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Grassroots struggle for environmental justice: the need for a new approach to public health in Kern County California

Elizabeth Tan

The University of Montana

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The Grassroots Struggle for Environmental Justice

The Need for a New Approach to Public Health in Kern County, California

by

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The Grassroots Struggle for Environmental Justice:  
The Need for a New Approach to Public Health in Kern County, California

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Environmental justice activists are fighting to change the fact that poor communities and communities of color are disproportionately burdened with environmental hazards including toxic waste dumps and incinerators, radio-active waste disposal sites, polluted air, contaminated drinking water, and exposure to lead and pesticides.

In the low-income, predominately Latino, farm worker community of Buttonwillow, California, Laidlaw Inc. is attempting to expand its toxic waste facility. A community group, Padres Hacia Una Vida Mejor (Padres), has been organizing to block the proposed expansion.

This professional paper examines the role of the local Kern County Public Health Department (Department) in the environmental justice movement by addressing the following research question: How does the Department's toxics policy affect Padres' struggle for environmental justice?

The Department's toxics policy is based on the philosophy that toxics are not a threat to public health unless scientific evidence proves a causal relationship. This policy directly undermines Padres' efforts to achieve environmental justice for two primary reasons. First, the policy makes the Department less accessible to community groups as a potential source of information and support. While the Department claims to practice an "expert" scientific approach to public health, the concerns and recommendations of "non-expert" community groups are often dismissed as "emotional" and "biased." This devaluation of the "non-expert" perspective makes it extremely difficult for groups like Padres to participate in the decision-making process and it decreases the potential for the development of an effective working relationship with the Department.

The Department also hinders Padres' efforts because its toxics policy conflicts directly with the goal of illness prevention. As long as the Department demands scientific proof or certainty, people will be harmed before any action is taken. In addition, the Department's policy supports the conventional approach to hazardous waste management — pollution control — which is an "end-of-the-pipe" strategy that focuses on managing pollutants after they have been discharged. Pollution control does not prevent pollution or illness because it perpetuates the myth that toxics are innocent until proven guilty. Toxics Use Reduction, a strategy committed to eliminating or reducing the volume and toxicity of the chemicals used in production processes, is presented as the preferred alternative because it promotes pollution prevention and illness prevention.
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**Introduction**

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

The grassroots environmental justice movement "in all aspects of its operations is anti-bourgeois, anti-racist, class conscious, populist, and participatory. It attacks environmental problems as being intertwined with other pressing economic, social, and political ills." Environmental justice activists argue that issues of social justice cannot and should not be excluded from traditional mainstream concerns for the environment; in addition to being committed to halting the destruction and exploitation of wilderness and natural resources, "environmentalists" must also be committed to ending the destruction and exploitation of poor communities and communities of color.

The emergence and rapid growth of this grassroots movement has challenged and derailed the misconception that the low participation of people of color in the mainstream environmental movement reflects their general lack of concern for

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1 On October 24, 1991, the First National People of Color Environmental Leadership Summit was held in Washington, D.C.. More than 500 grassroots activists from the United States, Latin America, Canada and the Pacific voted unanimously to adopt 17 Principles of Environmental Justice.

environmental issues: "...although many researchers have argued that minorities are too busy struggling to meet basic needs to be concerned with environmental issues, minorities have redefined environmental issues as survival issues and have been organizing around them at an unprecedented rate."³

Environmental justice activists are fighting to change the fact that poor communities and communities of color are burdened with the majority of environmental hazards including toxic waste dumps and incinerators, radio-active waste disposal sites, polluted air, contaminated drinking water, and exposure to lead and pesticides.⁴ In California, for example, all three of the state's Class 1 toxic waste dumps are located in the poor, predominately Latino, farm worker communities of Buttonwillow, Kettleman City and Westmorland.⁵

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⁵ Buttonwillow is 52% Latino and 11% African-American, Kettleman City is 95% Latino and Westmorland is 72% Latino. Bureau of the Census, U.S. Department of Commerce, 1990 Census of Population and Housing, Summary Population and Housing Characteristics: California, 62, 66, 73.
This siting pattern of toxic dumps in California is not an isolated example. In 1982 attempts were made to site a toxic polychlorinated biphenyl (PCB) landfill in the low-income, African-American Warren County, North Carolina; more than 500 people were arrested for participating in a civil disobedience campaign against the proposed siting.⁶ Although these attempts to block the landfill were unsuccessful, the protest received national attention, and as a result, the General Accounting Office (GAO) launched an investigation to examine the siting of toxic dumps in EPA's region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee). The 1983 GAO study revealed that three of the four major toxic dumps in that region were located in poor, African-American communities even though African-Americans comprised only one-fifth of that region's population.⁷

The next landmark study on this issue was published in 1987 by the United Church of Christ Commission for Racial Justice. This was the first comprehensive national report documenting the connection between race, income and the location of toxic waste facilities.⁸ The results from this report were based on two studies initiated in 1986: 1) demographic patterns associated with commercial hazardous waste sites; and 2) demographic patterns associated with uncontrolled toxic waste sites.⁹ The report contained the following conclusions:

• Race was the most significant variable among those tested in determining the location of commercial hazardous waste facilities;

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⁸ UCC, Toxic Wastes and Race.
⁹ The report defined a "commercial facility as "any facility (public or private) which accepts hazardous wastes from a third party for a fee or other remuneration." The term "uncontrolled toxic waste sites" are defined as "closed and abandoned sites on the EPA's list of sites which pose a present and potential threat to human health and the environment."
• The proportion of people of color in communities with a toxic waste facility was twice as high as the proportion in communities without such a facility. When communities had two or more sites, or one of the nation’s five largest landfills, the proportion of people of color was more than three times as high (38% vs. 12%);

• African American and Latino communities were burdened with three out of the five largest commercial hazardous waste landfills. These three landfills represent 40% of the total estimated commercial landfill capacity in the United States; and

• Three out of five African Americans and Latinos and approximately one half of all Asian/Pacific Islanders and Native Americans lived in communities with uncontrolled toxic waste sites.

Although the publication of this report helped focus national attention on the issue of environmental justice, an updated report, "Toxic Wastes and Race Revisited," concluded that conditions have worsened: "...people of color today are even more likely than whites to live in communities with commercial hazardous waste facilities than they were a decade ago." Some of the major findings from this updated 1994 report revealed the following: 1) In 1993, people of color were 47% more likely than whites to live near a commercial hazardous waste facility; and 2) Since 1980, there has been no improvement — the percentage of people of color remains three times higher in areas containing the highest concentration of commercial hazardous waste facilities.10

There are several reasons why companies interested in operating a hazardous waste facility may be attracted to poor communities and communities of color: 1) These communities often lack the economic resources necessary to utilize traditional legal services; 2) These communities often lack the political power necessary to affect the decision making process; 3) In poor communities, companies can often win the support

of the community by promising jobs and other economic benefits. In general, these communities represent the "path of least resistance."

In addition to the studies investigating the connection between race, socio-economic status and the siting of hazardous waste facilities, the National Law Journal (NLJ) published a special investigation which revealed that there is also a "racial divide in the way the U.S. government cleans up toxic waste sites and punishes polluters." Some of the key findings from this report include:

- When hazardous waste laws were violated in communities with the greatest white population, the penalties were approximately 500 percent higher than the penalties assessed in communities with the greatest population of people of color ($335,566 vs. $55,318.) Penalties associated with violations of other environmental laws including air, water and waste pollution, were 46% higher in white communities.

- Abandoned hazardous waste sites located in communities of color take 20% longer to be placed on the national priority action list.

- In more than half of the 10 EPA regions in the country, the clean up of Superfund sites begins from 12% to 42% later at sites located in communities of color.

The EPA claims that many factors affect decisions regarding the siting of facilities, clean up, and the determination of penalties. Although the economic, legal and scientific factors vary in each case, the EPA claims that each situation is handled in the same manner regardless of race or socio-economic status. In a 1992 EPA publication, the Administrator of the EPA, William Reilly, described the Agency's general position regarding the environmental justice debate: "I have a certain idea about environmental protection: It is about all of us; it benefits all of us... That's why talk of environmental


12 Marianne LaVelle and Marcia Coyle, "Unequal Protection: The Racial Divide in Environmental Law, A Special Investigation," National Law Journal (21 September 1992): S1. This was an 8 month study which evaluated census data, the civil court case docket of the EPA, and the EPA's own record of performance at 1,177 Superfund toxic waste sites.
racism at EPA and charges that the Agency's efforts pay less regard to the environments of poor people infuriate me.\textsuperscript{13}

Professor Robert Bullard, a sociologist at the University of California, Riverside, disagrees:

The science may be present, but when it comes to implementation and policy, a lot of decisions appear to be based on the politics of what's appropriate for that community. And low-income and minority communities are not given the same priority, nor do they see the same speed at which something is perceived as a danger and a threat.\textsuperscript{14}

Mr. Reilly argued that, "It is also undeniable that minorities usually benefit from - are indeed, sometimes the chief beneficiaries of - more general efforts to protect the environment."\textsuperscript{15} In the same EPA Journal, others voiced a very different opinion when asked: "Have minorities benefited equitably from the gains made by the environmental movement?" Excerpts from some of the responses include:

- "The answer is clearly no....The social aspects of the environmental movement have, almost without exception, systematically excluded people of color. People of color are underrepresented at managerial and decision-making levels of both governmental and non governmental environmental organizations, including my own."\textsuperscript{16} - Michel Gelobter, Assistant Commissioner of Environmental Quality for the Department of Environmental Protection of New York City.

- "It is an incontestable fact that people of color and the poor of America have borne the brunt of suffering from polluting industries and other undesirable development. Whether intended or not (and all too often it has been intended), economic growth and land use decisions have been based on environmental racism."\textsuperscript{17} - Michael Fischer, Executive Director of the Sierra Club.

\textsuperscript{13} United States Environmental Protection Agency, \textit{EPA Journal: Environmental Protection-Has It Been Fair?} (March/April 1992), 18.
\textsuperscript{14} Ibid.\textsuperscript{15} Ibid., 22.
\textsuperscript{16} Ibid., 32.
\textsuperscript{17} Ibid., 33. It should be noted that mainstream national environmental organizations like the Sierra Club have only recently begun to participate in the environmental justice debate. In January of 1990, approximately 150 civil rights organizations sent a letter to the national mainstream environmental organizations accusing them of environmental racism in their policymaking and hiring practices. During that same year, the Southwest Organizing Committee sent another letter focusing...
"No, minorities have not benefited from the environmental movement. Although the Mothers of East Los Angeles participated in the 20th anniversary of Earth Day, our own environmental movement is just beginning. The amount of environmental abuse suffered by residents of our barrios is just too great.\textsuperscript{18} - Juanita Beatriz Gutierrez, President of the Santa Isabel chapter of the Mothers of East Los Angeles.

Although poor communities and communities of color often lack economic and political power, the grassroots environmental justice movement has witnessed an increasing number of communities that have stepped off the "path of least resistance" to challenge and defeat unwanted projects. An important battle was waged in South Central Los Angeles which revealed the underestimated strength of a politically organized and empowered community. In 1985, attempts were made to build a solid waste incinerator in South Central Los Angeles. The incinerator would have burned 2,000 tons of municipal waste per day. The company promised new jobs and other economic benefits to this predominately African American and Latino community crippled by a 78% unemployment rate and an average income ($8,158) less than half that of the general Los Angeles population. While the company was busy selling its project, called "LANCER", to the community, concerned citizens began to meet once a week in the local library to investigate the potential health effects associated with the project. What they found was that if they chose to accept the economic benefits, which turned out to be equal to 50 new jobs, they would also be accepting the lung irritations, skin rashes, lesions, tumors, and exposure to dioxin that accompany toxic waste incinerators.\textsuperscript{19}

The group of neighbors who decided to fight the LANCER project formed a grassroots community group known as Concerned Citizens of South Central (hereafter, "Concerned Citizens"). This group organized protests and rallies during public hearings on the mainstream environmental organizations' failure to address issues affecting the poor and people of color.

\textsuperscript{18} Ibid.

and in local parks and churches. When these initial efforts proved to be ineffective, Concerned Citizens solicited support from other individuals and groups inside and outside of their community including elected representatives, scientists, student activists, and predominately white, middle class environmental groups. The resulting alliance was rare because it united people of different racial and socioeconomic backgrounds.

Although rare, the alliance was effective; in April, 1987, the Los Angeles City Council denied the LANCER conditional use permit. Shortly thereafter, another company tried to site a toxic incinerator, this time in Vernon, a predominately Latino community located just a few miles away. Confronted with this new threat, Concerned Citizens of South Central joined forces with another grassroots environmental justice group, Mothers of East L.A.. This new alliance, Concerned Citizens and Mothers of East L.A., sued the government and won.

One of the defining characteristics of the majority of environmental justice struggles is the lack of emphasis and dependence on "experts." Instead, environmental justice activists challenge "experts" such as lawyers, scientists and public health officials to change the current policies and practices which contribute to social and environmental injustice: "The grassroots folk spend a good deal of time battling experts...in an effort to make questions of risk distribution not simply a matter of science and technology, but also a matter of politics and social responsibility."20 Instead of relying on "experts," the movement often embraces strategies which involve direct action such as distributing fliers to educate the community; leading marches, demonstrations and protests; and confronting people in power by attending public hearings to testify, question, and challenge the decision-makers.

Although the movement's primary strength is found in the angry, determined and dedicated voices of grassroots community activists, and although use of "experts" is often

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de-emphasized, these "experts" — bureaucrats, lawyers, epidemiologists, engineers — still influence the outcome of environmental justice struggles. In many cases, especially those involving the siting or expansion of a toxic facility, the role of some "experts" is clear; they either advance the goals of the environmental justice movement by providing grassroots activists with legal, technical or other support services, or they assist the parties interested in siting or expanding the facility. This paper evaluates a group of "experts" — the Kern County Public Health Department (Department) — within the context of an environmental justice struggle currently taking place in Buttonwillow, California, where a community group — Padres Hacia Una Vida Mejor (Padres) — is fighting to stop the expansion of one of the state's three Class 1 toxic waste dumps operated by Laidlaw, Inc..

**The Research Question**

One of the central objectives of this research paper is to examine the role of local public health "experts." As "experts," local health officials practice a scientific approach to public health that focuses on gathering and evaluating statistically significant numbers and "objective" data. As "experts" they interpret their scientific findings to design and implement public health policies.

In addition to being public health "experts," local health officials are also responsible for developing and maintaining close ties with the communities in their county. This direct link is necessary because local health departments are often the primary or only source of health care and information in low-income and rural communities. In order to effectively address the communities' health needs and concerns, local health departments must be culturally and economically accessible to the public. The Kern County Health Department establishes these goals in its mission statement: "1) maintain culturally appropriate education and public health promotion efforts; 2)
build and foster strong partnerships for health with local public/private health and social service agencies, community based organizations, consumers, educational institutions and other interested community groups; and 3) improve the quality and cultural competency of the Department's operations, services and programs.\textsuperscript{21}

Although this written mission statement clearly demonstrates the Department's commitment to serving the local communities in Kern County, how does this mission statement translate into practice within the context of the toxics debate? As "experts," how well do they relate to grassroots community groups like Padres who are not "experts" in the field of public health? While both the Department and Padres are concerned with protecting public health, do they embrace common strategies for achieving this goal? Can "experts" and non-"experts" work effectively together?

This paper explores these types of questions by addressing the following research question: How does the Department's toxics policy affect Padres struggle for environmental justice?

The Department is not formally involved in the permitting process regarding the siting or expansion of toxic waste dumps; as a result, it does not officially participate in the heated political debates that accompany many environmental conflicts. The Department argues that it is obligated to avoid "taking sides" so that it may pursue and uncover the "objective" scientific facts in each situation. However, Padres' struggle, like most environmental justice battles, is deeply rooted in the group's desire to protect the community from health problems that the group believes are linked with toxics. Since the stated mission of the Department is to protect public health, one might reasonably conclude that these two groups share a common goal. And one might also expect that the Department would ally itself with Padres to support the goals of environmental justice groups. The Department, however, does not. This indicates

\textsuperscript{21} Kern County Public Health Department, "Mission Statement." Photocopied, 1994.
that the Department's actions and policies create additional obstacles that Padres must overcome in its struggle for environmental justice.

Although both groups would strongly defend their commitment to protect public health, their work is not complimentary because their perspectives towards toxics — what they define as the problem and what they define as the solution — are vastly different. While the Department argues that its perspective is "objective" because it is based on "scientific" facts, it is this same perspective — one that is dependent on "science" — that has given Padres and others reason to argue that the Department is not fulfilling its responsibilities to protect public health.

The Department searches for "scientific proof" that a health hazard is causing illness in a community before it takes any actions to protect the community. At the same time, it is extremely difficult to prove that exposure to a specific toxic substance caused a particular health problem, especially in the case of chronic illnesses such as cancer or birth defects. When epidemiological surveys are conducted in small towns like Buttonwillow, statistically valid, conclusive results are rare. Instead, the promise of a public health investigation raises the hopes of the community, only to reveal in the end that the cause of their problems remains unknown. These types of public health studies can hurt a community in its fight for environmental justice because there is no "proof" that the toxic dump is causing any health problems; those interested in siting or expanding a toxic facility quickly reach the conclusion that these public health studies support continued operation of a toxic facility. As a result, the burden of proof is placed on the community to demonstrate "scientifically" that the siting or expansion of a toxic facility would be hazardous to their health.

The Department's reliance on "scientific" proof to define what qualifies as a public health threat represents a significant difference in perspective between the Department and Padres. The implications of this difference, in addition to other differences uncovered by this research, will be examined in this paper as a tool for
understanding how the Department has affected Padres' struggle for environmental justice.

There were two main reasons I chose to focus on Padres and the Kern County Public Health Department. The first has to do with timing; since Padres is still in the process of fighting against the proposed expansion of the dump, I was able to take advantage of the opportunity to experience a chapter of Padres' struggle as it unfolded. I attended meetings where I observed the interactions and listened to the dialogue and debate between Padres, the County representatives, and employees of Laidlaw. And most importantly, I had the privilege of spending time with the leader of Padres, Rosa Solorio-Garcia. During this time, I was also very fortunate to be introduced to Stormy Williams, leader of Southern Kern Residents Against Pollution (SKRAP). Her years of experience fighting to reduce toxics in her community — Rosamond, California — made her insights invaluable; she has dealt directly with the Kern County Health Department and has witnessed how the Department has handled toxics issues and grassroots groups in the past.

I also focused on this particular environmental justice struggle because it is taking place in Kern County. Kern County has a history of toxics-related controversies, and as a result, the Health Department has had previous experiences with these issues, including exposure to grassroots groups fighting to reduce toxics in their communities. Before Padres began its fight in Buttonwillow, the Department had already participated in two public health investigations in the towns of McFarland and Rosamond. These investigations focused national attention on the threat of toxics and the potential link to the cancer clusters found in these Kern County communities.

When one reviews these investigations a common pattern appears: a cancer cluster was discovered that triggered an investigation; the investigation revealed toxic contamination that officials were not previously aware of; public health officials attempted to determine whether the contamination caused the cluster but they couldn't
find "scientific" proof that a link existed; in the end, the cause was never discovered, and the community was left with many questions and no answers. This pattern repeated itself in Buttonwillow when a birth defects cluster was discovered in 1991; the community feared that the birth defects were linked to the toxic dump but health officials were unable to determine what caused the cluster.

This pattern has caused community leaders like Rosa and Stormy to challenge the Department's policy and approach to toxics. One of the glaring problems that they see reflected in this pattern is the fact that illness prevention through toxics use reduction and other pollution prevention measures is not a top priority; instead, a cancer cluster, birth defects cluster or other serious illnesses have to be reported before any action is taken. Of course, by that time, it is too late. For many concerned members in the affected community, the only question that remains is: When and where will the next cancer cluster appear?

Methodology

Due to the nature of this project and its focus on a very specific research question, the majority of the information was gathered by conducting interviews with specific individuals representing key organizations: 1) Rosa Solorio-Garcia, leader of Padres; 2) Stormy Williams, leader of SKRAP; 3) Dr. Babatunde Jinadu, Director of the Kern County Public Health Department; and 4) Dr. Manzoor Massey, Director of the Department's Division of Health Promotion and Public Information.

During the initial interviews with Dr. Massey and Dr. Jinadu, both were asked to respond to the following questions: 1) What is the mission of the Kern County Public Health Department?; 2) What services does the Department provide to residents of Buttonwillow and other Kern County communities?; 3) Do you feel that the Department
is adequately serving the Buttonwillow community?; and 4) What changes would the Department make, if any?

After these general questions were raised, more specific questions followed: 1) Is the Department familiar with Buttonwillow's community group, Padres Hacia Una Vida Mejor?; 2) What, if any, is the Department's relationship with Padres?; 3) Would the Department be willing to work with Padres?; 4) What is the Department's policy regarding toxics?; 5) What was the Department's role in the Buttonwillow birth defect cluster investigation?; and 6) What was the Department's role in the investigation of Rosamond's cancer cluster?

The interview questions for Padres followed a similar pattern. The first set of questions were general: 1) What is the mission of Padres?; 2) Is Padres successfully addressing its goals?; 3) What changes or actions would Padres like to implement?; and 4) What are the main barriers faced by Padres? The next set of more specific questions included the following: 1) What role does the Department play in Buttonwillow?; 2) What relationship does Padres have with the Department?; and 3) Can you recommend any changes or actions that the Department could implement that would help Padres achieve its goals?

The following interview questions for SKRAP focused on the group's fight to reduce toxics in its community of Rosamond where the state's highest rate of childhood cancer was discovered in 1986: 1) What relationship does SKRAP have with the Department?; 2) What role did the Department play in the investigation of the childhood cancer cluster?; 3) In your fight to reduce toxics, did SKRAP seek assistance from the Department?; 4) Did the Department help or hinder SKRAP's efforts?; 4) Can you recommend any changes or actions that the Department could implement that would help your group achieve its goals?

After these initial interviews were conducted, I compiled the recommendations into one list and sent them to the Department for review. At that time, I explained that
the recommendations were not based on my personal opinion or assessment of the Department; I wanted to make sure he understood that the leaders of two grassroots groups from Kern County created this list to reflect their groups' concerns and assessment of the Department. After the Department received the list, I interviewed Dr. Jinadu to record the Department's responses to the recommendations.

To establish the context in which the research question will be addressed, Chapters 1, 2 and 3 provide the following background information: chapter 1 introduces Padres; chapter 2 surveys the current situation in Buttonwillow; and chapter 3 describes the mission and policies of the Kern County Public Health Department. This chapter will also present a case study of the Rosamond cancer cluster investigation to provide insights into the Department's toxics policy.

Chapter 4 evaluates the Department from the perspective of the leaders of two grassroots community groups in Kern County, Rosa Solorio-Garcia of Padres and Stormy Williams of SKRAP. This chapter includes specific recommendations made by both leaders who were asked to respond to the question: Are there any changes or actions that the Department could implement which would help your group in its struggle for environmental justice? Chapter 5 documents the Department's responses to these recommendations, and finally, chapter 6 discusses the implications of the Department's toxics policy. Is the Department's policy consistent with its mission to protect public health? Can these local health "experts" work effectively with grassroots groups like Padres? The final chapter examines these issues to help answer the central research question: How does the Department's toxics policy affect Padres' struggle for environmental justice?
CHAPTER 1
A Closer Look at Grassroots Community Groups:
Padres Hacia Una Vida Mejor

Background

In Buttonwillow, California, a grassroots community group, Padres Hacia Una Vida Mejor (Parents for Better Living or Padres), is attempting to stop the proposed expansion of a Class 1 toxic waste dump owned by Laidlaw, Inc.¹ Padres, was formed in 1991. Its membership consists of six married couples; all of its members are Latino, the men are farmworkers, and all but two of the women are employed full-time. Rosa Solorio-Garcia, who was raised in Buttonwillow, is the leader and spokeswoman for Padres. She is the mother of three boys, and is an elementary school teacher in the nearby town of Shafter. Her husband, Lorenzo Garcia, is also a member of Padres and is employed as a farmworker.

Rosa became active in her community when her husband asked if she would translate for mono-lingual Spanish-speaking parents at a School Board meeting in Buttonwillow. During the meeting, members of the School Board asked her why these same parents had never attended meetings in the past. Rosa explained that the parents' lack of participation was not due to a lack of interest in their children's education, but instead to the fact that the school never translated any notices or announcements into

¹ See, Citizens Clearinghouse for Hazardous Waste, Laidlaw: A Corporate Profile (1994) [Laidlaw is a 1.9 billion dollar multi-national Canadian corporation based in Burlington, Ontario. It is the largest school bus operator, the second largest hazardous waste disposal business and the third largest solid waste management business in North America. Most of its profits come from its hazardous and sold waste management operations - 63.6% of revenue from hazardous/solid waste management compared to 34.3% from passenger services. 72% of the revenue is generated in the United States while 28% is from Canada. Laidlaw's operations include 3,000 trucks, 35 landfill sites, 55 hazardous waste service locations including 2 incinerators, and recycling services for 1 million households. Over the past 2 decades Laidlaw has bought out over 250 companies which were mostly garbage and toxics companies].

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Spanish. After Rosa described the bilingual programs established at her school in Shafter, the School Board agreed to send notices home in Spanish as well as English.

As Rosa was leaving this meeting, three women approached her to discuss another meeting regarding the dump. She responded by asking, "What dump?" Although she knew there was a dump near Buttonwillow, Rosa had never given it much thought. The following week, as Rosa was returning from a school meeting in Shafter, she decided she should stop by the Buttonwillow school to see if the Laidlaw meeting was still in session. Since it was 10 o'clock in the evening, she was surprised to see the parking lot full of cars. When she entered the meeting room she immediately felt out of place: "The whole room was filled with white people dressed in suits talking technical. There was only one man from Buttonwillow. There were two Mexicans in the back of the room. I decided to leave because it was late, I was tired and I didn't understand what they were talking about." As she was leaving, a Latino man stopped her at the back of the room and told her that five others had recently left for the same reasons.

Later, the same three women told Rosa that Laidlaw intended to expand the dump. They felt that it was important to warn the rest of the community and they turned to her for guidance. Rosa felt overwhelmed: "They were all coming to me about this. I'm a teacher. I'm not a community activist. I don't know anything about toxic dumps."3

The following week, Rosa found herself driving to another Laidlaw meeting in Buttonwillow:

All the way home I prayed to God to show me the way because I had no idea. I felt all this pressure on me. I was afraid. I thought, I don't know anything about this. These people are depending on me to do something and I can't. Where do I go? I have no idea who to call. It's not just a matter of interpreting anymore. This is a huge company we're dealing with."4

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2 Rosa Solorio-Garcia, interview by author, 10 November 1994.
3 Ibid.
4 Ibid.
When she arrived, the man she recognized from the previous meeting approached and introduced himself as Lupe Martinez, field organizer for California Rural Legal Assistance. As he began to tell her details about the dump, the proposed expansion, and what she could do to challenge the expansion, she decided that others should be listening to his advice. She invited him over to her house where they held their first meeting about the dump.

**Grassroots Organizing**

As Mr. Martinez began to work more closely with Padres, he taught the group some preliminary tools for organizing a community. One of the first lessons took place during the next meeting. The group entered and immediately took seats at the back of the room. As Mr. Martinez continued to the front of the room, he turned to motion them forward; if they were going to get involved, they should sit in the front of the room to make sure everyone knew they were there to participate.

It was through Mr. Martinez that members of Padres learned it was possible to contact television stations, radio stations and other media groups. They learned about press releases, interviews, and editorials. They made and distributed fliers door to door, and organized rallies, community meetings and protests.

When the group first began to work on the issue of the dump, Padres consisted of 9 women. They conducted outreach throughout the community to educate residents about the dump and its related health hazards. Eventually, most of the women left the group because their husbands didn't approve; some worried that their wives would get in trouble, and others didn't like the fact that it consumed so much of their wives' time. As Rosa explains, the Mexican culture doesn't generally support the concept of politically active women who have their own voices apart from their husbands: "Mexican women
are supposed to be inferior to Mexican men, and if you know more than your husband you are superior. It's still there.⁵

As a small grassroots community group, Padres faces many barriers that make its work very challenging. Rosa is the only member who is fluent in both English and Spanish; a few members have a limited understanding of the English language while two members are illiterate.⁶ As a result, the majority of the work that requires writing, phone calls, media contact, and interviews, is Rosa's responsibility. Being a full-time school teacher, mother, and wife, she has very little time or energy to organize a campaign against a company like Laidlaw with its seemingly endless amount of money, time, human resources, and technical expertise.

During a typical day it is nearly impossible for Rosa to work on anything related to Padres. She gets a thirty minute lunch break, and since she is not allowed to make personal phone calls at work, she must go to a pay phone if she needs to contact somebody during work hours. She doesn't get home until 6 p.m., and then it's dinner, homework, showers, and bed for the boys. She feels that her busy schedule has not allowed her to reach her potential as an effective grassroots organizer: "I think I could do so many more things and I could accomplish long term goals if I only had someone to help me with the menial stuff that I don't have the energy or time to do. I can't think at 11 o'clock."

Padres also faces financial difficulties since most of its members make minimal earnings as farmworkers. When Rosa first became involved, she spent her own money on faxes, phone calls, photo-copying, mailing and other group-related expenses. Since these expenses were too much for anyone in the group to absorb, Padres began raising money by holding annual tamales sales in December which made between 700-800

⁵ Ibid.

⁶ Rosa expressed a desire to bring literacy programs to Buttonwillow, recognizing that this would be an important step toward empowering the two women in the group and others in the community. However, she explained that she has not been able to address the issue of literacy because the struggle with Laidlaw takes up all of the group's time and resources.
dollars. In addition to the tamales sales, Padres organized community dances where they would take advantage of intermissions to educate the audience about the potential problems related to the dump. Padres no longer hosts these dances because they were expensive and difficult to organize, and many people in the audience didn’t appreciate paying money to hear about the dump.

Padres has raised approximately 3,500 dollars. The money is used to help its members with group-related expenses including phone bills, air conditioning in the summer for people who host meetings, and gas money for those who drive to meetings held outside of Buttonwillow. The money is also used to help send members to conferences on related issues, such as environmental justice. Although Padres raises money to cover its own expenses, the money is also available for people in the community who have died without the means to pay for their funerals. Padres donates up to 400 dollars on these occasions. Padres also donates to people who have experienced some unexpected catastrophe such as losing their house in a fire.

**Padres' Role in Buttonwillow**

Padres also faces the challenge of gaining the support of the Buttonwillow community. Rosa hopes that Padres can establish effective working relationships with the African-American residents, especially the women, whom she believes are active, vocal and strong. The current community organizer from CRLA, Mario Madrid, is trying to get African-American churches county wide to join with Padres. Although Padres receives support from many Latino residents, there are others who don't agree with Padres' goals or the methods used to achieve those goals.

It is not surprising that Buttonwillow residents employed by Laidlaw do not support Padres. According to Rosa, one of the most vocal people in Buttonwillow is a woman who is married to a Laidlaw employee. She has a business which occasionally
sends her door to door to sell merchandise. She has been known to use this opportunity to discredit Padres, while spreading the word that Laidlaw is a safe company that the community would be wise to support.

The town's Catholic church does not support Padres because it believes the group is too radical. The Church maintains that events pertaining to the expansion are beyond its control; whatever is meant to be, will be. Many farmers also feel that Padres is too radical; they stopped trusting Padres when the group enlisted help from Greenpeace.7

Rosa recalls that Padres had stronger support from the Latino community; 200-300 people used to attend the earlier meetings about the dump. Now, Rosa believes that many feel discouraged because the process has been going on for so long without resulting in any significant change. Rosa, on the other hand, reaches a different conclusion: "I see every day that Laidlaw doesn't get the permit as a victory."

**Padres' Relationship with Laidlaw**

Padres' relationship with Laidlaw is a strained one for obvious reasons. In addition to the fact that many in the community would like to shut Laidlaw down, the community also resents the fact that money from a special tax on Laidlaw has never reached Buttonwillow. During the last six years, Laidlaw has paid more than 5 million dollars in a special tax for the impacted community. Although Buttonwillow is the closest community to the dump and although Buttonwillow bears 93% of Laidlaw's toxic traffic, all of the money has been spent in other areas of Kern County. According to Supervisor Ken Peterson, the money "is used everywhere and nowhere specifically... It definitely

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7 A notable exception is Dennis Palla, a farmer who used to live in Buttonwillow, and one of the first people to fight Laidlaw back in 1985. Palla became involved when he learned that the state planned to bring Superfund waste from Southern California to the Buttonwillow dump. He sued the state and was successful.
does not come back to Buttonwillow, and it seems all the other supervisors would rather
keep it that way."®

According to Larry Moxley, vice president of governmental affairs for Laidlaw,
"The entire express intent was that money be used for the impacted community and to
date that money has not been used for that purpose. If it had been, or even a portion of it
had been, we probably would have much improved relations with the community of
Buttonwillow." This is not necessarily true, at least not according to Gloria Ramos-
Byrd, president of the Buttonwillow Chamber of Commerce: "Regardless of the money
Laidlaw gives to the community, that wouldn’t change our minds that we didn’t want this
facility when it came here ten years ago and we still don’t." Regina Houchin, the town’s
school board chairwoman, also believes that the community would be opposed to the
expansion, regardless of the amount of money Laidlaw contributed to the community:
"There’s no price tag on your health and safety."®

Although Buttonwillow has not received any of the special tax money, Rosa and
others argue that Laidlaw has still tried to buy off their community by donating
regularly to the school, supporting senior citizen events and helping to fund the school’s
new computer room. Laidlaw also bought the community a batting cage, something the
community has wanted for a long time. Across the batting cage there is a sign reading
"Laidlaw." According to Rosa, one can literally see Laidlaw’s influence all over the
community.

Laidlaw’s influence was definitely apparent during last year’s Cinco De Mayo
celebration. Laidlaw donated money to the celebration by buying the tickets that are sold
to determine who will be crowned Queen. Each Cinco De Mayo ticket read, "Sponsored by

® Tom Maurer, "Kern gobbles Tax Meant for Small town," The Bakersfield
Californian 11 July 1994, 1. Instead of being spent directly in Buttonwillow, the tax
money has gone into Kern County’s general fund which pays for services like fire
protection, law enforcement, courts, parks and libraries.
® Ibid., 2.
When Rosa found out, she went to the school to express her anger that the school was using its students to promote Laidlaw. Rosa received an apology with an explanation that the School Board was unaware that Laidlaw was going to involve itself in that manner. Rosa received many calls from people in the community who didn’t understand why the company they were fighting was sponsoring their celebration.

On the day of the celebration, many people did not attend because of Laidlaw's interference. The superintendent blamed Rosa and falsely accused her of organizing a boycott of the celebration. As a result, the superintendent revoked Padres' privilege of using the school free of charge to hold its community meetings; now, if the group wants to use the building, it has to go through the official routes. This means that Padres has to reserve the room a month in advance and pay 50 dollars an hour. Since Padres can’t afford this fee every time the group needs to hold a meeting, gatherings are held in people's homes and backyards.

When Rosa was asked to describe Padres' relationship with Laidlaw, she explained that she used to be the type of person who inherently trusted people: "I always thought that the government was there to protect you. I thought the EPA was there to protect the public's health...I grew up being taught not to question." Her perspective changed dramatically after she attended a Highlander training seminar that taught her to question her world, and Laidlaw: "Highlander took the blinders off and taught me that you need to look out for your own community...I used to always see the best in people. Now you have to distrust everyone until they prove otherwise. That's hard to do."

Now, as a teacher, she tries to share some of her insights with her students: "I teach kids that they're supposed to respect adults but it's good to question. And if you don't like something, do something about it."

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10 Highlander Research & Education Center is located in New Market, Tennessee. It provides training for social activists from labor, civil rights, social and economic justice and environmental groups.
Summary

Padres' fight to stop the expansion of Laidlaw's toxic waste dump is a good example of the grassroots environmental justice struggles that are taking place around the nation. Like Padres, members of these community groups are not formally trained activists or community organizers; environmental justice battles are most often fought by concerned parents and residents of the impacted community who have organized around the shared goal of protecting their children and their community from health hazards associated with toxic substances and other environmental hazards. Like Padres, most community groups are existing on extremely limited resources, while they face opponents like Laidlaw who are economically and politically more powerful.

To provide a better understanding of the challenges that face grassroots community groups in the environmental justice movement, the following chapter takes a closer look at the events and issues surrounding Padres' struggle to stop the expansion of Laidlaw's toxic waste dump.
Chapter 2
Buttonwillow, California; Profile of a Community at Risk

Communities disproportionately burdened with our nation’s environmental problems share a common profile; the vast majority are low-income and communities of color. The town of Buttonwillow, host to one of California’s three Class 1 toxic waste dumps, fits this profile; the 1990 Census reveals that people of color represent slightly more than sixty-one percent of the population (Latinos-slightly more than fifty percent; African-Americans-eleven percent) and thirty percent of the households are below poverty level.¹

When Laidlaw first proposed the expansion of its Lokern facility in October of 1991, Padres organized hundreds of Buttonwillow residents who attended public hearings, rallies and protests to express their disapproval of the project. When the permitting process was initiated, the Kern County Board of Supervisors appointed a Local Assessment Committee (LAC)² to review the project and negotiate with Laidlaw to determine the conditions under which the proposed expansion would be "acceptable" to the community.³

¹ U.S. Department of Commerce, Bureau of Census, 1990 Census Of Population: General Population Characteristics-- California (Section I of III), (July 1992), 42. (hereafter "1990 Census"). It should be noted that the percentage of people of color in Buttonwillow is most likely greater because of the significant undercounting of people of color in the 1990 census. See City of New York v. United States Department of Commerce, 34 F.3d 1114 (2d Cir. 1994). The 1990 census undercounted Hispanics by 5.2%. Id. at 1121-1122. Historically, census figures have undercounted ethnic and racial minority groups. Id. at 1117.

² When a potential operator, such as Laidlaw, files a "Notice of Intent", the county Board of Supervisors is required by state law to appoint a LAC to "Represent generally, in meeting with the project proponent, the interests of the residents of the city or county and the interests of adjacent communities." See Health and Safety Code §25199.7((d)(2)(B)).

³ The LAC process has been defined as a "classic catch-22" by Padres' attorney, Luke Cole. In a Title VI complaint written on behalf of Padres (discussed in more detail later), Mr. Cole explains, "if the community takes part in the LAC process, it is seen as signing off on the dump proposal; if it boycotts the LAC process, the dump could be
Supervisor's representative, Planning Director Ted James, postponed the process because the project lacked a Final Environmental Impact Report (EIR). The Final EIR was completed in approximately two years, and the LAC met again on September 27, 1994.

When the LAC meetings resumed, so did the debate over the Spanish-speaking residents' request for the translation of public notices, public hearings, and documents relating to the expansion of the dump. The issue of translation was raised during the first hearings in 1991 when Spanish-speaking residents expressed interest in participating in the permitting process. Since the beginning of Padres' fight to stop the expansion, Padres has argued that Spanish-speaking residents are being excluded from the permitting process because they can not speak or understand English.

The translation issue peaked when the publication of the Final EIR appeared. At that time, the LAC had one newly appointed member, a Latino resident from Buttonwillow, Mr. Eduardo Montoya. Due to his limited understanding of English, especially the technical language used in the EIR, the LAC, after significant deliberation and debate, voted to request that the County translate, or allow the LAC to hire someone to translate, the EIR into Spanish. When the request reached the Board, its members voted unanimously against translation.

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4 Under the California Environmental Quality Act, the County is required to prepare an EIR if the project might significantly affect the environment. This document is crucial to the permitting process because it contains the Draft Environmental Impact Report, public comments, comments from the state and local agencies and the County's responses to the comments.
Because the Board acted directly against the wishes of the LAC and the Spanish-speaking residents of Buttonwillow, the issue of translation remains a central point of conflict. While the LAC contends that they need more time to review the Final EIR, the Board argues that the LAC wasted time on the translation issue and subsequently failed to properly carry out its duty to negotiate "acceptable" conditions with Laidlaw and the community.  

Padres and others claim that the County's refusal to translate vital information relating to the project has illegally kept them from fully participating in the permitting process. When the County failed to respond to over 200 letters written by Latino residents in response to the project's Draft EIR, Padres accused the County of environmental racism:

We've been asking for two years for them to translate this information into Spanish since 65% of Buttonwillow residents speak Spanish....They've always refused to do that, but now they won't even respond to our comments. They are excluding a lot of people from the process because they speak Spanish. That's simple discrimination.

Although the issue of translation initiated a heated debate between the County, the LAC, Padres and others involved in the permitting process, this was by no means the

5 In this case the LAC process is under heavy scrutiny by both the County and Padres. While the County argues that the LAC has unsatisfactorily conducted its job, Padres' attorney, Luke Cole, argues that the LAC has not been given adequate time to carry out its statutorily-mandated duties: "Local Assessment Committees empanelled in other jurisdictions have taken between 18 months and four years to complete the negotiations with facility proponents. The LAC in this case was given from September 27 to December 12--about 10 weeks. This is a ridiculous schedule, and indicates to impartial observers that the Board has no interest in what the LAC comes up with." See Luke W. Cole & Anne Katten, Testimony on the Proposed Expansion of Laidlaw's Lokern Facility (California Rural Legal Assistance Foundation, Center on Race, Poverty and the Environment, December 12 1994), 5 [hereinafter Cole & Katten, Testimony].

6 276 letters were written by Buttonwillow residents which is the greatest number of letters ever received in Kern County regarding an Environmental Impact Report. Although 217 out of the 276 letters were written in Spanish, the County did not respond to these letters. Padres' attorney, Luke Cole, is using this lack of response as one reason to challenge the Final EIR.

only concern raised by the community. Over 200 letters documented the residents' fear that exposure to the dump may cause serious health problems including: birth defects, miscarriages, sterility, cancer, respiratory illnesses, headaches, and nausea. The issue of health problems peaked during a period of eight months from 1992-1993, when two babies were born in Buttonwillow with neural tube defects. Members of the community feared that the defects were related to the dump. A representative from California Rural Legal Assistance reported the community's concern to the California Birth Defects Monitoring Program to initiate an investigation of the cluster. Although the study did not find a direct link between the dump and the birth defects, birth defects remain an important health issue of concern to many residents of Buttonwillow.

The community is also concerned that an expansion would increase the potential for air and water contamination, on-site accidents, chemical spills, and traffic accidents involving Laidlaw's trucks. This toxic traffic is especially dangerous because the truck route passes directly by the town's elementary school.

The fact that Laidlaw has a nationwide performance record of violations and accidents makes Buttonwillow residents even more concerned about the potential dangers associated with living near a toxic dump. Padres and its attorney have argued throughout the permitting process that Laidlaw is a "convicted environmental criminal with a horrendous and worsening record of compliance nationwide"; for example:

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8 California Birth Defects Monitoring Program, Neural Tube Defects in Kern County: Buttonwillow Area Cluster Investigation, (November 1993). This report explains that neural tube defects "result when the neural tube (precursor of the spinal cord/brain) fails to close, a process normally completed 1 month after conception. Spina bifida and anacephaly are the two most common forms" (p.1).

9 Truck traffic and the current route through town is a central issue addressed in the Final EIR. One of the mitigation factors is that the trucks will be re-routed to a different road that does not pass by the elementary school. Padres and others are concerned that this new route will be impossible to enforce. There is additional concern that if the dump is allowed to expand, traffic and air pollution will increase in a town which already suffers from below-acceptable air quality.

10 Cole & Katten, Testimony, 2.

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• Laidlaw’s 1992 Form 10-K, filed with the Securities and Exchange Commission, reveals that Laidlaw is a potentially responsible party in 14 Superfund sites.  

• In 1987, Laidlaw was fined $350,000 at its Lokern facility in Buttonwillow for 14 violations, penalties of nuisance odors, non-compliance with all permit conditions, and failure to conduct weekly inspections. On January 30, 1989, a spill of more than half a million gallons of “non-hazardous liquids” occurred due to human error and an inferior weld.

• At its Cleveland, Ohio GSX Chemical Services Facility, Laidlaw’s toxic incinerator was shut down by the Ohio Attorney General’s office and Ohio EPA after repeated accidents, violations and fines. In a 1989 report, Ohio EPA Director Richard Shank enumerated Laidlaw’s problems: “Cyanide wastes in unmarked barrels, incompatible wastes stored near each other, operating records were missing or had been taken home by employees, 34,000 pounds of wastes received without any records.” He concluded, “[Laidlaw’s operation] is horrendous and shoddy...I never would have dreamed that (Laidlaw) would get themselves into this kind of trouble...this is not some corner drug store, this is a hazardous waste facility.”

• In 1991, Laidlaw was cited in Westmorland, California for a fire at the dump caused by mixing incompatible wastes.

• In September, 1993, Laidlaw was fined $1,825,000, for violations at its facility in Pinewood, South Carolina, the largest environmental fine in the history of that State.

• In 1994, Laidlaw was fined $1,055,144.20 by the State of Louisiana Department of Environmental Quality for the following violations at its Crowley dump -- three fires, operating parts of the facility without permits, and illegally disposing of hazardous waste in non-hazardous landfills.

Laidlaw's compliance record remains an issue of dispute between Padres and the County. In the written testimony submitted by Padres' attorney it was argued that one of

11 Ibid., 27
15 Cole & Katten, Testimony, 27-28; CCHW, Laidlaw.
16 State of Louisiana Department of Environmental Quality, In the Matter of Laidlaw Environmental Services in Crowley Louisiana, Penalty Notice (January 26, 1994).
the largest flaws in the Final EIR was its failure to consider Laidlaw's national and international performance record. The EIR's Response to Comments claims that the Board should only be concerned with Laidlaw's performance at its Lokern facility.

In addition to the County's failure to consider Laidlaw's compliance record, Padres' attorney has enumerated many other reasons why the Final EIR is inadequate and should be rewritten. Although Padres and others feel that there has been an inadequate review of the proposed expansion, and although the LAC argued that it needed more time to complete its review of the EIR and negotiate with Laidlaw, the Board observed its original deadline and voted in favor of the project on December 12, 1994.

Although Laidlaw has received initial approval from the Board, Padres continues to fight against the expansion. On December 9, 1994, Padres, along with two other grassroots community groups from California, filed an environmental justice challenge under Title VI of the Civil Rights Act of 1964 with the United States Environmental Protection Agency (EPA) and the United States Department of Housing and Urban Development (HUD). The administrative complaint, drafted by California Rural Legal Assistance's Center on Race, Poverty & the Environment and the University of California at Berkeley's Environmental Law Community Clinic, alleges violations of Title VI, in

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18 In addition to the County's approval, Laidlaw must receive permits from the State Department of Toxic Substances and Control (DTSC), the Central Valley Regional Water Quality Control Board and the San Joaquin Valley Unified Air Pollution Control District.

19 Civil Rights complaints are a new strategy in the environmental field; the first Title VI case was filed last year. It has been used primarily by community groups in the south. This is the first such complaint to be filed west of Texas. These complaints are being filed during a time when the Clinton Administration has officially shown support for the environmental justice movement. In February, 1994 President Clinton signed an Executive Order on environmental justice- (Executive Order 12898 of Feb 11, 1994: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations § 2-2, 59 Fed. Reg. 7629, 7630-31 (Feb 16, 1994).
the siting, permitting, expansion and operation of California's three Class 1 toxic waste
dumps.20

Under Title VI of the Civil Rights Act of 1964, programs or activities which receive federal financial assistance can not discriminate on the basis of race, color, or national origin. The respondents named in this complaint — California Department of Toxic Substances Control, Kern County, Kings County, Imperial County, Laidlaw, Inc., Chemical Waste Management, two water boards and two air pollution control districts — all receive federal financial assistance from either the EPA or HUD and can therefore be named in a Title VI complaint.

To win under Title VI one does not have to prove intent, but only show discriminatory impact. The complainants conclude that:

...systematic, ongoing discriminatory impact is evident in three ways: 1) Latino communities have 100% of the existing toxic dumps [in California], and will live with the dangers and health consequences of the dumps every day; 2) When Laidlaw and Chem Waste want to increase California's toxic dump capacity, they look to the existing Latino communities already burdened by dumps, and propose expansions or new facilities there. For example, in the past five years, Chem Waste has sought to build a toxic waste incinerator at its facility and Laidlaw has sought to expand the capacity of both the Buttonwillow and Westmorland dumps; and 3) None of the local, regional, or state regulatory agencies take any steps to require--or even encourage--attempts to handle problems of toxic waste disposal without increasing the burdens on Latino communities. As a result, Latino communities are a permanent target area for toxic waste dumps.21

To stop what Padres and others feel to be an obvious pattern of discrimination in the permitting, siting, and operation of toxic facilities in California, the complainants


21 Ibid., 51.
conclude that "EPA and HUD should require the respondents to impose an immediate moratorium on the siting and expansion of any toxic waste facilities in communities of color in California, as a condition of continuing to receive federal financial assistance."\(^{22}\)

Summary

Padres is confronted with many significant obstacles; in addition to the fact that its opponent is economically and politically more powerful, Padres also faces a system that does not allow Spanish-speaking people the opportunity to fully participate in the permitting process. The controversy surrounding the LAC and the translation issue is a clear example of the different power struggles involved in the toxics debate; although the LAC is supposed to represent the interest of the community, it has no true power. After months of deliberation about the community's request for translation, the LAC voted in favor of fulfilling that need. Nevertheless, in one meeting the County Board of Supervisors voted unanimously to deny the request.

While Padres faces obvious opponents, including representatives of Laidlaw and the County, there are other players that affect Padres' struggle for environmental justice. The next chapter introduces the Kern County Health Department in an attempt to understand its role in Padres' struggle. Although the Department is not directly involved in the permitting process regarding the siting or expansion of toxic waste dumps, it still affects Padres because, like most environmental justice battles, Padres' struggle is deeply rooted in its desire to protect the community from toxics-related health problems.

Since the stated mission of the Department is to protect public health, one might conclude that these two groups share a common goal. One might also reason that the

\(^{22}\) Ibid., 5. [For a more complete list of recommendations see pp. 51-54].
Department's policies and actions would support the goals of Padres and the environmental justice movement. However, interviews conducted with the Director of the Department, Dr. Jinadu, reveal that the Department has not allied itself with groups like Padres; instead, the Department's toxics policy, whether intended or not, creates additional obstacles that Padres must overcome in its fight for environmental justice. The work of the Department has not supported Padres because the groups' perspectives towards toxics — what they define as the problem and what they define as the solution — are vastly different. The following chapter takes a closer look at the Department's policy and perspective on toxics.
CHAPTER 3
The Kern County Public Health Department

This chapter describes the fundamental character and perspective of the Kern County Public Health Department (Department) by providing an overview of the Department's "Mission Statement" and its "Directory of Services." Next, the chapter presents an interview with the Department's Director, Dr. Jinadu, to establish the Department's perspective on toxics; although the Department's literature does not specifically address the issue of toxics, the interview reveals that the Department has a toxics policy that Dr. Jinadu believes is consistent with its overall mission to protect public health. Finally, the chapter concludes with a case study of the investigation of Rosamond's cancer cluster to demonstrate the complexity of the toxics debate.

Mission Statement

The Department's "Mission Statement" establishes the following goals:

- reduce the occurrence of preventable disease, disabilities, premature deaths and promote wellness;
- assess needs and close the gaps in health services and enhance access to care among diverse population groups;
- provide leadership in setting community public health standards in reforming health care into a coordinated, accountable, and affordable system which emphasizes access to appropriate preventative measures and quality services;
- maintain culturally appropriate education and public health promotion efforts;

1The information for this chapter was gathered from three sources:
1) Department's literature: Mission Statement and Directory of Services; 2) Dr. Manzoor Massey, Director of the Kern County Public Health Department Division of Health Promotion and Public Information, personal interview by author, 17 November 1994; and 3) Dr. Babatunde Jinadu, Director of the Kern County Public Health Department, phone interview by author, 17 February 1995.
- build and foster strong partnerships for health with local public/private health and social service agencies, community based organizations, consumers, educational institutions and other interested community groups; and
- improve the quality and cultural competency of the Department's operations, services and programs.
- working together as a team and making shared decisions (sic).

Directory of Services

The Department's "Directory of Services" emphasizes a commitment to making quality health care accessible to everyone: "Kern County Department of Public Health is dedicated to serving the public. Multi-lingual, culturally sensitive staff provide you with a wide range of services...We are here to serve you."² The following services are listed in this directory. Additional information about some of the services is included to gain a better understanding of the scope of the Department's activities.

- Media Relations and Information - HIV/AIDS Programs
- Health Statistics/Birth and Death Certificates - Public Health Laboratory
- Preventative Health Care for the Aging (PHCA) - Animal Control Services

- California Children's Services (CCS)- CCS is a statewide program that provides financial assistance to low-income eligible families with children who have certain physical handicaps or severe illnesses.

- Child Health & Disability Prevention (CHDP) and Treatment Program. The CHDP Program provides early health care to low-income eligible children including a physical exam, hearing and vision screening, blood testing, WIC referral and immunization. The goal of this program is to prevent the development of more serious health problems later in life.

- Maternal Child and Adolescent Health (MCAH)- There are several services which concentrate on providing health care to women and children: 1) The Perinatal Outreach Program (POP) conducts door to door outreach to locate women in need of prenatal care. The program is intended to provide support services for a woman throughout her pregnancy until the infant's second birthday; 2) The Comprehensive Perinatal Services Program works with Medical providers to improve the delivery of comprehensive perinatal services to medical eligible pregnant women; 3) Black

² Kern County Public Health Department, "Directory of Services."
Infant Perinatal Improvement Program focuses on serving preconceptual, pregnant and post-partum African-American women in high risk areas in an attempt to reduce infant mortality and improve birth outcomes; and 4) The Fetal/Infant Mortality Review Project studies the health problems associated with fetal and infant death to learn how to improve outcomes.

- **Public Health Nursing Services** - Multi-lingual/multi-cultural staff work in the clinics and also make home visits. Some of the services include: 1) Education about the dangers associated with substance abuse during pregnancy; 2) Conducting follow-up home visits for babies with special health problems such as congenital defects, low birth weight, failure to thrive, or drug exposure; 4) Education about how to prevent and control communicable diseases such as AIDS, TB, Giardia, Salmonella and Hepatitis; and 5) Clinical services such as pregnancy testing, family planning and immunizations for children and seniors.

- **Community Health Promotion/Education/Resources** - "One's present lifestyle is the best indicator of one's future health condition. Multi-lingual and multi-culturally trained staff work with schools, churches, community based agencies, clubs, sports organizations, and persons with special needs. They provide the public with information, education and training to promote healthy lifestyles and how to prevent disease." The following services are offered:

  - Smoking prevention and cessation information
  - Self-Help Quit Smoking Kits
  - Assistance with developing smoke-free polices for businesses and communities
  - Child health and disability prevention education
  - Health promotion programs for seniors
  - Consultation on health fair planning
  - AIDS and other sexually transmitted disease prevention education
  - Perinatal education program consultation
  - Presentation on general public health - most subject areas included
  - Information/education materials on most health topics
  - Information to students on health issues
  - Consultation on clinic patient education

**Role of the Department in Buttonwillow**

In Buttonwillow, a nonprofit organization, National Health Services, Inc. (NHS), operates a health clinic which provides the following services:

- primary preventive medical services
- comprehensive prenatal care
- preventive and restorative dental care - nutritional assessment and counseling
- health education counseling - psycho-social assessment and counseling
- periodic screening of adults and children - management of chronic medical problems
- pharmacy and drug reaction services - laboratory and x-ray services
- outreach and transportation - family planning program
- individual managed care program - on call 24 hour services
- comprehensive pediatric, adolescent, adult and geriatric care programs

As a general rule, if there is a primary care provider such as NHS already established in a community, the Department will not duplicate services. If a community does not have a primary care provider, the Department will try to find one for that community; only as a last resort does the Department want to take on the responsibility of providing primary care. According to the Director of the Department, Dr. Jinadu, this is not the Department's role; instead, the "core functions of a public health department are assessment, policy development and assurance."³

In communities like Buttonwillow, where the Department is not the primary care provider, the Department's role is one of surveillance and investigation of reported diseases or "unusual" incidents. Under the state's Health & Safety Code, certain communicable diseases, such as tuberculosis and sexually transmitted diseases, must be reported to the Health Department. In addition to reportable diseases, health care providers as well as individuals in the community are expected to inform the Department about any "unusual" occurrences. It is then the Department's responsibility to investigate.

³ Dr. Jinadu, Director of the Kern County Public Health Department, phone interview by author, 17 February 1995.
Currently neither NHS nor the Department has conducted a needs assessment to determine the specific health problems and concerns of the Buttonwillow community. The Department does not normally conduct needs assessments or maintain specific files on individual communities the size of Buttonwillow. In Dr. Jinadu's opinion "the needs of Buttonwillow are probably no more than the needs of other small towns." Dr. Jinadu also explained that the Department would not spend resources to conduct a needs assessment only on the town of Buttonwillow; instead, it would group Buttonwillow with other small towns until the study group reached approximately 50,000 residents.

The Department does keep certain health statistics on its computer system such as birth and death statistics and immunization records. The Department can gain access to this information by entering a zip code for a specific area. For example, the Department could enter Buttonwillow's zipcode and find out how many children under the age of two have been immunized. The immunization rate could then be compared to the rate in other communities in the County or the state.

When asked if he feels the Department is adequately serving the needs of the Buttonwillow community, Dr. Jinadu replied in the affirmative and when asked if he would make any changes, he explained: "No. There is nothing that has come to our attention to make that necessary." 4

Relationship with Padres

The Department does not have a relationship with Padres; neither the Director of the Department, Dr. Jinadu, nor the Director of the Division of Health Promotion and Public Information, Dr. Massey, were familiar with this community group.

4 Ibid.
Toxics Policy

To gain an understanding about the Department's toxics policy, segments of a phone interview with Dr. Jinadu will be presented. Although Dr. Jinadu speaks with confidence on this subject, the Department's actions and decisions have been criticized by others involved in the toxics debate [an evaluation of the Department from the perspective of two grassroots environmental justice leaders appears in the following chapter]. The interview questions are in bold and Dr. Jinadu's responses are direct quotes transcribed from a recorded phone interview.\(^5\)

**Does the Department have a toxics policy?**

Yes. This department is here to protect the public's health. If any situation poses a threat the Department will be there-if there is proof, if there is a connection (emphasis added).

**So, the proof has to come first before you take action?**

Absolutely. What does this facility do? Has it been proven to be hazardous? Is there any scientific evidence that there is any more danger just because its toxic [or is it] that we all just don't want it? We don't get into the NIMBY (Not In My Backyard) process. We deal with a scientific approach to issues along with looking at the community. Our role is that of standing in between and not getting caught in any side. Just because something is labeled "toxic" doesn't mean it is hazardous to public health.

In his opening statement, Dr. Jinadu establishes that the role of the Department is to protect public health. He makes it clear that health officials follow a specific code of conduct defined by their commitment to the practice of "science." In order to practice this scientific approach to public health, he argues that health officials must remain neutral, without taking any sides. Dr. Jinadu emphasizes this point throughout the remainder of the interview as he develops the argument that the Department's approach to public health must be objective in order to make sound public health decisions.

\(^5\) Ibid. Dr. Jinadu gave permission to record the interview.
His use of the term "threat" should be noted because it is followed by the clause — "if there is proof, if there is a connection." If this phrase had been left out, one might conclude that he is using the term "threat" to refer to situations that contain the possibility or potential for a problem to occur. However, Dr. Jinadu explains that the Department will act on a situation only if there is "proof" that a threat exists. The Department's demand for scientific certainty is one of the defining characteristics of its toxics policy.

Do you think that there is still a possibility that environmental contaminants caused the birth defects in Buttonwillow even though the investigators could not prove there was a link?

Unless you have that data, unless anybody has that knowledge, you can't just conjecture. That's not scientific. Only go with known scientific data. Ten years from now you might find out that 'Oh yes the gasoline that we all use in our cars might cause birth defects.' But we don't have the data now. And for all known information there is nothing to make a cause/ effect relationship (emphasis added).

You have to meet certain criteria to come up with a cause/ effect relationship. If you don't meet those you can't say it is a cause effect relationship. In that regard, just because you find these toxics here, and if you know that a toxic causes birth defects and you find birth defects in the community you might say 'Oh wait a minute there's a strong relationship here.' It's still just a strong relationship. Because, let's say that the only way that science has documented that it causes that defect is by ingestion and there is no evidence that there was any ingestion in the subjects you've studied. You still can't make that leap can you? Even though you may have documented that particular toxic causes this defect, you still have to explain how it got there.

This question asks him to consider the "possibility" that environmental contaminants may have caused the birth defects. As he explained in his response to the previous question, the Department only recognizes a public health threat if there is proof; a "possibility" does not qualify as a "threat." A toxic facility does not represent a public health threat unless a causal relationship exists.

In the following dialogue, Dr. Jinadu is asked to respond to specific questions regarding the Rosamond investigation. In Rosamond, health officials found extensive contamination, and yet, Dr. Jinadu still claims that these facilities are not a public
health threat until there is "scientific" proof; a "strong relationship" is not enough. At this point in the Department's reasoning, the question that many would raise is: If you know that these toxics are carcinogens, and you know that they are in the community, isn't a "strong relationship" enough to make the Department recognize these contaminated facilities as public health threats? Dr. Jinadu's responses to the following questions indicate that his answer is definitely "no."

In the Investigation of Rosamond's childhood cancer cluster, many toxic facilities were found to be operating in violation of the law. Although the investigators could not prove that exposure to these facilities caused the cluster, do you think these toxic facilities represented a public health threat?

No, not necessarily. That's a by-product of that kind of investigation. It's just like, you know- How many people take their own bed sheets and mattresses and dump them on the sidewalks?

Wait. Let me make sure I understand. Would the Department say that in this case these facilities represented a public health threat?

No. Because how do you declare a public health threat?

34 Sites were found which required further investigation. Fence and Post orders were given at many sites to protect the public from exposure to toxic chemicals. Reports of Violation were issued because hazardous waste was being improperly stored, an above the ground ash pile was found with elevated levels of heavy metals and dioxin...

What I'm trying to say to you is - What has that caused? In other words, when you declare a public health threat what do you do? Close down the town? (emphasis added)

Did the Department believe that this was a public health threat to Rosamond?

Well when you say public health threat you are now talking about something that you know has jeopardized the life of the public.

Do you believe that it did?

No.

No you don't?
No. Water has never been damaged. The water system has not been contaminated. Nobody has ever tested the air and said it was contaminated or otherwise everybody would be dying of cancer not just the children. There has been no food product that has been tested that people have consumed. So what is the definition of the public health threat? Let me point out to you at this point that there were 13 cases of cancer in McFarland. Has any toxic area been found? No. So what I’m trying to say to you is don’t jump to conclusions. First of all those toxic wastes that were found you have not even researched when it is that it occurred. Was it before the law became more stringent? Was it after? Was it in between. Before you can jump and say quid pro quid, quid pro quid, you have to be able to prove. And it’s all right to be sentimental about hazardous materials but when you are working in an environment like this, you have to be objective (emphasis added).

Dr. Jinadu argues that the air must not have been contaminated because no test results reached this conclusion, and if there was contamination "everybody would be dying of cancer not just the children." Joan Mckee, resident of 42 years, compiled a list of adults who had gotten cancer: "Without even trying I came up with a list of 40 names...The people in Bakersfield (the Kern county seat) said they would be right out. I never heard from them again." In frustration she destroyed the list. About three months later she was diagnosed with multiple myeloma, a form of cancer which attacks the white blood cells: "I got too sick to care any more. But I do believe my cancer is environmental."

Dr. Jinadu’s reasoning goes beyond his initial argument that "scientific proof" is needed; he also needs to have proof in the form of widespread cases of cancer. He then raises the question: "So what is the definition of the public health threat?" He follows this question with the advice that one should not jump to conclusions about the significance of the toxic contamination. Once again he argues that you have to be able to prove a causal relationship. His reasoning reveals that he does not follow his own advice; when an investigation fails to uncover the cause, he "jumps to the conclusion" that the toxic contamination did not cause the cancer cluster. Although he argues that the toxic contamination does not represent a public health threat — unless there is scientific proof that it does — he cannot "prove" that the toxics are not threatening public health.
In fact, he would probably argue that it is not his responsibility to provide that type of evidence.

Determining who is shouldered with the burden of proof is an extremely significant issue in the toxics debate. Should the community be responsible for proving that toxics are a threat to public health, or, should the Department be responsible for proving that they are not hazardous? This question applies to many different situations, including the current struggle in Buttonwillow. Should the community have to prove that expanding the toxic dump would be hazardous to their health? And if they are left with the burden of proof, what type of proof would they have to provide? How many illnesses, cancers, or birth defects would it take to convince officials that the facility is a public health threat? The "burden of proof" issue will be addressed again in the following chapters.

So, if you saw data that showed a certain facility was emitting contaminants that it wasn't supposed to, that it was leaking, spilling on site...

Shut it down. If you feel that way and its causing injury to the community, shut it down.

Although Dr. Jinadu answered quickly with the response "shut it down," he remains consistent with the approach that it would have to be "causing" injury to the public. There would have to be "scientific evidence" that the contaminated, leaking facility caused injury to the public. This approach guarantees that people must be harmed before taking action.

So once you have the proof then you take action?

That is correct....It's one thing to go rah rah rah. It's another thing to put the objective facts together. The value of maturity in practice is the ability to put all facts together and not get swayed by your own emotions. That is the value of maturity in practice. In particular, in public health, you can not be somebody who is going to exaggerate. You have to make very solid judgment calls that is going to be in the interest of the whole community not your own personal interest. And you cannot be blasé about it. And you can not be over-reactive about it. And a lot of people want us to be caught in either side. We
cannot. We have to look at it from all sides and make very good, sound public health decisions.

May you live long enough to work in a local public health department and then you can put your idealism in there. But you'll find as I said to you that there are only certain steps that you can take. The steps you can take are based on a sound judgment not on an emotional high.

While Dr. Jinadu emphasizes the importance of making "objective" decisions, he devalues decisions based on an "emotional high." This perspective greatly influences his responses to the recommendations made by Padres and SKRAP. When he suspects that the comments are based on an "emotional high" he has justification for dismissing them.

**Considering the cluster that occurred in Rosamond and the number of facilities already in that town, should Rosamond be burdened with yet another toxic facility?**

Why not? When you talk about toxics the idea is...because we use the word "toxic" or the word "hazardous" there are standards already set in place. EPA has a standard. Class 1 hazardous material has its fingerprint, has its chemical nature, has agencies all the way from a local health department to the federal government assessing what the chemical is what the effects are, where should it be sited, should it be sited close to 35,000 residents...All those things are standards which are set in. If you have these standards, and you are looking at these standards, people have come with those standards based on the knowledge of that particular material. Then we get so caught up in - I don't want it in my backyard because I know it is hazardous waste. That's not the job I'm in, O.K.? The job is to know what are those factors just described. Is the chemical class 1? What standards are there for its siting?

So you believe that as long as everyone follows the rules, the EPA and state have set up appropriate standards so that these facilities, if run correctly, do not pose a public health threat?

That's why we live by standards.

In these last two sets of comments, Dr. Jinadu expresses his faith in the "standards" developed by the EPA and the State. This trust in standards is consistent with his commitment to "science." In both cases there is a recognizable lack of questioning. He appears to be contradicting his earlier declaration regarding the importance of being objective and knowing all of the facts; recognizing that data gaps exist, that standards can
be inadequate, and that regulations can be broken, are all facts that he should incorporate into his perspective and policy on toxics.

In Rosamond's case, studies were being done to see if there was a link with the cluster and the toxic facilities. During the investigation, attempts were made to sight yet another toxic facility in that town. Can you understand why the community fought hard to stop this proposal?

Yes. That's understandable for the community, but if you ask me - Does this pose any more hazardous threat? - my answer is no. No, because there is no data for that.

Rosamond's Cancer Cluster

In April 1986 the Department discovered a childhood cancer cluster in the small desert town of Rosamond, located at the southern end of Kern County. During the years 1975-1984, nine children were diagnosed with cancer, the highest known childhood cancer rate in California. Only two of those children are alive today. Five of the children died of medulloblastoma, a rare cancer of the brain. According to statistical calculations made by state health officials, the rate is six times greater than the state-wide average.

6 The state defines a cancer cluster as a significantly larger than expected number of cancer cases occurring in one place during a specific time period. This cluster was discovered by accident when county health officials were reviewing records in search of more information about another childhood cancer cluster in the town of McFarland, California. See California Department of Health Services, Fact Sheet on the Rosamond Cancer Cluster; California Department of Health Services, Rosamond Update: Fact Sheet October 1988; Rosamond Update: Fact Sheet April 1989; and Rosamond Update: Fact Sheet June 1989.

7 California Department of Health Services, Fact Sheet on the Rosamond Cancer Cluster. Although nine children in Rosamond were diagnosed with cancer during the years 1975-1984, the state only recognizes 8 cases as part of the cluster because the ninth child lived greater than a mile away from the area where the other eight children resided. Many people in the community argue that the other child should be included in the cluster since he attended the same school.

8 Ibid. According to the 1980 Census, there were 955 children in Rosamond at that time. The statistical probability that 8 cancer cases would have occurred by chance alone is 2/1000. The rate is 6 times greater than expected. The four medulloblastoma cases are also a cluster. The statistical probability that 4 cases would occur in a town the size of Rosamond by chance alone is 3/100,000.
When the California Department of Health Services (DHS) joined the investigation in November of that year, the Environmental Epidemiology and Toxicology Section began to study the individual cancer cases to determine if they shared any common characteristics. The Toxic Substances Control Division (TSCD) assisted by investigating various sites in Rosamond and the nearby town of Mojave; officials identified 34 sites which contained levels of contamination that required further examination.

The early stages of the investigation revealed that state and local officials had very little information about these sites. According to Charles White, chief of the state's permitting unit, TSCD did not regularly inspect these sites because they were not licensed as hazardous waste generators: "Basically these facilities really came to our attention in the past year and a half or so...We basically have been trying to get a handle on whether they do produce hazardous wastes and trying to determine if they do comply with the law and regulations." White pointed out that although these facilities are generating hazardous wastes, they might be slipping through a loophole in the law which states that a permit is only required if hazardous waste is stored at the facility for more than 90 days, or if the material is being recycled or treated.  

At the local level, the assistant chief of the Kern County Air Pollution Control District (APCD), Cliff Calderwood, explained that the District does not have information about the extent of toxic contamination at these sites because APCD does not have the authority to regulate toxic emissions. APCD also has minimal control over what is burned in the furnaces, and no control over the management of solid wastes at these sites: "We've cited virtually all of them out there at one time or another for various types of problems, but we haven't looked at toxics. We don't have the authority to do so." Calderwood also drew attention to the fact that the owners of the sites may not even know

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what their facilities are emitting: "I don't know if those people know what it is they are burning half the time."\textsuperscript{10}

Calderwood argues that Rosamond's problems are a direct result of the fact that Kern County's regulatory controls governing the burning and disposing of waste materials have historically been much weaker than those in nearby Los Angeles County. Since Rosamond is located only 85 miles north of Los Angeles' waste generators, Calderwood explains that the town became a "convenient dumping ground" for hazardous wastes from Los Angeles: "You are looking at 40 or 50 years of God knows what out there, and maybe now we're paying for it. Until recently it was anything goes out there." Kenneth Hughes, hazardous waste specialist with TSCD, supports this claim: "I have never seen this much waste in one town before. The amounts and concentrations are alarming."\textsuperscript{11}

In October, 1988, the state published a fact sheet to update the community on the status of its investigation. The update provided summaries of the 34 sites, including information on the contamination that was found. The state identified 6 sites with elevated levels of dioxin, 20 sites with heavy metals (13 contained "elevated levels" of heavy metals), and 8 sites with semi-volatiles. There were nine sites where the state decided not to collect samples because "there was no indication of contamination." Officials issued two Fence and Post orders, identified 11 sites that required additional sampling, filed Proposition 65 reports for 10 sites, and referred one site to the federal EPA for Fencing and Posting and containment of dioxin contaminated soils and waste.\textsuperscript{12}

In April 1989, the state released another fact sheet to provide the latest information on the sites still under investigation. At that time the state announced that it

\textsuperscript{10} Ibid. \\
\textsuperscript{11} Louis Sahagun, "Rosamond: Malignant Mystery," \textit{Los Angeles Times} 30 September 1988, 1. \\
\textsuperscript{12} California Department of Health Services, \textit{Rosamond Update: Fact Sheet October 1988}. 

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had still not been able to find a medical link between the contaminated sites and the cluster. The state announced that the investigation would continue in order to determine whether clean up was necessary. In addition to studying the sites around Rosamond, the state also conducted tests which sampled soil, eggs and pork to see if dioxins had blown off sites and spread throughout the community.

In June 1989 the state published a fact sheet which contained the following results from these studies:

- Overall, the soil is safe. Only one location was found where the soil contained higher levels of dioxin in an amount that may be cause for concern. DHS is conducting more tests on that location.
- The pork sample contained no more dioxin than pork from a supermarket. The level is extremely low and is not a cause of concern.
- Chicken egg samples from three local backyards contained higher levels than those found in a supermarket. While the Rosamond supermarket eggs contained a dioxin level of .1ppb, the three sites had levels of 35.7 ppb, 3.2 ppt and 2.0 ppt. The state recommended that the residents at the site measuring 35.7 should not eat or sell the eggs, while the people at the other sites should limit their intake of eggs to 3-4 a week.
- DHS has found nothing to date that would connect dioxin exposure with any of the childhood cancer cases.

In this same Fact Sheet, DHS responded to the following question: What can DHS tell us about the cancer risks from the industrial sites now?:

To date there have not been any unusual contaminants detected in the soil samples collected away from hazardous waste sites under investigation by the Toxics Substances Control Division. No unusual contaminants were detected in soil and water sample collected at locations where children with cancer spent time. These samples however may not be representative of air exposures that occurred during the years before the children developed cancer.

After commenting about the lack of data on air exposures, DHS explained that it hired two consulting firms to help estimate the amount of chemicals that people may have been exposed to before and during the time of the cancer cluster; one firm set up meteorological stations to collect information on wind speed and direction while the
Other firm reviewed the industrial processes to estimate the amount of contaminants that may have drifted from the sites into the community. DHS explained that it will use this data to conduct its exposure assessment study: "DHS toxicologists will use the estimated exposures to calculate the theoretical cancer risk they pose to the community. These calculations will allow DHS to determine if the cancer risk from environmental contaminants is large enough to account for the childhood cancer cluster."\textsuperscript{13}

When the investigation came to a close, TSCD provided a final summary of the sites:

- 11 sites have been ordered by the Department (DHS) to Fence and Post their properties, 10 have complied. Those not in compliance face enforcement action;
- 4 sites have been referred to and accepted by the EPA for further stabilization; 2 felony cases are being developed for referral to the Attorney Generals Office; 13 generator inspections have been performed resulting in 12 Violation Notices...6 of those served with Violation Notices have already voluntarily complied; those not in compliance ultimately will face enforcement action.

After the state conducted its investigation, Ron Baker, information officer for TSCD, declared Rosamond a "safe" place to live: "It's probably one of the safest places. No other community in the state has undergone such an investigation."\textsuperscript{14} Although health officials concluded that whatever caused the cancers was either gone or never existed, some community members thought the investigation was inadequate. Roberta Bishop, one of the leaders of SKRAP, felt dissatisfied: "I don't think we have any answers. I'm disappointed. I just don't feel like we're getting the whole story...Maybe we won't ever know what caused those cases, but I want to know how things are now. Are my children safe?"\textsuperscript{15} She challenges the claim that Rosamond is a safe place to live: "How can it be safe? Dioxin causes cancer and they found dioxin. How can they say now that it...

\textsuperscript{13} California Department of Health Services, Rosamond Cancer Study Update June 1989.
\textsuperscript{14} Nancy Weaver, "Cloud of Suspicion Splits Tiny Town," Sacramento Bee 24 July 1989, A-12.
didn't cause the cancer cluster? When you tell people it's safe, I wonder how much of it is for the developers?"^{16}

Dave Kiefer, owner of a local feed store and member of SKRAP, expressed his frustration with the investigation: "I feel like I've run up against a big tremendous wall and there's nothing to do...We're concerned about the health and safety of everyone even if they don't like it." Carol Raanes, a mother who considered moving to protect her children raised the point that there are others in the community who are eager to put an end to the investigation and the testing: "The old timers in town want everybody to shut up. They want it over with. Rosamond is growing so fast they'll cover it over."^{17}

While many in the community expressed their frustration with the investigation, there were others who felt differently; Bob Malley of the Rosamond Chamber of Commerce was happy with the results: "Yes, we are happy with the results and, yes we are ready to put this behind us. It appears to be winding down. The Developers are all back on the job." For some residents the investigation supported their theories that there was never really a problem in the first place; Art Landsguard, owner of Karl's Hardware and Century 21 real estate business in town, argued, "There's no proof we have an extra-large incidence of cancer here, "while his son and other business leaders offered another explanation: "It's a possibility that drug abuse is the cause." A mother of one of the victims vehemently disagreed while pointing out that her child was three and a half years old when she was diagnosed with Wilm's tumor, a type of kidney cancer.^{18} These comments demonstrate the diversity of perspectives in the toxics

^{16} Weaver, "Cloud of Suspicion Splits Tiny Town," A-12. See Sahagun, "Rosamond: Malignant Mystery." — The state's investigation and initial findings did affect development projects in Rosamond. Rosamond was growing steadily as developers saw the opportunity to accommodate the needs of people from Palmdale and Lancaster, two of the fastest growing cites in the country. Kaufman & Broad the largest home builder in California halted plans to build a multimillion dollar proposal to build 700 homes on 127 acres in Rosamond until the results were in from the state's investigation. Since 1984 when the last cancer was diagnosed, the town has grown from 4,000 to 15,000.

^{17} Ibid.

^{18} Sahagun, "Rosamond: Malignant Mystery," 3.
debate; while some residents challenged the investigation, others were satisfied with the results. The following section discusses some of these different perspectives in more detail.

The Rosamond investigation followed a particular pattern and order of events: health officials discovered (by accident) a cancer cluster that triggered an investigation; the investigation revealed elevated levels of toxic chemicals, some of which were known carcinogens; health officials searched for the cause of the cluster but they could not find any "scientific" proof that a link existed between the contaminated sites and the cluster; the cause was never found and health officials declared the town "safe." Many residents were left with unanswered questions and a feeling of frustration. This pattern is not an isolated example; during the years 1981-1992, the California Birth Defects Monitoring Program completed 99 studies, and in the seven cases where officials discovered an "unusual excess" of birth defects, they were unable to identify the cause. In Kern County, the Department has been involved in three investigations — Rosamond, Buttonwillow and McFarland — where the health officials could not prove that environmental contaminants caused the clusters.

This pattern persists because the primary role of health officials in these investigations is to "scientifically prove" that specific environmental contaminants caused a certain cancer cluster, birth defects cluster, or other health problem associated with exposure to toxic chemicals. If they are unable to prove that a link exists, they conclude that the community is "safe" from the threat of toxics. In the Rosamond investigation health officials expressed confidence in the results of their investigation: "It is probably one of the safest places. No other community in the state has undergone such an investigation."19

This conclusion indicates that health officials use the following reasoning: if an investigation cannot prove that exposure to toxic chemicals caused the problem, then the

19 Weaver, "Cloud of Suspicion Splits Tiny Town," A-12.
community is "safe." Heath officials base this type of reasoning on the assumption that a public health investigation is capable of proving a link between the contaminated toxic facilities and the cluster. In the Rosamond investigation there are several reasons why it would be extremely difficult, if not impossible, to establish this link. At best, health officials had extremely limited data on the toxic facilities. They did not have the answers to the following questions: What toxic chemicals were being used, produced or released during that time?; What volume of toxics were the facilities emitting?; Did any spills, accidents, or illegal discharges occur?; If so, when? These questions only represent a partial list of the unknown variables in this investigation; health officials also had no way of accounting for all of the factors that may have affected when, where or how a child was exposed.

In addition to the unknown variables associated with this particular investigation, data gaps also exist that affect any public health investigation associated with toxics. The data gaps are due to the inadequate testing of chemicals currently on the market; many of these toxic chemicals are being used even though they have not been tested for their potential to cause a variety of health problems, including cancer, birth defects, endocrine disruption, damage to the nervous system, and damage to the immune system. For example, there are more than 50,000 chemicals already in commercial use that have not been tested for their ability to cause birth defects. In addition, more than 500 new chemicals are introduced into commercial use each year. Tests are also not done on the possible synergistic and cumulative effects of these chemicals. Scientists simply do not know the complete profile of these chemicals. As a result, health officials make decisions and policies without a true understanding of the possible consequences of their actions. Although health officials are aware of the data gaps, they remain loyal to this approach to toxics. The earlier review of the Department's toxics policy

demonstrated that the Department shares this approach; in fact, Dr. Jinadu argues that it is the responsibility of all public health officials to base their actions and decisions on the presence or absence of "scientific data."

Summary

Dr. Jinadu's interview reveals that the Department bases its decisions, actions and policies on the "objective" facts revealed through the practice of "science." One must not "conjecture," "jump to conclusions," "exaggerate," "over-react" or make decision based on an "emotional high." The Department will not define a situation as a public health threat unless there is "scientific" evidence that establishes a causal relationship. This policy on toxics places the burden of proof on community groups like Padres and SKRAP to demonstrate that the toxic facilities in their communities caused the various illnesses. In other words, toxic sites are innocent until proven guilty.

The question that remains is: How has the Department's toxics policy affected Padres' and other community groups' fight for environmental justice? Do these groups feel that the Department is living up to its commitment to protect public health?

It will become clear in the next chapter that Padres and SKRAP both have serious concerns about the role of the Department in their communities; one of the primary problems is that a cancer cluster, birth defects cluster or other serious illness has to be reported before any action is taken by the Department. As a result of this policy, there is no commitment to illness prevention through toxics use reduction or other pollution prevention measures. Interviews were conducted with Rosa and Stormy to give them an opportunity to evaluate the Department. Their comments and recommendations appear in the following chapter.
Chapter 4

Evaluation of the Kern County Public Health Department: A Grassroots Perspective

Although there are a variety of ways to evaluate the Department, the purpose of this chapter is to establish how the Department performs with respect to community concerns. Interviews were conducted with the leaders of two grassroots community groups from Kern County — Rosa Solorio-Garcia of Padres and Stormy Williams of SKRAP.¹ In order to gain important background information regarding their previous experiences with the Department, they were asked to respond to the following questions: 1) What relationship do you and your group have with the Department?; and 2) What role does the Department play in your community? The chapter concludes with a list of Rosa’s and Stormy’s recommendations for the Department. Their comments and specific recommendations reveal that their perspectives towards toxics are significantly different from that of the Department.

Relationship with the Department

Padres

Padres does not have a formal relationship with the Department, and since the group has had no direct interactions with the Department, the question was modified to read as follows: Would Padres be willing to establish a working relationship with the Department? Do you think it would be beneficial? Is it feasible?

Rosa described why a relationship with the Department could benefit her community:

For Latinos, if it is information about their health or about their children, especially their children, they are going to go. The majority of the people involved in this are involved because they want something better for their children. There's nothing more important than their children. Latino families in Buttonwillow don't have money. They don't have luxuries. The most important thing in their lives are their kids.

At the same time, she questioned whether establishing a relationship with the Department would be feasible. One of the barriers she identified was the lack of time:

If I were a full-time housewife with access to a phone and was able to establish relationships with the Health Department and agencies involved in the permitting process, then I would say- yes, it is feasible to set up a workshop on the different health risks or just one on what the Department can do for a community. But I think the way we do things, we only react to what happens. We don't have long term goals because we are all full-time workers.

She explained that the group was able to work with more people when Lupe Martinez from California Rural Legal Assistance was helping them organize. He helped arrange for people from California EPA and others to come to Buttonwillow: "He made them aware that we existed. They came to my house and talked to the group and we were able to ask them questions."

Later in the interview, Rosa identified another barrier that would affect the feasibility of establishing a working relationship with the Department. She explained that she would have to consult the group "to see if it was a risk they would be willing to take." At this time in the interview, Rosa was discussing the group's concern about lead exposure in the community. One of the members of Padres had been to a clinic to get her three year old daughter examined. The nurse asked whether she wanted her daughter tested for lead exposure and although she didn't know what that meant, she agreed to the testing. The nurse told her that there was a problem because her child had a blood level of "12." The mother wanted to know what to do but the nurse explained that the Department could not conduct further investigations until the child tested at a high level.
three consecutive times. The mother left the clinic extremely upset with many unanswered questions that she brought to Rosa.

Rosa and this woman have been talking about possible ways to protect her child from further exposure but Rosa explained that lead is a very sensitive subject, one that could potentially create problems if Padres decided to seek assistance from the Department:

If we said that we wanted an investigation to see about lead exposure, and then they found that most of the houses had lead, the town’s going to turn against us because there is nowhere else to live. And the farmers are going to turn against us because we are upsetting their farm workers who live in their ugly old houses even though they have lead. We’re still being rebel-rousers. I mean, I don’t care but I think the other guys (member of Padres) who live in company houses...I don’t know whether people would rather expose their kids to lead or whether they’re just happy they have a home to live in...But I think people need to be informed and the Health Department should be doing that.

The lead issue reveals the complexity of the problems that face communities like Buttonwillow. Lead is more than just a health issue. People are faced with a choice: Lose your home or poison your children? This is one more example of how the unequal distribution of political and economic power affects farmworkers and other disempowered population groups. Within this context, understanding the role of the Department becomes more difficult. Although the Department paints a very black and white picture to demonstrate how it bases its decisions and policies on the objective practice of "science," Padres and SKRAP both feel that political pressures greatly influence the Department. Political pressures and their effect on the Department are discussed in more detail in chapter 6.

SKRAP

Stormy’s first contact with the Department occurred in 1986 when public health officials came to her house to test the water. When Stormy began to ask questions, they...
gave her "very vague responses" and wouldn't tell her why they were conducting tests. They informed her that they would contact her with the results. After waiting weeks without hearing from the Department, she decided to call. The first time she called, she got "the total run around." She called a second time and was still given no response to her inquiry. According to Stormy, the third time she "got belligerent" and was finally told that her water was "O.K."

Approximately two years later she had a communication with Dr. Jinadu which resulted in a strained relationship that has lasted to this day. She contacted the Department in search of a risk assessment document; the document concerned a cement company that was given a conditional use permit to burn toxics for a year in the nearby town of Mojave. This permit was approved without an Environmental Impact Report or public hearings; as Stormy explains, it was "snuck in." When she asked Dr. Jinadu to send her a copy of the risk assessment document, again she "got absolutely the total run around." He questioned her reasons for wanting the document and suggested she try to contact the company or the contractor. She didn't want another list of people to call especially because she knew that the company and the contractor were not required by law to provide her with the document. She did feel, however, that the Department was obligated as public health employees: "I explained [to Dr. Jinadu] that this is a health related issue. The town already has the largest [childhood cancer] cluster and now they're trying to add another toxic facility which would add 40,000 tons of toxics per year to our air."

He told her to call others, and if she still couldn't get the paper, she could call him back. She replied, "No sir. I will not be calling you back because I will not have any reason to deal with you in the future." She further explained in the interview: "That is the type of attitude, 'We're getting paid to be public servants but don't bother us.'"

After that experience she spoke to others who had interacted with Dr. Jinadu. They told her that he typically spends a lot of time visiting clinics to immunize children;
they argued that he should be spending more time concentrating on improving public health policies. Stormy responded:

I think its good that any kind of doctor stays in touch with the grassroots. But when you have 7 dead kids here and a big cluster in McFarland and another one brewing up the road in Earlimart and you've got toxic sites all over the place...I don't think he's ever been up here to have a tour of these sites. I don't think he cares. And I don't think these people want to be out in the dirt. I think they want to be in their offices. They don't consider our feelings. And when you are going to start to add toxics into an area where we've got all these kids dead and you can't even get a member of the public an important piece of paper, I just find it ridiculous. And I have nothing to do with that person. He'll come and sit next to me in meetings and I'll just pretend he's not there because I just feel this is such an unconscionable attitude, and how do people like that get these jobs anyway?

The experience with Dr. Jinadu made a lasting impression on Stormy, one that makes her turn away from the Department as a potential source for assistance: "Because of that experience with Jinadu, I certainly wouldn't have gone to Bakersfield to enlist their aid because I felt like they were totally out of it."

What Role Does the Department Play in Your Community?

Padres

Rosa could only recall one time that the Department became involved in the Buttonwillow community: "Dr. Jinadu, he came out here and right off he said that he didn't think Laidlaw had anything to do with the birth defects in Buttonwillow. We asked if he had done any studies and he said, no." Dr. Jinadu visited around the time that the California Birth Defects Monitoring Program was called in by the state to investigate the birth defects cluster in Buttonwillow.

Rosa explained that Dr. Jinadu's comment in support of Laidlaw and the state's study that failed to find the cause of the birth defects made Padres' lose credibility in the community: "We tell them that Laidlaw is bad, that these kinds of health problems are happening and we feel that it is because of Laidlaw. The Department came and did a study
but none of it showed that it was Laidlaw. So they (Buttonwillow residents) didn't believe us after that." In fact, Padres feels that the opposite message was sent: "Once they came in, it just gave Laidlaw added fuel because now they have a study which showed that Laidlaw was a good company."

Although the birth defects cluster triggered a study by the state, Padres initially wanted the local Department to conduct a needs assessment in Buttonwillow that would examine all of the major health problems in the community; Padres was aware that it is extremely difficult to prove that exposure to toxics caused the birth defects. Nevertheless, with respect to toxics, Rosa wants them to address the issue even if they don't have absolute proof:

I would want them to say if there are chemicals that can cause birth defects by smelling them, if they're in the water, whatever, I want them to say that to the community. I would want them to hold an informational meeting. It would have to come from the Health Department saying that these are possibilities- Once you know these things are possible, would you still want Laidlaw there?

In the interview, Rosa concluded that the Department is not in touch with the Buttonwillow community, and that it doesn't care:

The role of the Department in Buttonwillow has been zero....My thing is, they don't want people to know there are problems, like all the lead in homes, because the majority of the homes are owned by farmers in Buttonwillow. They're owned by businessmen who are going to complain to the Department. So if all these people in low-income housing don't know about it, they won't complain to anybody and they'll live there forever. Who cares? I just think it is another way of oppressing people.

SKRAP

In Stormy's opinion, the Department did the "very minimal" amount of work in the investigation of the cancer cluster, especially considering this was the worst childhood cancer cluster in the state. Soon after the cluster was discovered, the
Department backed out for financial reasons and the state and federal agencies took the
lead. Stormy questions the priorities of the County:

I'm disappointed in the County. I know that one or two or three of them would
show up at the meetings the state held and they'd come all duded up and sit and
listen and kind of make an appearance. But as far as I know they were always
playing poor. And then they go ahead and build that huge new building for the
Supervisors and the administrative offices with marble. And I feel that 7 dead
kids are a higher priority than black marbled bathrooms.

When asked if the Department is still involved with the Rosamond community,
Stormy replied that she was unsure: "there may be a few still skulking around."
She continued to discuss Dr. Jinadu: "He wants to be in touch with every day people but
wouldn't he want to come and look at these sites, go through the paper work and see how
this happened and figure out how to avoid it. To my knowledge I don't know what those
people in Bakersfield know."

Although the Rosamond investigation came to an end, parents still go to Stormy
in search of answers, explanations about what could have killed their children. Stormy
feels that these parents have a right to get these answers from their public health
officials: "I would pay for someone from the Department to take a tour. Maybe they could
speak to some of these parents because we have very haunted people here. I find it
unconscionable that we can't get a report, any interest shown, any compassion shown for
any of these families."

Recommendations

The following recommendations were compiled from comments made by both Rosa
and Stormy.

1) Develop and implement a policy/strategy to address toxics. This policy towards
toxics should officially recognize toxic facilities as a public health threat and
support pollution prevention and toxics use reduction.
2) Be a resource for grassroots groups who are seeking information on toxics and other environmental health related problems such as lead exposure.

3) Hold public meetings in the impacted communities to provide residents with the opportunity to ask questions and express their concerns regarding toxic facilities and other public health problems.

4) Become more active in the permitting process. When grassroots groups are attempting to stop the siting or expansion of toxic facilities, attend public hearings to provide information about potential health problems associated with exposure to toxics. Adopt a precautionary approach to toxics which recognizes that exposure to toxics represents a public health threat even if hard scientific data hasn't linked specific health problems with a specific facility.

5) Become more accessible to members of grassroots groups who are trying to promote illness prevention and toxics use reduction in their communities. Currently, members of these groups feel no connection with the Department and are unaware of the Department's role in their community. The Department should communicate with these groups to determine how the two parties can create and sustain effective working relations. Public health officials should visit the community, meet with community leaders, and take a tour of the toxic facilities.

6) Assign a person to deal specifically with toxic-related issues. The employee would be responsible for maintaining files containing information on the toxic facilities in each community. The files would keep records regarding: 1) the name and amount of all the chemicals at each site; 2) the name and quantity of chemicals being stored, treated, and emitted; 3) the regulatory record of each facility including information on violations, accidents, spills etc. The employee would also be responsible for keeping the Department updated on any proposals for siting a new toxic facility or expanding an existing facility. In addition, the employee would stay in direct contact with the state and federal agencies involved in the regulation of these facilities. The data collected about these facilities would be extremely useful if a cancer cluster or other health problems appeared.

7) Conduct follow-up investigations in communities that have suffered from cancer clusters, birth-defect clusters or other health problems that are suspected to be linked to exposure to toxic chemicals. This follow up work should include providing counseling services to the parents and families who are suffering from the loss of a family member or friend. These people often have questions that have not been answered and they could benefit from a meeting with public health officials.

Summary

Both Padres and SKRAP believe that the Department should be doing more to support the goals of toxics use reduction and pollution prevention. They reason that the Department is obligated to address this issue since its mission is to protect public health. The lack of absolute "scientific" proof should not be used as an excuse for non-
action. Padres and SKRAP believe the Department should play a more active role in their communities. Rosa feels that the Department's role has been "zero" in her community, while Stormy's experiences have left her with the impression that the Department doesn't have any compassion or concern for her community.

The testimony from Rosa and Stormy challenge the fundamental arguments made by the Department in the previous chapter. Is illness prevention really the Department's highest priority? If so, does the Department's toxics policy achieve this goal? Is the Department committed to its stated mission to "build and foster strong partnerships for health" with the communities it serves? If so, why are the Department's relationships with Padres and SKRAP so strained? Is there a chance that the Department and Padres can develop an effective working relationship? These questions are examined in more detail in the following chapters.
Chapter 5
The Department's Response

This chapter contains the Department's responses to the recommendations made by Padres and SKRAP. The Director of the Kern County Public Health Department, Dr. Jinadu, agreed to participate in a recorded phone interview in order to accurately present his opinions. There were a few times that additional questions were raised to clarify his position. These questions along with the recommendations appear in bold. The responses to these recommendations are direct quotes from Dr. Jinadu.

1) Develop and implement a policy/strategy to address toxics. This policy towards toxics should officially recognize toxic facilities as a public health threat and support pollution prevention and toxics use reduction.

The County has a strategy and policy towards toxics. However, it is not in the best interest, or it is prejudicial to assume that all toxics are quote unquote public health threats. Within standards and within acceptable measures the Department and the County will evaluate each facility and determine the potential of such toxics.

Do you see any barriers that would make it difficult for the Department to perform such duties?

No I don't see any barriers. But I also don't think it's appropriate to just give a carte blanche definition or request that every situation be declared a public health threat. That is very impractical and very prejudicial. It's also appropriate to make it clear that none of these recommendations are anything new. The County is doing everything along those lines. But at the same time, what is perceived as what should be done and what should actually be done may be two different things.

Padres and SKRAP want the Department to adopt a precautionary approach that recognizes toxics as a threat to public health. The main message in this recommendation is the need for the Department to develop a toxics policy that will focus on preventing tragedies like the one experienced by Rosamond's residents. Communities shouldn't have to suffer from cancer clusters and other serious illnesses to get attention from health
officials. Making efforts to clean up toxic contamination after the fact is not enough; Rosa and Stormy want the Department to address the long term goal of pollution prevention.

Dr. Jinadu’s response to this recommendation does not address the issue of pollution prevention and toxics use reduction. Instead, he is quick to imply that the Department’s current policy is adequate because the Department and County will evaluate each facility. He remains firmly committed to his argument that toxics are not a public health threat unless there is scientific evidence to prove a causal relationship. As a result, his statement, "within standards and within acceptable measures," means that facilities will not be evaluated unless there is proof they have caused a problem in the community.

When Dr. Jinadu argues that it would be impractical and prejudicial to "declare" all toxic facilities a public health threat, I suspect that he misunderstood Rosa’s and Stormy’s point. To "declare" and to "recognize" represent two very different actions; Rosa and Stormy want the Department’s actions and policies to reflect an understanding that these facilities are potentially dangerous to public health. They want the Department to learn from tragedies like the one experienced in Rosamond instead of continuing to assume that all toxics facilities are innocent until proven guilty.

While Rosa and Stormy have clearly expressed that the Department needs to change, Dr. Jinadu’s responses indicate that he is confident in the Department’s current approach to toxics. He gives no indication that change of any kind is necessary; in fact, he claims that the Department already addresses the needs defined by Rosa and Stormy: "It’s also appropriate to make it clear that none of these recommendations are anything new. The County is doing everything along those lines."

2) Be a resource for grassroots groups who are seeking information on toxics and other environmental health related problem such as lead exposure.

The Department as well as the County have always been a resource for grassroots groups. And we have provided information to anybody who needs information. And at
anytime they can call on us and as a matter of fact, if issues come up we are always the first to provide information to the community through news releases or any such materials to the media as well as to the community groups in specially called meetings.

**Would the groups have to come to the Department or call you or does the Department...**

If there is an issue, we are usually the first to alert the community. And based on that we call meetings and indicate that we need to provide information. Or some of our news releases, which often get picked up by the media, will also direct individuals and groups if there is any need for further information to the appropriate numbers.

**So, for the first two recommendations, you feel that the Department is already meeting those needs?**

We've always been doing both. We don't do what they want is a different thing. But providing objective information and an objective approach to issues, we've always done that.

Although Dr. Jinadu continues to assert that the Department has "always been a resource for grassroots groups," Rosa and Stormy strongly disagree. While Rosa has never considered the Department to be a resource, Stormy's primary reason for distrusting and disliking Dr. Jinadu is based on the fact that he did not provide "information to anybody who needs information."

His next claim — "If there is an issue, we are usually the first to alert the community" — misses the point that Rosa and Stormy are trying to make with respect to the importance of illness prevention through toxics use reduction; alerting the community to health problems after they have already affected the community is not good enough, especially when dealing with toxics. Stormy would be able to challenge his claim since the Rosamond cancer was discovered by accident.

In his last response to this recommendation he clearly states that he can't just do what Rosa and Stormy want him to do because he must make "objective" decisions. The line that he draws between his "scientific" approach versus their "emotional" demands is reflected in almost all of his comments. It is his way of justifying the Department's
approach to toxics without having to directly address the issue of illness prevention through toxics use reduction and pollution prevention.

3) **Hold public meetings in the impacted communities to provide residents with the opportunity to ask questions and express their concerns regarding toxic facilities and other public health problems.**

The Department has always done that when issues arise.

*If Buttonwillow residents wanted to ask questions about health hazards associated with toxics, would the Department be willing to hold a meeting?*

We did that in Buttonwillow very specifically if their memories serve them right. You know I was right in the middle of it along with state staff. We held meetings. We tended to questions. And that's always been the approach.¹

**Have you held other meetings or was that the only one?**

You don't hold meetings just for the sake of holding meetings.

**But if they had more questions?**

They should contact us and we would be glad to talk to them. We are not adverse to holding meetings. But at the same time I'm not going to schedule a meeting every month.

**So if they contacted you...**

We would be more than willing. The Department has always been available. We always put out news releases. This Department is very visible. But at the same time this Department is not just going to provide answers that people just want if they are not based on scientific facts or appropriate public health measures. The Department has to be objective. That's the main point. The Department has to do what the Department has to do. But at the same time we tend to the whole community and anybody in the community has access to this Department.

Dr. Jinadu's stated willingness to talk and meet with community members represents a potential opportunity for grassroots groups that they might want to consider pursuing. Stormy, for obvious reasons, would question the sincerity of Dr.

¹ The meeting Dr. Jinadu refers to was the one held by the State regarding the Birth defect study done by California Birth Defects Monitoring Program.
Jinadu's offer, while Rosa would be faced with the problem of gaining access to a meeting place.

Based on Rosa's and Stormy's experiences, it is not clear whether he would keep his word. Although Dr. Jinadu once again speaks with confidence about the accessibility of the Department, he still follows with the explanation: "But at the same time this Department is not just going to provide answers that people just want if they are not based on scientific facts or appropriate public health measures." While he claims that the Department is willing to meet with community, he also continues to draw the line which separates his "objective" approach from people who "just want" certain answers. His stubbornness about this issue suggests that he might not be very receptive to comments from the community, especially if there is talk about implementing a different approach to toxics.

4) Become more active in the permitting process. When grassroots groups are attempting to stop the siting or expansion of toxic facilities, attend public hearings to provide information about potential health problems associated with exposure to toxics. Adopt a precautionary approach to toxics which recognizes that exposure to toxics represents a public health threat even if hard scientific data hasn't linked specific health problems with a specific facility.

Once again the Department will have to make objective determinations and this recommendation is unacceptable because they are asking us to ignore specific facts just to do what they want. I can't do that. At the same time, the Department, public health departments, are advocates, not just for the poor, for the rich, to protect the community. So, facts that protect the community are what the Department will tend to but it is unacceptable and really illegal to just go in and say that you are going to take your own personal measures. So what the Department will do will be something that is objective.

Dr. Jinadu's interpretation of the recommendation — "they are asking us to ignore specific facts just to do what they want" — requires further examination because Rosa and Stormy could easily argue that they are asking him to do just the opposite. Instead of asking him to blindly "ignore specific facts just do what they want," they want him to recognize all of the facts, including the fact that data gaps exist, the fact that
standards are not always adequate, and the fact that regulations can and have been broken. Nothing in the recommendation suggests that he should base his approach on his own "personal measures." In fact, Rosa and Stormy simply want him to tell the whole story about toxics including the fact that many of these toxics are known carcinogens. This isn't information that Rosa and Stormy are inventing because they are overly emotional; it is "objective" information that they want him to communicate to decision-makers involved in the permitting process.

5) Become more accessible to members of grassroots groups who are trying to promote illness prevention and toxics use reduction in their communities. Currently, members of these groups feel no connection with the Department and are unaware of the Department's role in their community. The Department should communicate with these groups to determine how the two parties can create and sustain effective working relations. Public health officials should visit the community, meet with community leaders, and take a tour of the toxic facilities.

We've taken the tours of the facilities. We've met with them. Again, if there is any way to increase the level of understanding of the role of public health, we'd be glad to do that. We are not adverse to meeting with groups and we'd be glad to do that. Again, we don't have any list of what groups are out there but at the same time, once we know, and we know the need, we always try to meet the need. And we'd be glad to do that.

Have you taken a tour of the sites in Rosamond?

I've been everywhere. I've been to Rosamond, to McFarland...That's what the Department has always done. We have always been there. We've always visited the place even other places where there has been lead...We've been there. We've given information to the community. We've met with the residents. There is an approach, a policy which we take in any of these issues. Again, it's always been that people don't feel like we've done enough or done anything. But at the same time, just because someone wants us to say or come to a conclusion that favors them, that is something we cannot do. We have to be objective. The key word I want to emphasize is "objectivity."

Once again Dr. Jinadu strongly asserts that the Department has always been there for the communities. In addition, he claims that "if there is any way to increase the level of understanding of the role of public health, we'd be glad to do that." Rosa's and Stormy's previous comments clearly demonstrate that the "level of understanding" needs to be
increased; Rosa's lack of experience with the Department has left her with little knowledge of the Department's role in her community, while Stormy was willing to pay someone from the Department to take a tour of the facilities. Although Dr. Jinadu states that there is an approach the Department takes which includes meeting with community members and touring facilities, it appears that the Department's path rarely intersects with grassroots community groups. This is not surprising considering the Department has no list and no knowledge of the grassroots groups in these communities. Although the Department might visit the community and tour the facilities, it needs to make the effort to meet specifically with members of grassroots groups because they are most involved with issues of toxics in their communities.

6) Assign a person to deal specifically with toxic-related issues. The employee would be responsible for maintaining files containing information on the toxic facilities in each community. The files would keep records regarding: 1) the name and quantity of all the chemicals at each site; 2) the name and quantity of chemicals being stored, treated, and emitted; 3) the regulatory record of each facility including information on violations, accidents, spills etc. The employee would also be responsible for keeping the Department updated on any proposals for siting a new toxic facility or expanding an existing facility. In addition, the employee would stay in direct contact with the state and federal agencies involved in the regulation of these facilities. The data collected about these facilities would be extremely useful if a cancer cluster or other health problems appeared.

That is impractical. Within the budget realms you cannot have just one person doing things. In this day and age people do more with less. My resources cannot accommodate just assigning one person to one job. I have people doing ten different types of jobs.

Would it be feasible for a person to pick up some of these responsibilities?

We don't keep any specific data but there are places we can get it when we need to. So that's appropriate...CDC (Center for Disease Control) is a resource, the state is a resource. So, in other words, information is there. And if I have an issue in community "x" I can call toxics at the state level and say give me data on this. Information is right at every one's fingertips. To assign a person to do that is a resource we just don't have.
Stormy developed this recommendation because she wants the Department to be better prepared; she wants the Department to actively take steps to prevent another Rosamond tragedy. Dr. Jinadu's response indicates that he has faith in the current regulatory system and its ability to provide him with the appropriate information whenever it is needed: "Information is right at every one's fingertips." The Rosamond investigation clearly demonstrates that this is simply not true. Prior to the investigation, very little was known about these sites. Charles White, chief of the state's permitting unit explained that the Toxic Substances Control Department does not regularly inspect these sited because they are not licensed as hazardous waste generators: "Basically these facilities really came to our attention in the past year and a half or so...We basically have been trying to get a handle on whether they do produce hazardous wastes and trying to determine if they do comply with the law and regulations" The State's lack of knowledge about the Rosamond sites contradicts Dr. Jinadu's claim that he can get the appropriate data whenever needed. Stormy argues that this is the information the Department should have on file.

7) Conduct follow-up investigations in communities that have suffered from cancer clusters, birth-defect clusters or other health problems that are suspected to be linked to exposure to toxic chemicals. This follow-up work should include providing counseling services to the parents and families who are suffering from the loss of a family member or friend. These people often have questions that have not been answered and could benefit from a meeting with public health officials.

Again, when you spend 5 years investigating a cluster, how much follow up do you have? You cannot keep this open forever.

How about survivors? Do you do any follow up?

What kind of follow up? We don't do primary care. What kind of counseling are we going to give. That is something they can have with their own primary care provider. That's not a role, no public health department plays that role. Again, it's one thing to expect but at the same time let's be real. When you spend four years investigating Rosamond and McFarland, I don't know what follow up you need. At the same time, in Buttonwillow there is no link, and this assumes there is a link. I want to quickly dispel that there is no link. So what link are they talking about "when suspected to be
linked to toxic chemicals?" There is no link. So I think that needs to be reflected in the record.

When you say that there is no link, do you think that the scientific studies these days are capable of stating, with 100% certainty, that there is no link?

The key words are "these days" and "100%." Let's take that out of our dictionary. There is nothing in life that is 100%.

So, it is possible that there is still a link?

No. Again, we're coming from different angles. All I'm saying is that what you know today is what you know today and if you cannot prove anything, all right. But if you are waiting for 100%, life is not 100% so let's be real. O.K.?

Dr. Jinadu argues that it is not the Department's responsibility to offer counseling services because the Department is not a primary care provider. He also questions the need for follow-up work since the investigation lasted for 5 years.

Stormy's point is that parents who have suffered the loss of a child still have questions that haunt them; if health officials from the Department participated in such a long investigation, wouldn't they be more qualified than a private counselor or doctor to answer questions about the cancer cluster?

Dr. Jinadu points out that this recommendation assumes the health problems are linked to toxics; he is quick to have the record reflect that there is no link in Buttonwillow. Once again, his actions are dictated by the presence or absence of "scientific" evidence. When he is asked to consider the possibility that "science" may not be capable of proving such a link, he explains, "There is nothing in life that is 100%." This is just the point that Rosa and Stormy are trying to make; from their perspective, this understanding should convince health officials to take a precautionary approach when dealing with toxics-related health issues. Instead, Dr. Jinadu accepts the limitations of science; he is clearly satisfied with the Department's approach to toxics and sees no reason to change the status quo.
Summary

The major points that appear throughout the recommendations are the following:
1) The Department needs to adopt a precautionary approach to toxics that supports its stated mission to protect public health. This approach must be based on a commitment to illness prevention through toxics use reduction and other pollution prevention measures; 2) The Department needs to improve communication networks throughout the communities; most importantly, the Department should establish a connection with the grassroots groups so that ideas, information and resources can be exchanged.

When Dr. Jinadu responded to these recommendations, he explained with confidence that there is no need to change or even question the Department's current approach to toxics. Instead, he argues the following: 1) the Department has always been there for the communities; 2) the Department already has a toxics policy that is based on objectivity and the practice of science; and 3) the Department is sensitive to the needs of the community although it cannot simply provide them with the answers they want.

The following chapter examines the implications of the Department's toxics policy in order to answer the central research question: How does the Department's toxics policy affect Padres' struggle for environmental justice?
Chapter 6
Implications of the Department's Toxics Policy

The central research question remains, how does the Department's toxics policy affect Padres' struggle for environmental justice?

In the previous chapters, Dr. Jinadu argues that the Department bases its actions and decisions on a "scientific" approach to public health. This commitment to the practice of "science" is reflected in its toxics policy according to which toxics do not represent a health threat unless scientific evidence establishes a causal relationship. In other words, toxic substances are innocent until proven guilty.

Before examining the effects of the Department's toxics policy on Padres, this chapter provides background information on the current standards and regulations governing hazardous waste management. Although there are many ways to evaluate a regulatory system — Do the regulations establish appropriate standards? Are they enforceable? Are there loopholes that people can exploit? — this section evaluates the standards and regulations by examining the scientific practice of risk assessment upon which they are based. It is important to understand the risk assessment process because it directly shapes the Department's toxics policy.

Following the background discussion, this final chapter argues that the Department's toxics policy directly undermines Padres' efforts to achieve environmental justice for the following two reasons: 1) the policy makes the Department less accessible to grassroots community groups as a potential source of information and support; and 2) the policy conflicts directly with the goal of illness prevention.
Background

Dr. Jinadu believes that toxic facilities are not inherently hazardous because federal and state standards have been developed to protect public health; he reasons: "That's why we live by standards." When asked whether towns like Rosamond should be burdened with another toxic facility, he answered: "Why not...because we use the word hazardous or the word toxic there are standards already set in place...based on the knowledge of that particular material."¹

The National Research Council (NRC)² does not share Dr. Jinadu's confidence in the current federal and state standards; in a report investigating the effect of hazardous waste on public health, the NRC reached the following conclusion: "The legislative mandates, policies, and programs of the federal and state agencies that currently manage hazardous-waste sites are inadequate to the task of protecting public health."³ The NRC found this to be true even in the management of Superfund sites; some of the major conclusions from this part of the investigation stated the following: 1) public health effects of exposure to hazardous waste sites have not been adequately assessed because remediation is the top priority rather than the assessment of public health risks; ⁴ 2) data on exposures and health effects are inadequate because during the past ten years less than one percent of the estimated 4.2 billion [dollars] spent to evaluate Superfund sites

¹ Dr. Jinadu, telephone interview by author, 17 February 1995.
² Members of the National Research Council are drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine.
⁴ Ibid., 6-7. "Analyses of the limited federal and state regulatory support for environmental epidemiology reveal, however, that the intent of Congress in creating Superfund has not been realized, in that the public health consequences of exposures to substances from hazardous-waste sites have not been adequately assessed...The Congressional Office of Technology Assessment (OTA) notes that efforts to assess candidate NPL sites typically relegate public health concerns to a minor role; the process as a whole is directed at remediation, rather that at the assessment of public health risks."
were used to examine health risks;⁵ and 3) the health of nearby residents could be threatened because there is no system of managing hazardous sites that incorporates the early assessment of health risks.⁶

The NRC report presents several shortcomings in our government's approach to the management of hazardous waste. The following section argues that the scientific process upon which the regulations and standards are based — risk assessment — is a weakness that contributes to the fact that the regulations and standards governing hazardous waste do not adequately protect public health.

**Risk Assessment**

The EPA and state agencies employ a scientific process called risk assessment to manage the production, use, treatment, storage and disposal of toxic chemicals. The human health risk assessment (HRA) process typically includes the following steps:

1) **hazard identification** - determination of whether a pollutant adversely affects human health; 2) **dose-response assessment** - determination of the relationship between the level of exposure and the probability of occurrence of adverse effects; 3) **exposure assessment** - determination of the extent of exposure; and 4) **risk**

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⁵ Ibid., 257. "During the past ten years, less than one percent of the estimated 4.2 billion spent each year on hazardous waste sites in the U.S. has been used to evaluate health risks at Superfund sites. As a result, existing data on exposures and health effects are inadequate either to support decisions on the management of hazardous waste sites or to allow the conduct of epidemiologic investigations of the health impact of these sites."

⁶ Ibid., 258. "At NPL sites where potentially critical exposures are detected, there is no regular application of an adequate system of early assessment of the health risks involved or the need for interim action to protect the health of exposed populations. The failure to construct a system for managing hazardous waste sites that incorporates the early assessment of health risk means that the health of nearby residents could be imperiled. Moreover the conditions for development of environmental epidemiology are adverse and impede the development of useful scientific investigations of many important questions."
characterization - description of the nature and often the magnitude of risk, including the accompanying uncertainty.\(^7\)

In addition to health risk assessments, there is another step to the risk assessment process called "quantitative risk assessment" (QRA). QRA attempts to provide a more specific calculation of the threat of toxics to human health by assigning a number to measure the damage caused by exposure to certain chemicals or sources of pollution. The calculations are used to determine the number of additional cases of cancer that would result when a number of people are exposed to a certain concentration of a single pollutant. QRA involves the following steps: 1) Evaluating whether a specific substance or substances increase the incidence of a disease; 2) Estimating the types and amounts of pollutants released; 3) Estimating what concentration of pollutants may be transported to the point of exposure; and 4) Estimating what extra exposure risk to that concentration might exist (e.g., one extra cause of cancer in a million people exposed).\(^8\)

QRA is employed to answer many difficult public and environmental health questions. What types and quantities of toxic chemicals can be discharged into the soil, water or air? What are "acceptable" human exposure levels? While decision-makers characterize QRA as providing scientific answers to these questions, it is important to understand the limitations of this process. The following section analyzes the various weaknesses of QRA.

Weaknesses of Quantitative Risk Assessment

The major weakness of QRA is that a significant amount of uncertainty is present in the majority of its measurements and calculations. As a result, many important

\(^7\) United States Environmental Protection Agency (EPA), Risk Assessment, 1992.

decisions are based on assumptions and estimations. Some of the sources of this uncertainty include:

- **Data Gaps** -- The majority of toxic chemicals have not been tested to determine their effects on humans and the environment; the resulting lack of data — "data gaps" — limits our understanding of the possible hazards associated with most chemicals currently in use. In addition, more than 500 new chemicals are introduced into commercial use each year. The United States General Accounting Office (GAO) evaluated EPA's chemical testing program and confirmed that the data gaps are extensive.

- **Single dose-response testing** -- Scientists use QRA to evaluate a single chemical's effect on human health and the environment; QRA does not take into account the fact that people are exposed to more than one chemical at any given time. By ignoring the reality of multiple exposures, QRA does not protect the public from the cumulative effects of toxic chemicals; although test results may conclude that a person can be exposed to a certain amount of chemical "x" for a specified length of time without being harmed, testing is not done to determine the effects of an exposure to chemical "x" in addition to chemicals "a" through "z." QRA also ignores the possibility that multiple exposures may lead to synergistic effects; synergistic effects occur when two or more chemicals interact to produce an effect that is more hazardous than the sum of their individual effects. Very few chemicals have been tested for their potential to interact with other chemicals.

- **Sensitive populations** -- QRA assumes people are equally sensitive to exposure to toxics. This is an oversimplified approach because there are many individual differences that can increase the risk, including, age, sex, inherited traits, diet, pregnancy, and overall state of health. In general, children are at a much greater risk than adults.

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10 United States General Accounting Office. Toxic Substances: EPA's Chemical Testing Program Has Not Resolved Safety Concerns (Washington D.C.: Government Printing Office, GAO/ RCED - 91-136, 1991), 2. "EPA has made little progress in developing information on the safety of the thousands of chemicals that affect our daily lives and has not taken action to regulate, or warn the public about, chemicals found to be harmful. Since TSCA (Toxic Substances Control Act) was enacted in 1976, EPA has received health and environmental results on only 22 chemicals and assessed the results for 13 of these chemicals. Under the Toxic Substances Control Act of 1976 the Environmental Protection Agency has the authority to require industry to test potentially harmful chemicals. Depending on the results, the EPA can regulate or ban the use of chemicals found to be hazardous to human health or the environment."


12 Ibid.
• **Unregulated substances** -- Non-conventional pollutants (NCPs) refer to the unidentified and unregulated chemicals in our environment. Since we have no knowledge of these pollutants, they add to the uncertainty in any calculation regarding the potential threat of toxics.\(^{13}\)

• **Extrapolation from models** -- Since scientists are not allowed to experiment directly on humans, the majority of data used in QRA calculations is gathered from experiments on lab animals. As a result, models are needed to extrapolate the chemical's effect on lab animals into the probable effect on humans. Interpreting data from these models contributes to the uncertainty of QRA results for two main reasons. First, chemicals do not affect all species to the same degree; some species are more sensitive than others depending on the chemical and the dose. Variation in chemical sensitivity exists not only between humans and lab animals, but also among the different species of lab animals used in the experiments. Second, in order to keep costs at a minimum, many of the experiments work with doses that are much higher than those encountered in the human environment. A variety of models are used to extrapolate probable low-dose effects from the high-dose bioassays. Although most models yield similar results when examining high-dose effects, models using low-doses can vary by three or four orders of magnitude.\(^{14}\)

The significant weaknesses of risk assessment provide valid reasons to question the continued use of this scientific process. Should we trust a process based on incomplete data, estimates, and assumptions to answer important questions that directly and significantly impact the health of humans, non-human species and the environment? It is crucial to understand that the Department advocates current standards and regulations governing the management of toxics within the context of profound uncertainty.

The remainder of this chapter argues that the Department's toxics policy directly undermines Padres' efforts to achieve environmental justice for the following reasons:

1) the policy makes the Department less accessible to Padres as a potential source of

\(^{13}\) NRC, *Environmental Epidemiology*, 10. "There is evidence that NCPs are a potentially important source of hazardous exposure. Some preliminary toxicological studies suggest that NCPs have important biological properties, environmental persistence, and mobility...In the broadest sense these unidentified, unregulated substances represent a risk of unknown magnitude. The absence of evidence of their risk is solely the result of the failure to conduct research; it should not be misconstrued as demonstrating that NCPs and "inert" pesticides components are without risk."

information and support; and 2) the policy conflicts directly with the goals of illness prevention.

**Accessibility**

Local health departments are often the primary or only source of health care and information in low-income and rural communities. In order to effectively serve the needs of these communities, local health departments must be culturally and economically accessible to the surrounding communities. The Department's mission statement addresses this goal of accessibility by directing the Department to "maintain culturally appropriate education and public health promotion efforts" and "improve the quality and cultural competency of the Department's operations, services and programs." However, it is not enough just to make services available to the public; in order to achieve the goal of accessibility, the Department must actively reach out to the communities to stay in touch with their needs, concerns and questions. The following mandate of the Department's mission identifies the importance of outreach by establishing that it is the Department's responsibility to "build and foster strong partnerships for health with local public/private health and social service agencies, community based organizations, consumers, educational institutions and other interested community groups."\(^{15}\)

Did the Department "build and foster" a strong partnership with Padres? According to Rosa, the "role of the Department in Buttonwillow has been zero."\(^{16}\) Considering the fact that the Department has never heard of Padres, it is obvious that the Department has not formed a strong partnership with this group. Instead, the Department's involvement with the Buttonwillow community has had the opposite effect; while Padres worked to educate the community about the potential health hazards associated with Laidlaw's dump, Dr. Jinadu's announcement that the dump did not cause

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\(^{15}\) Kern County Public Health Department, "Mission Statement."

\(^{16}\) Rosa-Solorio-Garcia, personal interview by author, 10 November 1994.
the birth defects sent a message to the community that directly challenged the validity of Padres' position. Many chose to believe the Department, and as a result, Padres lost credibility in its community.

The Department has also not taken steps to "build and foster" a strong partnership with SKRAP. When Dr. Jinadu failed to send Stormy the risk assessment document she requested, his lack of cooperation and confrontational attitude convinced her that SKRAP would not benefit from a partnership with the Department: "Because of that experience with Jinadu, I certainly wouldn't have gone to Bakersfield to enlist their aid because I felt like they were totally out of it." Stormy also has the impression that the Department doesn't care about her community: "I don't think he's ever been up here to have a tour of these sites. I don't think he cares. And I don't think these people want to be out in the dirt. I think they want to be in their offices. They don't consider our feelings."\(^\text{17}\)

It is important to note that Dr. Jinadu has taken a tour of the sites. The fact that Stormy was unaware of his visit to her community provides testimony to the lack of communication and partnership between the Department and SKRAP, especially considering the fact that Stormy has given many tours of the toxic facilities, including tours to state health officials; she went so far as to state: "I would pay for someone from the Department to take a tour. Maybe they could speak to some of these parents because we have very haunted people here. I find it unconscionable that we can't get a report, any interest shown, any compassion shown for any of these families."\(^\text{18}\)

The condition of the Department's relationships with Padres and SKRAP strongly suggests that the Department has not effectively translated its written commitment to the goal of accessibility into practice. The fact that the Department does not keep a record of the grassroots community groups in Kern County also leads one to suspect that

\(^\text{17}\) Stormy Williams, telephone interview by author, 4 January 1995.
\(^\text{18}\) Ibid.
the Department's relationships with Padres and SKRAP are not exceptions to the rule; there is a good chance that the Department is unaware of the existence of a significant number of community groups.

Perhaps it is unrealistic to expect the Department to have "strong partnerships for health" with every community group in Kern County. However, SKRAP's experiences with the Department reveal that the Department often fails to communicate with these groups, and without this most basic connection, the possibility of developing partnerships is slim at best. And if the Department gives community leaders the impression that it is unwilling to offer information and assistance, they, like Stormy, will become unwilling to work with the Department.

**Healthy Cities Project**

Although it is clear that the Department has failed to develop partnerships with Padres and SKRAP, one should not conclude that the Department intentionally avoids working with community groups. Dr. Jinadu claims that the "Department as well as the County have always been a resource for grassroots groups," and "if there is any way to increase the level of understanding of the role of public health, we'd be glad to do that." The Department is currently involved in a project — the Healthy Cities Project — which supports Dr. Jinadu's claim that the Department is committed to working with community groups.

The international "Healthy Cities Project" emerged in 1986 as a joint initiative of the Health Promotion and Environmental Health programs in the European Regional Office of the World Health Organization (WHO). The Project was intended to address the long term goal of "Health for All by the year 2000" in which all people would benefit from "a level of health which allows them to lead socially and economically productive lives." The Healthy Cities model focuses on "process" for community improvement.
Resident participation in determining health needs as well as devising and implementing solutions is the cornerstone of the Healthy Cities approach. The public and private sectors of the community are also vital partners in this process." In general, the model "conceptualizes community health in its broadest dense, to include the physical environment, economic conditions, and the social climate within the city."\(^{19}\)

The Project has attracted participants from all over the world including 35 European cities; many of the European cities are national networks for their countries, and as a result, hundreds of cities world wide are involved. In addition, there are national networks in the United States, Canada and Australia.\(^{20}\)

The California Department of Health Services is the first and only state health agency which funds a Healthy Cities Project. The California Healthy Cities Project is managed by the Western Consortium for Public Health, a non-profit independent organization which represents the Schools of Public Health and Extension Divisions at the University of California, Berkeley and Los Angeles. In order to become a California healthy city, the following requirements must be met: "1) passage of a city resolution that endorses participation in the project and reflects commitment to the healthy cities concept; 2) identification and recruitment of local steering committee members representing a broad cross section of the community; and 3) submission of a project description and a one-year work plan."\(^{21}\)

The California Healthy Cities Project brochure explains that a "high priority of many healthy cities initiatives is the empowerment of residents who — for reasons of

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\(^{19}\) Western Consortium for Public Health, *California Healthy Cities Project* (Sacramento, CA, 1992).

\(^{20}\) In the United States, the National Healthy Communities Initiative supports the Healthy Cities Project by operating a clearinghouse for information; providing advice and resources to start local and statewide projects; organizing national and regional conferences; and publishing newsletters. The National Healthy Communities Initiative is jointly run by the National Civic League, based in Denver, Colorado and the United States Public Health Service.

poverty, low levels of education or English language skills — may previously have lacked the knowledge, skills, and opportunity to improve their own health."22 A brief description of a few of the programs is included to provide a better understanding of some of the healthy cities' goals and accomplishments:

• Monterey Park - This city initiated a program called LAMP (Literacy for all Monterey Park) to serve its population which is 65% Asian and 35% Latino. The program works with 300 functionally illiterate adults and people needing tutoring in English as a Second Language. The program is run by a staff of approximately 100 volunteers.

• Escondido - La Vida Buena Coalition in Escondido received a three year grant from the California Department of Health Services to work on the development and implementation of culturally appropriate health promotion programs to address the major diseases affecting the city's Latino population. The Coalition conducted a needs assessment and a survey of 305 Latino residents, and developed programs to increase physical activity and promote nutritional education.

• Rohnert Park - There were two main projects initiated in this city. The first was the passage of a 100% smoke-free restaurant ordinance; the "Tobacco-Free Business Project" received an $150,000 grant which was used to provide 500 local businesses with free educational materials, self-help guides, assistance in developing worksite policies, and smoking cessation classes. The second project was a survey of over 120 individuals which asked the people to express their health concerns and needs in addition to any barriers that might stop them from using the services. Community members formed an advisory committee and California State University, Sonoma provided technical assistance. The survey defined the following needs: a supervised activity center for youth, a coordination of substance abuse education, treatment and prevention programs, and a multi-service center to provide one-stop access for health and human services.

The Kern County Health Department has made a commitment to support cities that want to participate in the Healthy Cities Project: "The Department will provide technical assistance to communities to form coalitions, assess community needs, determine project goals and plans, design a marketing or media plan, develop program materials, plan program events, develop public policy, or in any way that is needed."23

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22 Western Consortium for Public Health, California Healthy Cities Project (Sacramento, CA, 1992).
23 Department's literature on Healthy Cities Project. Photocopied.
The Project directly addresses the goal of accessibility. The Department's involvement demonstrates that it does work with community groups in an attempt to develop "strong partnerships for health." The question remains, why has the Department failed to achieve the goal of accessibility in the case of Padres and SKRAP? This question can be answered if one revisits the Department's mission statement. The mission directs the Department to "build and foster strong partnerships for health;" it is clear that the Department needs to actively pursue connections with communities.

Although Dr. Jinadu states that the Department is "more than willing" to work with community groups, a distinction needs to be made between actively initiating partnerships, versus passively being "willing" to work with community groups. As Rosa's and Stormy's comments have demonstrated, the Department is not initiating contact with grassroots groups. As a result, the Department's passive approach places the responsibility of initiating a relationship on grassroots groups like Padres.

There are several reasons why it is difficult for groups like Padres to initiate a relationship with the Department. First, grassroots community groups often exist on very few resources including time and money. During her interview, Rosa testified that limited resources directly shape Padres' perspective and approach to problem-solving: "...I think the way we do things, we only react to what happens. We don't have long term goals because we are all full-time workers." Rosa explained that she rarely has an opportunity to make phone calls much less initiate a relationship. Second, language and cultural barriers can make members of grassroots groups feel uncomfortable initiating relationships with people holding positions of power. Rosa explained that her culture teaches women not to question anybody or anything. The final reason is that many residents are not familiar with the Department's mission, programs and services because the Department has played such a limited role in Buttonwillow; as a result, it is unlikely that residents would think of turning to the Department as a potential source of
assistance or information. For example, neither Padres nor SKRAP is aware that the Department participates in the "Healthy Cities Project."

Although Rosa identified reasons why it would be difficult for Padres to initiate a relationship with the Department, she explained that a relationship would be beneficial:

Definitely. For Latinos, if it is information about their health or about their children, especially their children, they are going to go. The majority of the people involved in this are involved because they want something better for their children. There’s nothing more important than their children. Latino families in Buttonwillow don’t have money. They don’t have luxuries. The most important thing in their lives are their kids.

Although the Department claims it is willing to work with community groups, and although Padres believes that a relationship with the Department would be beneficial, a partnership has not developed because neither the Department nor Padres has initiated contact. Instead, they function in isolation without sharing ideas, concerns, or strategies. How does the Department's toxics policy contribute to the dynamic of this relationship?

Department's Toxics Policy

The Department's toxics policy intensifies this dynamic because it magnifies the polarization between "experts" such as the Department, and "non-experts" like Padres. As "experts," the Department practices a scientific approach to public health that focuses on gathering and interpreting statistically significant numbers and "objective" data. As "experts" they use their scientific findings to define what qualifies as a public health threat. As "experts" they design and implement public health policies. However, as "experts" they perform these scientific tasks in isolation, and as long as the Department remains isolated from the communities it serves, the Department will fail to achieve the goal of accessibility.
The Department's policy intensifies the isolation, magnifies the polarization, and makes the Department less accessible to grassroots community groups like Padres because it promotes the continued use of a "scientific," risk assessment-based, decision-making arena that is guarded by very rigid borders; while these borders allow "expert" people, perspectives, and problem-solving strategies to enter the arena, "non-experts" and their ideas are excluded and devalued. The language spoken within this arena is highly technical; it was invented by "experts," for "experts." The dialogue revolves around mathematical models, statistically significant numbers, and scientific analysis. This exclusive arena makes it extremely difficult for "non-experts" to participate in the decision-making process:

EPA has also effectively cut out public participation by reducing the risk discussion to a technical calculation which requires technical expertise to do the calculations and to argue over the basic assumption in the risk assessment. Furthermore the public is put on the defensive by seeming to oppose good, "state-of-the-art" science.24

Although this exclusive, "scientific" arena is surrounded by very rigid borders, the growth of the grassroots environmental justice movement reflects the fact that an increasing number of "non-experts" are exercising their right to participate in the decision-making process. Once inside this arena, however, "non-experts" are faced with the daunting challenge of affecting an approach to public health even more rigid than the borders created to defend it. This approach dictates that there is a right way and a wrong way to practice public health; while the "expert," "scientific" approach is deemed valid, any other approach is devalued.

The Department's toxics policy promotes this inflexible approach to public health; it draws a solid line between "experts" and "non-experts," and at the same time predetermines that the "scientific" approach is the only valid and correct approach to public health. Dr. Jinadu believes that the Department makes sound, "objective" public

health decisions based on "science," while "non-experts," tend to "conjecture," "jump to conclusions," or make recommendations based on an "emotional high." Opinions and recommendations from the "non-expert" public, including Padres, are automatically devalued because they do not use the same technical scientific language, they are not based on mathematical models, and they do not have statistically significant data to prove with certainty that toxics caused the health problems in their community.

A review of Dr. Jinadu's response to the following recommendation made by Padres and SKRAP provides insight into the Department's opinions of the "non-expert" approach to public health:

Become more active in the permitting process. When grassroots groups are attempting to stop the siting or expansion of toxic facilities, attend public hearings to provide information about potential health problems associated with exposure to toxics. Adopt a precautionary approach to toxics which recognizes that exposure to toxics represents a public health threat even if hard scientific data hasn't linked specific health problems with a specific facility.

Once again the Department will have to make objective determinations and this recommendation is unacceptable because they are asking us to ignore specific facts just to do what they want. I can't do that. At the same time, the Department, public health departments, are advocates, not just for the poor, for the rich, to protect the community. So, facts that protect the community are what the Department will tend to but it is unacceptable and really illegal to just go in and say that you are going to take your own personal measures. So what the Department will do will be something that is objective.

Dr. Jinadu argues that this recommendation is "unacceptable" because it would require the Department to act in a way that is not objective: "they are asking us to ignore specific facts just to do what they want...it is unacceptable and really illegal to just go in and say that you are going to take your own personal measures." The Department's toxics policy and its attitude toward the "non-expert" approach to public health allow it to dismiss the recommendation without carefully evaluating its validity. Is Dr. Jinadu's interpretation of this recommendation accurate? Are Padres and SKRAP really asking the Department to "ignore specific facts just to do what they want?"
Instead of asking the Department to ignore facts, it appears entirely likely that Padres and SKRAP are advocating that the Department consider all of the facts: it is a fact that data gaps exist; it is a fact that the risk assessment process is riddled with uncertainty; it is a fact that standards are not always adequate; and it is a fact that regulations have been and will continue to be broken.

Rosa explained that she wants the Department to inform her community about the potential health hazards associated with exposure to toxics:

I would want them to say, if there are chemicals that can cause birth defects by smelling them, if there in the water, whatever, I want them to say that to the community. I would want them to hold an informational meeting. It would have to come from the Health Department saying that these are possibilities- Once you know these things are possible, would you still want Laidlaw there?25

Although Dr. Jinadu argues that "non-experts" "jump to conclusions," "conjecture," and make recommendations on an "emotional high," Padres' concern that a potential link exists between exposure to toxics and birth defects is legitimate; in fact, there is "objective," "scientific" data that support this position:

There is abundant scientific evidence that birth defects in laboratory animals and humans have occurred as a result of exposure to four classes of pollutants: radiation, pesticides, toxic metals (including lead, mercury, cadmium), solvents and dioxin-like chemicals including PCBs. Because municipal landfills and toxic waste dumps are laced with pesticides, toxic metals, solvents, dioxin-like compounds, and sometimes even radio-active materials, at least seven studies have now reported finding unusually high numbers of birth defects in children born to parents residing near dumps.26

Padres and SKRAP want the Department to consider these facts when developing and implementing public health policies regarding toxics. They also want the Department to share this information with the public and with decision-makers. Their recommendation is consistent with the Department's stated mission to conduct public health education and outreach. However, the Department's toxics policy and its emphasis

26 Environmental Research Foundation, "Birth Defects."
on scientific certainty does not allow the Department to practice this approach to public health unless there is scientific proof that a causal relationship exists.

This demand for "scientific" certainty or proof has intensified the isolation and magnified the polarization between the Department and the communities it is mandated to serve:

These different conceptions of risk inevitably lead to misunderstandings and distrust. Many scientists and regulators are contemptuous of public perceptions of risk and readily characterize public perceptions as being wholly out of touch with reality.\textsuperscript{27}

The Department's policy magnifies the polarization between "experts" and "non-experts" and, as a result, the Department is failing to achieve the goal of accessibility. This conflicts directly with the mission and responsibility of local health officials. By not being accessible, the Department is not in touch with community concerns and needs. In addition to the fact that the Department's toxics policy makes it less accessible to grassroots groups like Padres, it also hinders Padres struggle for environmental justice because it directly conflicts with the goal of illness prevention.

\section*{Illness Prevention}

In the broadest sense, the Department's mission is to protect public health. The Director of the Department's Division of Health Promotion and Public Information, Dr. Manzoor Massey, describes the mission in further detail: "Public health means prevention and that has to be the bottom line in all of our operations. Otherwise, we're in the wrong business." He continues to explain that illness prevention is the

Department's top priority: "Absolutely. No doubt about it. Without prevention you are only giving lip service."28

Although the Department's commitment to illness prevention is clearly expressed in its mission statement, it is not reflected in the Department's toxics policy. The Department's toxics policy does not promote illness prevention for two main reasons: 1) the Department does not recognize a situation as a public health threat unless there is scientific evidence that proves a causal relationship; the Department's demand for scientific certainty guarantees that people must be harmed before any action is taken; and 2) the Department's toxics policy supports the practice of pollution control instead of toxics use reduction. Since the Department's policy does not promote illness prevention, it is not consistent with its overall mission to protect public health.

"Scientific Certainty"

Dr. Jinadu explained throughout his interviews that the Department must have scientific certainty or proof before taking action: "If any situation poses a threat, the Department will be there - if there is proof, if there is a connection ... Is there any scientific evidence that there is any more danger just because its toxic (or is it ) that we all just don't want it?... Just because something is labeled "toxic" doesn't mean it is hazardous to public health"29 (emphasis added).

The Department remains committed to this approach even though it is incredibly difficult, if not impossible, to find the cause of illnesses suspected to be linked with toxics. This was clearly demonstrated in the investigation of Rosamond's childhood cancer cluster. In a report that examined public health and hazardous wastes, the National Research Council reached the same conclusion: "The world of epidemiology, like that of any human science, seldom permits the elegant inferences to be drawn about

29 Dr. Jinadu, telephone interview by author, 17 February 1995.
causation. The object domain of epidemiology consists of numerous uncontrollable aspects, with considerable variations.\textsuperscript{30}

Identifying the causes of chronic illnesses like cancer and birth defects is exceptionally challenging. Chronic illnesses often have a long latency period which means that there is a delay between the beginning of an exposure and the noticeable symptoms of the illness. As a result, it could take weeks, months, or years for the illness to be recognized; this latency period makes it very difficult and often impossible to link the illness with a specific chemical, a specific exposure level and a specific time.\textsuperscript{31}

Even though public health officials recognize the difficulty in establishing a causal relationship, the Department still bases its decisions on the presence or absence of scientific proof. This perspective is directly opposed to the goal of illness prevention because it guarantees that people will be harmed before the Department even initiates an investigation. A weekly newsletter published by the Environmental Research Foundation discusses the implications of this approach on the rate of birth defects: "A society that demands scientific certainty before it will restrict the use of suspected teratogens guarantees that the rate of birth defects will continue rising. Scientific certainty about anything involving humans, is, and will remain, elusive and rare."\textsuperscript{32}

\textbf{Pollution Control versus Toxics Use Reduction}

Pollution control and toxics use reduction (TUR) are two competing hazardous waste management strategies. While pollution control techniques manage pollutants after they have been discharged into the environment, TUR techniques prevent pollution by

\textsuperscript{30} NRC, \textit{Environmental Epidemiology}, 4.
\textsuperscript{31} Hazard Evaluation System & Information Services (HESIS), \textit{Understanding Toxic Substances}.
\textsuperscript{32} Environmental Research Foundation, "Birth Defects."
eliminating or reducing the volume and toxicity of the chemicals used in the production process.

This section begins with a background discussion to further introduce and define these two strategies. TUR will then be examined in more detail to demonstrate why this approach more effectively protects public health. Finally, this section briefly reviews the political tension that surrounds the toxics debate to better understand why the Department does not promote toxics use reduction.

Background

In 1976, the EPA issued a policy statement to define the government's approach to the management of hazardous waste; reducing waste at the source was established as the highest priority. During the 1980's it became clear that this commitment to waste reduction was not being translated into practice. Government spending during this time allocated approximately 16 billion dollars per year to all pollution programs, however, the U.S. Congressional Office of Technology Assessment (OTA) reported that in 1984, only 4 million dollars, less than 1% of the funds, were spent on waste reduction programs. As a result, the generation of hazardous waste continued to steadily increase; while the EPA estimated that the United States produced approximately 1 billion pounds of hazardous waste per year at the end of WWII, more than 22 billion pounds were discharged in 1987.

Although waste reduction was defined as the preferred strategy at the policy level, in practice, a regulatory-based system, geared towards pollution control,

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dominated the government's approach to hazardous waste management. Pollution control is described as an "end-of-the-pipe" approach because its objective is to manage pollution after it has been discharged into the environment. For example, ash from an incinerator ends up buried in a landfill. This approach does not result in a reduction of waste because pollution control techniques merely transfer pollutants from one medium to another.36

In the mid 1980's pollution control strategies came under attack. There was an increasing number of leaking landfills that contaminated ground water, and the costs associated with the treatment and disposal of hazardous waste were rising. Grassroots activists and others involved in the toxics movement demanded that the government shift its policies in support of waste reduction. Unlike pollution control, the goal of waste reduction is to reduce the volume and toxicity of hazardous waste before it is discharged. This approach is also referred to as "source reduction."

In 1984 Congress attempted to re-establish the government's commitment to waste reduction by passing the "Hazardous and Solid Waste Amendments" to the Resource Conservation and Recovery Act: "The Congress hereby declares it to be the national policy of the United States that, whenever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible."37 However, once again, policy-level commitment did not translate into effective waste reduction practices.

In 1986 the OTA released an influential report — "Serious Reduction of Hazardous Waste: For Pollution Prevention and Industrial Efficiency" — that advocated the need for a new approach to hazardous waste management.38 This report argued that


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pollution control techniques, those that focus on the regulation of the discharge, treatment and disposal of hazardous waste, should be replaced with "pollution prevention" techniques, those that focus on the reduction and elimination of the generation of hazardous waste. OTA advocated pollution prevention for the following reasons: 1) pollution prevention benefits government because less waste entering the environment reduces the risk of mismanagement and lowers the cost of environmental treatment and remediation; 2) pollution prevention benefits companies because it lowers the costs associated with waste treatment, and fewer raw materials are needed because they can be recycled and reused in production; and 3) pollution prevention benefits everyone because it slows the depletion of natural resources.  

While many in the toxics movement have fought hard to establish waste reduction as the top priority, there is a growing movement of activists who believe that the goals of pollution prevention can most effectively be addressed by reducing the volume and toxicity of the chemicals used in production processes. This strategy — Toxics Use Reduction (TUR) — recognizes that waste is not the only form of toxic chemicals that needs to be reduced or eliminated: "The objective of toxics use reduction is the reduction or elimination of toxic chemicals in production whether the chemicals appear as waste, by-products, intermediaries, feed-stocks, or constituents of finished consumer products."  

An important goal of the TUR and pollution prevention management strategy is to make sure that toxics-related health and environmental hazards are not transferred from one medium to another or from one population group to another. This objective is clearly defined in one of the leading state-level toxics use reduction bills; the Massachusetts Toxics Use Reduction Act of 1989 defines TUR as "in-plant changes in production processes of raw materials that reduce, avoid, or eliminate the use of toxic

40 Ibid., 46.
substances or generation of hazardous by-products per unit of production so as to reduce risks to the health of workers, consumers, or the environment without shifting risks between workers, consumers or parts of the environment."^41

**TUR Techniques**

The Massachusetts Toxics Use Reduction Act (TURA) defined the following TUR techniques to help industry translate the concept of TUR into technologies and practices that effectively reduce the use of toxic chemicals^42:

- **In-process recycling** - reusing or recycling a product within a production process;
- **operations and maintenance** - "good-housekeeping" - handling chemicals with greater efficiency without changing the production process. Examples include: employee training, management initiatives, spill and leak prevention, and material-handling improvement;
- **production unit redesign or modification** - changing or redesigning the production unit to one that requires fewer or no toxic inputs;
- **production unit modernization** - upgrading or replacing existing production unit equipment;
- **input substitution** - replacing the chemical(s) of concern with a non-toxic or less toxic alternative;^43 and
- **product reformulation** - redesigning a product to create a product that has less or none of the toxic chemicals contained in the original. Example: manufacturing water based inks instead of organic solvent-based inks.

The Office of Technology Assessment reviewed these various techniques and found that the most effective techniques are employed the least. The most effective techniques

^42 Ibid., 27-30.
^43 Input substitution can be problematic because the "less" toxic chemical may be more hazardous in other ways. One must carefully study the replacement chemical to understand its potential impacts on workers, the public and the environment. There is also the chance that a chemical may be considered less toxic because it has not yet been thoroughly studied and labeled "toxic."
are input substitution and product reformulation because they have the greatest potential to eliminate the use of toxics, however, the most frequently used techniques are recycling and operations and management (O&M) because they are usually easier and cheaper to implement.

Differences Between TUR and Pollution Control

There are several fundamental differences between pollution control and TUR. When one reviews these differences it becomes clear that TUR techniques more effectively achieve the goals of pollution prevention and illness prevention. In addition, TUR increases the opportunity for public participation in the decision-making process.

- **Burden of Proof** - Pollution control is founded on the assumption that the current regulatory system can adequately protect public health; as a result, toxic substances are innocent (not a public health threat) until proven guilty. TUR adopts a precautionary approach towards toxics and works to reduce or eliminate the use of toxics regardless of whether an existing health threat can be proven; as a result, one of the primary objectives of TUR is to prevent exposure whenever possible.

- **Alternatives** - Pollution control techniques discourage the development and implementation of safer alternatives to toxic chemicals because the primary objective is to design and enforce a regulatory system to manage pollution after it has been discharged. Since the central goal of TUR is to reduce or eliminate the production and use of toxics, the development and implementation of alternatives is one of its highest priorities.

- **Implementation** - Pollution control depends on enforceable regulatory control. TUR advocates recognize that relying on general regulations to promote TUR is problematic for several reasons: 1) industries vary significantly with respect to size, technology, market, and product; 2) there are not enough funds to effectively enforce a comprehensive regulatory system; and 3) there is strong resistance throughout industry against the introduction of new regulations. Instead of the conventional regulatory approach, TUR policies employ government mandated planning, goal setting and performance standards, government technical assistance, and financial incentives.

- **Decision-making and public participation** - Decisions within the pollution control management system are generally made behind closed doors and are rarely challenged by a demand for public accountability. TUR encourages negotiated planning that questions the use of chemicals in the production process; as a result, there is a greater opportunity for public participation and local accountability in the decision-making process.
Illness Prevention

Although pollution prevention is reemerging as a priority on the policy level, pollution control remains the dominant approach to hazardous waste management: How and to what extent should we manage the production, use, treatment, storage and disposal of toxic chemicals? As discussed earlier, EPA and other "expert" decision-makers employ risk assessment to answer these types of questions. Although the risk assessment process is riddled with uncertainty, decision-makers still claim that it can be used to safely manage toxics.

As long as pollution control remains the primary goal, decision-makers will continue to employ risk assessment to support their policy and management decisions. This use of risk assessment perpetuates an approach to toxics — pollution control — that is fundamentally opposed to the goals of pollution and illness prevention:

In reality this [risk assessment] is a sophisticate form of the dilution solution. This "acceptable risk" level is by definition an average and in almost all cases there will be some people exposed to higher levels and others exposed to lower levels. However, this is quite consistent with the goal of managing and not preventing exposures. EPA can now calculate a minimum level of exposure which is independent of any particular site and which ignores the ability to achieve lower emissions, better clean-ups or even eliminate the use, discharge or exposure to a contaminant.  

Pollution control techniques will never be able to prevent illness because they are based on the philosophy that toxic substances are innocent until proven guilty; in other words, as long as we control and properly manage toxic substances, they do not pose a threat to public health. The Department's toxics policy is also based on this philosophy; it does not consider toxics to be a public health threat unless there is scientific evidence that proves a causal relationship. By supporting this philosophy the Department's policy is committed to the concept of pollution control. There is nothing in the philosophy of pollution control that encourages the Department to take steps to

prevent exposures. While the Department's policy supports the idea that toxics are innocent until proven guilty, Padres, SKRAP, and many others in the toxics debate argue that toxics use reduction must be the top priority in order to achieve the goal of illness prevention.

Political Considerations

The Department claims that it practices a scientific approach to public health because it must make objective decisions without "taking sides." A weekly newsletter published by the Environmental Research Foundation suggests that there may be additional motivating factors behind the Department's emphasis on scientific certainty. This newsletter offers a theory explaining why the presence or absence of scientific certainty has such a significant influence on the actions of public health officials.45

Given the philosophical climate, public health officials are reluctant to raise an alarm on less-than-100%-certain data. As a practical matter an official will get in much more trouble for raising a false alarm about a suspected chemical than for making the opposite error (which allows birth defects to continue). In the present philosophical climate (requiring scientific certainty), even well justified alarm based on less-than-certain data draws an angry response from powerful monied interests. On the other hand, allowing birth defects to continue will only affect one family at a time. Individual, unorganized victims do not threaten a public health official's job security.46

Padres and SKRAP agree that political pressures greatly influence the Department's actions. When Stormy was asked to make recommendations for the Department, she referenced the situation in Buttonwillow:

If the Department thought that the Buttonwillow dump was lending itself to the illnesses, to the birth defects, they could exert their influence. We're not saying they can write closure notices but they could be holding meetings, press conferences, writing letters, saying that residents are already unjustly exposed... But they won't do that because this is an oil and agricultural county. They'd have the Board of Supervisors and the oil people raising hell. You see the County gets 10% of Laidlaw's gross income and that means there is a direct

45 Environmental Research Foundation, "Birth Defects."
46 Ibid.
conflict of interests. Any agency that gets fees will not be honest. I'm just ashamed of the County.

Although lengthy technical documents detail Laidlaw's proposed expansion to "prove" that the facility will not significantly impact human health or the environment, Padres and other community members are not convinced. They understand that liners cannot guarantee that leaks will not occur, they are aware that accidents can and have happened involving the facility and the trucks transporting the hazardous material, and they know that an expansion increases the volume of hazardous waste and the potential risk to human health and the environment. During the final meeting of the County Board of Supervisors, Lorenzo Garcia, a resident and member of Padres, expressed his concern for the health of Buttonwillow's children:

I'm here as a father to speak because I am quite worried...Everyone has been talking about money, the time involved, and time tables and things, but nobody has said anything about the children and the future of our children. What sort of future can our children stand to expect with a toxic dump site with thousands and thousands of cubic feet? And if we have gone to CRLA and Greenpeace, we have done it because you, our Supervisors, our officers, have done nothing to help us in learning how to deal with this.47

Throughout Padres' struggle with Laidlaw, the Department did not participate in the permitting process and did not actively support either side. Nevertheless, the Department influenced the County's position and its response to the community's concerns. After the Board of Supervisors listened to testimony from both sides, the meeting was closed to public comment and the members of the Board presented their final comments before calling for the vote. At this time, Supervisor Peterson began his testimony which eventually led to his vote in favor of the expansion. He addressed the issue of health risks at the beginning of his statement:

47 Lorenzo Garcia, Testimony from the written transcript of the Kern County Board of Supervisors meeting. Kern County, California, 12 December 1994. Mr. Garcia's testimony was translated during this meeting and recorded in the written transcript.
The health risks, I've talked to Doctor Jinadu about and these birth defects. Two of the problems that came up, the people that had those problems weren't here during their first trimester which is when that type of problem would occur of pregnancy (sic). And he said that it's attributed to other areas although the babies were born in this area and he feels it's no significant health risk as a result of air emission or some other problem during pregnancy.48

Supervisor Peterson's description of his exchange with Dr. Jinadu is consistent with the Department's toxics policy; without scientific evidence to prove a causal relationship, the Department would conclude that the dump does not represent a significant risk to human health or the environment. When Peterson made this reference to Dr. Jinadu's assessment of Buttonwillow's birth defects cluster, the meeting had already been closed to public comment; there was no opportunity for the public to question or challenge the validity of Dr. Jinadu's position or the accuracy of Supervisor Peterson's comment.49 Instead, Peterson used his communication with Dr. Jinadu to validate the position that the dump does not represent a significant health risk. During this meeting which lasted more than 8 hours, the Board of Supervisors spent very little time deliberating over the possible health risks associated with the dump. The majority of the meeting focused on the translation issue and a review of the competency of the Local Assessment Committee.

The conclusion reached by the Department and the County — the Laidlaw facility does not pose a significant health risk because there is no evidence that it caused the birth defects or other illnesses in Buttonwillow — is consistent with the philosophy that toxics are innocent until proven guilty. This philosophy places the burden of proof on groups like Padres to demonstrate that toxic chemicals are a threat to public health. As a

48 Supervisor Ken Peterson, Testimony from the written transcript of the Kern County Board of Supervisors meeting. Kern County, California, 12 December 1994.
49 Supervisor Peterson made a false statement when he claimed that 2 out of the three mothers did not live in Buttonwillow. According to the California Birth Defects Monitoring Program's report, "Neural Tube Defects in Kern County: Buttonwillow Area Investigation," only one out of the three mothers was dropped from the study because she was not a Buttonwillow resident.
result, "non-experts" have to challenge and disprove conclusions reached by "experts."
The burden of proof issue greatly impacts Padres because its limited resources and
general lack of technical expertise make it very difficult, if not impossible, for the
group to provide arguments that would satisfy the "scientific" standards required by the
Department and other decision-makers like the County Board of Supervisors. If groups
like Padres can't prove that Laidlaw's facility will lead to illness in its community, the
decision becomes based on a cost-benefit analysis; in this type of decision-making
arena, political forces significantly influence the final outcome.

Summary

As long as the presence or absence of scientific certainty continues to dictate the
actions and decisions of the Department, its toxics policy will undermine Padres efforts
to achieve environmental justice for two primary reasons: 1) the policy makes the
Department less accessible to community groups as a source of information and support;
and 2) the policy conflicts directly with the goal of illness prevention.

Although the "non-expert" perspective is often devalued and dismissed as
"emotional" and "biased," it is important to note that Padres and SKRAP are not arguing
that the Department should abandon its "objective" approach to public health. They are
not asking the Department to exaggerate or overreact. Instead, they want the Department
to adopt a precautionary approach to toxics that takes into consideration the fact that
there are well-documented human and environmental health hazards associated with
toxic chemicals. They believe that the Department should adopt a toxics policy that
promotes toxics use reduction instead of pollution control.
Conclusion

This research paper addresses the following question: How does the Kern County Public Health Department's toxics policy affect Padres struggle for environmental justice? It concludes that the Department's toxics policy directly undermines Padres' efforts to achieve environmental justice for two primary reasons: 1) the policy makes the Department less accessible to grassroots groups as a potential source of information and support; and 2) the policy conflicts directly with the goal of illness prevention.

This final chapter is organized into three main sections that provide concluding remarks regarding: 1) Padres and the grassroots environmental justice movement; 2) the Department and its role in the environmental justice movement; and 3) the relationship between Padres and the Department and the potential for these groups to work together in the future.

Padres

Like the majority of community groups in the environmental justice movement, Padres encounters many obstacles because it is trying to create fundamental changes within the dominant white culture, a culture that has established effective institutions to protect its ownership and control of the nation's political and economic power. Although there are thousands of groups like Padres engaged in local battles over specific environmental hazards, these immediate threats are symptoms of a much greater problem.

Poor communities and communities of color are threatened by systemic problems rooted in social, political and economic injustice. Padres' struggle is not just about preventing the expansion of Laidlaw's toxic dump. It is about empowering and mobilizing a community to fight for social and economic justice. It is about changing the heavily
skewed distribution pattern of political and economic power, and it is about increasing public participation in the decision-making process. Therefore, although Padres and other community groups face many difficult challenges, and although Padres and others might lose their individual battles, the environmental justice movement is becoming stronger and more effective because an increasing number of communities are organizing to create structural changes that address the systemic problems threatening poor communities and communities of color.

**Kern County Public Health Department**

At first glance, the Department's role in Padres' struggle for environmental justice is not easily defined; the Department does not officially participate in the decision-making process governing the proposed expansion of the dump, and the two groups do not have an established relationship. Nevertheless, the influence of the Department is significant. This paper examined two main reasons why the Department's toxic policy directly undermines Padres' efforts to achieve environmental justice.

First, the policy makes the Department less accessible to community groups as a potential source of information and support. The Department's demand for scientific certainty — toxics are not a threat unless scientific evidence proves a causal relationship — creates a barrier between itself and community groups like Padres, between "experts" and "non-experts." Community concerns and recommendations are often prematurely labeled and dismissed as "emotional" and "biased." This devaluation of the "non-expert" approach isolates the two groups and decreases the potential for the development of an effective working relationship.

Second, the Department's toxics policy does not support Padres' efforts because it conflicts directly with the goal of illness prevention. The Department's emphasis on scientific certainty does not prevent illness because people must be harmed before any
action is taken. In addition, this policy supports the conventional approach to hazardous waste management — pollution control — which is an "end-of-the-pipe" strategy that focuses on managing pollutants after they have been discharged. Pollution control does not prevent pollution or illness because it perpetuates the myth that toxics can be "safely" managed, that toxics are innocent until proven guilty. As a result, pollution control techniques make no effort to reduce or eliminate the use of toxics. Toxics Use Reduction, a strategy committed to eliminating or reducing the volume and toxicity of the chemicals used in production processes, was presented as the preferred alternative because it promotes pollution prevention and illness prevention.

While this paper evaluated the effects of the Department's toxics policy on Padres, it was beyond the scope of this research to delve into the motivating forces that shape the policy. Although the Department argues that its actions and decisions are based on science and an objective approach to public health, Padres and SKRAP contend that political pressures significantly influence the Department's approach to toxics. The Kern County Board of Supervisors favors the proposed expansion of Laidlaw's facility; the County would benefit from the expansion because it receives ten percent of Laidlaw's gross income. As an employee of the County, it would not be in the Department's best interest to challenge the County's position.

Within the political climate of Kern County, the Department's policy provides a good measure of job security; the Department's conservative approach to public health does not question the status quo or attempt to implement controversial policies that would meet with the disapproval of the County. Instead, the Department's policy and approach to toxics supports a system that employs quantitative risk assessment and pollution control techniques. As long as the Department maintains this policy, it will continue to undermine Padres' efforts and the efforts of the environmental justice movement, and it will fail to achieve its own stated goal of illness prevention.
Relationship Between the Department and Padres

When I first began this project I had an idealistic vision that Padres and the Department could work together effectively. Since both groups share the goal of illness prevention, I hoped the Department would recognize the importance of supporting the environmental justice movement. However, after conducting interviews with representatives of the Department and Padres, I began to seriously question whether groups with such different perspectives could find common ground.

Currently, there are significant obstacles hindering the development of a successful partnership. The Department's devaluation of the "non-expert" approach makes it very difficult for Padres to participate in the decision-making process, and the Department is less accessible as a source of information and support. Furthermore, the two groups' perspectives on public health and toxics — what they define as the problem and what they define as the solution — are vastly different; while Padres and other environmental justice activists focus on the need to make structural changes to alleviate the systemic problems of social, political and economic injustice, the Department's conservative approach to toxics supports the status quo, including the use of quantitative risk assessment and pollution control techniques.

Although the barriers are significant, the Department's mission statement clearly establishes that one of its objectives is to "build and foster strong partnerships for health" with the communities it serves. While Dr. Jinadu expressed repeatedly during his interviews that the Department would be more than willing to meet with Padres, there is a strong possibility that the politically charged issue of toxics and the proposed expansion of the dump would stifle any potential for the development of a successful partnership. It is highly unlikely that the Department will abandon its toxics policy to embrace the goals of toxics use reduction. Nevertheless, it might be possible and worthwhile for Padres to initiate communication with the Department so that the
issue of toxics is brought to the table as a legitimate public health concern of the Buttonwillow community.

The Healthy Cities Project (Project) has the potential to facilitate communication between Padres and the Department. In theory, the Project could help remove some of the barriers between these two groups because one of its primary objectives is to involve the community as much as possible in the decision-making process. Instead of devaluing the "non-expert" community perspective, the Project recognizes the importance of developing community leadership; the community plays an integral role in defining its health needs and implementing solutions. The Department participates as a system of support but it is not there to dictate the course of action. This approach to problem solving encourages constructive dialogue between groups like the Department and Padres because at least in theory the "experts" and the "non-experts" are equal partners. Because the Healthy Cities Project focuses on the process of improving the health of a community, it shares some of the goals of the environmental justice movement; the Healthy Cities model "conceptualizes community health in its broadest sense, to include the physical environment, economic conditions, and the social climate within the city."¹

Many Healthy Cities projects have dealt with more traditional public health issues such as increasing childhood immunization rates. The toxics issue is politically volatile and would most likely be difficult to incorporate into a Healthy Cities project. How would the Department react to a community that wanted to examine toxics as a public health threat? According to the Project, the community defines the health need it wants to address; in theory, if the community focused on reducing the threat of pollution and toxics-related illnesses, the Department is supposed to assist. Even if the Department refused to participate in a project focused on toxics use reduction, the toxics

¹ Western Consortium for Public Health, California Healthy Cities Project (Sacramento, CA, 1992).
issue would receive more attention and the concerns of the community would be voiced. Perhaps this would create some opportunity for the development of an effective communication link between Padres and the Department.

It remains to be seen whether Padres and the Department could work cooperatively on a Healthy Cites project. Would Padres be willing to initiate contact with the Department? Would the Department listen to and respect Padres' perspective, or would the toxics debate create too much tension and conflict? These are just a few of the many questions that remain unanswered. As a grassroots community group Padres faces significant obstacles: How will the group fare in the years to come? It may also be many years before we know whether Laidlaw is allowed to expand the dump.

Regardless of how future events unfold, it is important to recognize that even if Laidlaw is allowed to expand its dump, Padres struggle represents a victory for the environmental justice movement. The victory is the fact that there was a struggle in the first place. For too long these types of decisions have gone unchallenged. Similarly, while the Department may never adopt toxics use reduction strategies, the purpose of this paper was to question and challenge its toxics policy. The Department should be held accountable to its stated mission to prevent illness. Hopefully this paper can be useful to Padres and other groups willing to help redefine the role of local health departments in the environmental justice movement.
Recommendations

The environmental justice movement questions the fundamental structure of our "modern," "democratic," society. How are decisions made? Who makes them? How do they affect our communities? How can "non-experts" participate in the decision-making process? How can community groups help create structural changes to address the systemic problems of economic, political, and social injustice?

The following recommendations are directed at Padres, SKRAP and other community groups that may be interested in challenging the Department's toxics policy.

1. Initiate Contact

Based on the Department's current relationship with Padres and SKRAP, and based on the fact that it does not keep a list of the community groups in Kern County, it is evident that the Department does not actively "build and foster strong partnerships for health" with groups like Padres. Therefore, it is necessary to initiate contact with the Department. While this is certainly no guarantee that the Department will enthusiastically embrace such a gesture, at the very least it provides an opportunity to learn more about the Department's mission, its services, and the role it plays in your community? This knowledge allows you to evaluate more accurately the strengths and weaknesses of the Department's policies, actions and decisions. Contacting the Department will alert it to the fact that your group exists, and it may provide you with an opportunity to voice your group's concerns, including any specific opinions about the Department. It is important to hold the Department accountable to its stated commitment and obligation to protect public health.
2. Participate in the Healthy Cities Project

As local health officials, the Department must be accessible to the communities it serves. According to its mission statement, one of the Department's responsibilities is to "build and foster strong partnerships for health." Although the issue of toxics is likely to create tension, the Healthy Cities Project provides a structure in which the community is encouraged to voice its health concerns. And, at least in theory, the Department has made a commitment to assist communities that want to participate in the Healthy Cities Project.

The Healthy Cities Project might be able to create some common ground between your group and the Department because its goals are consistent with those of the environmental justice movement; the Project focuses on the need to empower people, the need for public participation in determining health needs and devising and implementing solutions, and the need to revise the current definition of community health so that it includes the physical environment, economic conditions, and the social climate within the city.

If the Department is not willing to work on a project that focuses on toxics-related health issue, it is important to remind the Department of the main objective of the Healthy Cities Project: "Resident participation in determining health needs as well as devising and implementing solutions is the cornerstone of the Healthy Cities approach." Although there is no guarantee that the Department will accept your proposal, the efforts your group makes to participate will send important messages: 1) your group is concerned about toxics-related health issues; 2) your group is committed to reducing the threat of toxics in your community; and 3) your group is willing to work with the Department to achieve this goal. The Department needs to be constantly reminded that there are concerned residents of Kern County who are dedicated to the goal of toxics use reduction. It is imperative to question and challenge the Department as
often as possible and the Healthy Cities Project provides an opportunity to present your group's concerns.

3. Participate in the Decision-making Process

Increasing public participation in the decision-making process is one of the major objectives of the environmental justice movement. Community groups must play a more active role in influencing the decisions that affect the health of their communities. Currently, the atmosphere in most "public" hearings is hostile and intimidating to members of the public. Decision-makers set the agenda and dominate the discussion. Members of the public need to change the current "rules" of behavior. Make sure that your issues of concern are not ignored or prematurely dismissed without being addressed in a meaningful and thorough manner. Demand to be given enough time to voice your opinions; there is no reason why decision-makers should be granted an unlimited amount of time to engage in a debate that directly affects your community, while members of the public are only given 3-5 minutes to comment.

Furthermore, the structure of most meetings places the public comment period at the end of the meeting, if there is time. This places you at a distinct disadvantage because decision-makers are often tired and eager to bring the meeting to a close. In addition, your comments have less of an impact if you are trying to address issues that have already been discussed earlier in the meeting; request that the public be allowed to comment on each issue before moving on to the next. This will guarantee that your voice is heard throughout the meeting, and it will ensure that the meeting will not come to an end before you are allowed to speak. If English is not your first language, request that a translator be provided to translate your comments as well as those of the decision-makers.
4. Shift the Burden of Proof

The burden of proof is currently placed on community groups to demonstrate that toxics are a threat to public health. It is very difficult, if not impossible, to prove that a causal relationship exists. As a result, the concerns and recommendations of the "non-expert" community groups are often labeled as "emotional" and "biased." Instead of accepting the burden of proof, your group needs to make a strong effort to shift this responsibility to the polluters and the decision-makers. For example, if there is a proposal to site or expand a toxic facility, ask the interested parties to provide "proof" that your community will not be harmed. In the case of the Department, Dr. Jinadu's reasoning — toxic facilities like Laidlaw's and those scattered throughout Rosamond are not a public health threat because there is no proof that they caused the illnesses — should be challenged. Where is the proof that they didn't contribute to the health problems of those communities. Where is the proof that an expansion of Laidlaw's facility will not negatively impact the health of Buttonwillow residents?

5. Reject Risk Assessment and Pollution Control

Although the quantitative risk assessment process can provide information about the hazards or risks associated with a particular substance or action, it should not be misinterpreted as a scientifically proven measurement of what is and is not "safe." Because its measurements are riddled with uncertainty, it should not be employed by policy-makers and decision-makers to convince the public that there is no need for concern, and no need to research, develop, or implement safer alternatives. Your group should pressure the Department and other decision-makers to adopt a precautionary approach to toxics that recognizes that uncertainties must be considered in any risk assessment and policy decision. The reality is that risk assessment can never be
perfectly accurate. It can never account for all of the factors that affect the equation, and it shouldn't be assumed that unknown factors are not hazards.

Risk assessment is fundamentally opposed to the concept of developing alternatives to reduce or eliminate the use of toxics. Instead, it focuses on defining the "acceptable" ways to poison life on Earth. Risk assessment asks the wrong questions: Which toxic chemicals can be released into the air, water and land? What are acceptable exposure levels? Your group needs to challenge these questions by asking: Does our society need to continue using toxics? What are the alternatives? Research, development, and implementation of alternatives that eliminate or reduce the use of toxics must be made the top priority.

The public has the right to demand that the Department, other decision-makers, and polluters make the greatest possible effort to protect public health. Your group should pressure the Department and other decision-makers to promote toxics use reduction (TUR) techniques instead of the current pollution control management strategy, because unlike pollution control, TUR establishes illness prevention and pollution prevention as top priorities.
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