

The Political Economy of Environmental Racism

Chester Residents Concerned for Quality of Life

The story of Chester, Pennsylvania, is in many ways a classic case of environmental racism: it is emblematic of the social, political, and economic forces that shape the disproportionate distribution of environmental hazards in poor communities of color. Chester also illustrates the extraordinary grassroots activism that has arisen in response to environmental racism. It is the tale of an otherwise disenfranchised community's political will and energy, its persistent organizing, and the long odds faced by low-income people and people of color who are fighting for environmental justice.

Located along the Delaware River, approximately fifteen miles southwest of Philadelphia, Chester is a small enclave of people of color within predominantly white Delaware County. While Delaware County, excluding Chester, is only 6.2 percent African American, 65 percent of Chester's 39,000 residents are African American. The median family income in Chester is 45 percent lower than the rest of Delaware County, and its 25 percent poverty rate is more than three times the rate in Delaware County. Unemployment and crime rates are high in Chester, as is the rate of health problems: Chester has a mortality rate 40 percent higher than the rest of Delaware County, as well as the state's highest child mortality rate.¹

Waste facilities that once promised needed jobs have instead brought many forms of pollution. From 1986 to 1996, the Pennsylvania Department of Environmental Protection (DEP) issued seven permits for com-

mercial waste facilities in Delaware County, five of which were to be located in Chester. All of the municipal waste and sewage in Delaware County is processed in Chester, even though only 7.5 percent of the county population lives in Chester. Moreover, more than 60 percent of the waste-processing industries in Delaware County are located in Chester.²

Living in Chester today can best be described as an assault on the senses—a toxic assault. During the summer, the stench and the noise force residents to retreat into their houses. Recent visitors to Chester have said that the “air is thick with acrid smells and, often, smoke. Dump trucks rumble through throughout the day,”³ and “the first thing you notice is the smell.”⁴

These conditions have prompted a citizen uprising against the facilities. Concerned residents began meeting privately in 1992, spurred by the noise and dust generated by trucks that brought trash to one of the largest garbage incinerators in the country, located only eighty feet from some peoples’ homes in Chester’s West End neighborhood. The residents were most irritated by the huge trucks that roared through their neighborhoods at all times of the day and night, disturbing their sleep and their children’s recreational time and damaging the overall character and peace of their community. Noise and vibration from the constant stream of waste trucks had caused the foundations of houses near the main roads to crack and property values to plummet. Residents felt imprisoned in their own community. Only later would they fully appreciate the damaging effects these facilities might have on the health of their community. “We are not against profit or gain, but we want to gain in our own areas,” said one resident. “We want to live.”⁵

Toxic Assault

The recent incursion of waste treatment facilities into Chester began in the late 1980s. In 1987, the LCA Leasing Corporation, now defunct, began operating a waste transfer station in Chester that brought hundreds of truckloads of trash into Chester each day. Shortly thereafter, Abbonizio Recycling Corporation, a demolition debris recycling company, arrived, creating an enormous amount of dust in the residential neighborhood around it. In 1988, despite objections from many Chester

residents, and without their input, the DEP granted a permit for the operation of the Westinghouse Resource Recovery Facility (a garbage incinerator). The Westinghouse incinerator is one of the largest in the country⁶ and is permitted to burn more than 2,000 tons of trash per day. As well as burning 100 percent of Delaware County's own waste, the incinerator draws trash from three surrounding states—Delaware, New Jersey and New York—and from as far away as Ohio to feed its massive burners. "Since 1991, when the incinerator opened, trucks . . . barreled down Thurlow Street, once a quiet residential road, six days each week, often fifteen or more hours a day."⁷ The Westinghouse incinerator brought not only trucks and dust, but also odor and, according to residents, more illness. Adults in the neighborhood began to experience respiratory problems, and their children missed more school than usual due to unexplained illness that the residents believe resulted from the incinerator.

The Westinghouse incinerator and Abbonizio Recycling operate in a community already surrounded by older industries such as Witco Chemicals, Scott Paper, British Petroleum, Sunoco Oil, and a twenty-year-old sewage treatment facility owned by Delaware County Regional Water Control (DELCORA). Recently, the state has issued permits to two other facilities to operate in Chester: Thermal Pure Systems, an infectious medical waste treatment facility, and Soil Remediation Systems, a contaminated-soil burning plant. Chester's environmental problems today are largely a result of this continuing stream of toxic facilities.

When President Clinton issued his Executive Order on Environmental Justice in February 1994, the United States Environmental Protection Agency (EPA) chose Chester as the subject of a six-month cumulative risk assessment. This study, released in the summer of 1995, found unacceptable cancer and noncancer risks, such as kidney and liver disease and respiratory problems, from the pollution sources in Chester.⁸ The EPA also concluded that (1) blood lead levels in Chester's children are unacceptably high, with the level in more than 60 percent of the children's blood samples above the maximum level recommended by the Centers for Disease Control (CDC) and (2) air emissions from facilities in and around Chester account for a large component of the cancer and noncancer risk to the citizens of Chester. Peter Kostmayer, then head of the EPA Mid-Atlantic Region, pointed out that, although there was a correlation between the facilities in Chester and poor health in the com-

munity, causation was difficult to prove scientifically, because of other compounding factors.⁹ Nevertheless, the clustering of facilities in Chester heightens the perception that the community's poor health status is linked to the surrounding waste processing facilities.

Tracing the Development of the Toxic Waste Industry in Chester

At first, the facilities in Chester seemed to appear “out of nowhere.”¹⁰ However, Chester's vulnerability to becoming a wasteland for toxic disposal can be traced to its economic, social, and political history. As with many urban areas in which toxic waste facilities are located, Chester's history as a former industrial haven helped to shape its destiny.

Chester's modern history begins in 1682, when William Penn rowed his boat ashore at a sandy stretch along the Delaware River, his first landfall in the Americas.¹¹ Chester's location along the Delaware River “made it ideal for small-scale manufacturing.”¹² By the 1770s, Chester was a successful mill town, and it prospered as a manufacturing center until the 1940s. During this time, many southern blacks and immigrants from Poland and the Ukraine moved to Chester.¹³ Shortly thereafter, however, the city began a decline in prosperity that ultimately led to the Chester of today. Like many other urban cities, Chester suffered from the postwar flight of its manufacturing industry overseas and the flight of middle-class whites to surrounding suburban neighborhoods. Between 1950 and 1980, 32 percent of the jobs in Chester disappeared. During the same time period, the African American proportion of the population increased from 20 percent to 65 percent.¹⁴

Chester is now one of the most economically depressed communities in Pennsylvania.¹⁵ Predictably, social decline soon followed on the heels of the economic decline. Chester's school district is one of the worst in the state.¹⁶ Chester also has the highest crime rate in the state.¹⁷ Desperation accompanied this economic and social decline, with the city government “[e]ncourag[ing] everything and anything to come to town to provide jobs.”¹⁸

Chester did not become a toxic wasteland on its own, however. Although its history foretold its social and economic vulnerability, the situation in Chester seems partly the result of its unique *political* history: a

corrupt Republican political machine that has long controlled many aspects of local decision making, and some behind-the-scenes political machinations.¹⁹ Peter Kostmayer, former head of the EPA Mid-Atlantic Region, recalled hearing from a DEP official that “there were political figures and their allies that had financial investments in Chester” and thus supported Chester as a home to the waste industry.²⁰ A close examination of the present scenario in Chester, including the issuance of waste treatment facility permits, seems to corroborate this assessment.

The most recent waste treatment facility permits issued in Chester can be traced to 1985, when Russell, Rea, and Zappala (RR&Z), an investment banking firm from Pittsburgh, together with Westinghouse, formed Chester Solid Waste Associates and purchased land in Chester.²¹ Chester Solid Waste Associates has, as its name implies, brought waste to Chester—tons of it. RR&Z spoke with Delaware County officials about the possibility of incineration as a solution to the county’s rising waste disposal costs and the region’s dwindling landfill space; it also established the initial facilities that “brought the first glimpse of waste, trucks, and trash odors to the neighborhood.”²² From there, RR&Z’s deal with Delaware County officials, who are predominantly white, laid the groundwork for the issuance of a permit for construction of the massive Westinghouse incinerator. According to Chester residents, RR&Z has retained control over every facility that has been permitted to locate in Chester, exerting direct influence over its waste-processing tenants. RR&Z owns the land where the Westinghouse and the Thermal Pure waste treatment facilities now sit. Moreover, most of the recently permitted facilities in Chester—LCA Leasing, Westinghouse, Thermal Pure, and the proposed Soil Remediation Systems—appear to share a corporate relationship under the purview of RR&Z officers.²³

Not surprisingly, RR&Z has been the focus of two direct protests by outraged Chester residents. The documentary video *Laid to Waste*²⁴ documented the first protest, which took place in the summer of 1995. Community activists drove to RR&Z’s Pittsburgh office and demanded a meeting. RR&Z refused to comply. RR&Z’s indifferent attitude infuses a recent press quote: “If a site is economically feasible and passes all regulatory and zoning inquiries, then it’s a viable project.”²⁵ Responding to environmental racism charges, an RR&Z consultant quipped,

“It’s not the firm’s business to feel anything about commercial transactions, all of which were legally aboveboard and ethical.”²⁶

This attitude is not unique to RR&Z’s spokesman. It also underlies the inadequacies of current siting laws, which allow this type of toxic proliferation in communities such as Chester. In Pennsylvania, the siting process does not consider the cumulative impact of preexisting facilities and the proposed facility, the disproportionate location of facilities in the host community, or the demographics of the targeted community. Each permit is considered in a vacuum, requiring only that the individual facility at issue comply with applicable emission regulations and other environmental assessments and technical requirements.²⁷ Moreover, once a facility is located in a host community, it is easy to expand that facility, allowing even more waste to be processed in the community.²⁸ As we explain later, this has happened in Chester, where the Westinghouse incinerator continues to expand its operations and import more waste.

The established pattern of waste treatment facilities essentially seals the community’s reputation as a toxic wasteland. As EPA’s Peter Kostmayer explains, “The presence of facilities molds the aesthetics and the economy. Other businesses are reluctant to locate where there are so many waste treatment plants.”²⁹ Unfortunately, this has proven true in Chester. The new businesses that were supposed to locate near the Westinghouse incinerator have not arrived. Instead, according to a resident-activist, Zulene Mayfield, the only new businesses have been prostitution and drugs.

Taking Direct Action

In the early 1990s, Chester’s residents banded together to fight back against what they viewed as an all-out attack on their community’s quality of life and health. At that time, Chester was home to the Westinghouse incinerator, which is one of the country’s largest waste incinerators, the DELCORA sewage waste treatment facility, the Abbonizio Concrete Recycling facility, and various older industrial operations. The DEP was on the verge of permitting an infectious medical-waste sterilization plant next to the Westinghouse incinerator. In October 1992, concerned residents attended a public meeting convened by the city’s first Democratic mayor. Billed as a town meeting, it drew representatives

from the EPA and the DEP, local government officials, and private industry. The residents aired their complaints about the facilities, odors, dust, noise, and trucks that carried trash to the facilities. Industry and government representatives offered responses such as, “Do you think your government would do something wrong to you? Do you think [we would allow this facility if it did not] meet all of the federal and state regulations?”³⁰ At least one resident found the attitude of the representatives condescending. Zulene Mayfield stood up, introduced herself, and told the representatives, “I can’t understand why you bright, college-educated people can’t come down here and tell a better lie than what you’re telling. [W]e are people from probably the worst school district in the state and we can see [and] understand these lies.” Mayfield got up and left. From that point on, Mayfield and other concerned residents of Chester began having weekly meetings. Eventually, a group of citizens formed Chester Residents Concerned about Quality of Life (CRCQL), with Mayfield at its helm.

CRCQL first set out to have one-on-one meetings with individual facility owners, city officials, and state officials. All these meetings, however, ended in a similarly disappointing fashion. The residents came to the meetings to complain about existing problems, yet the same problems re-surfaced week after week. Meetings ended with no resolution in sight and residents’ questions left unanswered. No one seemed willing to take any responsibility for the problems the residents of Chester faced. A facility representative would tell CRCQL members, “Well, your problem is not exactly our problem,” and then direct them somewhere else. Zulene Mayfield recounts that she felt like she was “a gerbil on a habitrail,” running and running, and never getting anywhere. These initial meetings with industry and government officials foreshadowed a pattern of stonewalling that emerged every time the community sought information and solutions from industry and government.

Eventually, the residents got fed up with the stonewalling. They decided to gather the facility and government representatives together and “watch them point fingers at each other” instead of telling the residents to go talk to someone else. CRCQL arranged another meeting of local and state agency officials, as well as representatives from the Chester facilities. The confrontational dynamic expected at the meeting never materialized. Government and industry representatives seemingly agreed to

divulge as little information as possible. For example, prior to the meeting, there was a fire at the Westinghouse incinerator. Many people from the community came out in force to photograph and tape the commotion surrounding the numerous pieces of emergency equipment employed to fight the fire. At the meeting, when the Westinghouse representative was asked about the fire, he denied that any fire had occurred. The residents were dumbfounded; they had photographed and videotaped a fire at the facility. Now, the company's representative was denying its occurrence. During subsequent meetings, CRCQL continued to challenge Westinghouse's denial. However, even when the fire chief presented CRCQL and the Westinghouse representatives with documentation of the fire, the company still denied there had been a fire. This and other incidents made the residents feel belittled, as if Westinghouse had deliberately decided: "Well, we had a fire, but let's tell them, 'We didn't have a fire,' and that's it. We'll offer no explanation to them." As Mayfield recalled, it was "very demeaning."

The government and industry officials' conduct at the meetings exemplified the ways in which the decision makers had treated the residents all along—as if they did not matter. Moreover, it seemed as if government and industry officials employed various tactics to keep the residents in the dark about issues that fundamentally affected their health and quality of life. For instance, one of the barriers the residents initially faced stemmed from their inability to understand the highly technical language the facility representatives used. When a resident attempted to speak in an open meeting to a Westinghouse representative about the incinerator, the representative immediately corrected the resident, telling her that it was a "resource recovery facility," a technical term for an incinerator.³¹ This tactic played on the lack of sophistication of the Chester residents and effectively silenced them. As one resident remarked, "Every meeting we left feeling like our tail was between our legs, because they always tried to make us think that what was happening was not happening."³² Believing that "intelligence" is an "equalizer," CRCQL members sought to familiarize themselves and other Chester residents with the terminology and technology of the facilities. Nevertheless, even as the residents educated themselves, government and industry representatives continued to ignore them. Meetings with facility representatives were completely unsatisfactory; the residents felt unacknowledged and unheard.

Refusing to surrender to government and industry stonewalling, and seeing no other alternative, CRCQL took more direct action after arriving at two important realizations. First, although concerned residents had tried to work through the system, acquiring technical knowledge about the facilities, reading all of the public documents, and requesting information from decision makers, they had come to realize that their concerns would not be addressed, much less resolved, if they continued to rely on that tactic alone. Second, CRCQL members had come to feel that decision makers had consistently demonstrated a lack of respect toward residents who were trying to obtain further information about the facilities.

On a cold day in December 1992, the residents held their first protest, focusing on one of the most visible and audible invasions into their city—the trucks carrying waste to the Westinghouse incinerator. On the morning of December 22, ten to fifteen residents, mostly senior citizens, lined Thurlow Street in Chester to stop the trucks from reaching their destination. Other residents joined in the protest on their lunch breaks. Westinghouse finally responded after residents physically refused to let the trucks take their load to the Westinghouse facility for up to two hours. Westinghouse's chief financial officer flew to Chester during the protest to meet with the residents. After hearing their story, Westinghouse officers agreed to build a new road for the trucks that hauled trash to the incinerator. Although the new route was built only one block away from the old one, the residents felt this protest was a success. For the first time since they had begun to stand up and voice their opinions, they felt empowered. As Mayfield, the head of CRCQL, explained, "It was really important [for Westinghouse] to understand that . . . this is important enough to stop Christmas shopping, to stop the season, . . . to let [them] know that we have a problem and we don't care how cold it is." The residents also realized that they needed to hit Westinghouse where it hurt—in its bank account. Thwarting normal business operations furthered this objective.

Despite the message of resistance sent by the protests, in July 1993 the DEP issued a permit for the construction and operation of yet another waste treatment facility in Chester. The community learned that Midlantic BioWaste Systems, Inc., a subsidiary of Thermal Pure Systems

(Thermal Pure), planned to build an infectious medical waste sterilization plant next to the Westinghouse incinerator. The proposed facility's operators planned to sterilize medical chemotherapeutic waste through a process called autoclaving.³³ They would then package and ship the waste to a landfill. For Chester residents, this was the last straw—the Thermal Pure facility compounded an already intolerable situation. CRCQL mobilized the Chester residents and gathered more than 500 signatures in opposition to the project. It gave these signatures to the DEP and the City Council as evidence of citizens' opposition to the facility. In response, the company withdrew its permit application, originally filed under the corporate name of Midlantic BioWaste Systems, and reapplied under the name Thermal Pure. Again, this was nothing new. Mayfield and CRCQL easily realized that the company was "hiding behind names."

Unfortunately, the residents then uncovered an even more entrenched barrier—local politics. All of the City Council members except for the Mayor sent a letter to the Governor and to the DEP asking them to expedite the permitting of Thermal Pure. Not surprisingly, the DEP granted Thermal Pure's permit without holding a public hearing, virtually ignoring the residents' concerns. To the residents' dismay, the legal requirement designed to include them in the decision-making process ultimately denied the residents any opportunity to participate in the process. In Pennsylvania, as in other states, permit applicants must publish formal notice of their proposed facility in local newspapers to give the public an opportunity to comment on and learn about the facility.³⁴ However, this form of notice often proves inadequate for low-income communities, where literacy levels are low and it is unlikely that many citizens will become aware of or read the official notice. For instance, as happened in Chester, it is not uncommon for notice of a permit application to be placed in a minuscule space at the back of the local newspaper. On the other hand, "local [officials] are given a separate, formal opportunity to comment on municipal waste facility permit applications."³⁵ Once again, the residents felt the decision makers had excluded them. The residents believed that "[b]y not holding a public hearing, the DEP was saying that there was no known public opposition to Thermal Pure, in spite of the 500 plus signatures they had in opposition."³⁶

A Hard Lesson: Environmental Justice as a Political, Not a Legal, Issue

A Philadelphia public interest lawyer, Jerome Balter, read an article about the Chester protest and decided to call CRCQL. This call began a long-term relationship between Balter and CRCQL. Through Balter's efforts, the residents discovered yet another weapon in their fight against the facilities—legal action. In August 1993, one month after the Thermal Pure permit was issued, Balter appealed the Thermal Pure permit on CRCQL's behalf. In its appeal, CRCQL claimed that the permit issued to Thermal Pure and the accompanying regulations promulgated by the DEP violated the Pennsylvania Infectious and Chemotherapeutic Waste Disposal Act (Disposal Act), which the legislature enacted to control waste flow in Pennsylvania.

Pursuant to the Disposal Act, the DEP promulgated the Infectious and Chemotherapeutic Waste Plan (Waste Plan). The effect of the Waste Plan was to divide Pennsylvania into three zones—eastern, central, and western—in order to regulate “incineration or other disposal” of infectious wastes.³⁷ The DEP found that the eastern zone, which includes Chester and Philadelphia, generated 13,335 tons of infectious waste per year.³⁸ Under the Waste Plan, covered facilities must obtain 70 percent of their waste from the zone in which the facility is located. The maximum capacity of a covered facility located within the eastern zone could be no greater than 10,765 tons per year.³⁹ Thermal Pure's permit nevertheless allowed the facility to handle 105,000 tons per year, nearly ten times the maximum allowed by the Waste Plan for a facility in the eastern region and nearly four times the waste produced by the entire state of Pennsylvania.⁴⁰ In its appeal, CRCQL questioned how a facility with the capacity to treat four times the waste produced in the entire state could be legal under a statute that was intended to minimize waste transportation in Pennsylvania.

In February 1994, the state Environmental Hearing Board summarily dismissed CRCQL's claims. The Board ruled that the DEP Waste Plan did not govern the Thermal Pure infectious waste sterilization process and that its permit was valid. CRCQL refused to give up. It appealed the decision to the Pennsylvania Commonwealth Court. In February 1995, the Commonwealth Court adopted CRCQL's reasoning,

overturned the Environmental Hearing Board ruling, and declared that the Thermal Pure permit was invalid. The Court rejected the DEP's and Thermal Pure's argument that the Disposal Act did not cover the type of activity—autoclaving, a type of medical sterilization—conducted by the Thermal Pure facility. Thermal Pure then appealed to both the Commonwealth Court and the Pennsylvania Supreme Court for a stay of the ruling against them. Both requests were denied. Accordingly, the DEP issued a cease-and-desist order to Thermal Pure, forcing the company to suspend all further operations in Chester.

To CRCQL's amazement, its victory and the closure of Thermal Pure was short lived. Under Pennsylvania law, Thermal Pure had the right to appeal the DEP closure order to the Environmental Hearing Board. Instead, the company directly appealed the DEP order to the Commonwealth Court. Thermal Pure filed a petition asking the Court to review its previous decision not to stay the cease-and-desist order. At the same time, Thermal Pure asked the Pennsylvania Supreme Court to exercise special jurisdiction and to hear arguments on the stay. To everyone's surprise, the Supreme Court granted Thermal Pure's request, issuing a stay of the cease-and-desist order pending its review of the case.

In taking the case from the Commonwealth Court, the Supreme Court employed an extraordinary, and controversial, legal maneuver. The Supreme Court invoked its "King's Bench" power to take the case from the Commonwealth Court. The King's Bench power originates from the Act that created the Supreme Court of the Commonwealth of Pennsylvania in 1722 and gave the court power coterminous with the highest courts in England. An 1836 revision of the Act established the King's Bench power that gave the court the power to stop all existing proceedings in a lower court while it conducts its own review of a case.⁴¹ A later constitutional provision, entitled "extraordinary jurisdiction," seemed to limit the Supreme Court's King's Bench jurisdiction to cases of "immediate public importance," consistent with the power's early beginnings.⁴² In spite of its normal conservative practice, there have been "a number of remarkable occasions" in which the Supreme Court has invoked its jurisdiction in a manner that has expanded the Kings Bench power "beyond its original parameters."⁴³ This arguable overreaching has prompted the state legislature to revisit the question of the King's Bench power.⁴⁴ Nevertheless, the Supreme Court took the case before

the Commonwealth Court was able to hear Thermal Pure's appeal. The effect of this exercise of the King's Bench power was to deny CRCQL any chance at an appeal.

Prior to making its final decision, the Pennsylvania Supreme Court held a hearing on the DEP regulations and the Thermal Pure permit. CRCQL was invited to attend the hearing and chartered a bus to Harrisburg. The group arrived with high hopes because, as Zulene Mayfield puts it, they believed that "the law is the law and whatever the law says is right. Everybody has to adhere to the law." Sadly, for Mayfield and CRCQL, the community activists were about to confront yet another tangible experience of institutional racism. Mayfield recalls the look of "contempt" in the eyes of the justices as the group entered the courtroom. "I can't say it was a look of hate," she explains, but she "knew before we sat down in that court what the outcome was going to be."

Jerome Balter represented CRCQL at the hearing and has his own view of the proceedings. Noting that there was no transcript or recording of the hearing, Balter relates the atmosphere that prevailed in the room. A justice said to Balter, "Mr. Balter, if it were up to you a lot of companies would lose their permits." To which Balter replied, "I don't take any permits away. That's the DEP's job." The justice did not relent: "Yes, but you start those cases, don't you?" Balter responded, "Well, that's right. I would think, your Honor, that you'd be interested in having the law defended and applied properly." The justice had the final word: "Mr. Balter, around here I am the law."⁴⁵

In November 1995, the Pennsylvania Supreme Court overturned the commonwealth court ruling by a vote of 5-0, allowing Thermal Pure to reopen.⁴⁶ In its decision, the Supreme Court ruled that the Commonwealth Court lacked jurisdiction over the matter and that the Waste Disposal Act addressed merely incineration and other disposal and did not cover sterilization—Thermal Pure's process. Accordingly, the permit was deemed valid.

The decision stands under a cloud of illegitimacy for many Chester residents. According to CRCQL, the Supreme Court's initial use of the King Bench's power, and its ultimate disposition of the case, may have been influenced by the firm responsible for the recent proliferation of waste sites in Chester. Pennsylvania Supreme Court Justice Stephen Zappala is the brother of a partner in Russell, Rea, and Zappala, owner of

most of the facilities located in Chester.⁴⁷ Justice Zappala rescued himself from the Chester case, but CRCQL believes he “exercised his influence” by “convincing the court to use the outdated King’s Bench statute.”⁴⁸ While this accusation has yet to be proven (though it has been repeated in the press),⁴⁹ the appearance of impropriety sounded the death knell for CRCQL members’ belief that the law would provide justice for people like themselves. In their eyes, this was yet another example of the structural power of racism. As Mayfield summarized it, “racism is real,” and it is “the determining factor [in] whether or not you’re going to get justice.”

Jerome Balter, in contrast, believes the community relied too heavily on the legal system. “There is a reliance on legal action, and no matter how much the lawyer says ‘don’t count on it,’ they count on it.” CRCQL learned a powerful lesson: while legal action brings much-needed attention to environmental justice struggles, legal strategies rarely address what is, in essence, a larger political and structural problem.⁵⁰ As the struggle surrounding the Thermal Pure case illustrates, lawsuits take place in a forum in which the resources of private corporations and government entities far outweigh community resources. Given its experience with the Pennsylvania Supreme Court, the Chester community is unlikely to rely solely on legal strategies in the future. In fact, the group realizes that legal strategies are merely “another stone in David’s sling,” a way to bolster their political struggle for empowerment and inclusion.⁵¹

Avoiding the Slippery Slope: Becoming Political Actors

In late 1994, CRCQL members became aware of yet another potential hazard targeted at their community. Remarkably, even with knowledge of the community residents’ overall poor health and despite the stringent opposition of local officials, the DEP granted a permit to Soil Remediation Systems (SRS) to treat 960 tons of petroleum-contaminated soil each day at very high temperatures in order to burn off contaminants so that the soil can be land filled. Once again, the community mobilized. Petitions, protests, and a well-attended public hearing sent the message to SRS and the DEP that the community did not want another facility.

Yet again, residents ran into questionable tactics employed by the facility proponents. For example, early in the public hearing, a young man from the community stood up and said, “I don’t care what they do, I need a job.” After the resident spoke, one of Zulene Mayfield’s friends—a man she considered to be like a nephew—approached her and explained what was happening. Pointing to the man who had just spoken, he hugged her and said, “I’ll tell you what’s up; he’s paid. And they paid me, too, but I’m not going to talk.” This tactic, of course, was not new. In a sense, it was the classic jobs-for-environment tradeoff that faces opponents of hazardous facilities.⁵² The facilities were following the time-honored practice employed by businesses that hope to move into financially ailing communities: offering financial incentives and increased employment opportunities. CRCQL was well aware that the community needed more jobs and more economic development. Yet the group members were unwilling to sacrifice the quality of their homes, neighborhood, and health for the illusory gains the facility promised. Most of the residents had seen enough waste facilities move into Chester to realize the hollowness of such incentives and job offers. Fortunately, CRCQL had gained powerful allies by this time. In 1992, after decades of Republican party reign that kept “tight control over the city’s votes by controlling public funds in such a way that every government function was delivered as a personal favor,” the Democratic party overthrew the Republicans in what CRCQL calls “one of the most impressive political campaigns in the city’s history.”⁵³ CRCQL benefited from this change of leadership: the group convinced all five members of the City Council to oppose the SRS permit. Seemingly, the political tide had turned in CRCQL’s favor. However, once again, its optimism and victory was short-lived. CRCQL, in a meeting with the Secretary of the DEP about the SRS permit, had convinced the agency to delay the permit decision until the EPA completed its health study of Chester. However, despite the public outcry, the opposition by the City Council, and the EPA’s troubling conclusions in its health assessment of Chester, in the end the DEP granted the SRS permit.

Group members eventually shifted the focus of their political actions from the state level to the local. Instead of “reacting to the actions of the industries and the government” and “trying to convince the power brokers to act on their behalf,” the residents moved proactively to “cut these

industries off at the pass.”⁵⁴ CRCQL again rallied the residents to the cause. CRCQL’s first successful step in this direction was to convince the City Council to amend the zoning code so that waste management industries would encounter greater difficulty when attempting to site facilities in Chester. The group then canvassed the city for signatures on a petition to amend the zoning ordinance. It collected 3,000 signatures and presented them to the City Council. The Council dragged its feet until CRCQL confronted it and said, “If every meeting we have to call all 3,000 people and tell them the ordinance is not signed, we will do that.”

In June 1994, the City Council passed an ordinance requiring any waste company hoping to locate in Chester to prove that the operation of its proposed facility would not increase overall pollution levels in the city. SRS failed to meet the burden of proof under the ordinance. As a result, SRS lost its DEP permit because it could not get a building license from the city and therefore failed to break ground by the permit’s specified deadline. As one CRCQL member remarked, “Finally, the government was forced to react to the residents, instead of the other way around.”⁵⁵

The Importance of Building Coalitions

Even before CRCQL’s brief victory and its stinging legal defeat in the Thermal Pure case, its leaders had realized that, to be effective, CRCQL needed to broaden its appeal beyond the African American community that accounted for most of its membership and that determined how it was presented in the local media. It had not always been that way, however.

When it was formed in 1992, CRCQL had two co-chairs: the Reverend Strand, from the African American community, and Monsignor Probaski, head of the local Ukrainian and Polish Catholic congregation. Monsignor Probaski was one of the primary organizers of the Westinghouse demonstration. However, during the demonstration, Probaski’s secretary came to Thurlow Street and told him that the Archdiocese in Philadelphia wanted to speak to him right away. Shortly thereafter, Probaski returned to the protesters and insisted they disband. The protesters initially refused but eventually agreed to march down to the facility and then disband. At CRCQL’s meeting after the protest, Probaski

disclosed that he had received a \$500 check from Westinghouse to renovate his church. He then told the group that he had ripped up the check and sent it back to Westinghouse. Curiously, the week following the meeting, Probaski resigned as co-chair of CRCQL and withdrew from the group. When he left, so did many of his Ukrainian and Polish parishioners. With the loss of Monsignor Probaski, CRCQL became primarily an African American organization. Currently, approximately 70 percent of the group membership is African American; the rest of the group consists of Latinos, elderly Polish women, and other whites.

In addition to its changing identity, other events forced CRCQL to reevaluate itself. For instance, during the legal battle against Thermal Pure, CRCQL experienced numerous forms of intimidation. The CRCQL office was vandalized twice. In one of the incidents, featured prominently in the video *Laid to Waste*, CRCQL's office was vandalized, and "KKK" was scrawled prominently above Mayfield's desk. As the group's leader, Mayfield received the brunt of many threats against CRCQL. She recalls a neighbor "telling all the little old ladies I better be careful or else somebody is going to firebomb my house." Her home and car were vandalized repeatedly, and she occasionally received expletive-laden threats, including death threats, on her answering machine. To top it off, Westinghouse threatened to bring a \$250,000 lawsuit against her personally for blocking its trucks during CRCQL's protest.⁵⁶

The loss of many of its non-African American members, its legal loss to Thermal Pure, and the intimidation tactics used against CRCQL members slowly took their toll. Many group members asked themselves, "How effective are we going to be if this machinery still views us in a negative way?" CRCQL sought to find a way to recast itself and to sidestep the racism that was destroying its effectiveness as a citizens' group. To expand its base, CRCQL sent out invitations over the Internet to an environmental justice retreat that it sponsored at Swarthmore College in February 1995. The conference not only informed and educated students about the concept of environmental justice but also created the Campus Coalition Concerning Chester, known as C4. Eventually, this student group grew to consist of students from more than fifteen campuses in four states, including Swarthmore College, located not far from Chester. The purpose of the group is to assist CRCQL in its battle to educate and fight against environmental injustice in the Chester commu-

nity. The group wanted to get people the decision makers could “relate to.” If it could not get the parents, then “let’s get the children,” the group reasoned. The goal was to “educate the kids and let the kids go home” and ask their parents the kinds of questions that were confronting the Chester community.

By broadening CRCQL’s base, its members believed they could build a more politically sustainable partnership, as well as “take the focus off” CRCQL as an African American organization. According to Mayfield, the partnership with C4 has been “wonderful”—educating people on campus, in Chester, and in surrounding communities. C4 has also been involved in protests with CRCQL. Soon after C4 was formed, its members joined a protest against RR&Z at the firm’s Pittsburgh offices. In the summer of 1995, CRCQL and C4 conducted a door-to-door health survey of Chester, which helped to document the poor public health of the community and to bolster the residents’ claims of environmental damage. Their partnership has also spawned the Chester-Swarthmore College Community Coalition. Established by grant money, the coalition encourages college students and faculty to work in the Chester community to establish a broad range of social service programs.⁵⁷

The Ongoing Struggle

The ebb and flow of toxic assault and political protest has become part of the reality of living in Chester. Residents once again mobilized to fight the Cherokee Environmental Group’s application for a permit to burn contaminated soil in Chester. More than 200 concerned residents, suburban neighbors, and other interested citizens attended a public hearing on the application held in February 1997. CRCQL’s efforts paid off when the DEP denied the Cherokee permit on various technical grounds.⁵⁸ The denial of the Cherokee permit, perhaps not coincidentally, came at a time when CRCQL had achieved other significant victories.

In December 1997, CRCQL successfully settled an environmental lawsuit, brought under the Clean Air Act, against the county’s twenty-year-old DELCORA sewage treatment facility, which receives and treats waste for all of Delaware County. After a year-and-a-half-long negotiation among CRCQL, EPA, DEP, and DELCORA finally came to an

end, DELCORA agreed to pay a \$320,000 penalty, divided into two parts: \$120,000 to go to the EPA and DEP and \$200,000 to be used to fund a children's lead poisoning prevention program that Chester residents will manage.⁵⁹ Settlement discussions with Westinghouse over Clean Air Act violations ended in a similar settlement.

Shortly thereafter, in January 1998, CRCQL received more good news. A federal court ruled that residents have a "private right of action," under Title VI of the Civil Rights Act, to challenge the proliferation of waste treatment facilities on grounds of racial discrimination. Chester residents had sued the Pennsylvania DEP, claiming that its pattern of granting permits in Delaware County is racially discriminatory. As evidence, they pointed to the clustering of waste facility permits in Chester's predominantly African American community. The residents claimed that the DEP violated Title VI regulations, implemented to enforce Title VI, that mandate that any jurisdiction receiving federal EPA money "shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex."⁶⁰ The State, however, appealed the case to the United States Supreme Court. In August 1998, the Supreme Court declared the case moot and vacated the favorable federal court ruling.⁶¹

In the wake of the Court's decision, it appeared that the political tide might also be turning against CRCQL. In 1996, Republicans regained control of Chester after the city's residents had a mixed reaction to the city's short-lived Democratic administration. The turnover at City Hall may be attributable in part to low voter turnout, not surprising in low-income communities of color, and in part to the tumultuous Democratic administration.⁶² Residents were understandably concerned that the Republican-controlled City Council would overturn the recently enacted zoning ordinance. The extent to which the tide is turning against CRCQL is unclear, however. The zoning ordinance remains intact, and despite the fact that the Republican mayor of Chester announced his full support of the Cherokee permit application, that application was denied by the DEP. The DEP subsequently denied an application submitted by Ogborne Waste Removal for a proposed construction and demolition transfer station in Chester.

CRCQL also faced a complex, continuing fight over the importation of waste from three states to feed Chester's massive Westinghouse incin-

erator. CRCQL scored a major, but short-lived, victory through the demonstration it staged at the State of Delaware's Solid Waste Authority's (SWA) offices.⁶³ When the SWA met in January 1997 to reconsider its export of 225,000 tons of trash per year to the Westinghouse incinerator, it voted to discontinue its shipments to the Westinghouse incinerator. Those responsible for feeding the Westinghouse incinerator did not remain idle, however. Shortly after the incinerator was sold to new owners, the SWA reversed its decision and signed a new contract in May 1997 with the incinerator's new owners, American Ref-Fuel. Under this agreement, 300,000 tons of waste per year is burned at the Chester incinerator.

Despite some setbacks and an uncertain future, CRCQL has created a venerable legacy; it is now a political force to be reckoned with in Chester. What began as a small group of residents concerned with their quality of life and their health has grown into an organization with the power to engage decision makers on issues that affect the residents' fundamental well-being. Indeed, CRCQL's biggest victories may be that it is a cohesive, healthy group and it is in coalition with C4. A self-taught community organizer, Zulene Mayfield recognizes that the importance of CRCQL's struggle goes beyond the individual victories and defeats in its campaign against the toxic facilities in Chester. "Historically, black people haven't realized the power they have. The people who have realized it, who have the knowledge, have to teach the others. We have to start using our own power."⁶⁴