

Waiting for Justice: Complaints Sheet

On July 15, community organizations across the country sued the Environmental Protection Agency (EPA) for failing to investigate their civil rights complaints for a decade or more. The complaints involve discrimination by the states in granting permits that subject already overburdened low-income communities of color to more big-polluting facilities. Here's a snapshot of the cases.

July 1994: Sugar Law Center Complaint

Flint, Michigan

Maurice and Jane Sugar Law Center for Economic and Social Justice and others submitted a complaint to the EPA against Michigan Department of Natural Resources (MDNR) for permitting the construction of the *Genesee Power Station*, a wood-waste incinerator.

The Sugar Law Center Complaint alleges that during the permitting process, MDNR failed to consider the facility's impacts on the surrounding community, which is predominantly African American and low income. In 1994, when the complaint was filed with EPA, 61% of residents living in the neighborhood surrounding the facility were African American and 27% lived below the poverty level, but the county-wide population was only 20% African American, with 14% below the poverty level.

According to Sugar Law Center, MDNR's decision to permit the Genesee Power Station reflects MDNR's pattern or practice of permitting incinerators and other hazardous sites in nonwhite communities, and studies show that race is the dominant factor in determining where MDNR will issue a siting permit.

EPA accepted the complaint for investigation in 1995. During that same year, the Genesee Power Station began commercial operation. It is fueled by wood waste that can include demolition wood, which frequently contains lead-based paint and other chemicals and can release these chemicals into the air when burned. EPA has since classified the Genesee Power Station as a "Significant Violator" for its pollution, and the Michigan Department of Environmental Quality has similarly cited the facility.

April 2000: Californians for Renewable Energy Complaint

Pittsburg, California

Californians for Renewable Energy (CARE), its president Michael Boyd, and others submitted a complaint to the EPA against the Bay Area Air Quality Management District (BAAQMD) and California Air Resources Board (CARB) for permitting the construction of the *Los Medanos Energy Center* and *Delta Energy Center* power plants.

The CARE Complaint alleges that these California state agencies unlawfully failed to consider increases to the environmental burden caused by the two plants on residents who already suffer

the cumulative impacts of multiple sources of pollutants in the area. The complaint alleges that the two facilities were sited in communities that are composed primarily of non-white and low-income residents who already suffer elevated levels of asthma, breast cancer, and human mortality related to particulate matter exposure.

EPA accepted the complaint for investigation in 2001. During that year, the Los Medanos Energy Center went online. The Delta Energy Center went online a year after. Since then, EPA classified the Los Medanos Energy Center as in “Significant Violation” of the Clean Air Act. Over the last five years, the plant has also been subject to at least \$3,000 in penalties for Clean Air Act violations.

April 2000: Sierra Club Lone Star Chapter Complaint

Beaumont, Texas

Sierra Club Lone Star Chapter and others submitted a complaint to the EPA against the Texas Commission on Environmental Quality (TCEQ) for issuing a permit amendment to expand *ExxonMobil's Beaumont Refinery*.

The Sierra Club Complaint alleges that TCEQ allowed ExxonMobil to increase several categories of emissions, including hydrogen sulfide, without allowing the public to participate in a contested case hearing on the matter. The complaint also notes that 95% of the population living in the census block groups most impacted by the Beaumont Refinery was African American and over half of this maximum-impact population lived in poverty. Both of these values were more than twice the city, county, and state-wide averages, showing a disproportionate impact on African Americans and persons living in poverty.

According to Sierra Club, TCEQ's actions reflect the state agency's faulty method of administering its policies and procedures, which has created and perpetuated a system of discriminatory facility siting and expansion throughout the State of Texas.

EPA accepted the complaint for investigation in 2003. Since then, the Beaumont Refinery has expanded its refining operations and increased its emissions of hydrogen sulfide and other air pollutants. In 2005, EPA levied a \$8.7 million penalty on ExxonMobil for Clean Air Act violations at the Beaumont Refinery and other refineries. In 2008, EPA again levied a \$122,500 penalty on ExxonMobil for failure to monitor the sulfur content of gases burned in furnaces at the refinery. EPA also classified the refinery as in “Significant Violation” of the Clean Air Act, and it has been subject to \$638,103 in penalties for Clean Air Act violations.

September 2002: Citizens for Alternatives to Radioactive Dumping Complaint

Chaves County, New Mexico

Citizens for Alternatives to Radioactive Dumping (CARD) and others submitted a complaint to the EPA against the New Mexico Environment Department (NMED) for permitting the construction of the *Triassic Park hazardous waste treatment, storage, and disposal facility*.

The CARD Complaint alleges that NMED engaged in a pattern or practice of discriminatory permitting and permitting processes, specifically through limited consideration of impacts on Latino New Mexicans. Chaves County has a high percentage of people of color – mostly Latinos – and a high percentage of people living in poverty. These communities already suffer worse air quality and higher rates of infant mortality, congenital abnormalities, and hospitalization for respiratory illnesses than other New Mexico counties.

According to the complaint, NMED also obstructed and excluded members of the public – particularly the Spanish-speaking public – from the permitting process by denying access to relevant documents, failing to provide information in Spanish, and harassing and intimidating the public.

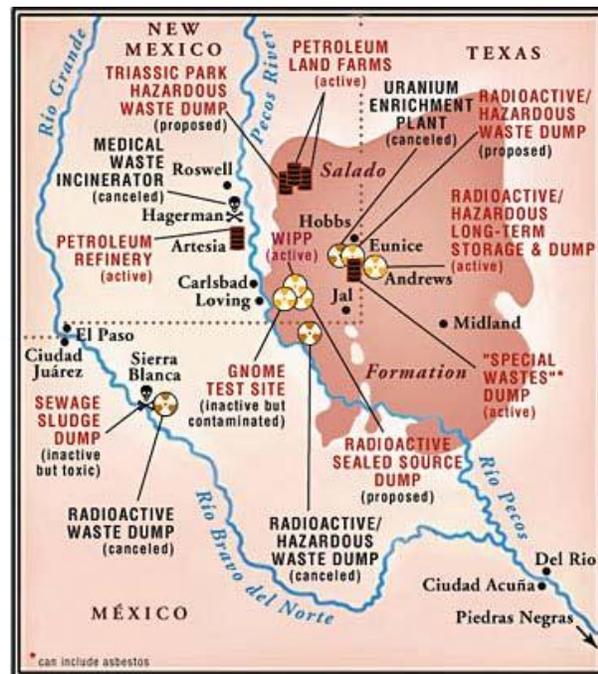
EPA accepted the complaint for investigation in 2005. Though the Triassic Park hazardous waste facility has yet to be built, NMED received an application to renew the permit in 2011, and this application remains pending before NMED. CARD continues to have reasonable concerns that the permitting of the Triassic Park hazardous waste facility may lead to adverse impacts to communities in Chaves County, New Mexico.

September 2003: Ashurst Bar/Smith Community Organization Complaint *Tallassee, Alabama*

A member of the Ashurst Bar/Smith Community Organization submitted a complaint to the EPA against the Alabama Department of Environmental Management (ADEM) for permitting the reopening of the *Stone's Throw Landfill*.

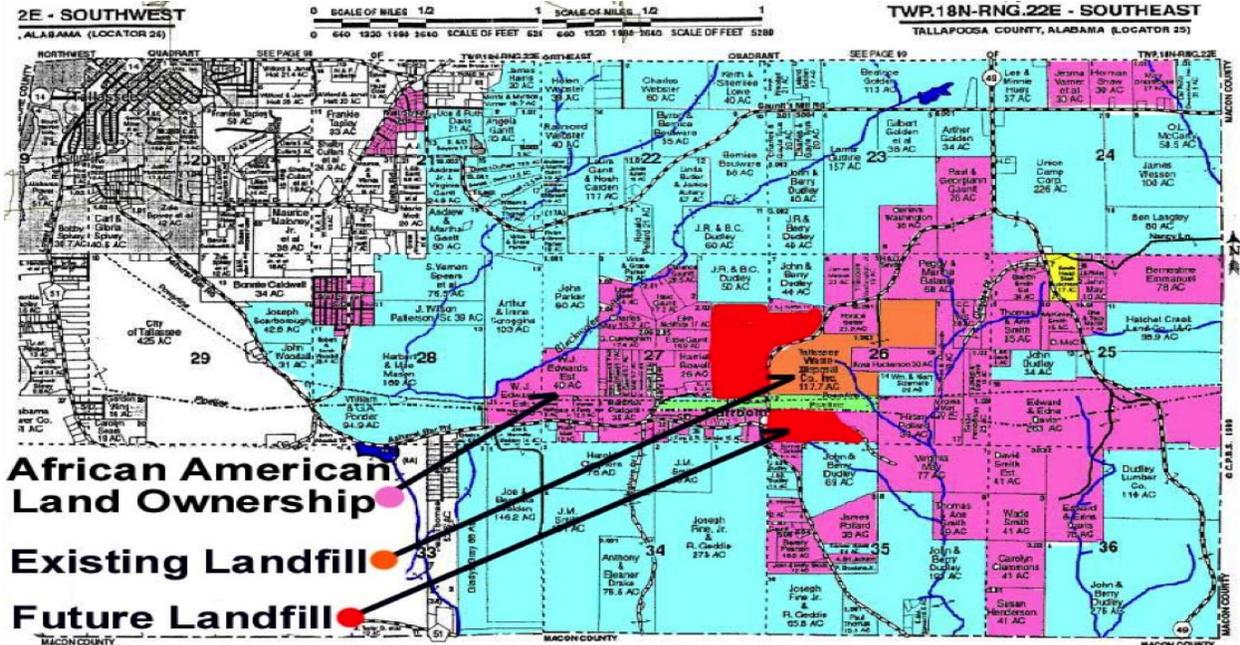
Among other allegations, the Ashurst Bar/Smith Complaint alleges that ADEM failed to require the Tallapoosa County Commission to properly use appropriate factors for siting a facility. It notes that most of the County's municipal solid waste landfills are located in African-American communities, and the failure to use appropriate factors is discriminatory.

EPA accepted the complaint for investigation in 2005. However, the Stone's Throw Landfill was reopened and remains in operation. Community members have suffered from the adverse effects



Proposed Triassic Park facility relative to other waste sites in the area in 2002. Credit: Deborah Reade Design, LLC

of the landfill, including the large amount of truck traffic to and from the landfill on residential roads, putrid smells that on some days can emanate up to three miles from the landfill, and vultures and other pests that are attracted to the landfill.



Land ownership around Tallassee Waste Disposal Center Landfill (1992). Credit: Ron Smith