are closed without having been properly publicly announced;  
\* officials refuse to recuse themselves in the decision-making process even though they publicly proclaim support for the plant, going so far as to wear pro-Shintech buttons to public hearings;  
\* copy costs for public records are increased from 25 cents to 75 cents per page (the law states only the cost of materials may be recovered);  
the list seems endless.

Late in the summer of 1997, pressure was mounting on EPA to deny the Shintech air permits. Rev. Jesse Jackson, the Southern Christian Leadership Conference, the Congressional Black Caucus, and other community leaders spoke publicly in opposition to the Shintech plant. In September, EPA Administrator Carol Browner vetoes the DEQ air permits - the first time EPA has ever granted a citizen petition. More good news for the people of Convent: EPA accepts the Title VI complaint for investigation.

About the same time as the permits were being vetoed, the Louisiana Association for Business and Industry asked the State Supreme Court to restrict law clinics' ability to assist citizens and community groups. The Court agreed to investigate. In June of 1998, the Court issued new restrictions on law clinic representation. Individuals are now required to meet Legal Services Corporation poverty standards (annual income of less than \$10,000) and community groups may only be represented if 51% of the members live in poverty. Any group affiliated with a national organization is automatically excluded from representation. The new restrictions were appealed by Tulane University; their appeal was dismissed in July of this year. One wonders what impact the new law clinic restrictions will have on the ability of the citizens of Louisiana to defend themselves from pollution, back-room politics, and corporate greed.

Last fall, Shintech abandoned plans to build their facility near Convent, and are currently attempting to build a smaller plant upriver, in Plaquemine Parish. While some call it a victory for the people of Convent, no one in Convent wants the effects of Shintech visited on their neighbors. The struggle continues.

Two years and numerable delays later, EPA has yet to rule on the Title VI complaint.

## THE SIERRA CLUB PRINCIPLES OF ENVIRONMENTAL JUSTICE

Preamble: "*EVERYBODY NEEDS BEAUTY AS WELL AS BREAD, places to play in and pray in, where nature may heal and give strength to body and soul alike.*" Sierra Club founder John Muir, 1912.

**I. THE SIERRA CLUB'S MISSION** is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environment; to explore, enjoy, and protect the wild places of the earth; and to use all lawful means to carry out these objectives.

### II. WE SUPPORT THE RIGHT TO A CLEAN AND HEALTHFUL ENVIRONMENT FOR ALL PEOPLE

II. A. *The Right to Democracy*: We support government by the people. Corporate influence over governments must be constrained to stop the erosion of the peoples' right to govern themselves and governments' ability to establish justice and to promote the general welfare.

II. B. *The Right to Participate*: People have the right to participate in the development of rules, regulations, and evaluation criteria and at every level of decision-making. Environmental decision-making must include the full range of alternatives to a proposed action, including rejection of the proposed action. Barriers to participation (cultural, linguistic, geographic, economic, other) should be addressed.

II. C. *The Right to Equal Protection*: Laws, policies, rules, regulations, and evaluation criteria should be applied in a nondiscriminatory manner. Laws, policies, regulations, or criteria which result in disproportionate impact are discriminatory, whether or not such a result was intended, and should be corrected. We support environmental restoration and the redressing of environmental inequities.

II. D. *The Right to Know*: People have a right-to-know the information necessary for informed

environmental decision-making.

II. E. *The Right to Sustainable Environmental Benefits*: People are entitled to enjoy the sustainable aesthetic, recreational, cultural, historical, scientific, educational, religious, sacred, sustenance, subsistence, cultural, and other environmental benefits of natural resources. However, actions which tend to ruin the integrity, stability, and beauty of the biotic community are unethical.

II. F. *The Right to Equity*: Environmentally-degrading land uses should be avoided, but when such uses occur, they should be equitably sited taking into account all environmental and community impacts including the cumulative and synergistic ecological and health effects of multiple facilities. All people have the right to a safe and healthful work environment.

II. G. *The Right to Generational Equity*: Future generations have a fundamental right to enjoy the benefits of natural resources including clean air, water, and land and an uncontaminated food chain and to receive as their heritage wilderness and a functioning ecosystem with all species naturally present.

II. H. *The Rights of Native People*: We oppose efforts to dispossess indigenous peoples of their lands, their cultures, and their right to self-determination. We support Native Americans' wielding of their sovereign powers to protect the environment and to establish environmental justice.

### III. WE SUPPORT AN END TO POLLUTION:

The long-range policy goal priorities for environmental protection must be 1) to aim to end the production of polluting substances and waste through elimination, replacement, redesign, reduction, and reuse (zero waste), 2) to prevent any release of polluting substances (zero emissions, zero discharge), 3) to prevent any exposure of plants, animals, or humans to polluting substances, and 4) to remediate the effects of any such exposure.

**IV. WE SUPPORT THE PRECAUTIONARY PRINCIPLE:** When an activity potentially threatens human health or the environment, the proponent of the activity, rather than the public, should bear the burden of proof as to the harmlessness of the activity.

### REFERENCES

- \* L" Aldo Leopold. "Thinking Like a Mountain", A Sand County Almanac: And Sketches here and there. , 1949, 1977, Oxford University Press.
- \* SCM": The Sierra Club Mission Statement.
- \* B#1" to "B#5": Dr. Robert Bullard, "Overcoming Racism in Environmental Decisionmaking" (Environment, 36(4):10-20,39-44, 1994).[B#1 thru B#5 refers to the 5 principles delineated in this document]
- \*"S#1" to "S#17": The First People of Color Summit: Principles of Environmental Justice. Washington, D.C., October 24-27, 1991 [S#1 thru S#17 refer to the 17 principles delineated in this document]
- \*SCEJ: The Sierra Club Environmental Justice Policy Excerpt: The Board of Directors of the Sierra Club recognizes that to achieve our mission of environmental protection and a sustainable future for the planet, we must attain social justice and human rights at home and around the globe.
- \* W": The Wingspread Conference, January 23-24, 1999, at Wingspread in Racine, Wisconsin.

### ANNOTATION OF PRINCIPLES:

- Preamble: John Muir, 1912. - The Yosemite (1912), page 256; SCEJ; SCM.
- I. Direct quote of SCM; S#1,3,10,11,16,17
- II. B#1 ("Right to Protection").
- II.A. S #5,14; SCEJ; role of government from U.S. Constitution
- II.B. Language derived from "S"; S#7,17.
- II.C. Language from B#1; B#4 ("Obviate proof of intent"); B#5 ("Redress inequities"); S#2,9,12; SCEJ.
- II.D. S#13
- II.E. L (paraphrasing Leopold's A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.); SCM; W; S#1,2,3,4,5,7,12,15.
- II.F. B#1("geographic equity"); S#2,8; SCEJ
- II.G. SCM; S#1,4,15,16,17
- II.H. S#2,5,11,15; SCEJ
- III. SCM; B#2 ("Prevention of Harm"); S #4,6,13,14
- IV. B#3 ("Shifting the burden of proof"); Language adapted from W; S#4,6,13,14,15

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*This is the consensus reached by the Environmental Quality Strategy Team on Environmental Justice Principles. These Principles will guide all pollution work by the national Sierra Club. When reproducing these Principles, please always include the references; much of this document has been taken from other sources and they must be credited. Thank you.*

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## Meet the Committee...

**Lydia Fischer** has been instrumental in strategizing and implementing a campaign, alongside the affected community, to fight an incinerator expansion project. She has been heavily involved in broad coalition building, including people of color communities and health, environmental, church, and EJ advocacy groups.

**Terry Harris** has extensive grassroots experience working on toxics and waste issues, especially brownfields. He founded the first local environmental committee in Baltimore, and has extensive experience working with poor and people of color communities.

**Annette Hewlett** has extensive experience as a former Sierra Club staffer from the DC Legislative Office. She attended the seminal People of Color Summit in New Orleans, 1992, as well as various EJ hearings. She also has experience lobbying

Congress and the Administration on environmental justice and pollution issues.

**Phaedra Pezzullo** has an M.A. in Communications Studies, where her thesis was The Design of EJ Campaigns, and is currently pursuing her Ph.D. in Communications Studies. Phaedra has been assisting the communities battling the infamous Warren County PCB landfill which precipitated the national EJ movement, including writing a history of the communities' struggles.

**Kirstin Replogle** has been involved over the last several years in broadening the scope of environmental justice work in Sierra Club, working to link activists and to articulate how environmental justice is the bridge between people and all environmentally degrading land and water uses.

Let us hear from you.

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