

**Chronicles**

FROM THE

**Environmental  
Justice Frontline**

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## **Contents**

Preface

[vii]

### **I**

**Environmental Justice Struggles in Perspective**

[1]

### **2**

**Roots of Environmental Injustice in Louisiana**

[29]

### **3**

**The Nation's First Major Environmental Justice Judgment:  
The LES Uranium Enrichment Facility**

[63]

### **4**

**EPA's Environmental Justice Test Case: The Shintech PVC Plant**

[101]

### **5**

**Media Savvy Cajuns and Houma Indians: Fighting an Oilfield  
Waste Dump in Grand Bois**

[137]

### **6**

**Stress and the Politics of Living on a Superfund Site:  
The Agriculture Street Municipal Landfill**

*with Amanda Leiker*

[165]

## CONTENTS

### 7

#### **The Empire Strikes Back: Backlash and Implications for the Future**

[189]

#### **Online Resources on Environmental Justice Struggles**

[217]

#### **Suggested Places to Start: A Few Worthwhile Next Readings**

[221]

#### **Notes**

[223]

#### **References**

[251]

#### **Index**

[267]

### SILENT BATTLEFIELDS IN A FRAGILE LANDSCAPE

Driving along Interstate 10 from east New Orleans to Baton Rouge, the traveler first climbs steeply over the Industrial Canal between the Mississippi River and the Intracoastal Waterway and then drops just as precipitously, rumbling past dingy railroads and industrial land before passing signs for the French Quarter. The Industrial Canal has barges backed up waiting their turn to go through a century-old shipping lock. Today it is the site of a bitter struggle between the U.S. Army Corps of Engineers who want to spend twelve years expanding the lock and residents of the neighborhood who fear it would release toxics from contaminated soils, block traffic, and rattle their homes for over a decade. The predominantly African-American neighborhood claims that choosing to expand the lock rather than siting it in wetlands to the south constitutes environmental racism and has sued the Corps and placed a restraining order to prevent the beginning of the project.<sup>1</sup>

Just past the Canal, off to the left of the highway, is the Agriculture Street Landfill neighborhood, where a middle-class black subdivision was built directly on top of the old city dump in the late 1970s with Federal Housing Authority money. Noxious odors, illnesses, and sinking houses alerted neighbors to the risk, and the Environmental Protection Agency (EPA) put the site on the Superfund "National Priority List" for cleanup in 1994 after conducting soil tests that uncovered 150 toxins in the dirt. They are afraid of toxic materials found in their yards atop the landfill, and the homes they've been paying on their entire adult lives are now nearly worthless. In protests, vigils, and trips to Washington and the UN Commission on Civil Rights in Geneva, Switzerland, the neighbors have clamored for the EPA to move them out, but they have consistently been denied the relocation they seek. Their fear and endless frustration in gaining relocation from the EPA is analyzed in Chapter 6.

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

Just past this point, billowing flames engulfed the Interstate itself on September 9, 1987, as a CSX railway car holding butadiene, a petroleum byproduct, exploded just under the raised expressway. Almost two hundred city blocks of residents were evacuated in the middle of the night.<sup>2</sup> Many people reported breathing difficulty, rashes, and other problems; others claimed damage to their homes and mental anguish. This community took a private, class action approach with a team of lawyers, including a few locally famous trial lawyers. Their lawsuit focused on psychological stress and illnesses, as residents struggled to rebuild their lives after the explosion. Still, no one suffered permanent physical illness. Citing the carelessness of the rail and tank car companies in endangering people's lives, the jury of the original suit levied one of the world's largest penalties on the five defendant companies, \$3.4 billion. Upon appeal, the amount was reduced to less than \$1 billion, and several of the firms negotiated lower settlements. The legal battle of suits, appeals, motions, and counter-motions has waged for thirteen years, and residents have yet to receive any compensation.

Then, on the left, skyscrapers loom for a moment with the names of internationally owned hotels and oil companies in the background; three-story brick buildings that look like army barracks – the Iberville public housing project – are nearer the road. Beautiful but falling-down old Creole cottages and storefronts stand just feet from the road on the right, the remains of the Treme neighborhood. This highway was originally planned to pass straight through the heart of the French Quarter, between historic Jackson Square and the Mississippi River it fronted.<sup>3</sup> In a struggle noted by many locally as the beginning of the environmental movement, preservationists fought to save the French Quarter. By rerouting the highway they were among the first in the nation able to force an interstate highway to change. But in winning, the white preservationists dealt a devastating blow to oak-lined North Claiborne Avenue and Treme, an historic Creole neighborhood, long the cultural and business centers of New Orleans' black community.<sup>4</sup> The expressway helped destroy the famed Storyville district – the city's zone for legalized prostitution from 1897 to 1917 – said to be the birthplace of Jazz and one of the most racially integrated places in the South during the Jim Crow era.<sup>5</sup> The courtesy of public hearings about the highway was never given to Treme, nor were studies of the impact on the black neighborhoods ever conducted.<sup>6</sup>

Moving through Gert Town, a working-class black neighborhood,

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

the I-10 passes a few blocks from the old Thompson-Hayward Chemical Company, where Agent Orange defoliant for use against the Viet Cong and other toxic pesticides were carelessly mixed in open vats in the 1960s and 1970s. The soil under the asphalt around the boarded-up plant is so toxic that no dump in the country could accept it. No signs mark the monitoring wells around the boarded-up factory, put on EPA's Superfund list in 1994. Residents sued the current Dutch firm that owns the plant; lawyers received the bulk of the out-of-court settlement, and locals are infighting about how to spend a small community trust fund that was left over.

Crossing a levee and a wide drainage canal into the suburbs of Metairie and Kenner, one might spot on one of the unpretentious brick square bungalows a Confederate flag, or a "Duke Country" sign, for the ex-Ku Klux Klan leader and perennial political candidate David Duke, who represented this district in the legislature. Just past the bungalows and suburban apartment buildings that stretch nearly to the airport is a levee, where suddenly the road lifts off the earth to a raised bridge that goes on for miles, over cypress and willow swamps and open marshes bordering Lake Pontchartrain. What drivers don't see here is an exit for the 50-mile outer loop "Dixie Expressway," a huge project blocked by environmentalists.<sup>7</sup>

The next thirty miles are punctuated by little more than a few pickup trucks pulled over on the side of the highway, where hunters and fishers have ducked into the thick willows by foot or flatboat. A watchful passenger might notice dozens of egrets and ducks, while motor boaters fish right under the elevated highway. Only driving the road at night do most people notice the flares from a distant refinery. Chemical plant construction along the Mississippi River took off in the 1930s when it was dredged to make Baton Rouge reachable by ocean-going ships. There are now over one hundred petrochemical plants along the river between the two cities, but from the highway, one sees only one refinery, the flares of the Shell-Motiva NORCO plant next to the Bonne Carre Spillway. On the fenceline of the Shell Chemical plant next door, the Black Diamond community, descendants of ex-slaves, is demanding that Shell pay for their relocation, saying they're too close to the chemical plant that has steadily grown larger and closer since the 1950s.

Much of the air, land, and bayous around these facilities are laced with heavy metals and other toxic chemicals that have been leaked and dumped over the decades. Some plants still simply pump millions of

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

pounds of toxics deep into the earth's crust and hope it doesn't resurface into the drinking water.<sup>8</sup> Many use the mighty Mississippi as their source for water and their sewer, and since the river here contains the effluent of a million square miles over half of a continent, it is difficult for EPA officials and environmentalists to pin particular spills on individual firms. One commentator in a *National Geographic* special issue on water called the river a "chemical soup," saying, "This river is our drinking water here in New Orleans. . . . It's just as if you put your child's mouth up against the tailpipe of a car."<sup>9</sup>

About halfway between New Orleans and Baton Rouge, exit signs alert the driver to the towns of Grammercy, Gonzalez, and Sorrento – chemical industry towns near Convent, a tiny community that for two intense years battled over whether a Japanese chemical company named Shintech could build a \$750 million polyvinyl chloride (PVC) plastics factory. Shintech became the test case upon which the EPA was developing its federal policy on environmental justice. Here, if you get off the highway and travel along the Mississippi River Road, you will see bucolic, green pastures peppered with the vestiges of plantation houses, overseers cottages, and falling-down slave quarters. In places, sugar cane fields spread back from the road as far as the eye can see. Nestled amid the southern country landscape, huge smokestacks rise up from fertilizer, chemical, and metals plants, the hundred-year-old Colonial sugar refinery, tall grain elevators, and the enormous Motiva Enterprises petroleum refinery. Trucks lumber down the highway transporting their tanks of oil, trains pull away from the mighty plants loaded down with vats of chemicals, and large pipes cross the road overhead to deliver sugar, grain, and petrochemicals to barges and huge tankers waiting patiently on the other side of the big green levee in the Mississippi River.

Back on the interstate, it is not too long before the new suburban malls of sprawling Baton Rouge interrupt the reverie as the traffic snarls. Just past downtown the road rises to the river bridge and looking to the right one can see paddlewheelers and casino boats in the foreground, the state capital in the middle distance, and the huge Exxon refinery looming just behind it. The construction of that refinery in 1909 anchored the development of the petrochemical pole here, and some critics argue that the blue state flag featuring a mother pelican feeding her young, which flies over the capital, should be replaced by a flag with the Exxon tiger or the Texaco star. Around the capital, another series of struggles over "environmental justice" is raging. Just



## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

beyond the Exxon refinery is the historically black Southern University, where students in 1998 protested the burning of leftover Vietnam-era Napalm at the Rhodia plant near the school.<sup>10</sup> Off to the north is Alsen, where Rollins dumped and incinerated waste for a generation over the protests of locals and where a company named Petro Processors polluted a now aptly named place called Devil's Swamp.<sup>11</sup>

In driving just ninety minutes, a motorist on I-10 has passed 156 facilities, which are the sources of 129.3 million pounds of toxic releases each year, as reported by the petrochemical firms themselves.<sup>12</sup> This equals over one-sixteenth of the entire emissions in the United States of America.<sup>13</sup> How did this "Chemical Corridor" (as the industry calls it) or "Cancer Alley" (as environmental justice activists call it) get to be this way? One explanation is that the proximity to rich gas and oilfields and the ability of the river to handle ocean-going tankers made industry keenly interested in the area. Another is that, due to their poverty and lack of political power, the poor rural communities along this Delta floodplain have had to welcome any firm wishing to utilize the long plantation lots that stretched back into the fields and marshes from the river's levees. Some observers point out that people simply didn't know what was coming into their communities, and, when they did come, they were simply unaware or misinformed of the potential health effects. Another common explanation is that a majority of Louisiana politicians, like those in most places dependent on oil, have always been more attentive to the needs of industry than those of average residents and corrupted by the concentrated wealth oil brings.<sup>14</sup> Currently, a majority of state politicians are heavily dependent on donations from the oil and chemical industries to pay their campaign bills.

But life along the corridor is no longer so simple, if it ever was: many residents have grown skeptical of industry and government promises of jobs, tax money for schools and roads, and safe production if they accept the plants. The economy is shifting away from oil toward tourism, health care, and transportation,<sup>15</sup> and a new coalition of activists is arguing that the focus on heavy manufacturing and attracting firms with lax environmental enforcement and tax breaks is backfiring for the state.

No one knows that the political climate in Louisiana is shifting better than the Japanese plastics maker Shintech, who wanted to build the plastics plant in Convent. After initially getting support from the governor and permission from the Louisiana Department of Environmental Quality (DEQ), they ran into strong opposition from local

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

black and white residents who had support from Greenpeace and legal representation from law clinic students at nearby Tulane University. The struggle has had huge local and national repercussions and is the subject of Chapter 4 and much of Chapter 7. After years of suits and protests, the firm decided to move upriver and build a much smaller plant next to a large Dow Chemical facility. Shintech faces opposition there, but they have hired effective public relations firms and have used Dow's long-standing community presence to help counter discontented residents and environmentalists.

The struggles over the environment and racial justice are so common along this river that another author might highlight an entirely different set of cases. The net result of all these struggles is a patchwork quilt of land despoiled and protected, of communities where people feel perfectly safe, and of communities where citizens are terrified of leaks, explosions, or contamination. From this patchwork, we selected four struggles to address some questions with broad implications not only for local residents but also for the formulation of sweeping new national environmental and civil rights policy and heated academic debates.

Our goal in this book is to avoid overwhelming nonspecialist readers with heavy doses of social theory. Several such theories underlaid the questions we asked and the way we designed our research and laid out this book (such as those on social movements, the political economy of space, and some social psychology of risk and coping). We do not provide a review of social theories on environmental justice here, nor even a substantial analysis of that debate. To do this would take this book in a different direction and reach a different audience. The aim of this book is to focus on four environmental justice struggles in one state and to understand how they came to be; how residents, state and local government officials, and company representatives felt about the struggles; and how they were contentiously resolved. To understand these powerful cases, we need to develop an historical understanding of the place. There are three core questions.

The obvious first question is, *What is environmental justice?* This term has been thrown around but continues to be misunderstood and its definition debated. The second question is, *Who are the players in these struggles over environmental justice, and what tools do they use to get their way?* It has been observed that citizens' groups might win some battles, but that the coalition of industry and government officials interested in growing the local economy – what some social sci-

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

entists call “the growth machine” – inevitably win the wars. This is the one main conceptual tool we believe readers will benefit from in understanding why environmental injustice is created by the everyday decisions people make. Growth machine theory also clarifies why environmental justice is interpreted differently by different categories of people and helps to explain why these uncomfortable situations are resolved the way they are.

Third, we ask how people experience environmental injustice. That is, *What does it feel like to be consistently afraid of having your health endangered, especially when it seems to be related to the color of your skin, the amount of money you have, and your lack of political clout?* We argue that stress from hazards and social pressure – and how people cope with these – influence the form these struggles take and who wins in the long run. These questions frame the core of this book and help us understand why the battles start, why they end up the way they do, and what effects they are having on people and their communities. We begin with the first question.

### WHAT IS ENVIRONMENTAL JUSTICE?

In 1982, during protests over dumping of highly toxic polychlorinated biphenyls (PCBs) in Warren County, North Carolina, Benjamin Chavez, the future director of the National Association for the Advancement of Colored People (NAACP), coined the term *environmental racism*. This racism can be conscious or unconscious, intended and unintended, and comes at two stages. It can be the “the great disparity in the siting of waste facilities, polluting industries, other facilities having a negative environmental effect.”<sup>16</sup> It can also be the uneven “enforcement of environmental law between People of Color communities and White communities,” as suggested by a 1992 study by the *National Law Journal*.<sup>17</sup> The study of 1177 Superfund toxic waste sites found that “White communities see faster action, better results and stiffer penalties than communities where blacks, Hispanics and other minorities live. This unequal protection often occurs whether the community is wealthy or poor.”

Many critics misrepresent this most central point: environmental racism does not solely refer to actions that have a racist *intent*, but it also includes actions that have a racist *impact*, regardless of their intent.

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

As several authors have described it, environmental justice embraces the concept that every individual, regardless of race, ethnicity, or class has the right to be free from ecological destruction and deserves equal protection of his or her environment, health, employment, housing, and transportation.<sup>18</sup> In 1991, the landmark People of Color Environmental Leadership Summit drafted seventeen core Principles of Environmental Justice. Holistic and universalistic, these principles emphasized that the movement was not just about environmental issues.<sup>19</sup> The goals of the movement included broader social justice issues, such as economic and cultural liberation for all people of color.<sup>20</sup> The principles stress the importance of increased participation of people of color as equals at all levels of decision making. Finally, the movement made clear that although pollution and environmental degradation didn't belong in communities of color, it also didn't belong anywhere else.<sup>21</sup> The movement thus dedicated itself to reducing environmental hazards for all people, and, to do that, its focus was on protecting those least protected.

As illustrated by these principles, environmental justice is not a simple or unidimensional concept. It does not just concern the preservation or conservation of the environment. Robert Bullard, a sociologist at Clark University and a leading environmental justice advocate, describes the wide swath that the environmental justice movement encompasses. He states,

It basically says that the environment is everything: where we live, work, play, go to school, as well as the physical and natural world. And so we can't separate the physical environment from the cultural environment. We have to talk about making sure that justice is integrated throughout all of the stuff that we do. What the environmental justice movement is about is trying to address all siting and industrial development.<sup>22</sup>

The reason why the environmental justice movement did not focus only on the environment was because activists saw that the economic and social disparities that surround an individual's life are rooted in hundreds of years of economic and political inequalities. For example, in Louisiana there are numerous small, poor, black communities that have grown up on the outer edges of large plantations along the Mississippi River Road. African Americans in Louisiana, descendents of slaves, have never enjoyed the same level of political power as whites in their communities. In fact, in some parishes, the descendents of plantation owners still control the local government, and poor, uned-

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

educated black voters are often manipulated by promises of money or jobs or threats of violence.<sup>23</sup> By not sharing in political power, these black neighborhoods have little input into the decision making that affects land use near their homes. Wealthier, whiter, and more politically connected neighborhoods have been more successful at keeping hazardous facilities away.

To fully understand the term *environmental justice*, it is necessary to define the term *environmental injustice*. Florence Robinson, a longtime African-American activist from Alsen, Louisiana, and biology professor at Southern University, says that “an environmental injustice occurs whenever a person or persons . . . are impinged upon by an environmental burden for the alleged good of this society, that the rest of the society does not bear. An environmental injustice may impact a person of ANY race, class or income level as long as the environmental insult is through no fault of their own.”<sup>24</sup>

Environmental injustice can apply to unequal impact to groups by race, class, or ethnicity; however, there is a specific term for the injustice that exclusively affects people of color – environmental racism. The struggles of all other oppressed groups fall under the umbrella of environmental justice. Bullard argues that poor whites in Appalachia, who have had little voice or control in the decisions relating to their communities, experience environmental injustice. However, he is careful not to lose focus on racism. He proposes that “A lot of people say it’s class, but race and class are intertwined. Because the society is so racist and because racism touches every institution – employment, housing, education, facility siting, land use decisions – you can’t really extract race out of decisions that are being made by persons who are in power and the power arrangements are unequal.”<sup>25</sup> Based on much of the history that follows, we agree with Bullard that racism – both individual and systematic and intentional and unconscious – is driving much environmental injustice in America. We also believe that for mobilizing participants, social movements often have to make simple and powerful claims that resonate with their followers, and the feeling of having been done an injustice due to racism is an effective motivator of participants, both black and white. Even though claims of environmental racism have motivated and focused African-American community members, the term *environmental justice* succeeded in bringing other ethnic groups into a bigger tent.

All the struggles that we explore in this book involve grassroots, poor, and people-of-color groups who are fighting against environmental in-

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

justice. This is not surprising since the cultural, political, and economic history of Louisiana has created a situation in which the populations most affected by the negative effects of development are poor people of color. The proposed uranium (LES) and PVC (Shintech) plants would have had the greatest impact on the poor rural black communities closest to the facilities (Chapters 3 and 4). The massive oil-field waste pits in Grand Bois most endanger the poor people of Houma Indian and Cajun descent who live right next door (Chapter 5). The Agricultural Street Landfill's potential risk is to the low- and middle-income blacks whose homes were built directly atop it (Chapter 6).

### WHO ARE THE PLAYERS?

Three groups typically face each other in grassroots struggles over environmental justice: residents, businesses, and the government. Each group has different strengths, divisions, and vulnerabilities, and each draws upon a changing set of allies and resources to try to shift the rules of the struggle to their advantage. This section seeks to provide the tools to understand the roots, direction, and outcomes of environmental justice disputes. Three core points will guide us. First, residents, businesses, and governments are three profoundly unequal players, and the evidence here shows that the balance is tipped even further because local government almost always comes down on the side of businesses over community groups.

Second, governments are actors with their own interests, seeking to build highways, incinerators, landfills, airports, drainage projects, and the like in neighborhoods that don't want them there. At the same time, the government is an "arena," where conflicts are worked out based on who plays the game most effectively. For governments the problem is keeping their constituents' trust while meeting the demands of industries, which often impinge on the lives of local people. Third, the communities involved in these struggles are often divided on whether there is an environmental injustice at all and, if there is one, how it should be resolved. Different groups of residents respond differently to news of pollution, depending not only on their race but also on the benefits they believe they might receive from the facility, their past work experiences, their gender and age and family connections, and the distance they live from the plant. This divisiveness can

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

heighten the stress for residents fearing for their health, and weaken their ability to struggle against the other players, businesses, and government.

The job of the economic development arm of a state government is straightforward: to court new companies. The state environmental agency's job is to decide if the operation is polluting within the limits of the law or if an existing factory or waste pit presents a hazard to the neighbors or environment nearby. The Louisiana state constitution says, "The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety and welfare of the people. The Legislature shall enact laws to implement this policy."<sup>26</sup> The state agencies' work becomes political because both of these "booster" and "protector" agencies have leaders who are appointed and serve at the pleasure of the same person: the governor. If the governor has stated that "everyone must be on board in the all-out push for jobs," then both the development and environment departments must play that game.<sup>27</sup> In aggressively supporting firms when they run into local resistance, as occurs in the following cases, the state agencies of development and environment are both seen as creating and perpetuating situations of environmental injustice.

Why do state governments have such a predominant focus on economic development? After all, this is what sometimes makes citizens wonder if elected officials and state agencies are really protecting *their* best interests, health, and safety. Government officials and lower-level employees dealing with environmental justice issues are caught in this dilemma. Even if they are not appointed directly by someone elected, chances are that one of their supervisors was. So, like politicians, they have two masters. One is the citizens, who if well organized and informed can hold them accountable at the ballot box. The "pluralist" view of the government that we were taught in junior high civics class is that these officials must, therefore, ensure that the social welfare needs of the people are met and that their civil rights are protected. However, to get elected in this age of multi-million-dollar election campaigns, big corporate donors are the ones who can make the difference.

Those who make large contributions to campaigns, of course, do so for a reason: to have access to politicians once they are in office, making decisions that affect their business. And even more immediately

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

when in office, government officials need corporate tax payments to meet their payrolls and expand their programs to meet voter demands. Politicians like to claim credit for job creation. So to do these things, James O'Connor pointed out, they need to "grow the tax base." This makes decisions favoring development over protection essentially nondecisions: it's a matter of political survival.<sup>28</sup>

A coalition that works to foster development emerges in most communities and states. Sociologists Harvey Molotch and John Logan call this coalition of entrepreneurs who seek to make profits on property and local business "the growth machine."<sup>29</sup> The core of the coalition is made up of real estate developers, land speculators, and landlords. Many local business owners, government officials, local newspapers, TV stations, utility companies, museums, theaters, expositions, professional sports clubs, organized labor, and corporate CEOs and owners also see the growth of their enterprises tied to local urbanization and industrialization.<sup>30</sup> Political scientist Clarence Stone proposed that growth regimes develop because mayors and governors, in fact, have little power on their own, so they work with private businesses to promote development that will help to build their tax base; thus, giving them more money and power.<sup>31</sup> So the role of government in the growth machine is complex and sometimes can be contradictory because it is both an actor and an "arena" within which the struggles get battled out.

As everywhere, a growth machine exists in Louisiana at both the state and local levels, precisely as proposed by Stone, Logan, and Molotch. On the state level, governmental agencies, such as the Louisiana Department of Economic Development (LDED) and the Port Commission, work to attract development to the state by providing information and assistance on labor issues, potential sites, utilities, incentives, training, markets, environmental permitting, and transportation costs. Additionally, state-level incentive programs and tax breaks offer financial benefits to new businesses that locate there or existing businesses that expand within the state.

The LDED web site plainly states that expanding economic development is a major goal for the state.<sup>32</sup> There, the LDED outlines the "Top Ten Reasons" to locate in Louisiana. These reasons include a wealth of natural resources, productive workforce, proximity to markets, comprehensive transportation network, and low-cost energy. The LDED offers the assistance of location specialists to the new companies, along with advertising the private business support services that



## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

are available in the state. Incentives include a “10 year industrial tax exemption, inventory tax credits, job tax credits, Enterprise Zone benefits, tax credits/refund based on percentage of gross payroll, investment tax credit, and a tax exemption on goods in transit.”<sup>33</sup> Many of these tax exemptions pertain to specific industries, such as a tax exemption for oil and gas exploration or a sales tax exemption for shipbuilders.<sup>34</sup> The 10-year tax exemption, which is available to manufacturing plants, waives property taxes for new facilities or expansions for ten years. The state’s Ten-Year Property Tax Exemption program and the Enterprise Zone program have generated controversy among social justice and environmental activists in the state. They question whether these incentive programs are hurting the people of the state, rather than helping them. The nonprofit Louisiana Coalition for Tax Justice reported that the state’s public schools are losing over \$100 million each year due to the exemption. They report that, unlike many other southern states that have similar tax exemption programs (Alabama, Arkansas, Mississippi, Oklahoma, South Carolina, Texas), Louisiana is the only state that doesn’t allow local governments to approve the exemption so that they can protect revenue for education programs.<sup>35</sup> Thus, the Ten-Year Property Tax Exemption program is a perfect example of the inherent contradiction that often exists within governmental policy that pits support for industry against support for human services for citizens.

Another important state incentive is the Enterprise Zone program. Throughout the state, areas where there is high unemployment, low income, and/or large numbers of residents who are receiving some form of public assistance are identified and labeled. The poorest 40 percent of the state are included in the program. If a company locates or expands in these zones and creates a minimum of five new jobs within the first two years, they qualify for certain incentives, such as a one-time tax credit of \$2,500 for each new job that is filled by a Louisiana resident created in the first five years.<sup>36</sup> These companies are also eligible for a full rebate on state sales tax and the return of a portion of the local sales tax for material purchased during construction of their facility.<sup>37</sup>

The Enterprise Zone program is entirely consistent with the progrowth philosophy of the state, which espouses that impoverished areas need development to raise the standard of living of the residents.<sup>38</sup> This philosophy, however, does not reflect the views of many local environmental justice advocates. Rather, they believe that these

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

zones actually create environmental injustice. In Louisiana, the individuals who are likely to live in qualifying zones are often black and poor. Additionally, the program does not delineate as to the *type* of industrial operations eligible to take advantage of the tax breaks. Combined with the fact that many parishes do not have zoning regulations for development, this creates a situation in which heavily polluting industry is effectively being encouraged to locate near poor communities of color who live in these depressed areas. Many African Americans note that the jobs created by these incentives are filled by commuters: firms take the tax breaks without hiring poor, minority locals.

So, who is watching out for the health of the people and the environment? The mission of the Louisiana Department of Environmental Quality (LDEQ) is to “maintain a healthful and safe environment for the people of Louisiana.”<sup>39</sup> However, many activists feel that the state agency that is charged with protecting the environment is just another cog in the growth machine. Governor Foster has stated that LDEQ’s job is to “make it as easy as they can within the law” for companies to obtain permits.<sup>40</sup> The person he chose to head the agency, Dale Givens, was quoted as saying, “My job is to write permits.” Gustave Von Bodungen, assistant secretary of Department of Environmental Quality, explained the role of LDEQ, stating,

We’re accused, I guess, of conspiring with industry, because we always give them permits. But it’s kind of like getting a driver’s license. If you come in and you have all the information that meets the rules – we have to give you a permit. We can’t just arbitrarily and capriciously say “well, we’re going to give you one, but we won’t give *you* one.”<sup>41</sup>

As will become apparent in the following cases, a significant amount of controversy has surrounded the activities of the LDEQ. Many citizens do not feel that the agency is doing enough to protect their health and safety. Although the 1998 levels of reported Toxic Release Inventory (TRI) emissions have decreased 76 percent from the first year that TRI data were available (1987), the state still has the second highest level of non-mining emissions in the country (186.6 million pounds per year).<sup>42</sup> Additionally, the state’s industrialization has left a lasting legacy of pollution that has not been fully regulated. It was not until 1980 that the state began to monitor hazardous waste pits and industrial injection wells – before that, industry could dispose of waste as they saw fit. This has left much of the marsh, lake, and river water in the Mississippi River Delta Basin contaminated.

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

Environmental justice advocates claim that the Louisiana Department of Environmental Quality is not adequately enforcing environmental regulations throughout the state. In 1997, the EPA charged that the state agency did not sufficiently enforce financial penalties in compliance with the Clean Air Act, and they did not adequately enforce the handling of hazardous waste in accordance with the federal Resource Conservation and Recovery Act.<sup>43</sup> Additionally, in 1998 the EPA criticized the state agency for an inadequate penalty policy, poor record keeping, and informal resolution of violations.<sup>44</sup> A 1998 study by the Louisiana Environmental Action Network (LEAN) found that the enforcement activities of LDEQ were at an all-time low. The study examined the level of enforcement activity from 1988 to 1997. In 1997, the agency assessed only forty-two enforcement actions. The number of enforcement actions had steadily decreased since 1991, when the number of actions was at an all-time high of 162.<sup>45</sup> Finally, a seven-month investigation by three local *New York Times*-affiliated newspapers found that even fined companies rarely pay their penalties.<sup>46</sup>

Federal politics also create environmental injustice. A member of Congress might be courted by industry and given campaign contributions so that when legislative issues, such as deciding to classify oil-field waste as “nonhazardous,” are before them, they will vote favorably for the oil industry. This political move has a direct impact on the local communities that have to live next to and breathe the fumes from this “nonhazardous” waste. The resolution of many of these local struggles is decided in the arena of national politics. Grassroots activists, whose homes are being contaminated or who want to prevent a chemical plant from locating next to them, complain and ask for help from federal agencies like the Environmental Protection Agency. The EPA, which is under intensive pressure from legislators who are in support of wealthy national and transnational companies, is caught in the middle of a contentious political fight. Likewise, elected officials put pressure on state agencies, whereas protest groups, lobbyists, and corporate dollars try to sway opinions and influence decisions from the outside. What is seen first as a local struggle over land use becomes a political tug-of-war with contestants pulling from locations across the map.

Helping communities through these battles hundreds of times, Willie Fontenot from the Louisiana Attorney General’s Office has the most useful description we’ve found anywhere of the way local pollution issues become political games. He told us:

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

What we are doing here is playing a game. The problem is we don't know whether or not the game is being played on this table or in another room and we don't know who the players are necessarily and we don't know what game we are playing. We think we are playing soccer, but the real game is baseball, because it may be some decision being made by a bunch of people sitting up in Washington, D.C. Or it may be some deal being cut on something that we are not even aware of – that is where the game is. It might involve players, maybe organized crime is involved in it and they don't use public records necessarily. You go in and check the file and you don't see the stuff you are looking for and is relevant to you being able to succeed because there are no records.

Fontenot's words ring true through the twisting tales of environmental justice struggles that make up the core of this book. It does not mean that the game is unplayable, but it does mean that the game is always shifting and that creative, multiple strategies are needed to play it, along with a complex network of coalition partners. Likewise, the concept of Logan, Molotch, and Stone does not mean that the "growth machine" uniformly gets its way. These coalitions are sometimes held back in their plans by people interested in *using* the land, not just making money by selling or renting it. Those people are often interested in keeping it in the condition that they knew it before it was so heavily "developed."<sup>47</sup>

Politics is even involved when it comes to science – a discipline usually perceived as being based on concrete, unalterable facts. Most people would agree that it is important to acquire a scientific understanding of the level of exposure to pollutants and the effects of exposure on human health. However, this has proven to be a major point of contention between governmental officials and community residents. Once industrial plants or waste dumps have polluted their neighborhoods, if there is a scientific investigation, the process is controlled by experts, and the findings are often so technical that the residents feel excluded from the political process. Bob Kuehn, former director of the Tulane Environmental Law Clinic in New Orleans, described the effect of scientific risk assessment, stating, "Quantitative risk assessment . . . transforms disputes over values and politics into scientific disputes that are inaccessible to many citizens and may be particularly inaccessible for communities of color and lower incomes. . . ." His main concern is this: "Taking the struggle for environmental justice out of the community and into the domain of sci-

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

entists plays into the domain of risk producers because they have resources and access to scientists.”<sup>48</sup> As Jurgen Habermas said three decades ago, by focusing on “rational” questions that experts can answer, government officials have excluded vast issues that concern citizens, and this can cause a profoundly “irrational” outcome.<sup>49</sup>

Here’s a striking example of what science can look like from the perspective of an outsider. In Mossville, Louisiana, residents living near huge chemical plants have been found to have abnormally high levels of persistent and toxic dioxin in their bodies.<sup>50</sup> Experts have been called in to evaluate the situation. In a press release, a scientist critiqued an analysis of the blood work, writing in the technical language of biostatistics. “What you should have compared is the national mean to the mean of the samples from Mossville – maybe a single-tailed test of means at a 95 or 99 percent significance level.” The coordinator of the local environmental justice group, Mossville Environmental Action Now (MEAN), expressed her frustration in an e-mail message posted to the scientist and the statewide environmental listserver.

I, as an average citizen, do not know what half the words in the below sentence from your e-mail means. I do know that many people in Mossville are ill. I personally invite you to come to Mossville, meet the people, and discuss it with those who are affected. Then, perhaps you could go back and find a way to help us instead of playing with words. We are sick. We need help. We need medicine, doctors, tests, etc. Not a play with words. If you want to come, we have an open meeting every Monday night. E-mail me and I will give you directions on how to get here and certainly will let you ask questions. Then, perhaps, you will understand that we don’t know what you are talking about. We know that our children are sick, our young women are sick, our insurance companies are canceling insurance policies, many of our friends and relatives are dying of Cancer. Do I need to say more?<sup>51</sup>

Often officials at the Department of Environmental Quality and other governmental agencies do not take these symptoms seriously. They have publicly attributed the poor health of these communities to unhealthy lifestyles (e.g., eating fatty foods, smoking, drinking alcohol, and doing drugs). Evidence to support the officials’ or activists’ claims is difficult to obtain, due to a lack of “baseline data” on the community’s health prior to the advent of industry. And much has changed in the world since those days. Additionally, doing comprehensive health assessments is expensive and lengthy, and the state

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

health agency has few funds and staff to do them. Even if there are resources to pay for these investigations, environmental justice advocates sometimes have such a strong mistrust of government officials that they refuse to participate in government-led health studies (see Chapter 5).

Under our current system, the resolution of many of these cases rests on identifying pollution levels and determining the physiological effects of exposure to contaminants. However, this will continue to be a contentious issue until accurate methods of data collection and definitive scientific findings that are acceptable to both sides in disputes (if that is even possible) are available. If citizens do not trust the professionals who are conducting these investigations, even the most accurate scientific findings will have little impact on resolving these disputes. Politics will.

An important final aspect of this core issue of power and the growth machine is determining who speaks for the community. The word *community* is often used to describe a group of people who have shared interests, live in the same place, share an ethnicity, and so on. However, it is often used to sweepingly describe a group of people as if they were a unit – a unit that shares the same point of view. This usage is particularly problematic when one is discussing struggles over development. Should community decisions be made by the elected leaders in the parish seat or the state capitol or by a referendum voted on by all community members? Should those who will live closest to the proposed industrial site have the last word? If so, how big a radius should be included? This is a pivotal point of contention in most environmental justice struggles because communities are often split on whether to welcome or resist a facility. These divisions can be along lines of economic class, race, gender, distance from the plant, and many other factors. Sometimes they rip old friendships and even families apart.

Many parishes in Louisiana do not have zoning regulations, and development issues are handled by the parish government.<sup>52</sup> The president of one rural parish told us that it was the responsibility of elected officials to make development decisions, and if the residents don't like the decisions, then they should vote them out. In the same parish, the director of economic development said that she listens to the community residents when it comes to development decisions. However, when asked if a formal mechanism exists to determine their opinion, she said, "No." Because poor people are usually short of money to fi-

## ENVIRONMENTAL JUSTICE STRUGGLES IN PERSPECTIVE

nance campaigns and of power to play the game more generally, this ad hoc system for deciding land use issues has the potential to exploit poor and minority groups.

The visions of the elected officials on what the area's future should look like may not be shared by the residents whose health and land values may decline if industry becomes their neighbor. A dramatic example of this can be seen in the town of Alsen, the predominantly African-American town just north of Baton Rouge. Environmental justice activist Florence Robinson first became aware of institutional racism through learning of how development decisions were made for her town. She described it this way:

The first plant came about 1955. As a matter of fact, it was in 1955 that the Louisiana legislature passed a resolution and in that resolution they designated industrial zones around the state. For East Baton Rouge Parish they designated five industrial zones. Four of those zones were in Alsen or contiguous with Alsen. What is really significant about that is in 1955 we [African Americans] couldn't vote. We were systematically denied the right to vote. So, that was taxation without representation. . . . Alsen is a classic example of what the 1969 civil rights commission called "institutionalized racism." So this place was zoned without the permission of the people who lived here, without the support of the people who live here – it was zoned industrial.

For Alsen residents, this had meant the transformation of their town into one of the most contaminated places in the country.

Environmental justice advocates complain that poor individuals and people of color have always been effectively shut out of political decision making about development in their communities. One of the Principles of Environmental Justice "affirms the right to participate as equal partners at every level of decision making including needs assessment, planning, implementation, enforcement and evaluation." Although this principle sounds ideal, there is not currently a mechanism for ensuring that it is carried out. Even if hearings and public comment sessions are held, residents' views are commonly dismissed at decision time, and how can a resolution be reached if citizens have differing opinions? In both the Shintech and LES facility siting struggles described later, the local officials and a group of residents wanted the plant to locate in the parish, whereas another group of citizens opposed the plant. Each citizen group claimed that they spoke for the community. Even conclusions from a poll of parish residents differed

## CHRONICLES FROM THE ENVIRONMENTAL JUSTICE FRONTLINE

depending on the resident's proximity to the plants, so there is no easy answer to this question. In the following cases, we will see how residents and elected officials have wrestled over who speaks for their communities.

### THE LASTING IMPACT OF STRUGGLES ON THE PEOPLE AT THE FRONTLINES

One of the most striking observations that we kept seeing when we spoke to the individuals involved in environmental justice struggles is that they can leave lasting scars. Local residents bear the brunt of the disputes. Their daily lives are plagued by worry over their own and their children's health, worry about the plummeting value of the homes that they have spent their lives paying for, and worry about losing the land and neighborhoods where generations of their family have grown up. There is the uncertainty of not knowing if their risk of cancer is increasing, or if there will be an explosion in the middle of the night or a chemical spill from a train derailment or pipeline leak. One local said that it is just a matter of course to make sure you are prepared – like making sure before you go to bed that there is a half tank of gas so that if there is an evacuation in the middle of the night you will be able to get your family out.<sup>53</sup> People also worry about what their friends and family will think of them if they raise questions or protest a facility that the community relies upon for employment.

The stress of living with constant fear and worry wears people down and can actually affect their health, probably as much as the toxins they fear. Compounding their emotions is the extra effort it takes to try to fight for their neighborhood. How people cope with fear of exposures is a critical question for the environmental justice movement. Studies of coping suggest that people's attitudes about technological risks depend upon their familiarity with them, and their power to *control* the dangers.<sup>54</sup> This, for example, is why many people fear nuclear plants but will readily drive cars, when statistically, driving is far more dangerous. Control over risk depends on one's economic class. For example, if you are the mayor or in the local police department, you probably at least know and might be friends with the person who is managing the chemical plant or hazardous waste landfill. People who can't get a job at the plant for class or race reasons are less likely to have