

Issue 10 Spring/Summer 2004

The
Kentucky Institute
for the
Environment
and Sustainable
Development



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The Kentucky Institute for the Environment and Sustainable Development (KIESD) was created in July 1992 within the Office of the Vice President for Research, University of Louisville. The Institute provides a forum to conduct interdisciplinary research, applied scholarly analysis, pubic service and educational outreach on environmental and sustainable

development issues at the local, state, national and international

levels.

KIESD is comprised of eight thematic program centers: Environmental Education, Watershed Research, Environmental Law, Sustainable Urban Neighborhoods, Pollution Prevention, Environmental and Occupational Health Sciences, Environmental Policy and Management, and Environmental Engineering.

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The
Kentucky Institute
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Environment
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Development

a journal of environmental and sustainability issues

Making Environmental Justice a Reality in the 21st Century
Environmental Justice and 'Just Sustainability'
Race, Residence and Environmental Injustice in Louisville, Kentucky
The Justice Resource Center's Struggle for Clean Air in West Louisville (1989 to the Present): David versus Goliath
Environmental Injustice: A Look at the Pentagon's Chemical Weapons Disposal Program
Activism, Poultry Production, and Environmental Justice in Western Kentucky
With Liberty and Justice For All—Environmental Justice and Big Chicken in Kentucky
Empowering People in the Mountains of Eastern Kentucky
Environmental Justice in Long Range Transportation Planning: A Work in Progress
Environmental Justice: Balancing the Scales

Cover Photo: The picture was taken in the Valley Village Neighborhood of Louisville, Kentucky.

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Justice and the Environment

Justice is a member of a class of words known as abstract nouns, words like truth, goodness, beauty, courage and love. These words defy precise definition, and we often resort to defining them by their opposites, or by creating vivid concrete examples that give us a toehold to their reality. Although we often find it difficult to define them, we somehow know them when we see them. These words often engender strong emotions which when unchecked can result in fanaticism, demagoguery, and zealotry.

In this issue of <u>Sustain</u> we have risked to venture into that uncertain territory of Justice and its relationship to environmental issues. Each of the authors in this issue deals with the subject of environmental justice from a unique point of view. Some see it through the lens of philosophy, others history, others from the perspective of policy and law, and others from their day-to-day experiences struggling to achieve it. In fact, the very notion of justice connotes engagement in a struggle, a striving for something that is elusive and difficult to attain; a slow uneven process pitching one set of beliefs against another, and as is often the case, in the end, no one is a clear winner.

There are the powerful and the powerless, and the dynamic that often defines this relationship is wealth. Environmental Justice is the process by which power is redistributed so that a more equitable balance can be struck and justice can prevail. A noble idea symbolized by the blindfolded statue of justice holding a scale delicately balanced so that both sides are equal. This is of course the idealized image of justice, the reality is often much more complicated and messy.

Perhaps, as our authors tell us, we are making progress toward better understanding what environmental justice means and how it can be achieved. As the saying goes, the wheels of justice move slowly and grind exceedingly fine. This is especially true for those who have been the victims of injustice. It is also true for those who try to rectify injustices. Unfortunately, it is people of color and the poor who suffer the greatest injustices. It is our hope that the powerful messages contained in these articles will contribute to a better understanding of environmental justice and the goal of eventually achieving it.

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Making Environmental Justice a Reality in the 21st Century

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Introduction

Just three decades ago, the concept of environmental justice had not registered on the radar screens of environmental, civil rights, or social justice groups. Nevertheless, it should not be forgotten that Dr. Martin Luther King, Jr. went to Memphis in 1968 on an environmental and economic justice mission for the striking black garbage workers. The strikers were demanding equal pay and better work conditions. Of course, Dr. King was assassinated before he could complete his mission.

Another landmark garbage dispute took place a decade later in Houston, when African American home-owners in 1979 began a bitter fight to keep a sanitary landfill out of their suburban middle-income neighborhood.² Residents formed the Northeast Community Action Group or NECAG. NECAG and their attorney, Linda McKeever Bullard, filed a class action lawsuit to block the facility from being built. The 1979 lawsuit, *Bean v. Southwestern Waste Management, Inc.*, was the first of its kind to challenge the siting of a waste facility under civil rights law.

Birth of a Movement

The landmark Houston lawsuit occurred three years before the environmental justice movement was catapulted into the national limelight. In 1982, the siting of a PCB landfill in the rural and mostly African American Warren County, North Carolina gained national attention, ignited protests, precipitated over 500 arrests, and provided the impetus for a U.S. General Accounting Office study, *Siting of Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities*.³ That study revealed that three out of four of the off-site, commercial hazardous waste landfills in Region 4 (which comprises eight states in the South) happen to be located in predominantly African-American communities, although African-Americans made up only 20 percent of the region's population.

Although the Warren County protests were not able to block the PCB landfill, protesters put "environmental racism" on the map. They also led the Commission for Racial Justice in 1987 to produce its groundbreaking *Toxic Waste and Race*, the first national study to correlate waste facility sites and demographic characteristics. Race was found to be the most potent variable in predicting where these facilities

were located—more powerful than poverty, land values, and home ownership.⁴

Out of these small and seemingly isolated environmental struggles emerged a potent grassroots movement. The 1980s and 1990s saw the environmental justice movement become a unifying theme across race, class, gender, age, and geographic lines. In 1990, Dumping in Dixie: Race, Class, and Environmental Quality chronicled the convergence of two social movements—social justice and environmental movements—into the environmental justice movement. This book highlighted African-American's environmental activism in the South, the same region that gave birth to the modern civil rights movement. What started out as local and often isolated community-based struggles against toxics and facility siting blossomed into a multi-issue, multi-ethnic, and multi-regional movement.

The 1991 the First National People of Color Environmental Leadership Summit was probably the most important single event in the movement's history. The Summit broadened the environmental justice movement beyond its early anti-toxics focus to include issues of public health, worker safety, land use, transportation, housing, resource allocation, and community empowerment. The meeting also demonstrated that it is possible to build a multi-racial grassroots movement around environmental and economic justice.⁷

Held in Washington, DC, the four-day Summit was attended by over 650 grassroots and national leaders from around the world. Delegates came from all fifty states including Alaska and Hawaii, Puerto Rico, Chile, Mexico, and as far away as the Marshall Islands. People attended the Summit to share their action strategies, redefine the environmental movement, and develop common plans for addressing environmental problems affecting people of color in the United States and around the world.

On September 27, 1991, Summit delegates adopted 17 "Principles of Environmental Justice." These principles were developed as a guide for organizing, networking, and relating to government and nongovernmental organizations (NGOs). By June 1992, Spanish and Portuguese translations of the Principles were being used and circulated by NGOs and environmental justice groups at the Earth Summit in Rio de Janeiro.

An Environmental Justice Framework

The question of environmental justice is not anchored in a debate about whether or not decision makers should tinker with risk management. The environmental justice framework seeks to prevent environmental threats before they occur.8 The environmental justice framework attempts to uncover the underlying assumptions that may contribute to and produce unequal protection. It brings to the surface the ethical and political questions of "who gets what, why, and how much." The framework also attempts to turn the dominant environmental protection paradigm on its head. The dominant environmental protection paradigm manages, regulates, and distributes risks. On the other hand, the environmental justice framework seeks to prevent environmental threats before they occur. The framework incorporates other social movements and principles that seek to prevent and eliminate harmful practices in land use, industrial facility siting and permitting, waste management, health care, and regional planning. Some general characteristics of the environmental justice framework include:

The environmental justice framework incorporates the principle of the "right" of all individuals to be protected from environmental degradation. The precedents for this framework are the Civil Rights Act of 1964, Fair Housing Act of 1968 and as amended in 1988, and Voting Rights Act of 1965.

The environmental justice framework adopts a public health model of prevention (elimination of the threat before harm occurs) as the preferred strategy. Impacted communities should not have to wait until causation or conclusive "proof" is established before preventive action is taken. For example, the framework offers a solution to the lead problem by shifting the primary focus from treatment (after children have been poisoned) to prevention (elimination of the threat via abating lead in houses).



Neighborhood in Anniston, AL

Lead poisoning is a classic example of an environmental health threat that disproportionately impacts low-income children of color. Former Health and Human Secretary Louis Sullivan tagged lead as the "number one environmental health threat to children." Over the past four decades, the CDC has lowered the threshold for lead levels considered dangerous in children by 88 percent from 60 to 10 micrograms per deciliter (mcg/dL). Even 10 mcg/dL is not safe. Some medical and health professionals advocate lowering the threshold to 2.5 mcg/dL. 12

On January 31, 2003, the U.S. Centers for Disease Control released its *Second National Report on Human Exposure to Environmental Chemicals*—a report that includes exposure information on the concentration of 116 chemicals measured in blood and urine specimens in a sample of the population for the years 1999 and 2000. Progress has been made, but concerns remain. In 1999-2000, 2.2 percent of children aged 1-5 years had elevated blood lead levels (levels greater than or equal to 10 micrograms per deciliter). This percentage has decreased from 4.4 percent for the period 1991-1994. Lead paint was banned by the federal government in 1978.

Since the late 1980s, over 50 lawsuits have been filed against the lead manufacturers. Lead manufacturers have not been held accountable for producing and profiting from a product it knew was harmful. On the other hand, government and taxpayers have incurred significant costs resulting from the presence of lead-based paint in public and private buildings, including housing.¹⁴ Paint and pigment makers deny responsibility.

Inspired in part by the recent tobacco industry settlement, states, counties, municipalities, school districts, and housing authorities have joined in the lawsuits against the lead industry for medical and other costs associated with lead poisoning due to exposure to deteriorated lead paint in homes. The legal assault on big tobacco yielded a \$240 billion settlement from cigarette makers after states took on the industry in a series of lawsuits. The lead lawsuits seek unspecified money damages from eight manufacturers and a trade association. To date, all such lawsuits against the lead industry have failed. But then, the same was true for the failed lawsuits filed over the decades against the tobacco industry.

The environmental justice framework rests on the Precautionary Principle for protecting workers, communities, and ecosystems. The Precautionary Principle asks "How little harm is possible" rather than "How much harm is allowable." The Precautionary Principle demands that decision-makers set goals for safe environments, examine all available alternatives for achieving the goals, and places the burden of proof of safety on those who propose to use inherently dangerous and "risky" technologies. 16

In summary, the Precautionary Principle states (1) if you have reasonable suspicion of harm, and (2) you have scientific uncertainty, then (3) you have a duty to take action to prevent harm, by (4) shifting the burden of proof of safety onto those whose activities raised the suspicion of harm in the first place, and evaluating the available alternatives to find the least harmful way, using a decision-making process that is open, informed, and democratic and that includes those who will be affected by the decision. In 2003, San Francisco became the first city in the country to adopt the Precautionary Principle.¹⁷

The environmental justice framework shifts the burden of proof to polluters/dischargers who do harm, discriminate, or who do not give equal protection to racial and ethnic minorities, and other "protected" classes. Under the current system, individuals who challenge polluters must "prove" that they have been harmed, discriminated against, or disproportionately impacted. Few impacted communities have the resources to hire lawyers, expert witnesses, and doctors needed to sustain such a challenge.

The environmental justice framework would require the parties that are applying for operating permits (landfills, incinerators, smelters, refineries, chemical plants, etc.) to "prove" that their operations are not harmful to human health, will not disproportionately impact racial and ethnic minorities and other protected groups, and are nondiscriminatory.

The environmental justice framework redresses disproportionate impact through "targeted" action and resources. This strategy would target resources where environmental and health problems are greatest (as determined by some ranking scheme but not limited to risk assessment). Reliance solely on "objective" science disguises the exploitative way the polluting industries have operated in some communities and condones a passive acceptance of the status quo. Human values are involved in determining which geographic areas are worth public investments.¹⁸

Government Response

The stated mission of the federal EPA was never designed to address environmental policies and practices that result in unfair, unjust, and inequitable outcomes. The EPA is not likely to ask the questions that go to the heart of environmental injustice: What groups are most affected? Why are they affected? Who did it? What can be done to remedy the problem? How can communities be justly compensated and reparations paid to individuals harmed by industry and government actions? How can the problem be prevented? Vulnerable communities, populations, and individuals often fall between the regulatory cracks. They are in many ways "invisible" communities. The environmental justice movement served to make these disenfranchised communities visible and vocal.

Recognizing that the environmental protection apparatus was broken in many low-income and people of color communities and after much prodding from environmental justice leaders, the U.S. Environmental Protection Agency (EPA) acknowledged its mandate to protect all Americans. In 1992, the U.S. EPA administrator William Reilly (under the first Bush administration) established the Office of Environmental Equity (the name was later changed to the Office of Environmental Justice under the Clinton Administration) and produced *Environmental Equity: Reducing Risks for All Communities*, one of the first comprehensive government reports to examine environmental hazards and social equity.¹⁹

The EPA defines environmental justice as: "The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic, or socio-economic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies."²⁰

Despite significant improvements in environmental protection over the past several decades, millions of Americans continue to live, work, play, and go to school in unsafe and unhealthy physical environments.²¹ Over the past three decades, the U.S. EPA has not always recognized that many of our government and industry practices (whether intended or unintended) have adverse impact on poor people and people of color. Nevertheless, the EPA is mandated to enforce the nation's environmental laws and regulations equally across the board. It is also required to protect all Americans—not just individuals or groups who can afford lawyers, lobbyists, and experts.

In response to growing public concern and mounting scientific evidence, President Clinton on February 11, 1994 (the second day of the national health symposium) issued Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." This Order attempts to address environmental injustice within existing federal laws and regulations.

Executive Order 12898 reinforces the 35-year old Civil Rights Act of 1964, Title VI, which prohibits discriminatory practices in programs receiving federal funds. The Order also focuses the spotlight back on the National Environmental Policy Act (NEPA), a twenty-five year old law that set policy goals for the protection, maintenance, and enhancement of the environment. NEPA's goal is to ensure for all Americans a safe, healthful, productive, and aesthetically and culturally

pleasing environment. NEPA requires federal agencies to prepare a detailed statement on the environmental effects of proposed federal actions that significantly effect the quality of human health.

The Executive Order calls for improved methodologies for assessing and mitigating impacts, health effects from multiple and cumulative exposure, collection of data on low-income and minority populations who may be disproportionately at risk, and impacts on subsistence fishers and wildlife consumers. It also encourages participation of the impacted populations in the various phases of assessing impacts—including scoping, data gathering, alternatives, analysis, mitigation, and monitoring.



Hundreds of citizens march against Chemical Weapons Incineration in Anniston, Alabama. September 8, 2003

The Executive Order focuses on "subsistence" fishers and wildlife consumers. Everybody does not buy fish at the supermarket. There are many people who are subsistence fishers, who fish for protein, who basically subsidize their budgets, and their diets by fishing from rivers, streams, and lakes that happen to be polluted. These subpopulations may be under protected when basic assumptions are made using the dominant risk paradigm.

Many grassroots activists are convinced that waiting for the government to act has endangered the health and welfare of their communities. Unlike the federal EPA, communities of color did not first discover environmental inequities in 1990. The federal EPA only took action on environmental justice concerns in 1990 after extensive prodding from grassroots environmental justice activists, educators, and academics. More work is needed. Just recently, a March 2004 report from the EPA Inspector General blasted the agency for failing to consistently implement the intent of the Executive Order on Environmental Justice and to integrate environmental justice research into the development of policies. ²³

Having the Facts is not Enough

People of color have known about and have been living with inequitable environmental quality for decades—most without the protection of the federal, state, and local governmental agencies.²⁴ Environmental justice advocates continue to challenge the current environmental protection apparatus and offer their own framework for addressing unequal protection, health disparities, and nonsustainable development in the United States and around the world.²⁵

Environmental decision-making operates at the juncture of science, economics, politics, special interests, and ethics. The nation's environmental laws, regulations, and policies are not applied uniformly, resulting in some individuals, neighborhoods, and communities being exposed to elevated health risks. Unequal protection is placing communities of color at special risk.²⁶ Many of the nation's environmental policies distribute the costs in a regressive pattern while providing disproportionate benefits for whites and individuals who fall at the upper end of the education and income scale.

Numerous studies, dating back to the seventies, reveal that people of color in the United States have borne greater health and environmental risk burdens than the society at large. For example, people are subjected to elevated health risks from air toxic releases, 27 location of municipal landfills and incinerators, 28 toxic waste dumps, 29 toxic schools, 30 and toxic housing. 31 People of color are disproportionately impacted by environmental hazards in their homes, neighborhoods, and workplace. 32 In 1999, the Institute of Medicine's *Toward Environmental Justice: Research, Education, and Health Policy Needs* concluded that low-income and people of color communities are exposed to higher levels of pollution than the rest of the nation and that these same populations experience certain diseases in greater numbers than more affluent white communities. 33

A 2000 study by *The Dallas Morning News* and the University of Texas-Dallas found that 870,000 of the 1.9 million (46 percent) housing units for the poor, mostly minorities, sit within about a mile of factories that reported toxic emissions to the U.S. Environmental Protection Agency.³⁴ Homeowners have been the most effective groups to use "NIMBY" (Not in My Back Yard) tactics to keep polluting industries out of their communities. However, discrimination also keeps millions of African Americans from having back yards or enjoying the advantages of home ownership. Only 46 percent of Blacks owned their homes compared with 73 percent of whites in 1999.³⁵

Even schools are not safe from environmental assaults. A 2001 Center for Health, Environment, and Justice study, *Poisoned Schools: Invisible Threats, Visible Action*, reports

that more than 600,000 students in Massachusetts, New York, New Jersey, Michigan and California were attending nearly 1,200 public schools, mostly populated by low-income and people of color students, that are located within a half mile of federal Superfund or state-identified contaminated sites.³⁶ No state except California has a law requiring school officials to investigate potentially contaminated property and no federal or state agency keeps records of public or private schools that operate on or near toxic waste or industrial sites.³⁷

Toxic chemical assaults are not new for many Americans who are forced to live adjacent to and often on the fence line with chemical industries that spew their poisons into the air, water, and ground. Before the terrorist attack of "9/11," these residents experienced a form of "toxic terror" twenty-four hours a day and seven days a week.³⁸ When (not if) chemical accidents occur at the plants, government and industry officials often instruct the fence-line community residents to "shelter in place." In reality, locked doors and closed windows do not block the chemical assault on the nearby communities, nor do they remove the cause of the anxiety and fear of the unknown health problems that may not show up for decades.

The "shelter in place" emergency response—if you can call it a response since it relies on divine intervention more so than a real emergency plan—allows poor people and people of color to be disproportionately exposed to health risks from pollution "hot spots" such as Louisiana's petrochemical corridor, commonly referred to as "Cancer Alley," Texas' Gulf Coast communities, North Richmond, California, and Los Angeles' South Bay communities.

It's About Winning Not Whining

Some progress has been made in mainstreaming environmental protection as a civil rights and social justice issue. Environmental justice is also now framed as a human rights issue. Today, we see groups such as the NAACP, NAACP Legal Defense and Education Fund, Earthjustice Legal Defense Fund, Lawyers Committee for Civil Rights Under the Law, International Human Rights Law Group, Center for Constitutional Rights, National Lawyers Guild's Sugar Law Center, American Civil Liberties Union, Legal Aid Society, and the list goes on, teaming up on environmental justice and health issues that differentially affect poor people and people of color.

Environmental racism and environmental justice panels have become "hot" topics at conferences sponsored by law schools, bar associations, public health groups, scientific societies, social science meetings, and even government workshops. Environmental justice leaders have also had a profound impact on public policy, industry practices, national

conferences, private foundation funding, and academic research. Environmental justice courses and curricula can be found at nearly every university in the country.

It is now possible to build an academic career—get tenure, promotion, and merit raises—studying environmental justice issues. A half dozen environmental justice centers and legal clinics have sprung up across the nation—four of these centers are located at historically black colleges and universities or HBCUs: Environmental Justice Resource Center (Clark Atlanta University-Atlanta, GA), Deep South Center on Environmental Justice (Xavier University of Louisiana-New Orleans, LA), Thurgood Marshall Environmental Justice Legal Clinic (Texas Southern University-Houston, TX), and Environmental Justice and Equity Institute (Florida A&M University-Tallahassee, FL).

Environmental justice groups are beginning to sway administrative decisions their way. They even have a few important court victories. Environmental justice trickled up to the federal government and the White House. In 1996, after five years of organizing, Citizens Against Toxic Exposure convinced the EPA to relocate 358 Pensacola, Fla., families from a dioxin dump, tagged "Mount Dioxin," marking the first time a Black community was relocated under the federal government's giant Superfund program.

After eight years in a struggle that began in 1989, Citizens Against Nuclear Trash (CANT) defeated the plans by Louisiana Energy Services (LES) to build the nation's first privately owned uranium enrichment plant in the mostly black rural communities of Forest Grove and Center Springs, La. On May 1, 1997, a three-judge panel of the Nuclear Regulatory Commission Atomic Safety and Licensing Board ruled that "racial bias played a role in the selection process." The court decision was upheld on appeal April 4, 1998.

In September 1998, after more than 18 months of intense grassroots organizing and legal maneuvering, St. James Citizens for Jobs and the Environment forced the Japanese-owned Shintech Inc. to scrap its plan to build a giant polyvinyl chloride (PVC) plant in Convent, La. — a community that is more than 80 percent Black. The Shintech plant would have added 600,000 pounds of air pollutants annually.

In January 1999, the USDA signed a consent decree that effectively settled a long and bitter class action discrimination lawsuit brought by black farmers. The lawsuit awarded over \$300 million in damages to thousands of African American farmers who had been wronged by racist government practices. In April 2001, a group of 1,500 Sweet Valley/Cobb Town neighborhood plaintiffs in Anniston, Ala., reached a \$42.8 million out-of-court settlement with Monsanto. The

group filed a class action lawsuit against Monsanto for contaminating the Black community with PCBs. Monsanto manufactured PCBs from 1927 through 1972 for use as insulation in electrical equipment. The Environmental Protection Agency (EPA) banned PCB production in the late 1970s amid questions of health risks. Two years later, in August 2003, Monsanto Company, Solutia Inc, and Pharmacia agreed to pay \$700 million to settle two lawsuits brought against them by some 20,000 Anniston plaintiffs alleging damages from PCB contamination.³⁹



The State of North Carolina and the federal government spent more than \$18 million dollars to detoxify the Waren County PCB landfill, 2003.

In June 2002, victory finally came to the Norco, La., community, whose residents are sandwiched between a Shell Oil plant and the Shell/Motiva refinery. Concerned Citizens of Norco and their allies forced Shell to agree to a buyout that allowed residents to relocate. Shell also is considering a \$200 million investment in environmental improvements to its facility. These and similar victories have laid the foundation for a strong and resilient environmental justice movement. They also provide examples for the world to see that the environmental justice movement is not a "fad" or "here today, gone tomorrow" movement. Although still a young movement when compared to others such as the conservation and preservation movement, the environmental justice movement is maturing, learning, and growing.

In October 2002, environmental justice leaders convened the Second National People of Color Environmental Leadership Summit (EJ Summit II) in Washington, DC. The EJ Summit II organizers planned the four-day meeting for 500 participants. Over 1,400 individuals representing grassroots and community based organizations, faith-based groups, organized labor, civil rights, youth, and academic institutions made their way to the nation's capital to participate in the historic gathering.

The environmental justice movement continues to expand and mature. For example, the 1992 People of Color Environmental Groups Directory listed only 300 environmental justice groups in the U.S. By 2000, the list had grown to over 1,000 groups in the United States, Puerto Rico, Canada, and Mexico. The EJ Summit II also had representatives from throughout North America, the Caribbean, South and Central America, Asia, Africa, and Europe. Delegates came from places as far-flung as Mexico, Canada, Jamaica, Trinidad, Panama, Columbia, Dominican Republic, Granada, South Africa, Nigeria, the Philippines, India, Peru, Ecuador, Guatemala, the Marshall Islands, and the United Kingdom.

Women led, moderated, or presented in more than half of the 86 workshops and plenaries. EJ Summit II leaders honored 12 outstanding "sheroes" of the movement in a Crowning Women Awards Dinner. The awards event was dedicated to the late Dana Alston and Jean Sindab, two giants in the environmental justice movement, and other women of color who are deceased and who dedicated their lives to environmental justice. One of these 12 outstanding "sheroes", Hazel Johnson of People for Community Recovery—a Chicagobased grassroots environmental justice organization—was also awarded the Dana Alston Award. One of the honorees, Peggy Shepard who directs the West Harlem Environmental Action, Inc., won the prestigious 2003 Heinz Award in the environment field.

In an effort to have substantive materials going in and coming out of the Summit II, a nationwide call for resource policy papers was made. The end result was two-dozen resource papers on subjects ranging from childhood asthma, energy, transportation, "dirty" power plants, climate justice, military toxics, clean production, brownfields redevelopment, sustainable agriculture, human rights, occupational health and safety, and farm workers. The resource papers helped guide the workshops and hands-on training sessions.⁴⁰

The environmental justice movement has made tremendous strides over the past decade. When the First National People of Color Environmental Leadership Summit was convened in 1991, there were no environmental justice networks or university based environmental justice centers or environmental justice legal clinics. Today, there are a dozen EJ networks, four EJ centers, and a growing numbers of university-based legal clinics that have environmental justice as an emphasis. The University of Michigan offers a masters and doctoral degree in environmental justice—the only such program in the country. In 1991, there was only one book—*Dumping in Dixie*—published on environmental justice. Today, there are dozens of environmental justice books in print.

After waiting more than two decades, an environmental justice victory finally came to the residents of Warren County, North Carolina. Since 1982, county residents lived with the legacy of a 142-acre toxic waste dump. Detoxification work began on the dump in June 2001 and the last clean-up work was slated to end the latter part of December 2003. State and federal sources spent \$18 million to detoxify or neutralize contaminated soil stored at the Warren County PCB landfill.⁴¹ A private contractor hired by the state dug up and burned 81,500 tons of oil-laced soil in a kiln that reached more than 800-degrees Fahrenheit to remove the PCBs (polychlorinated biphenyls). The soil was put back in a football field-size pit, re-covered to form a mound, graded, and seeded with grass.

Local Warren County environmental justice leaders and their allies across the state deserve a gold medal for not giving up the long fight and pressuring government officials to keep their promise and clean up the mess they created. This was no small feat given state deficits, budget cuts, and past broken promises. Residents and officials now must grapple with what to do with the site.

Conclusion

The environmental justice movement has changed the way scientists, researchers, policy makers, educators, and government officials go about their daily work. This "bottom-up" movement has redefined environment to include where people live, work, play, go to school, as well as how these things interact with the physical and natural world. The impetus for changing the dominant environmental protection paradigm did not come from within regulatory agencies, the polluting industry, academia, or the "industry" that has been built around risk management. The environmental justice movement is led by a loose alliance of grassroots and national environmental and civil rights leaders who question the foundation of the current environmental protection paradigm.

Environmental justice leaders have made a difference in the lives of people and the physical environment. They have assisted public decision makers in identifying "at risk" populations, toxic "hot spots," research gaps, and action models to correct existing imbalances and prevent future threats. However, impacted communities are not waiting for the government or industry to get their acts together. Grassroots groups have taken the offensive to ensure that government and industry do the right thing.

Environmental justice leaders are calling for vigorous enforcement of civil rights laws and environmental laws. Many of the hard-fought gains in environmental protection are under attack. The solution to environmental injustice lies in the realm of equal protection of all individuals, groups, and communities. No community, rich or poor, urban or suburban, black or white, should be allowed to become a "sacrifice zone" or dumping ground.

Hazardous wastes and "dirty" industries have followed the "path of least resistance." This is not rocket science, but political science—a question of "who gets what, when, why, and how much?" The environmental justice advocates are demanding a clean, safe, just, healthy, and sustainable environment for all. They see this as not only the right thing to do—but the moral and just path to ensure our survival.

Robert D. Bullard is the Ware Distinguished Professor of Sociology and Director of the Environmental Justice Resource Center at Clark Atlanta University. His most recent book is entitled Highway Robbery: Transportation Racism and New Routes to Equity. South End Press 2004.

Endnotes

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Environmental Justice and 'Just Sustainability'

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Introduction

Two concepts have evolved over the past two decades that provide new directions for public policy and planning, namely *environmental justice* and *sustainability*. They are both highly contested and problem laden concepts that have tremendous potential to effect long lasting change. Whereas the environmental justice movement can be understood as a grassroots or 'bottom-up' reaction to external threats, the sustainability agenda emerged in large part from international processes and committees, governmental structures, think tanks and international NGO networks.

However, despite the historically and geographically different origins of these two concepts, with their attendant paradigms¹, namely the 'Environmental Justice Paradigm' (EJP) of Taylor (2000), and the 'New Environmental Paradigm' (NEP) of Catton and Dunlap (1978) and their supporting social movements, there exists an area of theoretical, conceptual and practical compatibility between them. This area represents a rich and critical nexus where proponents of each concept and movement are engaging in 'cooperative endeavors' (Schlosberg 1999) around common issues such as toxics use reduction. This was the case in 2001, when the Deep South Center for Environmental Justice and University of Massachusetts' Lowell's Center for Sustainable Production held a two day training workshop to explore common issues.

Cooperation such as this is increasing. While all the animosity and history of mistrust between the environmental justice and "environmental" sustainability movements over lack of minority representation on boards and in hiring, and a focus on wilderness issues amongst the 'Big Ten' environmental organizations has not been appeased, we can glean a new sense of urgency in the need to work together towards the greater common good: just and sustainable communities. This is not a new idea. In the early 1990s, Goldman (1993:27) suggested that "sustainable development may well be seen as the next phase of the environmental justice movement" and more recently, Cole and Foster (2002:165) argued "movement fusion is a necessary ingredient for the long term success of the environmental justice movement because, put simply, environmental justice advocates do not have a large enough power base to win the larger struggle for justice on their own". Clearly, traveling towards a common goal together is better than traveling in factions who are using valuable energy fighting each other.

Some authors such as Dobson (1999; 2003) take a separatist and traditional environmentalist view. They argue that the concepts of, and movements for sustainability and environmental justice will come into conflict because of the environmental justice movement's primary focus on the issue of *social equity*, whereas the focus of *'environmental sustainability'*² is on green issues. As I have argued elsewhere (Agyeman et. al. 2003), the wider rhetoric and activism of 'just sustainability' encompasses a far more expansive set of policy goals and social groups than that of *'environmental'* sustainability, as evidenced through the NEP whereas Dobson (1999; 2003) doesn't appear to see sustainability in anything other than environmental terms.

Definitions

Environmental Justice

The Commonwealth of Massachusetts uses the following definition in its Environmental Justice Policy:

Environmental justice is based on the principle that all people have a right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment. Environmental justice is the equal protection and meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and the equitable distribution of environmental benefits.

(Commonwealth of Massachusetts 2002:2)

It has both *procedural* ('meaningful involvement of all people') and *substantive* ('right to live in and enjoy a clean and healthful environment') aspects. It also makes the case that environmental justice should not only be *reactive* to environmental 'bads', but also be *proactive* in the distribution and achievement of environmental 'goods' (a higher quality of life, a sustainable community).

How has the environmental justice movement become effective in grassroots activism? Gaining inspiration from and linking with the Civil Rights movement (Agyeman 2000), the movement "appropriated...the preexisting salient frames of racism and civil rights" (Taylor 2000:62). This,

Taylor argues has led to the development of the EJP which "is most clearly articulated through the Principles³" (537), and "is the first paradigm to link environment and race, class, gender, and social justice concerns in an explicit framework" (542). When comparing it to Catton and Dunlap's (1978) NEP⁴ which Milbrath (1989:118) describes as "a new set of [environmental] beliefs and values", Taylor (2002:542) notes that "the EJP has its roots in the NEP, but it extends the NEP in radical ways... The EJP builds on the core principles of the NEP; however, there are significant differences.... vis a vis the relationship between environment and social inequality. The NEP does not recognize such a relationship; consequently it has a social justice component that is very weak or non-existent". Taylor's critique of the NEP is largely correct, however, I want to argue that environmentalism's change into 'sustainability' has not been a simple change, but a complex one resulting in two sustainability orientations, 'environment' and 'justice'.

Sustainability

Around the same time as environmental justice was developing as a public policy issue, the ideas of 'sustainability' and 'sustainable development' were achieving prominence among local, national and international policy makers and politicians, together with policy entrepreneurs in NGOs (nongovernmental organizations). Since the 1980s, there has been a massive increase in published and online material dealing with sustainability and sustainable development. This has led to competing and conflicting views over what the terms mean, what is to be sustained, by whom, for whom, and what is the most desirable means of achieving this goal.

Power plant near public school

To some, the concepts are too all encompassing to be of any use. To others, the words are usually prefaced by 'environmental' and 'environmentally', as in 'environmental' sustainability, or 'environmentally sustainable development'. To still others, the concepts offer a sense of integrity and holism that is lacking in contemporary, reductionist, silobased policy making. Indeed, the European trend is to talk of sustainable development policy making as 'joined up' or 'connected' policy making, that is, policy making in specific areas such as housing or environment, with an eye to its effect on the policy architecture as a whole.

Elsewhere, I have argued that "sustainability...cannot be simply a 'green', or 'environmental' concern, important though 'environmental' aspects of sustainability are. A truly sustainable society is one where wider questions of social needs and welfare, and economic opportunity are integrally related to environmental limits imposed by supporting ecosystems" (Agyeman et. al. 2002:78).

Furthermore, I fully endorse four key points on this matter. First, Polese and Stren (2000:15) argue simply that, "to be environmentally sustainable, cities must also be socially sustainable". Second, that of Middleton and O'Keefe (2001:16): "unless analyses of development [local, national, or international]... begin not with the symptoms, environmental or economic instability, but with the cause, social injustice, then no development can be sustainable". Third, that of Hempel (1999:43): "the emerging sustainability ethic may be more interesting for what it implies about politics than for what it promises about ecology". Finally that of Adger (2002:1716) who notes, "I would argue that inequality in its economic, environmental, and geographical manifestations

> is among the most significant barriers to sustainable development. It is a barrier because of its interaction with individuals' lifestyles and because it prevents socially acceptable implementation of collective planning for sustainability".

> Unlike the dominant 1987 Brundtland and 1991 International Union for the Conservation of Nature (IUCN) definitions in which justice and equity are at best implicit, sustainability is interpreted in this paper as meaning "the need to ensure a better quality of life for all, now and into the future, in a just and equitable manner, whilst living within the limits of supporting ecosystems" (Agyeman et. al. 2003:5). It represents an attempt to look holistically at the human condition, at human ecology, and to foster

joined up or connected, rather than piecemeal policy solutions to humanity's greatest problems. The definition focuses on four main areas of concern: on *quality of life*, on *present and future generations*, on *justice and equity* in resource allocation, and on *living within ecological limits*. These are the foundations of '*just sustainability*', or what Jacobs (1999:32) calls "the egalitarian conception of sustainable development". The concept of '*just* sustainability' challenges the current, dominant orientation of sustainability: *environmental* sustainability (Dobson 1999, 2003), or what Jacobs (1999:33) calls "the non-egalitarian conception". It attests to the pivotal role that justice and equity could, and should play within sustainability discourses. In other words, 'just sustainability' is a balanced approach including justice, equity and environment *together*.

Just Sustainability: Friends of the Earth Scotland.

While we could map some vanguard organizations in the US which espouse the idea of 'just sustainability' such as Redefining Progress, a national not-for-profit, Alternatives for Community and Environment in Boston, the Center for Neighborhood Technologies in Chicago, and the Urban Habitat Program in San Francisco, the model is Friends of the Earth Scotland (FoES). FoES has constructed a campaign for environmental justice using an adaptation of Carley and Spapens [1997] notion of 'equal distribution of resource consumption between countries on a per capita basis'. The campaign's launch with the slogan 'no less than our right to a decent environment; no more than our fair share of the Earth's resources', coincided with the creation in 1999 of the Scottish Parliament in Edinburgh. It has the legislative power and the capacity to set an agenda through guidance to local authorities, develop voluntary agreements, and provide direction to quangos (quasi autonomous non-governmental organizations).

FoES Director at the time, Kevin Dunion, said: "I shall be calling for the new Scottish Parliament to show that it is serious about making real change. We want targets for improving energy efficiency in industry; an energy rating for all homes within 10 years; a Warm Homes Act to eradicate fuel poverty; national and local targets under the Road Traffic Reduction Act; and changes to Scottish building regulations to improve energy performance" [FoES 1999]. These targets, amongst others, now form a part of FoE Scotland's 'Environmental Justice Action Plan' [FoES 2000].

The campaign highlights two major injustices which link the local, to the global. The first is the same as in the US, but the second shows why FoES is a model for 'just sustainability'. First, Scottish communities, like those of color and low income in the US who are in the worst environments tend to be those with least power, because of their poverty,

unemployment, isolation or a combination of these. Second, the consumption of dwindling resources by the North is much higher than would be our fair share in terms of *environmental space* ("the share of the planet and its resources that the human race can sustainably take" (McLaren et. al. 1998:6). This is inequitable both intra- and inter-generationally, in that it is detrimental to communities in the 'South' and to future, as yet unborn people and communities.

North and South, or Rich and Poor?

On this second point there is a North – South 'battle', broadly, but not exclusively between countries of the North, who want to discuss a 'green' agenda of environmental protection, biodiversity, and the protection of the ozone layer, versus those in the South who are proponents of a 'brown' agenda of poverty alleviation, infrastructural development, health and education. McGranahan and Satterthwaite (2000) call these agendas the 'ecological sustainability' and 'environmental health' agendas respectively.

Characterizing 'just sustainability' as FoES has begun to do, involves taking a broader global vision than the NEP upon which Northern agendas are predicated. It involves understanding and supporting both Northern environment-based and Southern equity-based agendas. As Jacobs (1999:33) argues "in Southern debate about sustainable development the notion of equity remains central, particularly in the demand not just that national but that global resources should be distributed in favor of poor countries and people... In the North, by stark contrast, equity is much the least emphasized of the core ideas, and is often ignored altogether".

A practical example of this agenda divide can be demonstrated through the issue of urban public transit. Most Northern countries and cities emphasize the environmentally friendly nature of their urban public transit schemes, their ability to get car drivers off the road and their ability to cut pollution loads. This is a vote winner. By contrast, most Southern countries and cities who are developing innovative schemes such as bus rapid transit (BRT) emphasize the equity of such schemes in that car ownership and use is generally the preserve of the rich and BRT schemes allow access to facilities and services irrespective of car ownership. Again, this is not just a North-South issue, but one that is the focus of environmental justice activism in the US where transit authorities in many cities such as Los Angeles, where the Los Angeles Bus Rider's Union is active, and Boston, where the Transit Rider's Union operates, are putting disproportionate resources into affluent suburban areas, and commuter services, to the detriment of services in poor inner urban areas. On the broader level, Sustainable San Francisco reflects this 'green' - 'brown' divide perfectly on their website: "although most environmental justice activists do not use the term "sustainability" to describe their efforts, for many the survival and environmental health of communities has been a central theme" (http://www.sustainable-city.org/Plan/Justice/intro.htm). Of course, both environment and equity are important in transit and wider sustainability planning and policymaking. I merely use these examples to highlight how the control of the orientation of the sustainability agenda between North and South is actually an issue between rich and poor in this world, wherever each may reside.

As Guha and Martinez-Alier (1997:21) put it, "'No Humanity without Nature!' the epitaph of the Northern environmentalist, is here answered by the equally compelling slogan 'No Nature without Social Justice!'" (Kothari and Parajuli 1993). This slogan is as compelling in Los Angeles, Boston or San Francisco as it is in Mumbai, Lagos or Jakarta.

Environmental Justice and 'Just Sustainability'

While not offering 'just sustainability' as a panacea for the mistrust and other barriers to links between the NEP and the EJP, the crux of my argument is that we simply have to fill the gap between the two, with frank and open discussion if we are to move toward *just* and *sustainable* communities together.

Returning to my original question, should we be looking towards 'just sustainability' as a complement to environmental justice? There are compelling reasons to look at the two together. First, Cole and Foster (2002) realize as many do, that to be more effective and to move to the next 'level' both environmental justice and sustainability need 'movement fusion': "the coming together of two (or more) social movements in a way that expands the base of support for both movements by developing a common agenda". However, this cannot be achieved with the *environmental* orientation of sustainability at present as there is, as Taylor (2000) argued, little appreciation of social justice issues, but it can be with those who follow Jacobs (1999) 'egalitarian', or my 'just sustainability' orientations.

Second, the concept of 'just sustainability' is being used to influence policy at the global level, and to link global to local. This local – global linkage is an area where the US environmental justice movement is weak. The Earth Charter5 (2000) represents an initiative to form a global partnership that hopes to recognize the common destiny of all cultures and life forms on earth and to foster a sense of universal responsibility for the present and future wellbeing of the living world. The Earth Charter Initiative was launched in 1994 by the Earth Council and Green Cross International, and is now overseen by the Earth Charter Commission in Costa Rica. The Charter stresses the need for a shared vision of basic

values to provide an ethical foundation for the emerging world community (Earth Charter 2000). The set of principles that are outlined in the document reflect the necessary and inherent linkages between the ideas of sustainability and justice that will enable the development of this shared vision. The four principles that constitute the basis of the document include: respect and care for the community of life; ecological integrity; social and economic justice; and democracy, non-violence and peace.

Finally, Schlosberg (1999:194) in his investigation of the prospects for a critical pluralism argues that there are a growing number of "examples of cooperative endeavors between environmental justice groups and the major organizations. The key to these relations is an understanding of the justice of environmental justice on the part of the major groups, and an attention not just to the end goal of a particular environmental agreement or policy, but to the process of such a battle". Two points are worth making here. First, it is precisely the "justice of environmental justice" that 'just sustainability' has adopted, which makes it a very different paradigm to the NEP or environmentally-oriented sustainability of "the major groups" which Dobson (1999; 2003) talks of. Second, 'justice' as a discourse is a focus, a safe area of common ground. And while many 'just sustainability' advocates come from middle class backgrounds, and have not suffered the disproportionate injustices seemingly reserved by policymakers for those of color and low income, their focus on justice is pivotal. Justice and equity will therefore be a critical focus in developing both more cooperative endeavors, and, most importantly, movement fusion.

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Notes

- ¹ I use the word 'paradigm' partly in the Kuhnian (1962) sense paradigms as comprehensive ways of seeing the world; as worldviews. However, I also see paradigms as Ritzer (1975:7) does "a fundamental image of the subject matter" within a discipline. In other words, in this paper, paradigms both describe *content* and *worldview*.
- ² Dobson (1999 and 2003) uses the term 'environmental sustainability' in all his arguments. He sees sustainability in the environmental sense, rather than my more inclusive sense. This contrasts markedly with Hempel's (1999:43) point: "the emerging sustainability ethic may be more interesting for what it implies about politics than for what it promises about ecology".
- ³ Principles of Environmental Justice, developed at the First National People of Color Environmental Leadership Conference in 1991.
- ⁴ For a full description of this paradigm, including a comparison with the dominant social paradigm, see Milbrath (1989).
- ⁵ While the Earth Charter may be a document aimed at National governments, it has applicability at the local level. On July 1, 2000 at Global Cities21, the ICLEI World Congress for Local Governments, the international membership of ICLEI endorsed the Earth Charter. In addition, in Vermont, for the Town Meeting 2002, 30 towns had an article on their agendas that read: "Shall the voters of [town] endorse the Earth Charter, and recommend that the Town, the State of Vermont. the United States of America, and the United Nations use the Earth Charter to guide decision-making on issues of local, state, national, and international importance." The 21 towns that endorsed the Charter are: Bethel, Bristol, Bolton, Charlotte, Granby, Hinesburg, Huntington, Isle La Motte, Lincoln, Marlboro, Marshfield, Middlebury, Monkton, Norwich, Plainfield, Randolph, Ripton, Starksboro, Warren, Weston, and Weybridge.

Race, Residence and Environmental Injustice in Louisville, Kentucky

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Introduction

The struggle against environmental injustice is only one facet of the larger, long-term struggle for human rights and multi-racial democracy in the United States. For African Americans, the most obvious and intractable manifestation of environmental racism derives from the virtual confinement of a significant majority of free blacks in the ante-bellum period and most African Americans in the post-emancipation era in the least desirable living spaces in their home communities.

What made these urban neighborhoods and rural enclaves undesirable to white Americans was sometimes related to nothing more than location itself. However, sometimes such undesirable locations were also dangerous to the health of those who chose or were forced to live there. When this was so, the struggle against environmental racism and its effects was a critically important, although less visible, dimension of the struggle for racial justice in these communities. Louisville, Kentucky exemplifies this pattern.

Historical Overview

The contemporary conditions and patterns of African American life in Louisville are rooted deeply in the patterns of the past. African Americans were among the first residents of Louisville and Jefferson County and, through the antebellum period, local race relations were shaped both by the institution of slavery and by the presence of Kentucky's only significant concentration of free people of color.1 American slavery was fully institutionalized a generation or more before the settlement of Kentucky and, as Kentucky was part of Virginia, enslaved African Americans² crossed the mountains with the first settlers. While the Kentucky climate was not conducive to large-scale plantation agriculture, the spread of cotton cultivation in the deeper South created an unparalleled demand for slave labor in the Gulf States. Because international slave trade became illegal in 1808, this demand could only be met within the United States through "domestic" slave trade—i.e., the sale of African Americans from the Upper South, where cotton could not be grown, to the Lower South, where cotton had become "king." Domestic slave

trade enabled the small slave-holding elite in Kentucky to maintain the profitability of slavery and its wealth and power as a class. As a result, the African American population grew steadily through the ante-bellum period—even though slave labor was not essential to the state's economy.

Table 1 African Americans in Louisville: 1800 - 1860

	Poj	pulation	В	Black % of City
<u>Year</u>	Enslaved	Free	Total	Population
1800	76	1	77	21.5
1810	484	11	495	36.5
1820	1,031	93	1,124	28.0
1830	2,406	232	2,638	25.5
1840	3,430	619	4,049	19.1
1850	5,432	1,538	6,970	16.1
1860	4,903	1,917	6,820	10.0

In the ante-bellum period, few African Americans escaped the anonymity of slavery. A notable local exception was York, the sole African American on the Lewis and Clark Expedition (1804-1806). 4 York was also exceptional in that he spent much of his youth with his natural family since, under the regime of slavery, African American "family" structure ("slaves" could not marry legally) was particularly fragile. With free territory across the Ohio River, slave escapes were common.⁵ Domestic slave trade caused an even heavier outflow of enslaved African Americans being "sold down the river." Mortality rates were high for African Americans, with an average life expectancy of only ca. 35 years (compared to 45 years for whites) by the 1830s. For these and other reasons, children were often separated from their parents. Of course, even when one or both natural parents were present, parent/child relationships were inherently "unnatural" since enslaved African Americans had no legal rights to themselves or their children.

Several other objective realities shaped the lives of African Americans in early Louisville. First, because the size of slave-holdings was typically small (an average of between 5.5 and 6.5 per slaveholder) and population density was relatively low, most African Americans lived in some degree of relative isolation until the black population of Louisville grew significantly after 1820.⁶ Second, with few African American adults living to middle-age, African American youth represented a significant segment of the African American population and often assumed adult roles and responsibilities in adolescence. However, urban areas had fewer black children than did rural sections of the South—and Louisville was no exception, as shown in Table 2, below.⁷

Table 2

Children in Ante-Bellum Louisville (% Under 10 years)

	AfricanAmerican				
	White	Enslaved	Free		
1820	30.9	40.3	30.1		
1830	22.6	23.7	25.0		
1840	27.0	25.8	26.3		
1850	26.1	22.1	22.4		

Similarly, the ratio of males to females among African Americans is a key demographic characteristic with significant and far-reaching implications for African American children.⁸ For example, by 1850, females were already a significant majority in Louisville and Jefferson County. Based on the 1850 Census, there were 830 black males in Louisville to every 1000 black females—and 850 black males to females in the surrounding county. In contrast, there were roughly 930 black males to every 1000 black females in Cincinnati—and 1,130 black males to 1000 black females in St. Louis.⁹ Placing these data in a national context, Table 3 reflects how the number of black women increased relative to the number of black men in the pre-Civil War decades, eventually surpassing the number of men and then regaining relative parity by the early 1900s.¹⁰



Smoke stacks near residential neighborhood

Table 3

Sex Ratio by Race¹¹ (N of Males to 1000 Females)

	United States		Kentucky	Louisville
Census Year	Black	White	Black	Black
1820	1,004	1,032		
1830	1,003	1,038		830
1840	995	1,045		
1850	991	1,052		
1860	996	1,053		
1870	962	1,028		
1880	978	1,040	972	
1890	995	1,054	993	870
1900	986	1,049	996	928
1910	989	1,066	1,010	937
1880 1890 1900	978 995 986	1,040 1,054 1,049	993 996	928

Another consequence of this female majority in early Louisville and Jefferson County was the presence of numerous one-parent households among enslaved and free African Americans. There were "not enough black men to go around" and the white men who fathered the unusually large number of "mulattos" in the area were seldom available for parenting duty.

The least studied segment of the social structure of early Louisville was a growing and increasingly viable free black community—as noted, the only meaningful concentration of free people of color in Kentucky. This community originated as a handful of marginalized free blacks in the early 1800s and grew to represent nearly one-fifth of all African Americans in the city by 1860. While free people of color were subjected to extreme discrimination and limitations with respect to their civil liberties, they were still free and were "persons" in some sense under Kentucky law. As free people, they could enter into contracts (such as marriage), own property, own businesses (if a license was obtainable) and form organizations. For these reasons, free blacks were the moving forces behind the establishment of the first black churches in Louisville (beginning in 1829), the first black schools (1841), black fraternal organizations (ca. 1850) and the local Underground Railroad.¹²

The eight ante-bellum black churches in Louisville were more important as social and educational centers than as religious institutions. In these centers, young African Americans could learn leadership and autonomy in the midst of slavery. Enslaved young African Americans could associate with free blacks and learn what freedom, however circumscribed, meant. Further, with no public support for black education before the Civil War, only a handful of African American children had any opportunity to attend school—and such schools as there were could be found in local churches as well.¹³

Free people of color were disproportionately female and free-black households in Louisville were disproportionately female-headed. Not surprisingly, the vast majority of free people of color were poor. Their employment opportunities were limited to labor and domestic service—the same occupations practiced by enslaved African Americans. Their ability to own and operate businesses was limited by law to prevent or regulate competition with whites.¹⁴ Given such poverty, "work" was the most important constant in the lives of young African Americans, free and enslaved, during the early period. Slavery was first and foremost a labor system—and one that allowed no "unemployment."

The determination to maintain the subordination of African Americans did not weaken after Emancipation (December 1865 in Kentucky), but new means of doing so were needed. In the crucible of Reconstruction, racial segregation evolved as a means of ensuring status differences and social distance between the races. A "color line" was delineated that created two separate worlds of race. In the separate and unequal world forced upon African Americans, discrimination, poverty, poor housing, crime, and police brutality became commonplace.

As local African Americans faced the challenges of life in an increasingly segregated community, new forces were reshaping the internal structure of the local and national black communities. Two of the most important were dramatic increases in the number of traditional family units and in relative community stability. One development reinforced the other as these families became the backbone of an organized African American community that pressed for economic opportunities, political rights, and access to quality education. By 1900, as shown in Table 4, Louisville ranked seventh among all United States cities in African American population (at 39,139) and these numbers — along with the ability to vote - gave African Americans some economic and political leverage despite the racial paternalism ("polite racism", in the words of historian George Wright) of Louisville's white leaders.15



Scene of Louisville power plant

Table 4

African Americans in Louisville: 1870 - 1996

Year Black Population 1870 14,956 1880 20,905 1890 28,651 1900 39,139	Population 14.8 16.8 17.7
1890 28,651	17.7
1000 30 130	10.1
1900	19.1
1910 40,522	18.0
1920 40,087	17.0
1930 47,354	15.3
1940 47,158	14.8
1950 57,657	15.6
1960 70,075	17.9
1970 86,040	23.8
1980 84,080	28.2
1990 79,783	29.7
1996 83,420	32.0

After World War I, local African Americans became more assertive in politics and more ambitious in entrepreneurship. Political organizations appeared, such as the NAACP, the Commission for Interracial Cooperation and the Urban League. A second generation of African American businesses emerged.¹⁶ Yet, despite the achievements of this "Golden Age of Black Business" and the political maneuvering (e.g., the formation of the Lincoln Independent Party in 1921) that led to the hiring of black police officers and firemen, African Americans remained locked firmly in a separate and unequal "place" in Louisville and the larger American society. Because of this, African Americans were unusually vulnerable to economic and political slippage—as was demonstrated graphically when the onset of the Great Depression brought massive unemployment that, in turn, undermined the economic foundation of most African American communities.17

One of the few comprehensive studies of African American youth after the institutionalization of legal segregation, Negro Youth at the Crossways (1940) by Dr. E. Franklin Frazier, was conducted at this crucial juncture in African American history. Frazier's project was sponsored by the American Council on Education, focused on Louisville and other border-state cities, and enlisted the on-site assistance and collaboration of Dr. Charles H. Parrish, Jr., of Louisville Municipal College.

In 1940, roughly 27 percent of Louisville's black population was under twenty years of age (i.e., 13,195 of 47,158), considerably higher than in the 1800s. As shown below, the overall age distribution by gender was intriguing.

Race and Age Distribution
Louisville and Jefferson County, 1940¹⁸
(N of Males of 1000 Females)

Age Range	African Americans	White	B/W Ratio
Under 5	980	1030	.95
5-9 years	1010	1030	.98
10 - 14 years	960	1010	.95
15 - 19 years	920	960	.96
20 - 24 years	780	850	.92
25 - 29 years	810	900	.90
30 - 34 years	790	900	.88
35 - 39 years	880	940	.94
40 - 44 years	940	960	.98
45 - 49 years	950	980	.97
50 - 54 years	1000	960	1.04
55 – 59 years	1060	910	1.16
60 - 64 years	1000	850	1.17
65 - 69 years	1010	820	1.23
70 - 74 years	1000	780	1.28
75 and older	800	670	1.19
Overall	1910	930	.98

In studying African American youth, Frazier analyzed the larger community to which they belonged. Not surprisingly, he and his associates found that ". . . the social and cultural world of the Negro is isolated in important respects from the larger white world despite its economic dependence upon the latter" and that, because of widely accepted "folk rationalizations . . . Negro youth are critical of Negroes and skeptical of their possibilities."¹⁹

In a more fundamental sense, Frazier described African Americans as living in a "black world within a world"—a separate black social structure forged and institutionalized over several generations. This segregated world was still as much a "community of the excluded" and the exploited as was the ante-bellum free black community. Thus, while many African Americans were nurtured and protected by this world, they were also isolated by it and "walled-off" from the opportunity structure of the Louisville community.

The economic and social crisis of the Great Depression laid bare the inherent impossibility of "making separate as equal as possible." As a result, the goal of the African American struggle, locally and nationally, shifted from striving to live with segregation to overthrowing both the principle and the fact of segregation itself. Under the leadership of adults such as Lyman T. Johnson and many others, Louisville began the process of gradual desegregation in the late 1940s—with the desegregation of the University of Louisville, hospitals,

libraries and local parks by the mid-1950s. Progress continued against strong resistance in the 1960s, e.g., the 1961 "Nothing New for Easter" demonstrations for an enforceable public accommodations law and the Open Housing campaign in 1966-1967.²⁰

Still, apart from political and cultural movements, other forces were at work in the Louisville area during this same period—two of which would influence significantly the conditions of life for African American youth. First, economic conditions improved for many African Americans after World War II as a result of the political struggle for racial justice. New opportunities strengthened and expanded the local black middle class in the 1950s and 1960s and attracted growing numbers of African Americans to the area. For example, local African American unemployment declined to 6.9 percent in 1970 and median African American income rose from 55 percent of white family median income in 1959 to 61 percent in 1969. Yet, because Louisville was an essentially industrial city, the advent of a post-industrial (i.e., service) economy soon undermined the city's old economic base. African American economic progress was unevenly distributed and often short-lived. Not surprisingly, long-festering racial tensions erupted in a race riot in West Louisville following an incident of police brutality in May 1968. Further, as the Vietnam War ended in the mid-1970s, black unemployment rose and youth unemployment rose even more sharply—and those able to find work were seldom able to find jobs that paid a "family wage." Thus, ironically, African Americans gained greater access to a collapsing local economic opportunity structure and the relative position of the local African American community deteriorated through the 1970s and 1980s.²¹

From another perspective, the Civil Rights era was also a time of optimism and unprecedented inter-racial contact. By the mid-1960s, most young African Americans attended school with whites for some portion of their school careers, some lived near whites, most shopped and entertained themselves at establishments that could no longer bar them due to color—the list of changes is literally endless. This is not to imply that racism declined or that the income, education and power "gaps" between the races narrowed appreciably. Louisville did not become another "place", but the experience of living in Louisville became a different experience for young African Americans of this era. However, as interracial social distance narrowed, intra-racial social distance widened—as class divisions grew more pronounced between the black middle class (and above), on one hand, and the black poor and working poor on the other.

The second force was a fundamental shift in residential patterns by race—which, combined with growing intra-ra-

cial inequality and environmental racism, would create new barriers and new problems. These patterns, how and why they changed, and the consequences of such changes must be addressed separately at some length.

Race and Residence

Where African Americans have lived—and live—in the Louisville area has seldom been determined solely by either choice or chance. In early Jefferson County, the vast majority of African Americans were enslaved and lived on their owners' property. Otherwise, there were only a few scattered free black laborers and one embryonic black hamlet located near modern-day Newburg Road and Indian Trail, property probably used and then definitely purchased by Henry and Eliza Tevis in 1851.²²

In contrast, black residential patterns in early Louisville were far more complex. For example, African Americans were clustered in areas immediately east and west of "downtown" and, by 1860, African Americans lived as far west as Fifteenth Street and as far east as Hancock Street, north of Broadway (then the southern border of the city). Within these neighborhoods, the spatial distribution of free blacks overlapped that of enslaved African Americans. Enslaved African Americans who were "hired out" often "lived out" as well—and often boarded with free African Americans. None of these neighborhoods were segregated, per se, although African Americans often lived in the alleys, in certain sections of a block or on a certain "side" of a street. Whites were always nearby and their proximity was seen as necessary to monitoring the free and regulating the enslaved black populations.²³ This would not remain the case after the Civil War.

Through an influx of rural African Americans, Louisville's black population increased by 120 percent between 1860 and 1870, and continued to grow for decades thereafter. Postwar commercial growth, an expanded manufacturing base and railroad construction provided job opportunities for these new arrivals and some achieved limited success in the city's thriving economy. However, the informal economy of Louisville's households and streets absorbed most black migrants and often permitted only bare subsistence because of low wages and frequent unemployment.²⁴

Such rapid population growth also produced extreme overcrowding and prompted the creation of new black neighborhoods in the city and new black hamlets in the county. These neighborhoods and rural communities became increasingly segregated over time as the physical proximity between blacks and whites permitted under slavery—when there was an immense status gulf between the races—gave way to an insistence on physical distance after emancipation

eliminated, at least in theory, the status difference. This insistence manifested itself most graphically in the development, not of one "black-only" section of the city and county, but of a patchwork of racially identifiable neighborhoods scattered throughout the region. For example, the most important city neighborhoods to emerge after 1865 were: Smoketown, east of downtown Louisville and south of Broadway; Brownstown, near second and Magnolia in the area later developed as St. James Court; the California neighborhood, south along Fifteenth and adjacent streets; "Fort Hill" near Shelby and Burnett; "Little Africa" (west Parkland) in southwest Louisville; and the "Russell neighborhood", expanding westward to Twenty-first Street (by 1914). In the County, the most significant black settlements were: Berrytown and Griffytown near Anchorage in the 1870s; Petersburg, as an enlargement of Newburg (the Tevis section) in the 1870s; the "Neck" in the Harrod's Creek area; and Orell in southwestern Jefferson County.25

By World War I, the western edge of the Russell Neighborhood was home to much of Louisville's small black business and professional class. Continuing population growth produced intense pressure to extend this neighborhood farther westward and, in 1914, white Louisvillians sought to counter this pressure with a Residential Segregation Ordinance. African Americans opposed the ordinance in court and, with the support of the newly formed NAACP, were successful in having it ruled unconstitutional in the Buchanan v. Warley case (1917). Thereafter, African Americans began occupying the area between Twenty-First and the vicinity of Thirty-First Streets, between Broadway and Market Streets. In a telling example of the attitudes of local whites, ordinances were passed that changed the names of the east-west streets that ran through both the "black" and "white" sections of West Louisville. Specifically, Thirty-First Street became the "boundary" at which Walnut Street became Michigan Drive, Madison Street became Vermont Avenue, Chestnut Street became River Park Drive, Magazine Street became Del Park Terrace, et al.26

By World War II, black population remained concentrated in these "zones", as identified by Dr. C. H. Parrish, Jr., of Louisville Municipal College and described in Kern's 1948 study of the local African American community:

Negroes have almost crowded out the entire white population in the first zone (Sixth to Fourteenth Street). Within the boundaries of this zone are located most of the Negro business establishments, amusement centers, the Central High School, YMCA, and many professional men's offices.

In the second zone (Fourteenth to Twenty-first Street) Negroes comprise approximately three-fourths of the dwellings. Up to about twenty-five years ago the farthest extension of the Negro population westward did not go beyond this zone.

The third zone (from Twenty-first to Thirty-first Street) has Negroes as approximately two-thirds of its residents. It is the most desirable residential area for Negroes, many of whom are home owners. This is also the area of the higher social and economic class of the Negro population.

To the east of the central business district is a Negro area, the northern portion of which is often referred to as "Uptown." This area has been characterized by abject poverty and high juvenile delinquency rates. The southern portion of the area, known as "Smoketown", has on the whole a finer tone. The homes are much better than are those in "Uptown." Many of the families are home owners and are white-collar and professional workers. Within the area are such institutions as a junior high school, a branch of the public library, and a neighborhood theatre.

Southwest of the central business district there is a string of Negro communities extending with a single break to the city limits. These areas . . . are known as: "California", "Cabbage Patch", "Little Africa", and "Parkland."²⁷

Louisville, like many older American cities, underwent "urban renewal" in the late 1950s and early 1960s. As in the case of other cities, renewal plans targeted and demolished inner city core neighborhoods occupied primarily by African Americans and some poor and working class whites. In Louisville, an interesting cascade effect unfolded: the older black neighborhoods east and west of downtown were razed; blacks from these neighborhoods moved into the far western section of the city, as white residents were stampeded (i.e., "block busting", then "white flight") into the south end of the city and county. Table 6 captures conditions in selected black neighborhoods as this transformation unfolded. These statistics also reflect the degree to which neighborhood and socio-economic status overlapped.

African Americans from the city also moved to and enlarged historically black enclaves in the county, e.g., Newburg. At the same time, the black population increased (as depicted in Table 7, below) through migration and, in less than a decade, the "West End"—with the exception of the predominantly white Portland neighborhood—became black. Thus, residential segregation actually increased. Given this background, one can understand the sense of urgency driving the struggle for Open Housing in the mid-1960s.²⁹

<u>Table 6</u>

Selected Population Characteristics: 1950-1964 Data Summary²⁸
(Selected Neighborhoods)

			Russell				
Criterion	Chickasaw	West	Middle	East	Southwick	Parkland	East
Population							
1950	8,261	9,161	9,755	10,196	3,999	5,583	9,780
1960	9,248	7,786	7,715	6,710	10,656	5,293	7,775
1964	9,775	7,543	7,581	3,939	10,476	4,852	7,290
% Black	84	80	93	82	78	85	73
% 0 - 19 Years Old	41	36	36	40	60	41	44
% in one or no Parent	21	39	51	54	23	29	36
Median Family							
Income	\$ 5,300	3,900	3,300	2,100	3,900	4,700	2,800
AFDC per 100 people	25	103	131	112	127	64	119
Juvenile Crime Referr	als						
per 1000 people	5	12	25	14	18	9	28
Total Housing							
Units (1960)	2,718	2,580	3,101	2,546	2,240	1,559	2,484
% Deteriorating	8	25	42	34	8	15	18
% Owner Occupied	76	47	30	9	36	64	27
Median Years							
Education	10.5	8.7	8.4	8.2	9.2	9.4	8.4

African Americans in Louisville MSA: 1940–1990³⁰

Year	Blacks	%	Whites	%	Total
1940	58,565	11.6	447,956	88.4	506,565
1950	70,150	11.0	564,717	88.9	635,037
1960	87,212	11.0	704,120	88.9	791,953
1970	105,294	11.6	799,790	88.2	906,752
1980	120,610	12.6	829,217	86.7	956,756
1990	124,761	13.1	818,898	86.0	952,662

Along with these population shifts, the institutional framework of the African American community was transformed radically by the end of legal segregation. African Americans were no longer compelled to duplicate in the black community the institutions from which they were barred in the larger community. Within a generation, the community itself would be transformed as Louisville's predominantly black neighborhoods became "bed-room" communities (where people lived but neither worked nor shopped), identifiable by race and class, with few community-based institutions or amenities, other than churches.

By 1990 the city's 79,783 African American residents were concentrated primarily in the West End; another 44,978 were scattered throughout the metropolitan area. One indicator of the extent to which blacks and whites lived in separate "worlds" is the segregation index, as shown in Table 8. This index has values that range from 0 to 100 and represents the minimum percentage of African Americans who would need to move from their current place of residence to produce a non-segregated residential distribution, i.e., the higher the value, the higher the degree of residential segregation.

Table 8

	Louisvi	<u>ne oeureu</u>	auon ma	CA
	Louisville Population	Black Populuation	% Black	Segregation Index
1940	319,077	47,158	14.8	70.0
1950	369,129	57,657	15.6	73.6
1960	390,639	70,075	17.9	78.9
1970	361,472	86,040	23.8	83.6
1980	298,451	84,060	28.2	80.0
1990	269,063	79,783	29.7	75.4

Louisville Segregation Index³¹

The fluctuations in this index reflect the combined effects of Urban Renewal and suburbanization. Once again, African Americans became an ever-larger segment of a declining Louisville population after World War II—and tended to become increasingly segregated. However, in recent years, the growing African American population has moved to the county and spread into previously all-white neighborhoods, causing a slight reduction (however temporary) in the degree of residential segregation. Early returns from the 2000 Census indicate that this process continued through the 1990s and that, while African Americans have become more dispersed geographically, local black population remains concentrated in certain neighborhoods. While some working class and most middle class African Americans and their children have a choice between living in segregated and non-segregated neighborhoods, those who are both black and poor do not.

Louisville's long history of consigning African Americans to the least valuable and least desirable residential areas assumed more ominous proportions after World War II as local racial geography became disturbingly similar to the local geography of industrial pollution and disease—particularly in West Louisville. In early Louisville, the western sections of the city were less attractive to settlers due to their comparatively low elevation and marshy conditions in or near the Ohio River floodplain. Much of West Louisville remained farmland until the late 1800s when the area experienced the rapid development of housing for working and middle-class whites, and even a few wealthy families. However, industrial pollution was not a major problem since there was little or no industry—other than, in the eastern sections of the Russell neighborhood, odors from nearby tobacco processing plants and beer breweries.32

Beginning in 1942, several plants were built just south of the western city limits in what came to be called Rubbertown. These plants—Louisville Gas and Electric Company Paddy's Run Power Plant, E. I. DuPont, National Carbide, B. F. Goodrich—were constructed to produce chemicals and synthetic rubber for World War II defense industries.³³ They also produced significant pollution and complaints from white residents of West Louisville soon followed. For example:

All through the winter months we people of the West End have tolerated ailments that many thought were colds and sinus conditions from the weather. In reality, in my opinion, they were caused by the continual inhalation of the gases and the precipitating dust from the carbide plant.

Now the summer months have arrived and the residents are obliged to open their windows, the condition has grown intolerable. Housewives clean their houses and in less than an hour's time every piece of furniture is covered with white, fine, gritty dust. The air is filled with a

pungent gas that fills the lungs and burns the nostrils and eyes continually. Even the food on the table absorbs the taste of it in just a few minutes to the extent that it can't be eaten. The amount of damage being caused to human health cannot be estimated.³⁴

White residents felt it was their "patriotic duty" to tolerate the pollution during the War years. However, after the War, this rationale wore thin and, when the local Urban Renewal plan was implemented, whites fled the West End not only because of prejudice, block-busting and other manipulations by realtors and bankers, but to escape industrial pollution as well. Thus, when the Louisville African American population shifted, it shifted—or, more precisely, was shifted—into this heavily polluted section of the city. By the mid-1960s, West Louisville was virtually all-black. Even the middle-class African Americans living along the Ohio River were as vulnerable to the stench of Rubbertown as were the poorest African Americans living in the housing projects a few miles away. House of the city is a few miles away.

By the 1990s, there were twelve plants deemed toxic sites in West Louisville.³⁷ Repeated chemical spills, industrial accidents and even an occasional neighborhood evacuation had become a way of life.³⁸ Along with the fear of catastrophic accidents, West Louisville residents grew increasingly anxious over the long-term health risks of living in such a heavily polluted area—particularly the unusually high incidence of cancer and asthma in neighborhoods bordering Rubbertown. These fears prompted Reverend Louis Coleman, a local minister and Civil Rights leader, to launch a concerted campaign against environmental racism in the area.³⁹

The Post-Civil Rights Era

The end of legal segregation brought African Americans closer to, but still failed to achieve, the goal of racial equality. This final sub-section of the historical overview will describe Louisville African Americans, in statistical terms, in the past generation and will both introduce and complement the subsequent sections of the Report.

Gender composition remained a critical axis of difference between the local white and black populations and, as noted previously, one with tremendous significance with respect to family formation and stability—and, hence, the lives of African American children. As Table 9 indicates, the African American population "begins" with a male majority, but, by young adulthood and thereafter, becomes a population with an ever-larger majority of females.

Table 9

Louisville MSA: Sex Ratio and Race 1990⁴⁰ (N of Males for 1000 Females)

Age Range	African Americans	White	B/W Ratio
Under 5	1010	1080	.97
5 - 9 years	1050	1060	.99
10 - 14 years	1040	1030	1.01
15 – 19 years	1050	1030	1.02
20 - 24 years	900	980	.92
25 – 29 years	730	940	.78
30 - 34 years	710	970	.73
35 - 39 years	780	960	.81
40 - 44 years	860	970	.89
45 – 49 years	780	950	.82
50 – 54 years	780	930	.84
55 – 59 years	770	880	.88
60 - 64 years	740	870	.85
65 – 69 years	730	810	.90
70 – 74 years	710	650	1.09
75 – 79 years	550	570	.96
80 – 84 years	440	430	1.02
85 and older	360	300	1.20
Overall	840	910	.92

Local African American unemployment stood at 21.7 percent in 1987 and, by 1989, median African American family income had dropped to only 52 percent of the white median in Louisville and only 43 percent in Jefferson County. The selected statistics shown in the Tables below illustrate the degree to which racial inequality remained institutionalized in the Louisville MSA in the post Civil Rights era.

African Americans in Louisville and Jefferson County: Selected Comparative Statistics41

Criterion	African Ameri	cans Whites	B/W Ratio					
Family Income								
1959	\$ 3,391	\$ 6,113.	55					
1969	6,311	0,268	.61					
1979	12,243	20,965	.58					
1989	15,390	35,708	.43					
Per Capita Inc	ome 1990							
Male	13,221	25,540	.52					
Female	9,351	11,420	.82					
% Persons in I	Poverty							
1969	32.2	8.5	3.79					
1979	30.6	8.6	3.56					
1989	34.2	9.3	3.68					
% Unemploye	d							
1950	7.4	3.7	2.00					
1960	9.3	4.8	1.94					
1970	6.9	3.5	1.97					
1980	15.7	6.6	2.38					
1990	21.7	4.8	4.52					
% Female Headed								
Households	1990							
With Childre	en 22.8	5.1	4.47					
Without Chi	ldren 10.5	4.9	2.14					
Housing Patt	erns							
% Owners	42.7	70.6	0.60					
% Renters	57.3	29.4	1.95					

Beyond gross statistics, a detailed breakdown of the income distribution by race over the past two decades indicates the extent to which a large segment of the local black population remained in the lowest of the lower income ranges. The effects of the regressive racial policies of the Reagan/Bush era are readily apparent.



Power plant near public school

1980 Household Income by Race: Louisville MSA⁴²

	Numb	er of	Household	ls Bl	ack/White
Income Range	White	%	Black	%	Ratio
Less than \$5,000	23,843	11.3	10,903	29.4	2.6
\$5,000 to 7,499	15,772	7.5	4,229	1.4	1.5
\$7,500 to 9,999	15,727	7.4	3,225	8.7	1.2
\$10,000 to 14,999	32,164	15.2	5,779	15.6	1.0
\$15,000 to 19,999	32,048	15.1	4,332	11.7	0.8
\$20,000 to 24,999	28,292	13.4	2,984	8.1	0.6
\$25,000 to 34,999	35,632	16.8	3,603	9.7	0.6
\$35,000 to 49,999	18,643	8.8	1,620	4.4	0.5
\$50,000 and Above	9,513	4.5	355	1.0	0.2
Total Households	211,634		37,050		
Median	17,789		10,135		0.57
Mean	21,055		13,156		0.62

Table 12

1990 Household Income by Race: Louisville MSA⁴³ (Column %)

	Number of Households Black/White				
Income Range	White	%	Black	%	Ratio
Less than \$5,000	13,355	5.3	8,784	20.5	3.9
\$5,000 to 9,999	21,600	8.5	6,948	16.2	1.9
\$10,000 to 14,999	22,557	8.9	5,235	12.2	1.4
\$15,000 to 24,999	47,825	18.8	7,696	17.9	.9
\$25,000 to 34,999	43,435	17.1	5,317	12.4	.7
\$35,000 to 49,999	47,687	18.8	5,046	11.8	.6
\$50,000 to 74,999	37,304	14.7	2,957	6.9	.5
\$75,000 to 99,999	11,261	4.4	631	1.5	.3
\$100,000 and Abov	re 9,232	3.6	310	0.7	.2_
Total Households	219,835		41,882		
Median	29,473		15,390		.52
Mean	37,585		21,508		.57

Merger of the Louisville and Jefferson County schools systems (1975), and district-wide busing mandated by the U. S. 6th Circuit Court of Appeals (decision of December 28, 1973) caused civil unrest in southwestern Jefferson County. Despite the reforms engendered by the Kentucky Education Reform Act (1990), African American students remained largely segregated within local schools (by tracking and program assignment) and continued to achieve decidedly unequal educational outcomes.44

Viewed altogether, the combined effects of mediocre education, economic change and recent shifts in the sex ratio of local African Americans have resulted in the rapid and dramatic growth of one-parent households, usually female-headed, usually with children, and usually poor or economically marginal. While poverty has the same relationship to delinquency and crime among young African Americans as among any other group—being black dramatically increases the likelihood of close and adverse encounters with police and the criminal justice system.

Summary

While the surface circumstances of everyday life have changed over the past two centuries, the objective status of African Americans compared to that of their white fellow citizens has changed little, if at all. Similarly, relations between the races have changed far more outwardly than in their inner dynamics. Although many African Americans are far more "integrated" into the economic and social fabric of the Louisville MSA than was the case a few generations ago, many others remain as marginal, as under-educated, as impoverished, as vulnerable to unhealthy living conditions and as isolated as were their great-grandparents.

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Endnotes

- ¹ J. Blaine Hudson, "Slavery in Early Louisville and Jefferson County, Kentucky, 1780-1812", <u>The Filson History Quarterly</u>, 73, 3(1999): 249-283.
- A person can be "enslaved." However, a "slave" is, essentially, a "thing." Consequently, the term "enslaved African American(s)" will be used in preference to "slave(s)" to reflect both the humanity and the capacity for human agency of African Americans under slavery.
- ³ Ira Berlin, Many Thousands Gone: The First Two Centuries of Slavery in North America (Cambridge, MA: Harvard University Press, 1998); J. Winston Coleman, Jr., Slavery Times in Kentucky (Chapel Hill, NC: The University of North Carolina Press, 1940).
- Stephen Aron, How the West was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay (Baltimore: The Johns Hopkins University Press, 1996); J. Blaine Hudson, York: A Taste of Freedom (Louisville: Jefferson County Historic Preservation and Archives and Office of the "B" District County Commissioner, 2001).
- J. Blaine Hudson, "Crossing the Dark Line: Fugitive Slaves and The Underground Railroad in Louisville and North Central Kentucky." <u>The Filson History Quarterly</u>, 75(2001), 1, 33-84; J. Blaine Hudson, Fugitive Slaves and the Under-

- ground Railroad in the Kentucky Borderland (Jefferson, NC: McFarland & Company Publishers, 2002).
- ⁶ Hudson, "Slavery in Early Louisville", 1999.
- ⁷ Leonard P. Curry, <u>The Free Black in Urban America</u>, 1800-1850 (Chicago: University of Chicago Press, 1981); Peter Kolchin, <u>American Slavery: 1619 - 1877</u> (New York: Hill and Wang, 1993); Richard C. Wade, <u>Slavery in the Cities:</u> <u>The South</u>, 1820-1860 (New York: Oxford University Press, 1969).
- Herbert Klein, African Slavery in Latin America and the Caribbean (New York: Oxford University Press, 1986). In the 1500s, as millions of Native Americans died of disease and mistreatment, the slave societies of the Caribbean, Spanish America and Brazil came to demand and depend upon African labor. Because most labor performed required brute physical strength, these slave societies developed a keen appetite for young adult African males. Not surprisingly, roughly two-thirds of all Africans torn from West sub-Saharan Africa and transported to the Americas were male, i.e., a sex ratio of 2,000 males to every 1,000 females. In contrast, several factors in North America worked toward balancing the black sex ratio over time., e.g. a generally temperate climate, the absence of large plantation systems in most of colonial America created a more balanced demand for labor with respect to gender. The estimated black sex ratio in colonial America was 1,500 males to 1,000 females. Between 1740 and 1760, the United States became the only major slave society in the New World in which enslaved African Americans achieved natural population growth—with two significant consequences: the percentage of African-born African Americans diminished rapidly after the American Revolution; and natural population growth produced a more balanced sex ratio.

Beyond that, a significant male majority means that women are relatively scarce and, therefore, "precious." There may be numerous "unattached" males, but families that form (or can form) are likely to be relatively stable two-parent units (if slavery or extreme poverty do not interfere). On the other hand, a significant female majority means, most often, either numerous "unattached" females or various forms of polygamy. Unfortunately, men are at a premium and many women are far more likely to become mothers than to become (or remain) wives or mates.

- ⁹ Curry, 1981: 254.
- ¹⁰ U. S. Bureau of the Census, <u>Negro Population</u>: <u>1790-1915</u> (Washington, D.C.: Government Printing Office, 1918): 147-148.
- ¹¹ Ibid., 147-150: U. S. Bureau of the Census, <u>Census of Population</u>: 1870-1990; 1990 Public Law 94-171 File.
- ¹² Curry, 1981; William H. Gibson, Sr., <u>Historical Sketches of the Progress of the Colored Race in Louisville, Kentucky</u> (Louisville: n. p., 1897); J. Blaine Hudson, "African American Religion in Antebellum Louisville, Kentucky", <u>The Griot:</u> Journal of the Southern Conference on African American

- Studies, 17, 2(1998): 43-54; Henry C. Weeden, Weeden's History of the Colored People of Louisville (Louisville: H. C. Weeden, 1897).
- ¹³ Hudson, 1997.
- ¹⁴ Scott Cummings and Michael Price, <u>Race Relations in Louisville</u>: <u>Southern Racial Traditions and Northern Class Dynamics</u> (Louisville: University of Louisville College of Urban and Public Affairs, 1990); J. Blaine Hudson, "African Americans", in John E. Kleber, Thomas D. Clark, Clyde F. Crews, and George H. Yater, Eds., <u>The Encyclopedia of Louisville</u> (Lexington: University Press of Kentucky, 2001): 14-18.
- ¹⁵ Hudson, "African Americans", 2001; Wright, 1985. For example, by 1900, the percentage of African American homeowners was higher in Louisville than in any other U. S. city.
- 16 The Mammoth Life and Accident Insurance Co, the largest African American business in Kentucky, was founded in July 1915. Domestic Life and Accident Insurance Co, was established in June 1920, and the First Standard Bank—the first African American bank in Kentucky—opened in December 1920. By the mid-1920s, there were two other insurance companies, another African American bank, two building and loan associations, six real estate firms, three drugstores, eight undertakers, two photographers, fifteen grocery stores, four newspapers, three architectural firms, and three movie houses.
- ¹⁷ Hudson, "African Americans", 2001.
- I. Harvey Kerns, <u>A Survey of the Economic and Cultural Conditions of the Negro Population of Louisville, Kentucky</u> (New York: National Urban League, 1948): 14; U. S. Bureau of the Census, <u>Sixteenth Census of the United States</u>, 1940: <u>Population</u>, Vol. II, Part 3, Kansas Michigan (Washington, D.C.: Government Printing Office, 1943): Table 22.
- ¹⁹ Edward Franklin Frazier, Negro Youth at the Crossways: Their Personality Development in the Middle States (Washington, D.C.: The American Council on Education, 1940): 261-267.
- J. Blaine Hudson, "Civil Rights in Kentucky" <u>Kentucky Bar</u> Association Bench and Bar, .63, 3(1999), 8-11.
- ²¹ Ibid.
- ²² Hudson, "African Americans", 2001.
- ²³ Curry, 1981; Hudson, 1998; Wade, 1964.
- ²⁴ Ibid.; George C. Wright, <u>Life Behind a Veil: Blacks in Louisville</u>, <u>Kentucky</u>, <u>1865-1930</u> (Baton Rouge: Louisiana State University Press, 1985); George H. Yater, <u>Two Hundred Years at the Falls of the Ohio: A History of Louisville and Jefferson County</u> (Louisville: The Filson Club, 1987).
- ²⁵ Hudson, "African Americans", 2001.
- ²⁶ Ibid.; Wright, 1985.
- ²⁷ Kerns, 1948: 13, 15-16.
- ²⁸ Louisville and Jefferson County Planning Commission, Neighborhood Analysis – Inventory of Data (Louisville: Louisville and Jefferson County Planning Commission, 1970).

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 1990 Public Law 94-171 File; U. S. Bureau of the Census, <u>Negro Population: 1790-1915</u> (Washington, D.C.: Government Printing Office, 1918): 150.
- ³¹ Scott Cummings and Michael Price, "Race Relations and Public Policy in Louisville: Historical Development of an Urban Underclass", <u>Journal of Black Studies</u>, 27, 5 (1997): 615-649.
- ³² Yater, 1987.
- ³³ Andrew Melynkovych, "Environmental Almanac Puts City 55th on List of 75", <u>Louisville Courier-Journal</u>, November 24, 1993; Glenn Rutherford, "West Louisville Residents Worried about Pollutants", The New York Herald Leader, February 14, 1992.
- ³⁴ Dewey Strattan, "Fumes and Dust", Letter to the Editor, <u>Louisville Courier-Journal</u>, May 26, 1944.
- ³⁵ Esaa Zakee, "Residential Segregation and Environmental Injustice in Louisville (1940-1955)", Unpublished manuscript, Department of Pan-African Studies, University of Louisville, 1995...
- ³⁶ Rutherford, 1992; "Smog Talk Fails to Produce Plan", <u>The Louisville Times</u>, July 30, 1953.
- ³⁷ Jay M. Gould, <u>Quality of Life in American Neighborhoods</u> (Boulder, CO: Westview Press, 1996).
- ³⁸ Rutherford, 1992.
- ³⁹ Andrew Melynkovych, "Rubbertown: Neighbors Live under Chemical Plants' Cloud", <u>Louisville Courier-Journal</u>, January 28, 1994.
- ⁴⁰ 1990 Census of Population and Housing Summary Tape 3A, U. S. Bureau of the Census; United States Bureau of the Census, 1990 Census of Population: General Population Characteristics Kentucky (Washington, D. C.: United States Department of Commerce, 1992); United States Bureau of the Census, 1990 Census of Population: Social and Economic Characteristics Kentucky (Washington, D. C.: United States Department of Commerce, 1993).
- ⁴¹ Ibid.
- ⁴² 1980 Census of Population and Housing, KY-IND Standard Metropolitan Statistical Area (Washington: U. S. Bureau of the Census, 1983): 193-210; United States Bureau of the Census, 1980 Census of Population and Housing: Louisville, KY.-IND. Standard Metropolitan Statistical Area (Washington, D. C.: United States Department of Commerce, 1983).
- ⁴³ 1990 Census of Population and Housing Summary Tape 3A,U. S. Bureau of the Census.
- ⁴⁴ Hudson, "African Americans", 2001.

The Justice Resource Center's Struggle for Clean Air in West Louisville (1989 to the Present): David versus Goliath

Rev. Louis Coleman, Jr.

Executive Director

Justice Resource Center, Inc.

The beginning of my personal concern with environmental problems in west Louisville really began in earnest when I received a letter from the State of Kentucky's Epidemiology Department stating that west Louisville had one of the highest cancer rates in the Commonwealth. After receiving this letter, I recalled my former Little League baseball coach and Boston Marathon walker, Willie Lewis, who in the 1970's challenged the Rubbertown industries located in west Louisville on their practice of dumping toxic pollutants in or near communities in the west end. Mr. Lewis's claim that these dumping practices presented serious health hazards to the citizens living in these communities were, of course, denied and ignored.

I couldn't get Willie Lewis's failed efforts out of my mind and so I began to contact environmental experts outside of the city of Louisville and state of Kentucky. I contacted Samaria Swanson out of New York City and Liz Natters, from Lexington, Kentucky. The information I shared with them appalled them and they immediately took interest in our plight and for the next thirteen years to the present have provided legal insight and assistance to our agency in our challenge against these industrial giants. It was at their suggestion that a monitoring process be instituted in order to provide us with a source of concrete data to challenge the industries on their levels of toxic emissions and Title V permits which govern their fence line emissions.

Because of the Rubbertown Industrie's opposition, indifference and reluctance to change, the Justice Resource Center began in 1991 to survey two neighborhoods in the west end of Louisville most affected by toxic pollution. Winrose Way (zip code 40210) and Fairlane Place (zip code 40211) which encompasses approximately a 2 square mile area, were canvassed. 75 people were surveyed over a one month period. This work is being done by REACT which is referenced in the last paragraph of the article. The results were alarming; every third house reported at least three generations of cancer or cancer related deaths, and over 50% of the families surveyed had respiratory problems. Whole families from the youngest to the oldest were afflicted with some form of respiratory illness, some more severe than others.

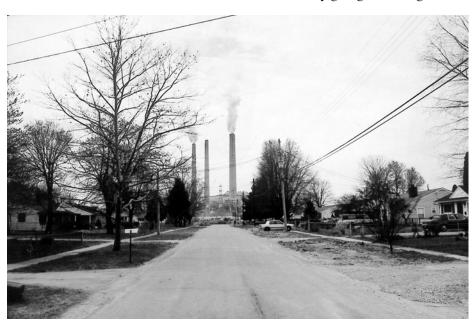
Although we had years of data, the industries along with toxicologist experts from the University of Louisville came up with their reasons for the problems which ignored the correlations between illness and the proximity to industrial sources of pollution. They contradicted our findings. Their explanation for the deaths and respiratory health problems since the 1940's was attributed to the life style of the affected individuals and their families, rather than the toxic emissions from the industries. Our agency has refused to accept this explanation and has prompted us to continue our fight. The Justice Resource Center is currently surveying residents in the River City Garden neighborhood (zip code 40216) and early results show many of the same dismal health trends. Because the industries continued to deny their role in the problem and the determination of our agency to bring environmental justice to these affected areas, the result has been an ongoing battle that remains at the top of our center's priority list today.

The goals we had for Rubbertown in the late 1980's remain the same today and since we now have a clearer idea about the many negative impacts on families in these areas, we will not settle for the band-aid treatments the industries are proposing. We will settle for nothing less than the following:

- 1. Reduction of toxic emissions by all Rubbertown industries. Several of these industries are listed as the leading source of toxic pollutants in the United States. (E.I. Dupont, Rohm & Hass, Zeon & Borden Chemical Plants) to name a few.
- 2. Air Mmonitors be placed around all each company's fence lines.
- 3. Front End Title V permits be revised or rejected when continued high emissions of toxic chemicals are proposed.
- 4. Companies that continue to expel excessive toxic emissions be fined severely, not just a slap on the hand.
- 5. Citizens in the effected area be offered the fair market value for their homes and be relocated to a more desirable, less contaminated area.

As of this writing, only one of the above concerns has been addressed and that is air monitors have been placed near the industries. Even so, this has not made a dent in the problem. Business as usual is still the name of the game, because the plants have figured out how to get around the monitor readings. The companies get away with this because they are not challenged by the Jefferson County Air Pollution Control Board, the agency responsible for ensuring clean air in the

city. These companies have been able to do a little window dressing, have their public relations departments make this serious issue into a "Big-To-Do-About-Nothing" by creating news releases showing all the improvements they are making. Paint is still pealing from homes, cars are covered with a sooty substance that ruins the paint,



Power plant near residential neighborhood

residents can't use their porches or open their windows in the summertime because of the stench outside, and people are still suffering from health and respiratory problems., All of these problems continue as a result of the toxics released daily into this community. So all of the talk is just that, TALK. The attitude of the City administration is not to assist the citizens in the west end, and their lack of action in addressing this problem is insulting to the residents. The Justice Resource Center and the residents in the west end of Louisville most affected by the toxic emissions in their neighborhoods generally believe that the tax base is a higher priority to the city administration than the health base. We believe this has been true in the past and continues to this day. Politics favors the industries which is reflected in the small fines and lack of aggressive enforcement for toxic emissions violations of these industries that have been going on for years.

Presently, our agency is actively seeking legal action against the Rubbertown Industries because of their lagging indifference in addressing these concerns. The most difficult problem we face is finding someone in the legal community who will stand up to the industries. We have been fortunate to have access, receive facts, figures, information and assistance from some of the most noted professional environmental

consultants in the United States. There is no way we could afford to pay for this professional assistance. They have reached out to us after hearing and seeing our plight. They all agree that the environmental problems in Louisville, Kentucky are near the top of most lists for poor air quality and environmental health.

Our center will continue the fight. Our REACT volunteers are out daily going from neighborhood to neighborhood still

collecting facts and evidence, still assisting families, still attending funerals. We are called trouble makers, and many other things that cannot be printed here. It truly is a David and Goliath situation, but we have the determination to stay the course, not for a trophy to hang on our walls but to clean up the environment and save as many lives as we can.

Rev. Louis Coleman Jr. is Executive Director of the Justice Resource Center, Inc.

Environmental Injustice: A Look at the Pentagon's Chemical Weapons Disposal Program

by
Craig Williams, Director
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Principles and History of Environmental Justice

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands (emphasis added).

—President's Executive Order on Environmental Justice, 1994



The above 1994 Executive Order calling on each federal agency to make achieving environmental justice part of its mission obviously includes the most powerful and highly funded agency— the Department of Defense and its service branches, including the U.S. Army. Unfortunately, it is often

the most powerful federal entities which are the least likely to adhere to directives calling on them to protect low-income and minority populations of the U.S. The Army, and it's Chemical Weapons Disposal Program has proven itself no exception. Our nation's international obligation to destroy the chemical weapons stored at Army depots across the country has resulted in an Army program that adversely affects low-income and/or minority communities unnecessarily and disproportionately.

Historically race and class discrimination has taken many shapes and subsequent to the beginning of the industrial age, this discrimination came to include making people of color and the poor the unwilling recipients of toxic waste that people of privilege rarely have to endure. Wielding political clout, wealthy white communities can ensure that landfills, hazardous waste incinerators and polluting industries stay far away from their backyards. These communities make sure that they do not become victims of what environmental justice advocates at the First National People of Color Environmental Leadership Summit in January 1999 called "toxic terrorism" waged against descendants of African people.

Although minority and low-income communities had long recognized that they were the targets for this type of "terrorism," it was only in the early 1980s that an environmental justice/equity movement was publicly sparked around events in rural North Carolina. In a predominately African American and low-income community in Warren County, North Carolina, officials decided to build a toxic waste landfill for the disposal of PCBs-contaminated soil removed from 14 counties throughout the state. Pressure from civil rights and environmental activists resulted in a report by the U.S. General Accounting Office (GAO) which found that three out of every four landfills in the EPA's Region IV, were located near predominately minority communities (U.S. General Accounting Office).

The GAO report was followed in 1987 by a milestone report by the United Church of Christ's Commission on Racial Justice which showed that the most significant factor in determining the siting of hazardous waste facilities, nationwide, was race (United Church of Christ).

Milestones of the Environmental Justice Movement

There are many milestones within the history of the Civil Rights/Environmental Justice Movement, here are some of the most notable:

1964

U.S. Congress passes the Civil Rights Act, 1964. Title VI prohibits use of federal funds to discriminate based on race, color, and national origin.

1969

Ralph Abascal of the California Rural Legal Assistance files suit on behalf of six migrant farm workers that ultimately resulted in ban of the pesticide DDT. Congress passes the National Environmental Policy Act (NEPA).

The United States Public Health Services (USPHS) acknowledged that lead poisoning was disproportionately impacting African Americans and Hispanic children.

Presidents' Council on Environmental Quality (CEQ) annual report acknowledges racial discrimination adversely affects urban poor and quality of their environment.

1979

Linda McKeever Bullard files Bean v. Southwestern Waste Management, Inc. lawsuit on behalf of Houston's Northeast Community Action Group, the first civil rights suit challenging the siting of a waste facility.

1982

Warren County residents protest the siting of a polychlorinated biphenyl (PCB) landfill in Warren County, North Carolina. It is also noteworthy that it was in Warren County that Dr. Benjamin Chavis coined the term "environmental racism".

U.S. General Accounting Office (GAO) publishes Siting of Hazardous Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities. The GAO report found that 3 out of 4 the off-site commercial hazardous waste facilities in EPA Region IV are located in African American communities. However, African Americans make up just onefifth of the region's population.

1987

United Church of Christ Commission for Racial Justice issues the famous Toxic Wastes and Race in the United States report, the first national study to correlate waste facility siting and race.

1989

Morrisonville, Louisiana relocation (Dow Chemical Company buyout). The Great Louisiana Toxic March led by the Gulf Coast Tenants and communities in "Cancer Alley".

Robert D. Bullard publishes Dumping in Dixie, the first textbook on environmental justice. The Indigenous Environmental Network (IEN) was established.

In October, The First National People of Color Environmental Leadership Summit was held in Washington, DC, attracting over 1,000 participants.

1992

First edition of the People of Color Environmental Groups Directory published by the Charles Stewart Mott Foundation.

1993

Asian Pacific Environmental Network (APEN) forms to inject an Asian Pacific Islander perspective into the environmental justice movement.

1994

In February, President Bill Clinton issues Executive Order 12989, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

Environmental justice delegates participate in the 4th World Conference on Women, Beijing.

The African American Environmental Justice Action Network (AAEJAN) was established.

President Clinton issues Executive Order 13045 protecting Children from Environmental Health and Safety Risks.

More than a dozen Bishops and church leaders in the Council of Black Churches participate in "Toxic Tour of Cancer Alley." The church leaders on the tour represent over 17 million African Americans.

1999

Congressional Black Caucus Chair James Clyburn (D-SC) convenes "Environmental Justice" at Hilton Head, SC.

2000

NBEJN coordinates Congressional Black Caucus Hearing on environmental justice, Washington, DC.

2001

Environmental justice leaders participate in World Conference against Racism (WCAR) held in Durban, South Africa, and the Climate Justice Summit in The Hague, Netherlands.

Residents of Anniston, Alabama Sweet Valley/Cobb Town Environmental Task Force wins a \$42.8 million settlement against Monsanto chemical company. The community had to be relocated because of PCB contamination.

2002

Environmental justice delegates participate in the World Summit on Sustainable Development (WSSD), Rio +10 Earth Summit, Johannesburg, South Africa.

Second People of Color Environmental Leadership Summit convened in Washington, DC.

(Environmental Justice Resource Center, 2004)

The 1991 multinational People of Color Environmental Leadership Summit adopted, among others, the following "Principles of Environmental Justice":

- Environmental justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias;
- Environmental justice affirms the fundamental right to political, economic, cultural and environmental selfdetermination of all peoples;
- Environmental justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation;
- Environmental justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.

(People of Color Environmental Leadership Summit, 1991)

The U.S. Chemical Disposal Program

Unfortunately, patterns of discrimination are alive and well in the military, and the Army's Chemical Weapons Demilitarization Program is an especially egregious example of just such acts against minorities and the poor.

In 1985, the U. S. Congress directed that the nation rid itself of this particular class of weapons of mass destruction—undoubtedly a step forward for mankind (Public Law 99-145). And, in 1997, the United States Senate ratified the International Chemical Weapons Convention, joining over 100 countries in outlawing the manufacture, stockpiling, exporting or possession of chemical weapons—another positive step (Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons).

Army efforts to comply with its Congressional-directed obligation to destroy these deadly weapons have slowly moved along. Almost 20 years since the 1985 directive, the U.S. has "disposed" of, through incineration, approximately 26% of the original 30,000 tons of chemical warfare agents stored at eight Army Depots in the lower forty-eight states and one site in the Pacific (Program Manager for the Elimination of Chemical Weapons).

The Army calls this progress, but many folks in the communities in which the Army has built massive chemical weapons incinerator complexes have an altogether different view. They believe the Army is poisoning them needlessly via the toxic chemicals, heavy metals and uncombusted warfare agents that are emitted daily from the smokestacks of these facilities. Since the Army started incinerating chemical weapons in 1990, only a quarter of the stockpile has been destroyed. It is predicted that chemical weapons will be

burning in this country for at least another eight to ten years before the destruction program is completed.

Battles between the Army and communities living in the shadow of these weapons have long raged over the Army's choice of incineration as the destruction method. Between 1985 and 1996 citizens from all nine locations fought for safer, less polluting and more controlled destruction technologies, and in 1997 citizens in two states—Maryland and Indiana—won their fight which resulted in the Army being forced to use the more benign process of neutralization rather than incineration (U.S. Army ROD 1997). That same year, three other states—Alabama, Arkansas and Oregon—issued the Army permits to begin constructing incinerators (ADEM, ADPCE, ODEQ). Incineration on a small island in the Pacific, Johnston Atoll, had been underway since 1990, and by this time a chemical weapons incineration complex was already built in Utah.

It wasn't until 2002-2003 that residents at the remaining two sites—Colorado and Kentucky—also won their fight for safer neutralization destruction methods (U.S. Army RODs 2002/2003). So, here we are in 2004, and we have four U.S. communities in which the Army is either burning or poised to burn hundreds of tons of the most lethal chemicals ever made, and four communities in which the weapons will be destroyed in a safer, more protective and controlled manner.

Not surprisingly, the demographics of the eight communities show an unmistakable connection between the percentage of black, indigenous and/or poor populations at each site and each community's ability or non-ability to turn the Pentagon's dangerous burn decision around .

Comparing Communities

Here are brief demographic sketches of those communities where incineration has occurred or where citizens are still fighting incineration of chemical weapons.

- Kalama Island, The Pacific. Kalama Island (or, Johnston Atoll as named by the Army) is located 717 miles west/southwest of Hawaii. There are no inhabitants on the Island, other than U.S. Government employees. Incineration of chemical weapons ended there in late 2000 (Marshall, U.S. Census Bureau).
- Jefferson County, Arkansas. The incinerator at the Pine Bluff Arsenal is located in an economically depressed southern state; a region once marked by plantation slavery and now a rice and poultry producing and processing area. Most of Jefferson County's 85,487 people—43% African-American—reside in the city of Pine Bluff whose population is 53% African-American, 341% higher than the national average of

- 12%. Jefferson County is also very poor, with 24% of its population living below the poverty level. In Pine Bluff, 28% of the residents live below the poverty level, more than double the national average of 13.2% (Marshall, U.S. Census Bureau).
- Calhoun County, Alabama. The African-American population of the state is 25%. The city of Anniston, home to the Anniston Army Depot and the chemical weapons incinerator, has a population of 26,623, 44% of whom are African American. Anniston has a percentage of African Americans 267% higher than the national average of 12%. Calhoun County has a population of 116,034—19% African American. Many Anniston citizens — 24% — live below the poverty level, almost twice as high as the national average of 13.2%. The incinerator is situated 3.7 miles west of Anniston, close to the city's African American west side. One small African American town, Hobson City, is also near the depot. Pockets of poor whites and working class people, many employed by the depot, live very close in Bynum, Eastaboga and other small communities (Marshall, U.S. Census Bureau).
- Tooele County, Utah. In the region near the incinerator, 70% of the population live in either Tooele, a city of 13,887 people, or Grantsville, a town of 4,500. Grantsville's percentage of Native American population is 151% higher than the national average of 1.5%. The small towns of Stockton, Rush Valley and Ophir are closest to the incinerator—within a 3-15 mile radius. Stockton's percentage of Native Americans is 170% higher than the national average. The Skull Valley Indian Reservation is located approximately 15 miles west of the incinerator and the reservation is the burial site for sheep that were poisoned by chemical weapons experiments at Dugway in the 60s (Marshall, U.S. Census Bureau).
- <u>Umatilla/Morrow Counties</u>, <u>Oregon</u>. The two counties of Umatilla and Morrow have a population of approximately 68,000. A significant percentage of the population of both counties lives below the poverty level—16.5% in Umatilla and 15% in Morrow. These percentages are slightly above the 12.4% average in the state and the national average of 13.2%. Latino Americans, most of whom moved to the area since 1980, make up 9% of Umatilla County's population and 11% of Morrow County's population, which is significantly higher than the state average of 4%. The percentage of Native Americans is 305% higher than the national average of 1.5%. Low income and minority populations that have been historically affected by pollution exist in the region in greater proportions

than in the rest of the state (Marshall, U.S. Census Bureau).

Of course it comes as no surprise that "others" have more clout in DC, including with the Army, than do minorities and the poor. If we compare the communities where citizen pressure and legislative action has forced the Army to abandon incineration in favor of safer, neutralization technologies to the communities that are stuck with toxic burners, a clear picture emerges. Communities getting alternative technologies for disposal include the following.

- Madison County, Kentucky. Located in the Blue Grass area of Central Kentucky, Madison County has a population that is 4.4% African American, 64% below the national average of 12%. The Native American population is 0.3%, which is 80% below the national average of 1.5%. Madison County has a poverty rate of 16.8%, just slightly higher than the national average of 13.2% (U.S. Census Bureau).
- <u>Vermillion County</u>, <u>Indiana</u>. Located in west central Indiana in a predominantly rural area of the state, Vermillion County has a population of 0.3 % African American, 97.5% below the national average. The Native American population is 0.2 %, which is 87% below the national average of 1.5 %. Vermillion County has a poverty rate of 9.5%, which is 28% below the national average (U.S. Census Bureau).
- Pueblo County, Colorado. Located in southeast Colorado, commonly referred to as the Front Range of the Rocky Mountains, Pueblo County has a population that is 1.9 % African American, 84.2 % below the national average. The Native American population is 1.6 %, slightly above the national average of 1.5%. Pueblo County has a poverty rate of 14.9%, just slightly higher than the national average of 13.12% (U.S. Census Bureau).
- Harford County, Maryland. Lying to the northwest of the Chesapeake Bay, between the Bush and Gunpowder Rivers, Harford County has a population of 9.3 % African American, 22.5 % below the national average. The Native American population is 0.2%, which is 86.7 % below the national average. Harford County has a poverty rate of 4.9%, which is 63% below the national average (U.S. Census Bureau).

Clearly, the communities that have been saddled with toxics-emitting incinerator complexes are the communities that have a much higher percentage of low-income and/or minority populations while the wealthier and whiter communities benefit from more controlled, non-emissive destruction methods.

A Closer Look at Two Incinerator Sites

Kalama Island, The Pacific

Kalama Island (or Johnston Atoll, as the Army calls it) is a special case of intense, long-term hazardous abuse. The entire Pacific has historically been viewed as an expendable zone for the US military. In the late 1950s and early 60s, the islands were used for nuclear tests and anti-satellite missile tests. The first nuclear bombs to be exploded in the stratosphere by the US were off Kalama in 1958. In 1962 two Thor missiles burst into flames on the launch pad scattering plutonium all over the atoll and into the sea.

In 1971, 41 acres of land on the southwest shore of Kalama Island were set aside for use by the Army as a chemical agent and munitions storage area. In that same year the chemical weapons stockpile from Okinawa, Japan (Operation Red Hat), was moved to Kalama . Early in 1972, 22,000 55-gallon drums of agent orange were moved from Vietnam to Kalama. These drums were removed from the atoll in 1977 and incinerated at sea aboard the Dutch ship Vulcanus. However, due to spills and leaks, an estimated 250,000 lbs. of the agent have contaminated the underlying soils. Kalama Island has been used for all kinds of military activities, including biological warfare studies, nuclear testing, missile testing, anti-satellite weapon deployment and chemical weapons.

The military's announcement of plans to build an incinerator on Kalama in the early 1980s triggered widespread opposition. Despite resistance from Pacific Islanders, the Army was issued a ten-year permit by Region IX, U.S. Environmental Protection Agency located in San Francisco, about 3,300 miles away, to construct and run the system in 1985. Pacific outrage came to a head in 1989 with the announcement that 100,000 munitions would be transported from Germany to Kalama. Pacific nations felt betrayed by the move because, according to the Army's 1983 Final Environmental Impact Statement, there was to be no additional transportation of chemical weapons to the atoll.

There is a widespread belief among Pacific Islanders that the U.S. continues to cling to an outmoded view of the Pacific Ocean as a vast, empty region where hazardous materials can be disposed of without serious consequences to people and the environment. It is a view entirely at odds with the growing social, political and economic realities of today's world as well as with the current understanding of how the ocean environment serves to unite rather than separate peoples. These emerging perceptions confirm the indigenous people's perspective of the Pacific Ocean as a life-giving force. Physical events in any one place in the Pacific, however remote, potentially affect lands and peoples thousands of miles away. What happens on Kalama Island has the potential to affect Hawaii, and has a greater potential to af-

fect the 50,000 residents of the Marshall Islands. The ocean waters are in constant motion and are subject to winds and currents circulating throughout the Pacific.

The near surface microlayers of the marine waters are rich with biogenic materials that serve as a food source for many commercially important fish and shellfish. Contamination of the Pacific waters threatens the well-being of the indigenous peoples who live closest to it and depend upon on it for food and economic sustenance. Emissions of dioxins, heavy metals and other contaminants from the nerve gas incinerators concentrate in the sea surface microlayer and have a detrimental effect upon the populations of dependent species, particularly on the highly migratory marine life. Polluting the oceans is a catastrophe which will take place slowly over time and is likely to be ignored until it is too late.

Kalama and other Pacific Islands and the US State of Hawaii constitute a part of the world populated by indigenous peoples who have been colonized, experimented with and dumped on since the 19th century. Clearly, environmental injustice has been an historic phenomenon in this part of the world and continues to be. Despite protests from the Pacific Forum (representing fifteen Pacific Island nations, including Australia and New Zealand), the Pacific Asia Council of Indigenous Peoples, the Pacific Council of Churches, the Pacific Island Association of Non-Governmental Organizations and many other groups and organizations, the Army pursued its flawed incineration operations for 10 years, until completing operations in late 2000.

According to Poka Laenui, President, Pacific Asia Council of Indigenous Peoples, "Pacific Islanders beyond U.S. jurisdictional boundaries, although affected by polluting activities, are not consulted prior to potentially devastating conduct. We suffer environmental injustice at an international level without any adequate forum of appeal" (Alailima).

• Anniston, Alabama

Another crass example of environmental injustice within the Army's chemical weapons destruction program is Anniston, Alabama, a community already contaminated well beyond what any community should ever be. Blood samples taken from children in West Anniston have shown the highest levels of PCBs ever recorded. In addition, lead and mercury have now been identified in high concentrations, and it has recently been discovered that TCEs (Trichloroethylene) are leaching into the area's aquifer. The incineration of chemical weapons in this community will result in 10+ years of PCBs, lead, mercury and a host of other known and unknown toxins being emitted into its already dangerously contaminated environment.

Organizations and individual citizens fought the proposed incinerator for years, nonetheless, the weapons incinerator

fired up on August 9, 2003. The residents' objections to incineration have taken many forms, including demonstrations, political action, community organizing, litigation and community education. A central aspect of the Anniston fight has been a focus on environmental racism. Local and regional environmental activists have been joined by social justice and civil rights organizations in an attempt to shine light on the calculated and cold-hearted discrimination demonstrated by the Army in its chemical weapons disposal program. One of the organizations committed to the fight against incineration has deep roots in the birth of the U.S. civil rights movement in Birmingham, Alabama in the 1950s. Leaders at all levels of the Southern Christian Leadership Conference (SCLC) - which spawned the two most well-known civil rights proponents in the U.S., Dr. Martin Luther King, Jr. and the Rev-

erend Fred Shuttlesworth -has been actively involved in the Anniston fight. Understanding the obvious inequality in the siting of the chemical weapons incinerator in Anniston, the SCLC has expressed its position clearly and consistently.

A year after adopting the Resolution on the following page, SCLC leadership joined with over 30 organizations to march through Anniston in September 2002. Speaking at the rally following the march, the Rev. Shuttlesworth, still active after all these years, stated, "Anniston is the place to break the back of pollution, just like we broke the back of segregation in Birmingham" (Common Sense 5).

WHEREAS, Presidential Executive Order Number 12898 states that, "... each Federal Agency shall make achieving Environmental Justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse

Anti-Incineration March and Rally in Anniston, Alabama September, 2002



Pictured above in the front row: 1 to r: Rufus Kinney, Families Concerned about Nerve Gas Incineration; Reverend N.Q. Reynolds, Secretary, National SCLC Board; Reverend Pamela Cheney, United Chruch of Christ, Justice & Peace Action Network; Reverend Raleigh Trammell, Vice-Chairman, National SCLC Board; Elizabeth Crowe, Chemical Weapons Working Group; Reverend Fred Shutlesworth, Vice-President National SCLC; Barbara Maples, Wild Alabama; Martin Luther King III, President and CEO, National SCLC; and, Craig Williams, Executive Director, Chemical Weapons Working Group (Common Sense 1)

RESOLUTION

Adopted by the Southern Christian Leadership Conference

August 8, 2001

Forty-third Annual National Convention

Montgomery, Alabama

human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States...", and,

WHEREAS, Forty years ago, The United States Army brought, 2,300 tons of Sarin (GB), VX and mustard gas into Calhoun County under a cloak of secrecy, and

WHEREAS, These chemical agents are the deadliest compounds on the face of the earth, and

WHEREAS, The United States Army chose to store these agents, which are contained in 660,000 munitions and armaments as well as bulk storage containers at the Anniston Army Depot (ANAD), which is located in the middle of a population center, and

WHEREAS, The residents of the communities and neighborhoods closest to the Anniston Army Depot are disproportionately African-American and lower income populations, and

WHEREAS, These neighborhoods have a disproportionate number of African-American and lower income senior citizens, single parent families, children and handicapped individuals, and

WHEREAS, The U.S. Army plans to destroy this chemical weapon stockpile using an open combustion incinerator which has been constructed next to the stockpile in the middle of this population center, and

WHEREAS, The two previous incinerators operated by the Army at Johnson Atoll and Tooele, Utah have experienced chronic upset conditions, technical malfunctions, power outages and other events labeled by the Army as "unusual incidents," which have led to chemical weapons agent (CWA) releases and nonprotective levels of other toxic emissions, and

WHEREAS, The United States Environmental Protection Agency admits that this incinerator will emit into the atmosphere, during normal plan operations, the following chemicals: CWA, dioxins, lead, mercury, chromium, cadmium, PCBs and other carcinogenic and noncarcinogenic health impacting chemicals, and

WHEREAS, This ANAD incinerator will release higher levels of these materials under upset conditions, and

WHEREAS, Whereas, residents of communities and neighborhoods living near the chemical stockpile have already been exposed to excessive levels of PCBs, lead and mercury, and

WHEREAS, The Secretary of Defense has a statutory duty to provide "maximum protection" to the citizens living near a chemical weapons stockpile, and in attempting to meet this "maximum protection" duty the Army and the Federal Emer-

gency Management Agency (FEMA) have produced a Chemical Stockpile Emergency Preparedness Guidebook recommending Calhoun County officials instruct the 36,000 residents living closest to the chemical weapons stockpile to attempt to place duct tape and plastic sheeting around their windows and doors in less than eight minutes as their only means of protection in the event of a chemical accident at ANAD, and

WHEREAS, The Calhoun County Commission has refused to accept the Guidebook's recommendations because the Guidebook is based on numerous false and faulty assumptions regarding the true toxicity of the chemical agents stored at ANAD, as well as numerous other errors, and because the Commission believes duct tape and plastic sheeting will not protect the 36,000 citizens closest to the chemical weapons stockpile, and

WHEREAS, Alabama Governor Don Siegelman, in response to letters from the Calhoun County Commission, has written to Defense Secretary Don Rumsfeld and President Bush stating unequivocally that the Governor will not allow the State of Alabama to begin destroying these chemical weapons until: the true toxicity of these agents have been determined; an independent toxicologist has been hired and paid for by the federal government to verify the federal government's findings; a critical software upgrade for Calhoun County's EMA has been fully developed and installed; proper 24 hour manning of the Calhoun County EMA has been provided; an early warning system involving emergency preparedness personnel at ANAD has been instituted; all the tone alert radios have been installed; the 3,900 individuals in Calhoun County with special needs and who can not protect themselves in the event of an accident have been properly taken care of; the 38 hospitals, schools, nursing homes and senior citizens centers in Calhoun County that the Army FEMA promised in 1995 to collectively protect have been fully overpressurized; and

WHEREAS, Governor Siegelman has the clear authority to prevent the destruction process at ANAD from being allowed to begin until all of these safety measures are fully implemented and the federal government has met its statutory duty to provide "maximum protection" to these citizens, and

WHEREAS, The Department of Defense has identified and successfully demonstrated non-incineration disposal technologies that would eliminate or significantly reduce the possibility of the release of CWA, dioxins, lead, mercury, chromium, cadmium, PCBs and other carcinogenic and noncarcinogenic health impacting chemicals, and

WHEREAS, Failure to provide the "maximum protection" statutory requirement would violate Presidential Executive Order Number 12898, the Equal Protection Clause of the Four-

teenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 and EPA Regulations providing for nondiscrimination in programs receiving federal assistance under 40 C.F.R. Part 7B:

THEREFORE, be it resolved by the 2001 Southern Christian Leadership Conference National Convention that:

- 1) The federal government has failed to meet its statutory duty to provide "maximum protection" to the people of Calhoun County in general and to the African American communities in West and South Anniston in particular, and
- 2) The federal government has failed to ensure the protection of the rights of the minority populations surrounding ANAD under Presidential Executive Order Number 12898, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 and EPA Regulations providing for nondiscrimination in programs receiving federal assistance under 40 C.F.R. Part 7B, and
- 3) The federal government's proposed protective action recommendation of duct tape and plastic sheeting is wholly inadequate for the African American community, which is composed disproportionately of senior citizens, single parent families, children who are oftentimes unsupervised after school, and individuals whose immune systems have already been compromised due to excessive exposure to PCBs, mercury and lead, which were illegally dumped into the local Anniston environment for many years, and
- 4) Alabama Governor Don Siegelman has shown both foresight and leadership by publicly informing Secretary Rumsfeld and President Bush that he will not allow the destruction

process to proceed until every item enumerated by his April 25,

- 2001 letter has been fully complied with, and
- 5) The Calhoun County Commission has also shown both foresight leadership by refusing to accept the Army and FEMA's proposed protective action recommendation and to adopt the use of the Chemical Stockpile Emergency Preparedness Guidebook, and
- 6) Calhoun County Commissioner James "Pappy" Dunn has shown great dedication and determination in his actions regarding this issue in the best interests of the Alabama African-American community, and

BE IT FURTHER RESOLVED by the SCLC National Convention that:

- 1) The issues presented by the chemical weapons stockpile in Calhoun County raise serious questions of racial and environmental injustice which require the immediate attention of the Congressional Black Caucus, and
- 2) The inability of the federal government to remedy each of the problems discussed by Governor Siegelman and identified by the Calhoun County Commission and referenced in this resolution shows that the current incineration technology is not a viable approach for destroying the chemical weapons stockpile in Calhoun County and requires that the incinerator be retrofitted with an alternative technology which is less intrusive and more environmentally benign for the destruction of the stockpile.
- 3) The governor of the State of Alabama along with all Alabama Federal elected officials be provided a copy of this Resolution.

Signed: Board of Directors, SCLC **Date: August 8, 2001**

Although the Army has succeeded in firing up the Anniston incinerator, the fight has not stopped. Two lawsuits are



Demonstrators marching against toxic incineration

currently being pursued to stop the burn and, in the meantime, efforts to force accountability and oversight continue.

It was announced on March 1 of this year that the Anniston incinerator, located in the most PCBs-contaminated community in the country, has been emitting PCBs at levels higher than those allowed by the U.S. EPA-issued permit (ANCDF). Safer methods of chemical weapons disposal that do not emit toxic chemicals like PCBs are known, proven and being deployed in wealthier and whiter communities. Purposefully and unnecessarily dumping ANY additional pollutants on Anniston's population is discriminatory, immoral and unconscionable.

And just when you might think it couldn't get any worse.

. the effects of the Army's intolerable use of incineration in Anniston travels far outside that Alabama community.

Despite the common perception that hazardous waste incineration significantly reduces the waste being processed to a small amount of non-toxic ashes, the fact is that a greater quantity of toxic by-products result from the process than the quantity of waste burned.

The ratio of hazardous waste created per pound of chemical warfare agent processed at the Alabama incineration facility is anticipated to be 15:1, based on results from the Utah incinerator (Utah Department of Solid and Hazardous Waste). It is estimated that burning the 4.5 million pounds of chemical agents contained in the Anniston stockpile will produce 67.5 million pounds of hazardous waste to be shipped off site for incineration or landfilling in other communities that are also minority and low-income.

These hazardous wastes include, but are not limited to:

- Pollution Abatement System Brines—hazardous liquids produced by the massive amounts of water, needed to cool the gasses as they leave the incinerator stack. The brines have been shown to contain residual amounts of nerve agents;
- Lab Waste—including brine, furnace residue, cyclone residue, storage tank bottom samples, brine salts, decontamination solution, hydraulic fluid, demister pads, agent samples, etc.;
- **Slag**—hardened material from inside the furnaces;
- **Ash**—bottom ash, cyclone ash, etc. Residual amounts of nerve agents have been detected in the ash; and
- Dunnage—agent and non-agent contaminated packaging materials, paint waste, used batteries, excess chemicals, solvents, spill clean up chemicals, etc. (USDHW).

Can you predict the demographics of where this material is headed? Hazardous waste from the Anniston burn plant is slated to go to the following locations:



The Reverend Fred Shuttlesworth, V.P. National Southern Christian Leadership conference speaking at rally.

- 1) an incinerator (ONYX Corp.) in East St. Louis, IL—97.7% African American, 31.8% below poverty level:
- 2) a landfill (Waste Management, Inc.) in Emelle, AL—93.5% African American, 66.7% below the poverty level:
- 3) an incinerator (ONYX Corp) in Port Authur, TX—67.2% minority (43.7% African-Am, 17.5% Hispanic, 6% Asian), 28% below the poverty level;
- 4) a landfill (Superior Cedar Hill Landfill) in Ragland, AL—17% African American, 15.3% below the poverty level; and
- 5) interim storage (ONYX Corp.) in Creedmor, NC—27% African American; 13.2% below the poverty level. Waste will be mixed with other hazardous waste then shipped to East St. Louis or Port Arthur for incineration (ADEM 2003, U.S. Census Bureau).

In that the target sites for the toxic waste coming from the Anniston incinerator are all low-income and minority communities, the Army's chemical weapons destruction program must be adjudged one of the most blatant examples of environmental injustice by any one federal agency ever perpetrated.

Conclusion

We all know that the voices of politically disenfranchised minorities and the poor have been ignored for too long. Measurable achievements on one front are offset by gross manifestations of racial and class discrimination on another. Inequality in the form of racism and classism continues to haunt our nation. Minority and low-income communities continue to be knowingly poisoned by corporations and most appallingly by agencies of the federal government.

The blatant environmental injustice that is embedded within the Pentagon's chemical weapons disposal program exemplifies the worst of such conduct.

Thus the struggle for environmental justice continues through the efforts of activists across the county and around the world. In the case of chemical weapons disposal, communities saddled with incinerators persevere in their pursuit for just treatment and demands for equality.

In the words of the Reverend Raleigh Trammell, Vice-chairman of the National Board of the SCLC, when speaking against the Pentagon's bigotry, "We cannot tolerate and will not stand for it. We'll do whatever is necessary to prevent it" (Common Sense 7).

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Activism, Poultry Production, and Environmental Justice in Western Kentucky

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A broad cross-section of Americans agree on the need to preserve our environment (Kempton, Boster, and Hartley 1995).

"Mainstream" environmental organizations, such as the Sierra Club, grew out of the conservation movement and have focused on preserving and protecting wildlife and wilderness areas. But these are by no means the only concerns that have stimulated ongoing environmental action. In contrast to mainstream environmentalism, the environmental justice movement has concentrated on opposing the placement of polluting factories, landfills, and waste disposal facilities in minority and disadvantaged communities (Moberg 2001:166).

Membership in mainstream environmental organizations remains primarily white and upper-middle class, and they rely heavily on lobbying, letter writing, and fund raising to achieve their goals. The environmental justice movement, on the other hand, has consisted of local and grassroots organizations that have used the rhetoric of racial and economic justice and the strategies of the civil rights movement (Moberg 2001:166-167).

Kentucky is rich in natural resources, and the history of the commonwealth is in large measure one of the extraction of those resources at the expense of its places and people. And Kentucky is no stranger to the environmental justice movement. For over two decades, Kentuckians for the Commonwealth (KFTC) has battled against the environmental and human harm caused by strip mining and mountaintop removal, hazardous waste incinerators and landfills, the siting of new power plants and coal sludge ponds (Zuercher 1991; *Balancing the Scales*, various years).

In the last decade, mainstream environmentalists and environmental justice activists have joined forces in Kentucky against a most unlikely foe, chickens.

Rising affluence during the 20th century increased Americans' meat consumption, even as our meat preferences changed. The biggest change in American meat-eating habits has been the explosive growth in chicken consumption from about 10 pounds per person at the beginning of the 20th

century to more than 90 pounds at the start of the 21st (Stull and Broadway 2004:19-20).

The modern poultry industry was born in the 1920s on the Delmarva Peninsula, a 200-mile finger of flat, rich farm country between the Atlantic Ocean and the Chesapeake Bay that extends through Delaware and the Eastern Shore of Maryland to Cape Charles, Virginia. From there, the specialized production of "eating chickens" known as broilers—spread to Georgia and Arkansas during World War II (Gordon 1996:60,66; Williams 1998:11-12). By the late 1950s, the modern poultry industry was emerging, forged by entrepreneurs like John Tyson, Frank Perdue, Bo Pilgrim, and Cliff Lane.

As Arkansas, Georgia, and the Delmarva Peninsula became saturated with chicken houses and increasingly concerned with the social and environmental problems created by the industry, chicken processors expanded into new territories. One of those was Kentucky. Kentucky is located within a day's drive of 70 percent of the U.S. population and is crisscrossed by interstate highways (Ulack, Raitz, and Pauer 1998:3). Its low educational and income levels, coupled with declines in its major industries—coal and agriculture—held promise of workers for processing plants and growers to supply them. Adding to its appeal was an abundance of corn and water, minimal environmental regulations, and an absence of rural zoning. And then, there was the \$165 million in state and local tax credits and incentives provided to the poultry companies (AP 2000).

Poultry was also attractive to many Kentucky farmers. Tobacco—long the state's primary cash crop—is under attack on every front, and tobacco farmers are being actively discouraged from growing the crop (Halbfinger 2003; Stull 2000). The state's farms are small, making them ideal for poultry production (Ulack, Raitz, and Pauer 1998:159). Chickens are raised inside massive 'houses,' eliminating weather as a factor in production, and growers are guaranteed a minimum price

per pound for each bird they grow out. Poultry companies promise easy financing for minimal investment and attractive incomes in exchange for a modest amount of labor (University of Kentucky Cooperative Extension Service 1994).

Absent in 1990, by the end of 1998 Kentucky boasted four large processing plants and 2,000 breeder, pullet, and broiler houses to supply them—all in the western half of the state (Stinnett 1994, 1996; Kentucky Poultry Federation, personal communication, April 2, 1999). From 1.5 million in 1990, Kentucky's production of broilers soared to 270 million in 2002, making broilers the third largest source of farm cash receipts (Kentucky Agricultural Statistics Service 2004:64-65).

Broiler houses hold between 24,000 and 27,000 birds, which are grown to an average weight of 5.25 pounds in seven weeks, when they are caught and trucked to slaughter. Growers can expect to receive five to six flocks a year. For every pound of gain, a chicken produces approximately half a pound of dry waste (Poultry Water Quality Consortium 1998). Mixed with rice hulls or wood chips used to line the floors of chicken houses, this waste is called litter.

Properly handled, poultry litter is the most valuable livestock manure (Rasnake, Murdock, and Thom 1991:1). It is high in nitrogen, phosphate, and potash, and is well suited to hay and corn (Rasnake 1996:1-2). Best of all, it is often free for the taking from growers, who must regularly dispose of it.

Broiler houses produce somewhere between 140 to 200 tons of litter each year (Rasnake 1996:1; Stull 2000:157); breeder houses, where eggs are produced to supply the broiler houses with chicks, generate about 80 tons. At this rate, the 567 broiler houses and 68 breeder houses that supply the Tyson Foods plant near Robards, Kentucky, annually produce somewhere between 84,820 and 118,840 tons of chicken litter. Spread on fields at the recommended rate of 4 tons per acre, and multiplied by 4, the number of poultry processing plants in the state, enough litter is produced to fertilize somewhere between 132 and 186 square miles of Kentucky every year (640 acres per square mile).

Getting rid of 400,000 tons of chicken litter might not be such a big deal if it were spread evenly across Kentucky's 39,732 square miles. But it is not. Poultry processing is concentrated in the western half of the state, and poultry houses are located within a 60-70 mile radius of the plants they supply. For example, the 667 broiler, breeder, and pullet houses that supply the Tyson plant are located in a 10-county catchment area, but 572 of those houses—86 percent—are found in three adjacent counties immediately to the south of the processing plant (See Figure 1.).

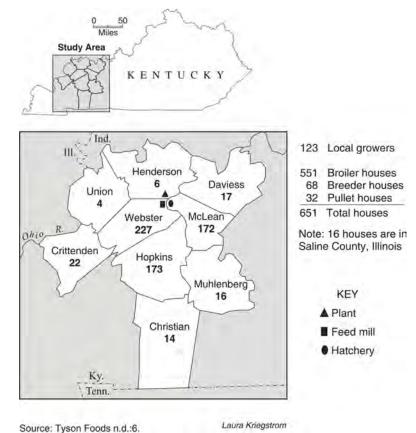
At first, residents of rural western Kentucky welcomed the poultry industry. Not only did it promise new jobs and increased revenues from them, but it also promised new markets and premium prices for corn.¹¹ But they didn't reckon with the smell. For the poultry companies and their growers



In this view from the cemetery, you can see Adams' houses in the foreground and more houses in the background which are near Bernardine Edwards.

it was the smell of money. For many of those who lived near the chicken houses, it became the stench of environmental and cultural degradation.

A full year before the Tyson plant (originally built by Hudson Foods) opened on July 9, 1996, area residents were raising concerns (Sebree Banner 1995). Within a year of the plant's opening, neighbors of broiler houses were protesting odor, flies and other vermin, ground water pollution and



potential health risks, increased and overweight traffic and resulting road damage. Coalitions of property owners went to court to block construction of broiler houses in three counties. Residents of the Greenwood Heights subdivision in Marion filed misdemeanor complaints that odor from a 16-house broiler complex just outside the city limits prevented them from enjoying their property (Lucas 2004). The Fiscal Court of Webster County, the county with the largest number of chicken houses, mandated that poultry houses be at least 600 feet from homes—11 days later the poultry company filed suit to block enforcement of the ordinance (Gilkey 1997).

Neighbor turned against neighbor and some chicken houses were vandalized (McKinley 1998:A1). The "chicken war" had begun (Whittington 1997). Meanwhile, more poultry houses continued to appear, and their neighbors continued to complain.

In 1997, KFTC (Kentuckians for the Commonwealth) formed chapters in Hopkins and Union counties, its first in western Kentucky. Following its success in opposing a large corporate-owned hog-confinement operation in Hopkins County, KFTC turned its attention to the region's newly established poultry industry (Balancing the Scales 1998:7). The Sierra Club hired Aloma Dew in 1999 to work full-time on its campaign against concentrated animal feeding opera-

tions (CAFOs) in Kentucky. She forged alliances with KFTC and other grassroots organizations, such as the Kentucky Resources Council and McCAFF (McLean County Citizens Against Factory Farms); organized conferences on the environmental and socioeconomic consequences of industrial agriculture; and collected money for CAFO opponents who fell on hard times.

In addition, she has organizaed an annual Tour de Stench to raise awareness of the problems associated with CAFOs in western Kentucky. The tour is designed to raise general awareness of the "problems of health, environment, water and quality of life related to the concentration of poultry CAFOs" (Anonymous 2001:1). In all these efforts she has defended the rights and livelihoods of Kentucky's farmers, even those who have chosen to become poultry growers. In a 1999 interview she said: "The farmer is the victim too. Nobody wants to make life harder on farmers. . . . These corporations are not farmers. They don't care about farmers. They care about the bottom line" (Hutchison 1999:A2).

Before World War II, farms and ranches produced a variety of crops and livestock, relying mostly on the labor of family and neighbors. But the so-called family farm, which holds such a prominent place in our nation's imagination, is rare today. Control of our food system has shifted from independent farms to highly concen-

trated and vertically integrated agribusinesses. Diversified and decentralized food production has been replaced by farms that specialize in a limited number of crops and livestock. Agriculture has become an industry, and much of farming has become "food manufacturing" (Grey 2000:145).

Food manufacturing is most clearly visible in concentrated animal feeding operations, called factory farms by their opponents. The poultry industry pioneered CAFOs, and they are now integral to pork and beef production as well.

Chicken farmers, called growers, are inextricably bound to the poultry companies, called integrators, whose birds they contract to raise. Although most farmers consider themselves stewards of their land, they are often bitterly opposed to environmentalists and their causes. One pullet grower put it this way, when I interviewed him in 1998:

The funniest thing is that the firebrands and the treehuggers are mostly above-middle-class housewives with nothing to do on their hands. . . . These people. . . were trying to do the right thing. But they don't know what the hell they're talking about. . . . And they're stirring these people up. . . . I would rather be an active environmentalist than an environmental activist. Yeah, there are concerns. But, you can't be running around doing Chicken Little all the time.

When I began studying the meat and poultry industry in 1987, few knew of—or cared about—the social, economic, and environmental consequences of the meat and poultry industry and the CAFOs that supply its plants. But a growing number of social scientists, journalists, activists, and affected individuals are bringing these issues to the nation's attention.

On April 22, 2002—Earth Day— the Sierra Club sued Tyson Foods and four of its largest western Kentucky

growers, who operate complexes ranging from 16 to 24 broiler houses, citing their operations for emitting excessive levels of ammonia and dust under the federal Superfund law, the Clean Air Act, and the Community-Right-to-Know Act (Lucas 2002b:A1; Lovan 2002:A1).

Tyson's spokesman maintained that it does not operate any chicken farms in Kentucky—they are run by farmers who contract with

Tyson to grow their birds. But the Sierra Club, through its attorney, argued otherwise.

This is all about massive concentrations of chickens. It's not about family farmers. Due to this massive concentration, it is triggering both the reporting requirements for hazardous substances under our toxics laws, and triggering the permit requirements for dust emissions under the Clean Air Act (Bruggers 2002:1).

Three of the four farms named by the Sierra Club were owned by out-of-state interests, including the "Tyson Children" partnership. But most of those who operate chicken houses in western Kentucky are indeed local farmers, who saw poultry as a means to diversify and augment their farm operation at a time when it is increasingly difficult to make a living.

I just thought it might be a pretty good deal to make some money on the side. In contrast, tobacco, they're always on it about "stop smoking" and maybe suing the tobacco companies and all that, and I didn't know how long tobacco was gonna be around (Owner of 4 broiler houses and grower of 32 acres of tobacco, Webster County, Kentucky, November 19, 1998).

Tobacco, long Kentucky's principal cash crop and vital to the economic welfare and culture of the state, is in sharp decline as an agricultural commodity. Between 1998, when I began studying poultry and tobacco growers in western Kentucky, and 2001, the value of the state's tobacco crop fell from about \$900 million to about \$400 million, the result

of an 80 percent reduction in the quotas that dictate how much burley tobacco each farm can grow (Lucas 2002a:A7). The 2002 burley crop was 11 percent lower than the 2001 crop and the smallest since 1936: the number of acres harvested were the fewest since record keeping began in 1919. Dark tobacco production was also down between 18 and 32 percent, depending on type (Kentucky Agricultural Statistics Service 2004:26-



From left—Sue Dant, Linda Powe,Barbara Thomas, Bernardine Edwards, and Ella King. All but Powe are members of McClean County Citzens Against Factory Farms in McLean Co. Powe works for the divisin of water regional office in Owensboro

27).

State and local leaders have argued that poultry is a good alternative to tobacco for Kentucky (Stull 2000:159). And chickens have enabled some young farmers to stay on their land and others to augment what is an increasingly precarious economic existence. But Big Chicken, like Big Tobacco, is under increasing attack—for the conditions under which its birds are grown, for the environmental consequences of the waste they produce, and for the antibiotics that have long been part of the ration fed to its birds.

Kentucky's farmers are in a bind. Tobacco is grown in 119 of Kentucky's 120 counties, making it the most tobacco-dependent state (Halbfinger 2003:A21). About half of Kentucky's farms either produce tobacco or have allotments for it (Lucas 2002a:A7), and prior to the onset of quota reductions 60,000 Kentucky farmers averaged \$12,000 per year from tobacco (Apple 1998). But as tobacco allotments are slashed, small producers can no longer count on "tobacco keeping their corn crop going" in this sustained period of depressed grain prices. Tobacco growers, like producers of other farm commodities, are finding they must "get big or get out." Tobacco is also being "chickenized." Traditionally sold at auctions around the state, two-thirds of the state's tobacco crop is now sold under direct contract (Lucas 2002a:A7).

The poultry and tobacco growers I interviewed knew that "tobacco's not going to be here forever," but they also knew that chicken "ain't gonna replace tobacco [because] it can't be as widespread. . . . [because] you can start for nothing with tobacco. And if you want to quit today, you can quit today. [But] you can't build these [chicken] houses hardly and start from scratch and live and scramble and get along. . . . and get these chicken houses paid for" (father and son breeder-chicken and tobacco growers, Webster County, Kentucky, November 11, 1998).

In the fall of 1998, the Tyson plant was only two years old, and most of the growers had been in operation no more than a year or so. Most agreed with this grower who told me:

I think it has been great. It's contributed to the decline of the unemployment rate. It's brought a lot of dollars in here.
... Our grain farmers are getting prime money for their grain.... [T]he wages paid out and the spinoff dollars... have tremendous effect on the country around here. It's upgraded water systems, it's upgraded sewage systems. It's a heck of an improvement (Pullet grower, Hopkins County, Kentucky, November 24, 1998).

But a growing number of people strongly disagree that the poultry industry has made "a heck of an improvement" in western Kentucky. In fact, several of the growers who were so enthusiastic when they talked to me in 1998 have since sold their operations. Other growers find themselves like the pullet grower who spoke at the Sierra Club conference in Murray, Kentucky, on November 5, 2000. He had grown for Seaboard (now ConAgra) for 11 years. He figured he and his wife earn only 81 cents an hour for their labor. He wants to get out of his contract, but he can't because he can't get out of debt.

Growers get to keep all the money from the first flock—minus costs for electricity and water—so, as one local skeptic put it, "they get dollar signs in their eyes." "Shawn" made

\$36,000 on his first flock, more than most people in the county make in a year. But beginning with the second flock, loans start coming due as well as payment for what wasn't taken out on the first flock—the reality of income, expenses, and cash flow become increasingly apparent.

Energy prices soared in 2001. Shawn spent \$2,800 on electricity per flock for his six houses that summer and \$25,000 to heat his flock that winter. Many of the chicks he received in his next flock were blind. Shawn and other growers complained that Tyson was extending the time between flocks to 20 days, the maximum allowed without paying a penalty. Such delays could cost a whole flock per year and mean the difference between making and losing money.

In the summer of 2002, Tyson picked up Shawn's last flock and terminated his contract. The company told him to install black curtains on his houses at his own expense. When he said he could not afford the expense, the company representative told him to borrow the money. When Shawn said he was so in debt he could not borrow any more, Tyson refused to send him more chickens. After expenses were deducted from the payment for his last flock, Shawn received a check from Tyson for \$33.22. Shawn's farm has since been repossessed and his houses now stand empty.

Shawn and many of the nation's 30,000 other poultry growers have paid dearly to satisfy our nation's appetite for abundant and cheap chicken. So have we all!

[F]arms have now replaced factories as the biggest polluters of America's waterways. . . . animal waste is the largest contributor to pollution in 60 percent of the rivers and streams classified as "impaired" by the Environmental Protection Agency [T]he United States generates 12.4 billion tons of animal manure every year—130 times more than the annual production of human waste (Silverstein 1999:3).

Three Mile Island, Love Canal, *Erin Brockovich*. These names conjure up images of environmental degradation and grassroots efforts that achieved a measure of environmental justice. Factory smokestacks, chemical plants, and landfills have most often been placed in inner cities or near low-income and minority neighborhoods because the residents of those neighborhoods lacked the political and legal clout to keep them out. And most poor and minority urban neighborhoods have been reluctant to oppose polluting industries for fear of losing the jobs they provide (Moberg 2002:377-379).

Agriculture, too, has industrialized. Farms look more and more like factories, and farmers more and more resemble factory workers. Like the inner city, rural America is hungry for jobs, any jobs. The poultry industry has brought jobs to western Kentucky, but it has also made it a dumping ground

for corporate waste and pollution. And like their cousins who live in polluted urban neighborhoods, the absence of protective rural zoning in western Kentucky attracted the poultry industry and enabled it to pursue its corporate interests at the expense of the health and well-being of local citizens and their environment.

Industrial pollution has become but one of the many hazards of everyday life, but the citizens of Kentucky should be entitled to clean water and air. Environmental organizations like the Sierra Club, environmental justice activists, and local residents have combined forces to gain important legal victories to protect those rights. On November 7, 2003, the federal district court for western Kentucky found Tyson Foods in violation of environmental laws regulating ammonia emissions at four of its broiler-house complexes in Hopkins, McLean, and Webster Counties (Mayse 2003). Three months later, on February 11, 2004, Tyson Foods dropped its appeal of a Crittenden County District Court decision that odors from one of its broiler complexes violated a Marion City nuisance ordinance. Tyson agreed to pay its \$1,000 fine and dismantle the houses within 90 days. Crittenden County magistrates are now considering a local ordinance regulating the poultry industry (Lucas 2004).

Kentucky's farmers should be entitled to a decent living from their farms, too. As one recently put it, "Farmers are willing to do anything, but we've still got to have enough money to pay the bills" (Lucas 2002a:A7). But if tobacco can no longer pay the bills, and if chickens are not the panacea many wished for, what hope do Kentucky's farmers have? The answers are not simple, and the solutions will not be easily found. But find them we must. For if we don't, our environment will not be the only thing at risk; so will our food supply.

Americans generally agree on the need to preserve both the environment and the family farm. But as agribusiness industrializes food production, farmers are increasingly forced into contracts with multinational corporations, which demand they expand their operations and adopt factory-like methods. Concentrated animal feeding operations are stinking up many parts of rural America, and in the process they are driving a wedge between cities and the surrounding countryside. It is not surprising to find environmentalists and farmers pitted against one another over CAFOs. But CAFOs have also turned rural residents against their neighbors and farmers against farmers.

Mainstream environmentalists and environmental justice activists have joined forces against CAFOs, and they have shown that dedicated individuals and the organizations they represent can successfully oppose powerful corporate interests. Now it is up to environmentalists and activists to

find common ground with farmers. They must learn that environmental and agricultural stewardship are inextricably intertwined and essential to the welfare of all Kentuckians.

All of us are eaters. The food choices we make shape systems of production, processing, and packaging. Those who seek a better environment and a sustainable agricultural system—one that respects air, land, and water, as well as producers, harvesters, and processing workers must show consumers the connection between the food they eat and the prevailing industrial production system, which is polluting air and water and impoverishing farm families. Only if we make that connection will more people demand changes in their food system and how it is produced. And only then, will we have true environmental justice.

A native of Webster County, Kentucky, Don Stull is professor of anthropology at the University of Kansas and editor of Human Organization, the journal of the Society for Applied Anthropology. Portions of this article are taken from his most recent book, Slaughterhouse Blues: The Meat and Poultry Industry in North America (Wadsworth, 2004), which he wrote with Michael Broadway.

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With Liberty and Justice For All— Environmental Justice and Big Chicken in Kentucky

Aloma Dew Commissioner Environmental Quality Commission

According to the Kentucky Constitution, every citizen has the right to the full enjoyment and use of his property. That is an argument with which industrial chicken growers would agree. It is also one that many neighbors of those growers say they are being denied. Chris Korrow, who lives near chicken houses in Cumberland County, said a person should indeed have the right to use his property as he choses, until that use crosses over onto the neighbors land and denies him use and enjoyment of that property. Some Kentuckians are paying a high price for cheap chicken and they believe they deserve justice.

During the 1990s Big Chicken came swooping into Kentucky because it was a rural state with virtually no environmental regulations, many unskilled workers, a high unemployment rate, and abundant grain and water. Kentucky is ideally situated in the middle of the country making transport to markets cheap and easy. It was the perfect site for processing plants and the hundreds of chicken growing houses to supply them. After all, Americans believe they have the right to cheap chicken, and lots of it. But what about the rights of those who live near the chicken operations?

The chicken industry came into the state with the promise of jobs and too-good-to-be-true profits. Some county judges and the Governor of Kentucky bowed and scraped and offered huge incentives if only Big Chicken would come to the Commonwealth. The incentives are, of course, paid for by the taxpayers. This includes the very workers and neighbors who are already paying a high price for having these industries in their communities. Hank Graddy, attorney for the Sierra Club in Kentucky, says about \$260 million in local, state and federal grants and tax credits were awarded to Cagle-Keystone, Perdue, Hudson (now Tyson) and Seaboard, to locate in Kentucky. The future of large areas of Kentucky was sacrificed for a vague and, for most, unfulfilled promise of jobs and prosperity. Nobody talked about sustainability, about the high cost of cheap chicken in the Bluegrass State. No one talked about the cost to the air, water and soil of the Commonwealth. No one talked about conditions in the plants or the effect thousands of chickens in small spaces would have on neighbors. Or on the chickens. No one mentioned Justice.

Author and farmer Wendell Berry has said that Kentuckians have an inferiority complex, that we settle for the bottom because we don't believe we deserve better. How sad for a state that has an honorable and distinguished history; a state whose people and opinions were once highly respected. We have let our mountains be raped for coal and now we have sold out our independent farmers to corporate profit. The colonial economy still reigns in Kentucky. Too many of our best and brightest leave to enrich other states. The products of our fields, mines and forests are taken out of the state along with the value-added profits. Kentucky is as surely in thrall to corporations as it ever was with the L & N Railroad in the 1870s or the industrial moguls who controlled Kentucky's coal for the last century. We get upset with the way Kentucky is viewed nationally and in particular Appalachia, but we continue our race to the bottom by recruiting not clean, high paying industries, not by subsidizing and helping our independent farmers and touting the products of our state, but by bringing in dirty, exploitive, and unsustainable industries such as Big Chicken. Colonial economies are by their very nature unjust.

And who has paid? Kentuckians in the 1990s bought into the idea that bigger is better; even bigger is even better, and the biggest is the best. The University said small farming is dead, get big or get out. The institution farmers have trusted the most keeps chanting that the old ways of farming are dead; monoculture and vertical integration are the only salvation. And because they said so and many were desperate to stay on the land, corporate chicken moved into Kentucky and was actually embraced as a savior by many. Four processing plants -- Cagles-Keystone, Perdue, Tyson, and Seaboard/Con-Agra--strategically located in poorer areas, soon had contract growers producing birds that they did not own and using growth practices they did not control. What the contract owners do own is the dead birds and the staggering piles of manure and the mortgages for building the houses. The grower ends up paying a much higher cost than anticipated. The grower suffers from corporate injustice.

Western Kentucky was the primary sacrifice zone. The people were poor, many less-educated than in the big cities, they were trusting and there was a lot of land for grain and a lot of water. And people needed jobs. It was heaven for Perdue, Tyson, and Seaboard (Con-Agra). But heaven conjures

up visions of justice, and there is little of that when corporate chicken comes into a community.

What had once seemed a rural heaven has become an abomination for many. True, some growers have done well, some have found jobs at the plants, but for most the jobs are something best left to the burgeoning Hispanic population that was brought in to fill them. These workers, sometimes illegals, are in a difficult position. There are language and cultural barriers, fear of speaking up or unionizing, desperate to make a living and provide a better life for their children-they have been prey to exploitation and fear. At the processing plants, complaining about conditions can result in the line being speeded up as many as 90 chickens per minute to be gutted. The result is repetitive injuries, slips on wet floors, stench, it is cold and some report sexual harassment. All this so Americans can have a 99 cent chicken sandwich. Fast, cheap, but unjust. Underage workers were discovered in the Cagles-Keystone plant in Clinton, KY. Children doing work that is unspeakable even for adults. These are the disposable workers. If they complain or get injured, they can be replaced. Unionization in the form of United Food and Commercial Workers has helped in those plants. The injustice is not just with the exploitive companies, but with those of us who close our eyes to reality in order to save a few pennies. Who pays?

Communities pay the price of broken families, severed friendships, churches afraid to speak up for justice because of fear of economic reprisal. Rural communities in western Kentucky will not recover for decades. Everyone knows or is related to someone who grows chickens or is in some way connected to the industry. Hot heads prevail, threats and often physical violence occurs, and the rural model of community and helping your neighbor is ruptured. That is a high price to pay for the profits of a very few.

For Norma Caine, it is a matter of justice. She and her family lived in a modest, but neat and well-cared for trailer home on a small plot of ground. It was theirs, just as precious as finer homes elsewhere. A grower from Georgia came in and built 24 chicken houses around the Caines home. The windows were often black with flies, the stench was abominable, mice and rats, fleas and a plethora of other problems were a daily assault. When offered a buy-out for her property, Norma Caine said, "No We will not leave. This is our home. We were here first. We were not given a choice. That's wrong. That's an injustice." The Caines suffered many of the typical problems of neighbors of CAFOs, tension, anger, resentment, a feeling of having no control. And there are the physical ailments, headaches, allergies, respiratory and gastro-intestinal problems. The World Health Organization states in its preamble that Health is a state of complete physical, mental, and social well-being and not merely the absence of disease and infirmity. If that is true, then Norma Caine and her family have paid a very high price, indeed.

Bernardine Edwards has more than 80 chicken houses within a two mile radius of her house; 16 are right across the road. She can no longer have family picnics in her shady front yard where grandchildren used to sit in the swing and play games. When her husband was being buried up the road in the small cemetery where generations of their family rest, loads of manure and dead chickens were hauled past the grieving family. The grower cleared and burned the trees across the road from the Edwards which at minimum would have provided some protection from the environmental hazards. Ms. Edwards has been a leader in the fight against the chicken CAFOs, but has paid a high price. Her house was built on the family farm and was to be their dream retirement home. Now she is a prisoner who cannot enjoy her yard and cannot get a fair price for her house, so she is stuck dealing with dust, flies, rodents, manure and dead chickens on the road, and the horrible smell. It is a smell one cannot escape; it seeps in around the windows and permeates carpets and drapes, and assaults one when the door is opened. The only escape is to leave. There has been harassment, threats, and gun shots at her house. Her physical health has deteriorated because of stress and she does not venture into her yard without a respiratory mask. Scientists say that immunosuppression is a behavioral response to such stress and that increased risk of physical illness is a result. The timing and unexpectedness of the odor apparently plays a role. It is impossible to plan an outdoor activity because although the smell is not overwhelming every day, one can never know when it will be. Ask Ms. Edwards how high the cost. Where is the justice?

Leesa Webster and her family can't sleep nights when the chickens are being loaded. They live on a 200 year-old land grant farm and had to remove their swimming pool, which they built for physical therapy for their daughter, because of chicken feathers, dust and odor. Stress is a palpable problem. Some days it is unbearable, but she will not give up; she will not leave her family home, even though the price has been very high. Leesa stated, "Those in the chicken industry and a few politicians have denied me several of my rights. One is the right to enjoy my land and home. The air is so thick with odor from the 16 chicken houses on the land adjoining our farm, you cannot know from one second to the next if you will be able to go outside. There are times when the odor penetrates into our home. The ammonia smell can burn your throat and eyes and will give you a terrible headache." She has some serious physical problems which are no doubt exacerbated by the stress and the emissions from the 16 chicken houses across the road from her home. A major problem has been noise. Chickens are usually loaded at night. There is the repetitive sound of trucks backing up, cages clanking, loud

voices and music. And of course there is always the stench.

"The people in this community were never given a chance to protect themselves against this industry. Between the politicians and the industry itself, it came in and strangled this community before people knew what hit. Thanks to the Sierra Club, I choose to fight for my rightful way of life. Its extremely difficult to fight against a large industry and politicians, but it can be done." said Leesa. "Americans can go to other countries and fight to protect other's rights; I, too, have rights and the government has an obligation to protect mine," she concluded.

Another family in McLean County, who also live on a 200 year-old land grant farm, has to cover their plates between bites when eating in their kitchen because the flies are so pervasive. They have appealed to the company, Perdue, many times and have been told that that's a part of how chickens are raised. It appears that for many CAFO operators and the companies for whom they work, it is the neighbors who are the nuisance. It is the neighbors who pay the price for someone else's success and someone else's cheap chicken. There are many other stories like these and too few voices demanding justice. Too often the neighbors live in a climate of fear and are afraid to speak up or protest, so most suffer and become more stressed and frustrated.

The ammonia released from these large operations is a toxic emission. In Sierra Club v. Tyson Foods, Inc. the Sierra Club sued for ammonia reporting from these operations under the Super Fund Law and the Community Right to Know Law. The U.S.District Court for the western district of Kentucky, meeting in Owensboro, ruled that emissions of more than 100 pounds of ammonia per day must be reported, and that the integrator, or corporate owner, is responsible for pollution caused by their operations. Since they own the birds and control their feed, medication, and method of handling, they are indeed the owners and it is an industry. Other aspects of this case are ongoing.

Dr. Stephen Wing from the University of North Carolina at Chapel Hill while recently discussing community health issues and injustices surrounding CAFOs said, "we need more



Norma Caine, a resident of Sebree, Kentucky

democracy in this country. Often the health and well-being of neighbors is sacrificed for the economic health of others. The many pay for the profits of the few. Thats not democracy and it is not justice."

These operations with their massive amounts of waste, threaten public health with water pollution and dirty air. Kentucky has more than 89,000 miles of waterways and vast stores of underground water. Confining large numbers of animals presents a clear and present danger because more than two-thirds of the state is karst topography, underlain with porous limestone with sinkholes and caves, where ground water and surface water merge. Ruining the environment for future generations, for those with no voice, is unjust in many ways and is irresponsible.

Animals in these large operations are routinely given antibiotics in feed and water in sub-therapeutic doses. Some make the animals grow faster, which means quicker profit. Antibiotics are necessary where so many animals are crowded and stressed in an unsustainable system. But these are often the same antibiotics prescribed for humans. This over-use and mis-use of 20th century miracle drugs is leading to an alarming increase in antibiotic resistant bacteria. This practice puts all our health at risk, but especially the most vulnerable, our children. Their future is being compromised for shortterm corporate profit. The American Medical Association has called for cessation of this use of antibiotics, but at this time, the federal government, pressured by industry, is still approving use of more antibiotics for animal growth. This willful threat to the health of all Americans is a huge injustice, and the general public should be outraged by it.

Industrial animal production is an unjust system that pollutes the soil, air and water; impacts the health and well-being of Americans; threatens communities and independent family farms; and places neighbors in untenable situations. The only way to insure justice for all is to make democracy work once again, to give a voice to the injured and threatened. Linda Moon, whose home and neighborhood were over-run with thousands of mice from a neighbor's layer chicken houses stated, "Nobody should have to live like this". Norma Caine, Bernardine Edwards, Leesa Webster and many others would agree its a matter of justice.

Aloma Dew is an employee of the Sierra Club, a resident of Owensboro, Kentucky, and a commissioner of the Environmental Quality Commission.

Empowering People in the Mountains of Eastern Kenucky

Patty Wallace Resident of Louisa, Kentucky

"People have the power—the power to dream, to rule, to wrestle the world from fools."

Patti Smith, "People have the Power"

For several years I followed my husband around Kentucky, mostly in the eastern part, while he did construction work. As we traveled, I began to see the devastating effects that strip mining was having on our hills, mountains, valleys, and streams; and I became increasingly concerned about this callous destruction of our environment. However, at that time, my husband and I had four children and they kept my

mind, attention, and activities pretty close to home. It was not until we built a new home and settled in Louisa, Kentucky, that I had the opportunity to become actively involved in the struggle to protect the natural beauty and environmental integrity of this region and ultimately the entire commonwealth. I could plainly see that if something wasn't done, all that we love and hold dear about Kentucky was going to disappear in the rage of glut and greed that was spreading over our commonwealth, devouring our mountains, polluting our streams, and destroying our forests.



Mountain-top removal in Harlan County



Patty Wallace leading a discussion involving local citizens.

I first became active in the community of Louisa through my involvement as a Girl Scout leader. The girls and I did quite a bit of camping, and on one trip we went to Letcher County where we stayed in a cabin on top of Pine Mountain. The view from Pine Mountain was astounding; and when we reached the top we looked out over row after row of tree covered mountains, curving and meandering as far as we could see. While we were in Letcher County on that trip, I took the troop down to the office of Harry Caudill, a local author, who very kindly talked to the girls, making them aware of what was happening to Kentucky's beautiful mountains. I believed then and now that those mountains are indelibly printed in love on a Kentuckian's heart. Caudill's talk struck a note of truth and deeply moved those girls. When we returned to Louisa, the troop wrote letters to Carl Perkins, a powerful U.S. Congressman from Kentucky, asking for his help in preserving our mountains and streams; and they carried signs

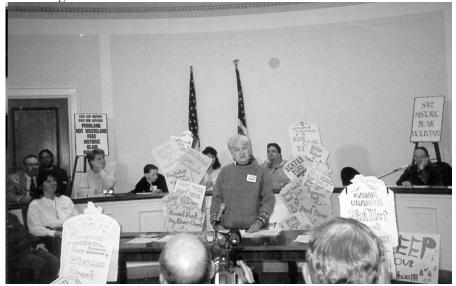
protesting strip mining when Gov. Carroll came to our town. Also, our troop visited with Rufus Reed, a Kentucky naturalist. Rufus hiked with our troop to a strip mine site and took us for a guided walk along his favorite wildflower trail. The Scouts were shown trailing arbutus, lady slippers, blood root and many other plants and flowers that are native to our state. The stories that Rufus related about the plants and their uses was a great lesson for the girls. Sadly, today most of this area has been destroyed by coal companies, and I fear that most of these wildflowers no longer exist there. I learned that stronger action was needed to protect what was Godgiven to all Kentuckians, past, present and future.

After the Martin County tour with Rufus, I wrote a letter to the state coal mining inspector in Paintsville, Kentucky denouncing strip mining and sent a copy to the newspaper. Predictably, he showed the letter to my husband's boss who then called me one night. He tried to tell me he hated to push those trees and debris over into the valley, but I had no faith in his sincerity and said to him, "I'm sure you cry all the way to the bank." His call, however, taught me that you can draw attention to issues that are important to you. I began to realize that I was not completely powerless. My voice had been heard.

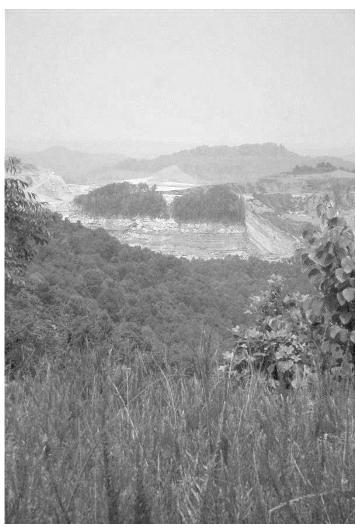
Several years passed but during that time I became more involved in activities and issues

intended to make things better for my children and future generations of Kentuckians. I worked with Parents For School Board Reform to end corruption in our educational system in Lawrence County. I am proud to say that we accomplished a great deal in the six years that we worked on this project. I learned that if people work together for change and don't give up, change can happen. There is strength in numbers, and over and over again our voices were heard.

In the early 80s, it was reported that a toxic waste incinerator, Pyrochem, was trying to locate in our county. The owner called the incinerator a "recycling plant". Since I had worked with a recycling group in our county, the notion of a recycling facility in our county got my attention. But, as I looked into it I found out that what they planned to recycle was toxic wastes which would pollute our air. The recycling was really poisoned air through our lungs! At this time, we heard about a new citizens' action group in Kentucky called



Patty Wallace moderating roundtable discussions of local environmental issues with citizens.



Mountain-top removal in Leslie County, Kentucky

the Kentucky Fair Tax Coalition (KFTC). A staff member came to one of our local meetings, and through our combined efforts we got organized to fight the siting of the waste incinerator. We invited Aaron Jacobson, from the University of Louisville, to tell us that the designer of the PyroChem incinerator had also designed an incinerator for the University of Louisville which had never worked properly. We were given leadership training; we learned how to get in touch with our legislators and county officials; and we learned how to lobby in Frankfort, the state capitol.

We joined with other KFTC chapters all over the state who were fighting similar battles, and became a powerful force to be reckoned with. We marched in Western Kentucky against Liquid Waste Disposal (LWD); with Corrine Whitehead's group, The Coalition for Health Concerns; with Greenup Residents Opposing Waste Landfills (GROWL) and with other groups in West Virginia and Ohio.

As I became more involved with KFTC, I learned that it was originally formed to deal with the Broad Form Deed legislation and Unmined Mineral Tax issues. The Broad Form

Deed legislation was used by energy resource companies to separate ownership of surface land from the coal, oil and gas deposits underneath the land. Passed in the late 1800's and early 1900's, these deeds gave companies in Kentucky the right to obtain the minerals by any method "necessary or convenient" with no obligation to compensate landowners for damages. The landowner who for generations had paid the taxes on their surface land

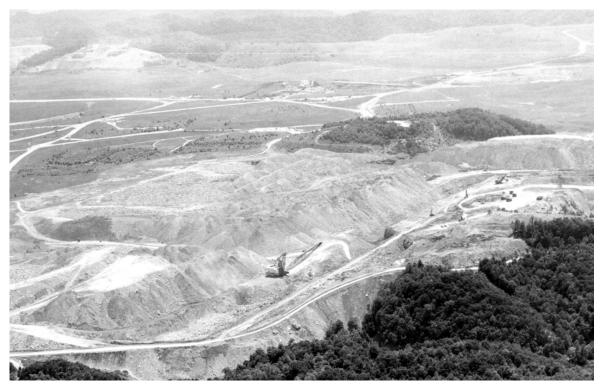
had little power to prevent their gardens, timber, orchards, pastures, cemeteries and water from being damaged or destroyed by coal companies using strip mining to remove the coal, or gas and oil companies from extracting these resources. A 1981 study showed that 50 percent of the total surface land and 75 percent of the total mineral acreage in Martin County was owned by out-of-state individuals or corporate owners. Pocahontas Kentucky Corporation alone owned 81,333 acres of mineral rights valued on the tax rolls at \$7 million, but the annual property tax on that mineral wealth totaled only about \$76. A few years earlier the state legislature had set the tax rate on coal property so low that it amounted to an exemption from taxation. The unfairness of the Unmined Minerals Tax and the power of the coal industry to control elected officials has changed little over the years.

KFTC worked hard for several years to get these laws changed. After a well planned and staged "Save The Homeplace" campaign was conducted by members of KFTC, the Broad Form Deed issue was put on the state ballot in 1988 and presented to the people of Kentucky. The amendment to abolish the Broad Form Deed passed by an 85.5 margin of the vote, a heretofore unheard of majority. During this campaign, I learned that Louis D. Brandeis was right when he said, "The most important political office is that of the private citizen." At long last this case showed us that we have a government for the people and by the people; and we must never forget that it is, indeed, our government.

By the late 1980's, KFTC had broadened its fight to include social justice issues as well as environmental issues, and so it was decided by the membership to change the name to Kentuckians For The Commonwealth.

In 1988 PyroChem was finally defeated when KFTC was able to get a Hazardous Waste Local Control Bill passed in the Kentucky legislature. Through this process we learned a lot; we found out that our county was the destination for asbestos from New York City and out-of-state garbage from the northeast. Through the action of local citizens banding together, we discovered the influence a large network of supporters can have.

My niece and good friend, Ruth Colvin, has been, and is still, my greatest ally. By the time we learned that Roe Creek hollow had been targeted for yet another waste site about 10



Dragline in Perry County, Kentucky

miles from our homes, we were organized and ready for the struggle that lie ahead. On the advice of a county official, Ruth was deputized and carried a pistol with her when we visited Roe Creek. We were dubbed the "Housewives from Hell" in a 1992 article in Audubon magazine. Expose', a national TV show hosted by Brian Ross and Tom Brokaw, included us in a program about the influence of organized crime in the garbage business. Earth Journal, a nationally syndicated TV program with Dr. Richard Leakey, featured us and our fight to save our community and we even made Modern Maturity magazine, the journal of the American Association of Retired People (AARP). This recognition came because we refused to be taken advantage of. As Ruth told Bryan Ross on Exposé, "We may talk funny but our brains work". We were certainly not alone in our struggles. The friends that we made through the years have been one of the greatest rewards.

Among those friends and helpers we could call on for advice and support are Lois Gibbs, of Love Canal, Corinne Whitehead, Western Kentucky Coalition for Health Concerns, Hazel King of Harlan County who roamed the hills for years reporting on subsidences and black water, Evelyn Williams of Redfox, Penney Sanders, who lobbied with us against outof-state garbage and many, many others such as Joe Begley, Sidney Cornett, Linda Brock and Jean True. Some of these activists portrayed these struggles in eloquent statements like the following.

"As people have come together from country and city, from mountains and Bluegrass and Pennyroyal and river

flatlands, they have learned important lessons. People all over the commonwealth, not just in the mountains, suffer from environmental damage and the practices of irresponsible and greedy corporations. People do not face these problems because they are ignorant. They face them because of a system that gives them no protection from those out to make money at the expense of the general welfare. People all across the state are learning to speak up and demand that protection from

their elected representatives, to refuse to blindly accept the assurances of the polluting industries, to assert their right to quality education for their children and adequate services for their communities. Kentuckians For The Commonwealth is a homegrown democracy, born in the mountains and benefiting all Kentuckians." (Denise Giardina in the Preface to "Making History " The First Ten Years of KFTC)

A great portion of Martin, Pike, Perry, Letcher, Leslie, Harlan, Knott, Floyd and other counties are continuing to be turned into moonscapes by mountaintop removal, the most destructive and immoral mining method ever practiced. The perpetrators are driven by greed. They use America's huge appetite for cheap energy as their rationalization, but this energy is anything but cheap when you consider the cost to the land, air, water and people who live in the coalfields. We must stop this madness while there is still something left to save. If everyone could do a flyover and view from the air the annihilation of whole mountain ranges, they would join me in saying

"Lets do it. SAVE THE HOMEPLACE again!"

Patty Wallace has been an environmental activist in rural Eastern Kentucky for more than 30 years. A native of Fort Gay, West Virginia, she now resides in Louisa, Kentucky, on the banks of the Big Sandy River. Her article illustrates the importance of grass roots efforts that empower citizens to make a difference in their lives.

Environmental Justice in Long Range Transportation Planning: A Work in Progress

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1.0 INTRODUCTION

Transportation projects inherently possess characteristics that affect the environmental, social, and economic futures of communities within the influence of the affected transportation system. Because of the size and scope of these projects and their impacts on nearby communities, the application of Environmental Justice (EJ) principles is particularly important for underrepresented neighborhoods. Like non-transportation projects, the EJ process consists of two major areas: community outreach and impact evaluation. Considerable effort has gone into developing methods to solicit input from low-income and minority communities

into the planning and design process, but the evaluation of impacts and the comparison of these impacts between target and non-target areas is still in a state of flux.

The University of Louisville is currently engaged in a study of the Environmental Justice methodologies incorporated in a Long Range Transportation Plan (LRTP) by the Metropolitan Planning Organizations (MPOs) to examine the consistency and adequacy of their efforts to reduce disproportionate impacts of transportation projects on communities

considered Environmental Justice areas. The examination of LRTPs is important because it provides the basis for the development of the regional transportation system over the next twenty years, and because the inclusion of projects in this plan usually leads to the implementation of the project.

The results of the current study show that even though Executive Order 12898 was issued in 1994, actual implementation of the order in long-range transportation planning has been incomplete and inconsistent. Now, ten years later, most MPOs either ignore EJ requirements, allude to a general consideration of EJ principles, or provide limited and incomplete analyses. Of the 211 LRTPs examined in the study, only 98 presented any EJ analysis. Of the 98 EJ analyses, only 44 plans presented results indicating a comparison of the mobility characteristics of EJ versus non-EJ

communities. Newly created MPOs resulting from the 2000 census were not included in the study. Much of the problem appears to result from confusion over the requirements for actually implementing an impact analysis.

2.0 ENVIRONMENTAL JUSTICE LEGISLATION AND REGULATION

In addition to Title VI of the Civil Rights Act of 1964 and Executive Order 12898 that established EJ requirements for projects affecting minorities and low-income populations, the Department of Transportation and its agencies has implemented regulations that apply specifically to transportation projects and planning.

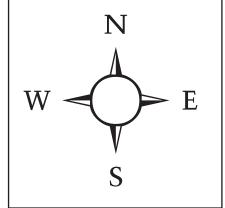


In response to the Title VI requirements that each department issue regulations to implement the provisions of Title VI, the U.S. Department of Transportation (DOT) promulgated "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964" (DOT Title VI Regulations) on June 8, 1970. The DOT Title VI Regulations go beyond the requirements of Title VI by pro-

scribing activities and programs that have a disparate impact on racial and low socio economic groups¹. The regulation also directly addresses decisions that affect the location of transportation facilities.

Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2)

DOT Order 5610.2 was issued in response to the E.O. 12898 requirement that each agency issue processes to incorporate Environmental Justice principles into existing programs, policies, and activities. Order 5610.2 requires that "Planning and programming activities that have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations." The policy of promoting environmental justice principles requires "fully considering



environmental justice principles throughout the planning and decision-making process in the development of programs, policies and activities..." Order 5610.2 sets forth policies for addressing environmental justice concerns by requiring that they be administered early in the development of a program, policy or activity. ⁴ The Order requires that the following information be obtained where "relevant, appropriate and practical"⁵:

- Population served and/or affected by race, color or national origin, and income level;
- Proposed steps to guard against disproportionately high and adverse effects on persons on the basis or race, color, or national origin;
- Present and proposed membership by race, color or national origin, in any planning or advisor body which is part of the program.⁶

Order 5610.2 also states that DOT operations are administered so as "to identify and avoid discrimination and avoid disproportionately high and adverse effects on minority populations and low-income populations ...". Avoidance of disproportionately high and adverse effects is to be achieved by:

- Identifying and evaluating social and economic effects of DOT programs, policies and activities.
- Proposing measures to avoid, minimize and/or mitigate disproportionately high and adverse effects⁹
- Providing offsetting benefits and opportunities to enhance communities¹⁰
- Considering alternatives to proposed programs, policies, and activities¹¹

In addition, Order 5610.2 provides some key definitions of terms that must be understood to evaluate the impacts of projects on EJ communities. The definitions and how they are interpreted by MPOs will be discussed later.

FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Population⁵ (DOT Order 6640.23)

Order 6640.23 is the response of the Federal Highway Administration to the DOT requirements that its agencies develop strategies to implement environmental justice principles. The order basically restates DOT Order 5610.2 in the requirements for an environmental justice analysis and the conditions for avoidance or mitigation of impacts to minority and low-income communities. In addition, the order uses the same definitions listed in Order 5610.2. Finally, Order 6640.23 requires that any relevant finding identified during the implementation of the order be included in the planning or NEPA documentation.¹²

3.0 TRANSPORTATION PLANNING

The above regulations clearly require the evaluation of planning impacts on EJ communities, and they require that the evaluation be done early in the process. The level at which the planning impacts are determined is highly dependent on the type of plan under consideration. It is important, therefore, to have some understanding of the transportation planning process.

The transportation planning process comprises three distinct transportation plans that differ in time frame and detail. As the planning horizon increases in the process, the details of the actual projects are less defined and the impacts are more difficult to estimate.. In contrast, as the planning horizon decreases, the specifics are better defined and the impacts can be more easily determined. The evaluation of the impacts on target and non-target populations will be different for each type of transportation plan

A metropolitan planning organization (MPO) develops the plans for areas that have a population of 50,000 or more. The MPO produces the transportation plans for an area expected to be classified as urban in twenty years.

Long-Range Transportation Plan

The Long-Range Transportation Plan (LRTP) must have a minimum-planning horizon of twenty years. It must identify all major roadway, bicycle, pedestrian, aviation, and rail additions and improvements during the planning horizon. The plan must be financially constrained, although it can include an alternative or visionary alternative plan that is not constrained. The LRTP must be revised every five years for urban areas with populations greater than 50,000. Urban areas with populations greater than 200,000, Transportation Management Areas (TMAs), must revise their plans every three years.

Transportation Improvement Plan

The Transportation Improvement Plan (TIP) is a ranked list of transportation projects proposed for implementation and has a three- to six-year planning horizon. The TIP must specify exactly what projects are proposed for federal funding during each of the years in the plan, and the plan must be financially constrained. The TIP is revised at least every two years and must be consistent with the LRTP.

Unified Planning Work Program

The Unified Planning Work Program (UPWP) identifies the transportation studies and tasks to be implemented in the upcoming year along with the required funding. The UPWP must be consistent with the TIP.

4.0 Defining Key Environmental Justice Terms

E.O. 12898 required that federal departments and agencies identify and address, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations, but did not offer specific definitions of a minority or low-income person, nor did it define what comprises a minority or low-income population. Definitions for minority and low-income persons were incorporated into the DOT Order 5610.2 and FHWA Order 6640.23. Definitions for "disparate impacts" and "adverse affects" have also been left open to interpretation to the MPO.

Minority Person (Definition)

A minority person is specifically defined as a person who is:

- Black (a person having origins in any of the black racial groups of Africa)^{13 14}
- Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race)¹⁵
- Asian American (a person having origins in any of the original peoples of the Far East, Southeast

Asia, the Indian subcontinent, or the Pacific Islands)^{17 18}

• American Indian and Alaskan Native (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition)¹⁹ ²⁰

Low-Income Person

A low-income person is a person whose median household income is at or below the Department of Health and Human Service poverty guidelines. 21 22 FHWA guidance, however, allows a state or locality to adopt a higher threshold as long as it is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines. 23 The adoption of a higher threshold permits a region to allow for cost-of-living differences from the national average.

Minority Population

A minority Population is defined as any readily identifiable groups of minority persons who live in geographic proximity and if conditions warrant, geographically dis-

persed/transient persons (such as migrant workers or Native Americans) who may be similarly affected^{24 25} DOT and FHWA do not define any percentage thresholds for defining a minority population nor do they specify the size of the geographic divisions that should be used for comparing minority and non-minority populations. FHWA and FTA guidance does indicate that a minority population cannot be eliminated from consideration because it is very small in size.²⁶ They also indicate that the population does not have to be in a well-defined neighborhood or community to be considered.²⁷ Some guidelines can be found in the Council on Environmental Quality Environmental Justice: Guidance <u>Under the National Environmental Policy Act.</u> The guidance examines the requirements for implementing environmental justice within the NEPA framework. Although long-term planning does not come under the purview of NEPA, the guidance can be equally applicable to non-NEPA applications. The guidance states "minority populations should be identified when either (a) the minority population of the affected area exceeds 50 percent, or (b) the minority population of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis."28 This guidance, however, leaves the terms "meaningfully greater" and "appropriate unit of geographic analysis" undefined.

Low-Income Population

A low-income population is defined as any readily identifiable group of low-income persons who live in geographic proximity, and if conditions warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who may be similarly affected.^{29 30} As in the case for minority populations, DOT and FHWA do not define any percentage thresholds for defining low-income populations nor do they specify the size of the geographic divisions that should be used for comparing low-income and non-low-income populations.

Adverse Effects

Adverse effects means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to:

- Bodily impairment, infirmity, illness or death;
- Air, noise, and water pollution and soil contamination:
- Destruction or disruption of man-made or natural resources;
- Destruction or diminution of aesthetic values;
- Destruction or disruption of community cohesion or a community's economic vitality;

- Destruction or disruption of the availability of public and private facilities and services;
- Vibration:
- Adverse employment effects;
- Displacement of persons, businesses, farms, or nonprofit organizations;
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the
- Denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.³¹

Disproportionately High and Adverse Effects

A disproportionately high and adverse effect is an adverse effect that is predominately borne by a minority population and/or a low-income population, or an adverse effect that will be suffered by a minority and/or low-income population that is more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.³²

5.0 STATUS OF ENVIRONMENTAL JUSTICE IMPACTS ANALYSIS IN LONG-RANGE TRANSPORTATION PLANS

Researchers at the University of Louisville decided to evaluate how MPOs were actually implementing EJ principles within the long-range planning process. Particularly, efforts were concentrated on determining how some of the key terms were interpreted by MPOs, and what types of impact analyses have been incorporated into the organizations' latest long-range transportation plans. The study requested information on definitions of the key terms from MPOs listed on the Association of Metropolitan Planning Organization website. In addition, 211 long-range plans were examined to determine the level of analysis and the definition of terms. The data sets were combined to give a good representation of the 333 MPOs that were contacted.

The LRTPs and the survey responses indicated that a considerable amount of confusion still exists among MPOs about the application of EJ principles in the LRTP. The usual postscript to the survey answers was a request for the results of this study. Several early conclusions can be reached.

Definition of Target Populations

There is considerable variation in the way that MPOs define the EJ target populations. While the definition of a minority is clear, it is not clear what constitutes a minority population. Some areas use the regional average for the MPO as the threshold to divide EJ from non-EJ communities. Some MPOs use county averages within the MPO. Some areas use 50% as a threshold, while areas with large minority populations such as some areas in Florida, California, and Hawaii establish thresholds at much higher levels. Some areas analyzed the region by dividing it into quintiles or quartiles based on the percentage of minority or low-income population, and then compared the upper and lower groupings.

In addition, there is no agreement on the unit of geographic area that should be used for the analysis. Target areas have been defined by census block, census block group, census tract, and travel analysis zone (TAZ).

Adverse or Disparate Impacts

The survey responses and the LRTP reviews revealed that there was no consistent or standard method for determining what impacts should be examined or what constitutes a disparate impact. The list of potential adverse impacts mentioned in DOT Order 5610.2 can be translated into a considerable list of transportation impacts, such as:

- Mobility or travel time to work, retail centers, hospitals, etc.
- Accessibility or how many jobs, retail centers, hospitals, or schools, can be reached within a stated time period
- Environmental impacts such as noise, air pollution, or ground water impacts
- Economic impacts
- Social impacts that may cut off part of the community from the rest
- Local accessibility impacts that might limit pedestrian or bicycle access
- Safety impacts that might result from increased mobility and higher speeds

Some MPOs, mainly the larger ones, incorporate most of these analyses into their evaluation of EJ principles, but the smaller MPOs do not have the resources or the data to examine all of these factors. There is little guidance on how to determine what factors are important.











Disparate impacts are even more difficult to determine. Some areas might look at a small percentage difference, such as five or ten percent, and declare that to be an acceptable difference. Other areas have done statistical analyses of the geographic analysis areas and found one standard deviation to be an acceptable variation. Considering the errors inherent in making twenty-year projections of populations, it is not surprising that uncertainty exists about what standards to use to determine disparate impacts.

6.0 CONCLUSION

Ten years after the announcement of E.O. 12898 requiring environmental justice analyses in federally licensed and federally funded projects, the inclusion of EJ analyses into Long-Range Transportation Plans has not become standard practice. There are vague definitions for identifying and defining target areas, and little guidance on how to determine what types of analyses will provide useful insight into the relative impacts of transportation projects on environmental justice communities. The study of LRTPs of MPOs across the country revealed that fewer than fifty percent of the MPOs presented an environmental justice analysis in their plan indicating that these organizations, as a group, have not achieved the goals of E.O. 12898.

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Endnotes

- ¹ 49 CFR § 21.5(b)(2) As set forth in 49 CFR § 21.23(F) "Recipient may mean any State, territory, possession, the District of Columbia, or Puerto Rico or any political subdivision thereof ... to whom Federal financial assistance is extended, directly or through another recipient, for any program..."
- ² Department of Transportation Order 5610.2, Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1(b), April 15, 1997.
- ³ id., 4(a).
- ⁴ id. 7(b).
- ⁵ id.
- ⁶ id.
- ⁷ Id. 7(c).
- 8 id. 7(c)(1)
- ⁹ id. 7(c)(2)
- 10 id. 7(c)(2)
- ¹¹ id. 7(c)(3)
- ¹² FHWA Order No. 6640.23, FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, § 6(e), December 2, 1998.

- ¹³ Department of Transportation Order 5610.2, Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Appendix § 1(c)(1), April 15, 1997.
- ¹⁴ FHWA Order 6640.23 § 2(c)(1).
- ¹⁵ DOT Order 5610.2 Appendix § 1(c)(2).
- ¹⁶ FHWA Order 6640.23 § 2(c)(2)
- ¹⁷ DOT Order 5610.2 Appendix § 1(c)(3).
- ¹⁸ FHWA Order 6640.23 § 2(c)(3)
- ¹⁹ DOT Order 5610.2 Appendix § 1(c)(4).
- ²⁰ FHWA Order 6640.23 § 2(c)(4)
- ²¹ DOT Order 5610.2 Appendix § 1(b).
- ²² FHWA Order 6640.23 § 2(d)
- ²³ FHWA and FTA, Environmental Justice The Facts: Questions and Answers on Environmental Justice and Title VI, Question 11, http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm (last modified April 9, 2002)
- ²⁴ DOT Order 5610.2 Appendix § 1(e).
- ²⁵ FHWA Order 6640.23 § 2(e)
- ²⁶ FHWA and FTA, Environmental Justice The Facts: Questions and Answers on Environmental Justice and Title VI, Question 15, http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm (last modified April 9, 2002)
- ²⁷ id., Question 16.
- ²⁸ CEQ, Environmental Justice: Guidance Under the National Environmental Policy Act, Appendix A § 1-101.
- ²⁹ DOT Order 5610.2 Appendix § 1(d).
- ³⁰ FHWA Order 6640.23 § 2(d)
- 31 DOT Order 5610.2 Appendix § 1(f)
- ³² DOT Order 5610.2 Appendix § 1(g)

Environmental Juistice: Balancing the Scales

Penny Sanders
Resident
Sulphur Trace Farm
Sulphur, Kentucky

This article grew out of both a personal odyssey in pursuit of environmental justice and the comments and experiences gathered from Kentucky and other states. Sadly, for many people today, environmental justice is an oxymoron. It may be the "public intent" for government, but in reality, it exists only in a few circumstances and only if citizens are willing to wage a pitched battle to ensure justice for all.

However, if all people are to survive and thrive both today and in the future, there must be dramatic changes in how justice is administered. In fact our environmental future depends on it.

What is Environmental Justice?

The federal government defines environmental justice in the EPA compliance document as:

... the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income with respect to the development, implementation and enforcement of environmental laws and regulation.

Fair treatment means that: no group of people, including a racial, ethnic or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local and tribal programs and policies.

Meaningful involvement means that:

- potential affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and health;
- —the public's contribution can influence the regulatory agency's decision;
- —the concerns of all participants involved will be considered in the decision making process and
- —the decision makers seek out and facilitate the involvement of those potentially affected (http://www.epa.gov/compliance/environmental justice).

The words "decision makers must SEEK OUT and facilitate the involvement" of affected persons in decisions that will have environmental and health consequences jumps

from the page. There is federal policy mandating the protection of the health and welfare of citizens; that the concerns of citizens must be a priority in any environmental decision making. Yet, we see no evidence of this policy in practice at any governmental level: national, state or local.

The Kentucky Story

The history of Kentucky is marked by environmental exploitation: coal, timber and land. The state was settled by intrepid pioneers who were in search of new lands to farm, because the original 13 colonies had become too crowded and those lands had begun to be non-productive.

Many of these early pioneers pursued the same "use it, abuse it, leave it" philosophy in their agricultural practices that were later to become the hallmark of Kentucky's environmental practices. Even the historical icon, Daniel Boone, moved on to the greener lands of Missouri.

As Kentucky entered the late 19th century, the state became a center of coal production. The stories of those abuses of both land and people are part of nearly every family's history.

There was little regard for people. They, like the coal seams, were to be used up. When they or the coal was gone, one simply moved on to another area to mine. Everything and everyone was expendable. Coal was king in every sense of the word, controlling all the political and economic structures.

It was only through the changes brought by the unionization of the mines in the 1930's, that issues around environmental justice began to emerge. Safety and miners' health became a matter of public concern.

In the late 1980's, the abuses of strip mining became so extreme, government officials were forced to take action against the industry. The diminishing need for coal, made enacting regulations less painful for the politicians. Environmental justice for miners began to emerge, but only when the pursuit of justice was no longer an economic threat.

The same story repeated itself in logging. The excesses of poor practices and corrupt influences are evident in the stripped hills throughout Kentucky.

Today, the threat is landfills, previously known as garbage dumps. As other states enact more stringent regulations for landfills, Kentucky remains a haven for those out-of-state corporations who want huge profits by creating gigantic landfills. In the process, the land, air and water of the areas surrounding the landfill are destroyed. Following an all-too-often-repeated pattern, when their environmental destruction is complete, the corporation and accommodating government officials simply move on leaving as their legacy, a mess for state and local government to clean up. A mess that the tax-payers will ultimately pay for.

The siting of landfills in Kentucky is done without any recognition of environmental justice. In fact, it is because there is so little regard for either the environment or justice that this industry has taken hold in this state.

The Citizens' Story

This is a story about siting a landfill in Kentucky. It could be any number of sites in the state. Sadly, it could be one of a hundred sites scattered in poor and rural communities throughout the south.

This particular landfill began as a small county dump located on a county line. No one thought much about it, until one day a large corporation bought the dump and began transforming the site into a landfill.

The small rural community located near it and its residents were caught off guard. No one realized that a landfill would become a threat to land, air, water, property values and quality of life.

Today, there exists an 800+ acre landfill in the middle of an area that is rapidly transforming from an agricultural community to suburban sprawl. Draining into one of Kentucky's rural waterways, it threatens everything around it, as well as communities downstream.

Property values were destroyed by the landfill corporation. The peoples' lives became a nightmare. Instead of enjoying the beauty of nature, residents suffered with retching odors, blowing trash, clouds of dust, infestations of starlings and buzzards, truck traffic on state roads and incredible, slimy mud that clings to any vehicle that passes the landfill's property.

The residents turned to their county officials for help. Instead of serving as the peoples' advocates and protectors, these elected and appointed politicians were co-opted by the corporation. The county coffers grew fat from the special taxes that the landfill paid, causing local officials to weaken and abandon any local controls on operations or nuisance ordinances . The county prospered, while its people were subjected to all manner of environmental abuse.

Where is the justice? How do people in these circumstances find the resources to pursue their rightfully entitled protections?

The people of the little community, when they received no help from their local officials, turned to the state for assistance and protection. At this level, citizens confronted a myriad of laws and regulations apparently designed or interpreted to deter any citizen or citizen group from seeking appropriate redress of their grievances.

The laws and regulations were written to protect the industry. The burden of responsibility for proving that any operation caused irreparable harm, fell, not on the corporation, but on the citizens of the area. The assumption of public policy, written by elected officials, was that a land-fill, a coal mine or a strip mine was really good for the community.

Citizens requested hearings on a multitude of issues. At these hearings, polite bureaucrats came, appeared to listen, nodded their heads and then returned to the capital. Interestingly, the corporations rarely spoke at these hearings. They did not have to present their case before the public; rather their case was heard



A large landfill graphically illustrating the meaning of "a mountain of trash."

in the quiet halls of power, where regulators made decisions without consideration for the needs of the people.

Concerns about the air, the water, loss of property values and loss of quality of life fell on deaf ears. In fact at one such hearing, the hearing officer, a state employee, told the citizens "he did not care what they had to say, he was going to grant the landfill their permit". The corporation was just too powerful. The burden of proof was forced on the victims not on the perpetrator.

Occasionally, the corporation's violations became so grievous and the people's complaints so loud, state agencies were forced to write violations. The corporate response was to deny, mediate, litigate and negotiate a lower fine. Three hundred people could complain about a dreadful stench coming from a landfill, but the corporation's response was "there is no odor." Without standards and instruments for measuring odor and strong regulations for citing offenders, the polluters won.

Citizens continued their effort to achieve environmental justice by asking legislators to write more stringent laws to control odor and nuisance. The need for better laws and stricter enforcement was met with cries from the industry about over-regulation and strangulation of free enterprise. Well-paid, politically connected lobbyists kept the pressure on elected officials to keep much-needed legislation from being enacted.

The people in the great halls of the Capitol were just rabble, a nuisance to be tolerated. Only the politically connected had the necessary "access".

Government did not fulfill its constitutional obligations to protect the people. Health and welfare issues were viewed as unimportant. The citizen protestors were dubbed "fringe" types or tree-huggers because they talked about environmental issues. The land, air, water and quality of life were not for the people but for corporate use and abuse.

Finally, having exhausted all their administrative remedies, citizens were forced to seek relief through the court systems. The legal system turned out to be as convoluted as any political structure.

Usually, with limited resources, citizens can seek help in filing legal action to protect their property and their lives. In this instance, they searched for attorneys willing to take their cases. Citizens had to mortgage their homes and farms to defend their way of life.

The legal filings of the people were met with a corporate response known as "scorched earth". This placed citizens in a most precarious position because the strategy was to protract all the proceedings, to depose as many people as possible, to

delay every proceeding and to create incredible legal costs.

Another component of "scorched earth" was the corporation's attempt to intimidate and harass the people. All done, of course, in the name of proceeding with litigation. Citizens' most personal information; income tax returns, financial statements, health records, marital status, became fodder for the corporation to continue its harassment. Many of these abuses were beyond belief and should never have been tolerated by the court system. Regrettably, they were.

Finally, after years of proceedings and delays, if citizens did prevail, the costs were so high that for many the victory was Pyrrhic. The years of litigation took their toll not only on financial well being, but on the emotional and the physical as well.

The corporation walked away and considered such protracted litigation simply part of the cost of "doing business". They learned nothing about respecting peoples' lives, their property and the environment. It was simply a game where the pawns were peoples' lives and property.

Environmental Justice-Balancing the Scales

Justice is the blind-folded woman, holding the scales. To attain environmental justice, the people must balance those scales. The essential elements for doing that are power, money and information (Montague:2003).

People need the power to make informed decisions. Those citizens who are impacted, who must bear the economic and environmental burdens of an industry's actions must be at the table when decisions are being made. The voice of the people must be heard in decision making.

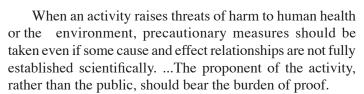
Furthermore, governments at all levels must bring the representatives of all relevant stakeholders to the table. Decisions must be made by talking together and using democratic processes.

People need money to serve as the equalizer with industry. Montague(2003) identifies the following capacity-building purposes for money: it allows citizens to . . .

- gain time to get involved at the earliest stages, when alternatives are still being considered;
- gain time to read, think and participate as the process evolves;
- gain time to acquire knowledge and understanding
- gain time to engage, reflect, reach conclusions, act;
- tap into the needed resources to evaluate alternatives;
- gather resources to organize the community to reach consensus (or at least a position agreeable to most) and to develop a community voice.

The third element, information, is essential for making informed decisions and actions. Information must be readily available at all stages of the discussions, but most importantly in the earliest stages. Having information places citizens in a position of power. One of the roles of government is to ensure that people have access to power, money and information; such action can serve to create a climate in which environmental justice exists for citizens

Within the environmental community there has been much discussion around the many facets of environmental justice. A new principle for guiding human activities to prevent harm to the environment and human health has emerged in the last few years. This principle is called the" Precautionary Principle (Wingspread, 1991).



The fundamentals of the Precautionary Principle are hardly revolutionary, but grounded in common sense. These include:

- people have a duty to take anticipatory action to prevent harm.
- the burden of proof of harmlessness of a new technology, process, activity or chemical lies with the proponents, not with the general public.
- before using a new technology, process, or chemical or starting a new activity, people have an obligation to examine a full range of alternatives, including the alternative of taking no action.
- decisions applying the Precautionary Principle must be open, informed and democratic and must include all affected parties.

How extraordinary, do no harm; place the burden of proof, not on the people, but on the industry that seeks to manufacture, strip mine or landfill.

The Precautionary Principle underpins much of Europe's environmental policies. In the United States, we have yet to embrace this pro-citizen, pro-environment approach to public policy.



Fleets of garbage trucks depositing their loads at a landfill.

In Kentucky, the last, perhaps only significant environmental victory, was the passage of the Broad Form Deed amendment to the constitution. This victory came as the result of the hard work of hundreds of Kentuckians who saw the unfairness of the broad form deed as a threat to all Kentucky.

What if concerned Kentuckians once again came together to work for the adoption of the Precautionary Principle in all governmental policies, with particular emphasis on the environment. What an extraordinary movement, what an opportunity to create a climate of environmental justice for all. Placing the burden of proof on those who wish to threaten the environment seems only reasonable, prudent and the appropriate course of action.

Environmental justice requires that we balance the scales so that citizens are no longer victims. Action to insure fairness is long overdue.

Penny Sanders is a long-time resident of Sulphur, Kentucky and lives on a farm where she and her husband raise sheep.

End Notes

This writer relied on the work of Peter Montague, Ph.D. Dr. Montague is Director of the Environmental Research Foundation. You may find the references and his newsletters at www.rachel.org

Global Pressures on Local Autonomy: Challenges to Urban Planning for Sustainability and Development

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- I. What Does Planning for "Sustainability" mean?
- II. Defining, Measuring and Promoting "Effectiveness" in Pursuit of Sustainability
- III. Institutional Frameworks and Structures that Promote Sustainable Urban Practices
- IV. Resource Consumption, Environmental Quality and Sustainable Development Practice
- V. "Best Practice" Examples @ Lessons for Planning Sustainable Urban Areas
- VI. Case Study: Louisville, KY

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Edward Gramlich, Member, Board of Governors, Federal Reserve System

Donald P. Mains, Deputy Assistant Secretary for Economic Development, US Department of HUD

James R. Ramsey, President, University of Louisville

Speaker from US Environmental Protection Agency (invited)

Barbara Kingsolver (invited)

Raquel Rivera Pinderhughes, Professor of Urban Studies at San Francisco State University (invited)

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