

REAGAN, TOXICS AND MINORITIES

A Policy Report

Preface by John Conyers, Jr.; Member of Congress

**Urban Environment
Conference, Inc.**



The authors wish to thank the numerous people who reviewed this report. Special thanks go to those people around the country whose health, or that of their loved ones, is impaired or jeopardized.

The Urban Environment Conference, Inc. (UEC) is an alliance of labor, minority and environmental organizations. Founded by the late Senator Philip A. Hart in 1971, UEC has had a long-standing Minorities and Toxics program which involves research, training and education, and advocacy.

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A Policy Report
by the Urban Environment
Conference, Inc.

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PREFACE

By John Conyers, Jr., Member of Congress

Critics of the Reagan Administration have raised questions about the "fairness" of the President's economic and civil rights policies, blasting their disproportionately devastating effect on minorities and low income Americans. This report, however, is the first effort to focus on the "fairness" of health and safety policies which shift the burden of toxic pollutants in the workplace and the environment to minorities. The report demonstrates that Ronald Reagan's civil rights policy of "blame the victim" extends just as cruelly into the area of environmental and occupational health.

In the 1950's, much of the sociological literature on poverty attributed the economic plight of blacks and other minorities to what was said to be inherent laziness and intellectual inferiority. This attitude deflected attention from the virtually insurmountable walls of segregation that blocked social and economic mobility. Today, similar thinking attempts to explain away the discrepancies in minority disease and mortality rates summarized at the beginning of this report.

Just as in the 50's, minorities today are being told that their health problems are largely self-inflicted, that their poor health is a manifestation of immoderate personal habits. Such blame-the-victim strategies again serve to divert attention from the real problem -- the fact that minorities are the targets of a disproportionate threat from toxins both in the workplace, where they are assigned the dirtiest and most hazardous jobs, and in their homes, which tend to be situated in the most polluted communities.

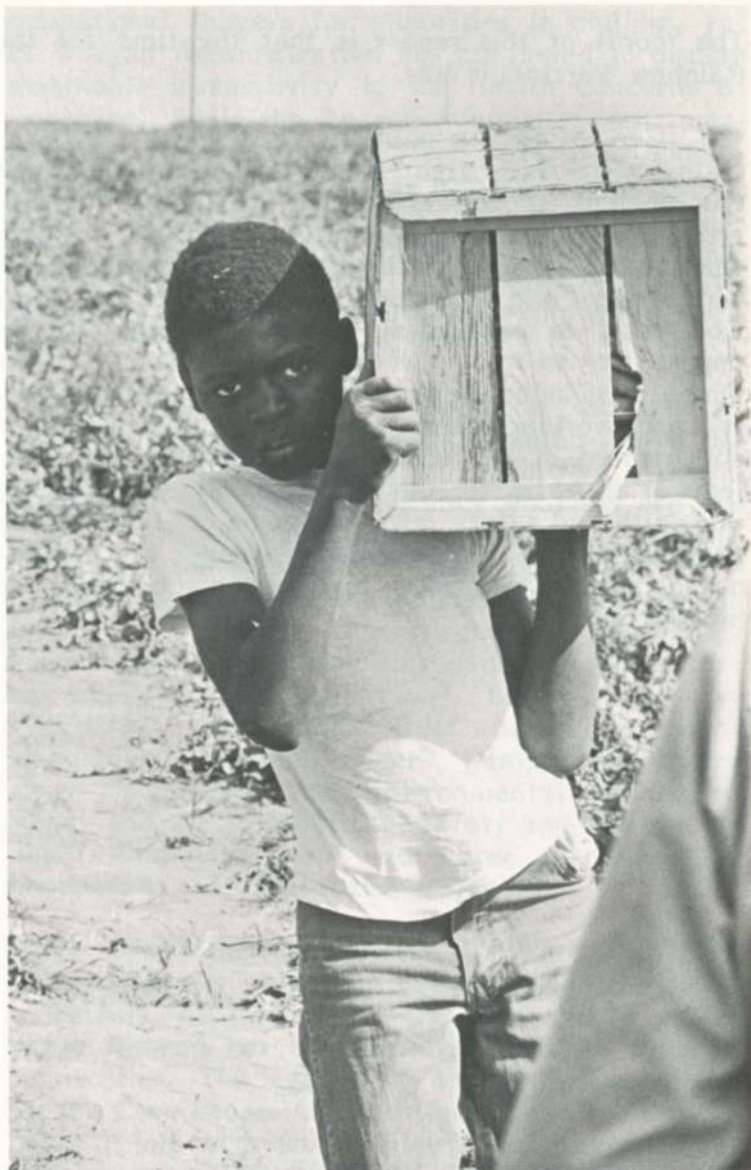
The data presented here on environmental and occupational dangers for minorities is chilling, yet the Reagan Administration has continued to display remarkable insensitivity to the health concerns of minorities. While the Reagan Administration is certainly not the sole cause of toxics hazards to minorities, the problem is definitely not the victims themselves. And while this report documents the attempts of these victims to help themselves -- only occasionally successfully -- the Reagan Administration is most assuredly responsible for worsening their plight.

The stories which follow trace the fate of regulatory agencies which adopt a blame-the-victim approach to health and safety regulation, often in violation of the laws that agency officials are appointed to administer. Clarence Thomas, Reagan's chairman of the Equal Employment Opportunity Commission, has explained the philosophy of blame the victim: "Ultimately, the burden of your being mugged falls on you. Now, you don't want it that way, and I don't want it that way. But that's the way it happens." Even if that's true, what happens when the mugger is a police officer? Reagan's health and safety "police," the Environmental Protection Agency and the Occupational Safety and Health Administration, have spent over three years mugging minorities at risk from toxic substances.

A Cree Indian legend tells of a time when birds fall from the sky, rivers are poisoned and deer die in the forests, all because of the white man's greed. Ronald Reagan has brought that time to minority communities. The legend goes on, however, and tells that the Cree people will then heal the Earth's spirit. They will join with the inhabitants of many different lands to become "Rainbow Warriors" who will guard against all forms of exploitation and despoilation.

The moral of this report is that the time for the Rainbow Warriors is now.

Central to any political strategy aimed at reclaiming the basic right to a healthy workplace and environment is the coalescing of labor, minority groups, women, environmentalists and other citizens who share a common interest in preservation of occupational and environmental health. In this election year, in particular, such a coalition has an opportunity to raise the fairness issue in all of its dimensions, including the toxic threat to poor, minority and working class Americans. The problems documented in this report are ultimately the problems of all of us, for the impact of non-enforcement of health and safety laws cannot be confined to any particular group -- the spreading danger of contaminated air, water, food and workplace heeds no boundaries.



Farmworker, Kern County, California (George Ballis, Courtesy of Rural America)

I. Introduction: A Matter of Life and Death

President Reagan's environmental policies have caused sweeping damage across the nation, with a disproportionately severe impact on minorities. The actions of President Reagan and his appointees at the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) show total disregard for the serious environmental problems of inner-city communities, the poisoning of farm labor camps by pesticides, and the heavy risks minority workers face in hazardous jobs. To these dangers President Reagan has responded with the systematic weakening and dismantling of hard-won protections against environmental and occupational death and disease.

Yet environmental and occupational illness is a matter of life and death for minority Americans. Statistics are sparse but appalling. Black children suffer from elevated blood lead levels six times more frequently than white children. The life expectancy of a migrant farmworker is only 49 years. Black workers face 37% more risk of illness and 20% more risk of death due to their jobs than white workers and are one and one-half times more likely to be severely disabled from job injuries and illnesses. A black American born today can be expected to live six years less than a white American. Blacks are more likely than whites to get cervical, prostate and lung cancer.¹

Two factors help explain these statistics and make minorities especially vulnerable to President Reagan's attacks on the environment. The first is demographic. Minorities tend to live in those areas with the most serious toxic pollution problems -- urban, industrial communities exposed to air and water pollution, or rural areas poisoned by pesticides.

For example, 50% of Hispanics and 71% of blacks live in center cities, compared to 34% of whites.² Moreover, minorities, due to historic job discrimination and poor training and education, tend to work in the most hazardous jobs in unhealthy industries. Minorities are concentrated in dangerous industries including dry cleaning, foundries, hospitals, farmwork, textile mills and tobacco. Studies conducted of the textile and steel industries, among others, show that minorities hold the most dangerous jobs within those industries.³

The impact of minorities' heavy exposures to toxic substances is exacerbated by other problems. The most obvious factor is poverty: in 1981 the black median family income was 56% of that of white families and over 30% of black families lived in poverty, compared to less than 9% of white families. For Hispanics the median family income was 70% of that for whites and 24% of all Hispanic families lived below the poverty level. A problem closely related to poverty is poor medical care. While only one white in eleven had trouble getting medical care in 1982, the figure for Hispanics was one in five and that for blacks was one in six and one-half. The quality of medical care is reflected in health statistics such as cancer survival rates: five-year survival rates among blacks are at least ten percent lower than those among whites for a variety of cancers.⁴

The second reality for minorities today is political. The Reagan Administration perceives that it has little to lose by embracing policies which benefit its wealthy, corporate constituency but harm minorities, poor and working people. Administration decisionmaking in all spheres, especially with regard to environmental issues, has reflected this attitude. Thus, President Reagan's environmental policies may be viewed as a component of a broader assault on the civil and economic rights of minorities.

The story of the Reagan Administration's attack on the environment has been told several times,⁵ but the disproportionate impact on minorities has remained largely hidden. This report is an attempt to retell the stories of some of the most egregious anti-environmental actions taken by the Reagan Administration and to relate those actions to their impacts on minority health in America. The pages that follow document a pattern of governmental behavior that can only be described as "ignore the law and blame the victim." Fortunately, the victims are fighting back rather than passively accepting the blame. In part, this report is also the story of the heroic and sometimes successful battles waged by minority victims and their allies. These now-seasoned activists will not be content with the few potentially protective regulations that the Reagan Administration has promulgated as the 1984 election draws near.

The toxics threat may now seem distant given the immediate ravages of unemployment, hunger and poverty in minority communities. There is no doubt, however, that just these few years of federal disregard for hazardous wastes, air and water pollution, pesticide contamination and workplace toxics will leave a legacy of disability and death among people of color for generations to come.

Notes

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Health and Safety on Black Workers: Assessment and Prognosis," Labor Studies Journal, Spring 1981, p. 30; Reid, "Black America in the 1980s," Population Bulletin, December 1982, p. 14; U.S. Department of Health, Education and Welfare, Cancer Questions and Answers About Rates and Risks, 1975, p. 13.

2. Reid, supra note 1, p. 7; Davis, Haub and Willette, "U.S. Hispanics: Changing the Face of America," Population Bulletin, June 1983, p. 13.

3. Urban Environment Conference, Taking Back Our Health: A Training Manual on Job Safety and Health for Black and Latino Workers, reprinted 1983, p. 2-3 (citing U.S. Department of Labor, Bureau of Labor Statistics); Davis, supra note 1, pp. 34-37.

4. Davis, Haub and Willette, supra note 2, pp. 36-37; Washington Post, December 19, 1983, p. A3; Page, "NCI Studies Focus On Cancer in Minorities," Oncology Times, October 1983, p. 12.

5. Lash et. al., supra note 1; W. Drayton, America's Toxic Protection Gap: The Collapse of Compliance with the Nation's Toxics Laws, Washington, D.C.: Environmental Safety, July 1984.

II. Not Getting the Lead Out

"For poor and black children, lead represents the second largest threat to health, second only to poor nutrition."

--Dr. Vernon Houk, Centers for Disease Control

West Dallas, Texas, is a poor, predominantly black and Hispanic neighborhood which has long lived in the shadow of the RSR Corporation's lead smelter. A secondary lead smelter which melted old lead batteries to produce about 29,000 tons of lead in the last operating year,¹ the RSR facility is across the street from a large housing project occupied mostly by blacks. Single family homes occupied mostly by blacks, a well-used Boys Club with an outdoor playground, and two schools are also near with the smelter. Patricia Spears, a long-time resident of the area, tells of children she knows who have lived near the smelter. "I have seen some children's hair fall out . . . and definitely seen some dental problems." Ms. Spears' own children are constantly under care for a variety of health problems associated with chronic lead poisoning.²

Thanks to Reagan appointee John Hernandez, West Dallas' children played in heavily lead contaminated soil for two years longer than necessary. In 1981, then EPA Deputy Administrator Hernandez rejected a voluntary offer by RSR to clean up soil contaminated with lead levels of over 1,000 parts per million. He rejected both the evidence that led to the RSR offer and new evidence of dangerous exposure published by a Dallas newspaper in April, 1982, instead ordering further studies which were not released until February, 1983. Representative Elliot Levitas later charged that "When the (Reagan) Administration talked about 'health effects evidence' what

it really wanted was a body count." Alma Shaw, whose son had lead poisoning from the smelter, made the case against Hernandez more poignantly: "It's just too much when they start messing with my children's health."³

Lead poisoning is a health hazard for minorities not just in West Dallas, but throughout urban America. Indeed, lead, a highly toxic substance found in paint, gasoline, food and its containers, jeopardizes the health of one-fifth of a generation of urban black children. Lead poisoning causes disabling illness and brain damage leading to lowered intelligence, erratic behavior and poor classroom performance. In 1981, the National Center for Health Statistics' National Health and Nutrition Survey (HANES) reported that nearly 8 million urban children are at risk of low-level lead damage.² Already, at least 600,000 of them are contaminated by excess lead. Eleven percent of all inner-city children, 12% of all black children and over 18% of all poor black children possessed dangerous blood lead levels.⁵ These numbers may well have underestimated the extent of the lead poisoning problem, as they do not reflect the recent recommendation by the Centers for Disease Control's Lead Poisoning Prevention Advisory Committee that the safety threshold for lead be set at 25 micrograms per deciliter of blood, rather than the 30 microgram standard used to date.⁶

Of course, children need not suffer from lead contamination. Effective regulation can reduce lead exposure dramatically, and programs to identify and provide medical help to affected children can check and even reverse the symptoms of lead poisoning. In fact, a long list of federal government initiatives in the 1970s addressed the lead problem: EPA's phase-down of lead content in gasoline, limits on the use of leaded paint, establishment of standards for workplace lead exposure, and federally-funded lead

screening programs for urban children. Blood lead levels fell nationally during the 1970s, although more for whites than for blacks.⁷

Despite the findings of the HANES report, however, progress in the government's efforts to reduce lead exposure came to a halt with the inauguration of Ronald Reagan. The early years of the Reagan Administration -- as typified by the Hernandez/RSR incident -- were marked by measures to weaken existing controls and expose more Americans to the risks of lead pollution. If the Administration had adopted a deliberate, government-wide policy of increasing lead contamination, the results could hardly have been more sweeping: for three years Reagan attacked our protection from lead exposure on all fronts.

Workers in the lead industry, many of whom are black, have found their protections weakened. Urban dwellers have been exposed to unneeded levels of lead for longer than necessary. Administration policies have hit urban black children especially hard, however, striking directly at the two sources most commonly responsible for childhood lead poisoning -- leaded gasoline and leaded paint -- while cutting back on screening programs designed to detect and remedy lead poisoning once it has occurred. Furthermore, Ronald Reagan's cuts in child nutrition programs exacerbate the threat to minority children, because "nutrition has been demonstrated to have an important role in altering susceptibility to lead intoxication in developing animals and children." Calcium and iron deficiencies are common among low income groups, and it is the absence of these nutrients which heightens lead absorption. Thus, low income children face the greatest risks from lead.⁸

Lead Screening

The lead screening program of the Department of Health and Human Services was one of the lead programs most directly affecting urban and minority children and led to the detection of 162,580 cases of lead poisoning in American children between 1973 and 1978. Unfortunately, the program has been handicapped by losses in funding, technical assistance and federal oversight. During the Reagan Administration's first year it was made part of the maternal and child health block grant scheme, where it now competes with other crucial child health programs for drastically fewer resources.

In fiscal year 1982, the block grant program received 25% less funding than the previous year and, not surprisingly, lead screening efforts decreased dramatically, especially in cities with high minority populations. In Newark, New Jersey, where screening found 14.1% of children to be in need of medical care for lead poisoning, the program budget was cut by 23%, 5 of 17 staff members were fired, and only 8,000 of the 44,000 children in need of screening received it. Experience in other large cities was similar: St. Louis, with dangerous lead levels found in 11.8% of children, absorbed a budget cut of 23%, lost half of its staff and screened 28% fewer children -- 4,000 less than the previous year.⁹

Leaded Gasoline

The use of leaded gasoline accounts for between 85 and 95 percent of the lead found in the air and thus contributes heavily to contamination of the air and soil in which urban children play. Recognizing this danger in 1973, EPA announced its program to phase out leaded gasoline consumption. At that time, it estimated that leaded gasoline would have virtually disappeared from American gas stations by 1984.¹⁰

The Reagan Administration made that prediction fantasy. One of their first deregulatory actions was an attempt to weaken EPA's lead-in-gasoline rule. EPA Administrator Anne Gorsuch met with representatives of the small Thriftway refinery in December, 1981, and promised them that she would not enforce the lead-in-gasoline rules, since she was planning to abolish them by 1982. As usual, minorities were to be affected by the Reagan Administration actions: Thriftway sold most of its low quality, high lead gasoline on a Navajo reservation. Gorsuch's attempts to relax the rule were met by a strong public outcry, however, and were never carried out.¹¹

Still, nearly half of the gasoline sold in this nation contains lead, and EPA now predicts that, even by 1990, the demand will remain a high 11%. A number of factors have produced this problem: rampant fuel switching and tampering, occurring in approximately 13 1/2% of U.S. automobiles; extended ownership of cars due to economic woes; and, most importantly, the Reagan EPA's early efforts to slow the nation's conversion to unleaded gasoline.

EPA's initial, aborted campaign to weaken the lead-in-gasoline standard has been followed by other actions which contribute to persistently high lead pollution from gasoline. In January, 1982, EPA delayed the establishment of strict emission standards for heavy duty trucks, a move which will allow 52.8 billion more grams of lead into the air between 1984 and 1986.¹³ EPA has also refused to take action on violations of rules governing the use of leaded gas, leaving the matter in the hands of the cumbersome federal court process and inviting fuel switching, tampering and other abuses. In August, 1984, EPA finally proposed a rule which would cut the amount of lead in gasoline from 1.1 to 0.1 grams per gallon by January 1, 1986. Even by EPA's conservative estimates, the proposal would leave 40,000

children in need of medical attention for lead poisoning.¹⁴

Lead Paint in Housing

Scientists and policymakers have known for years that ingested lead paint can cause lead poisoning in its most severe forms. The Department of Housing and Urban Development (HUD) under the Reagan Administration, however, has turned its back on the problem of old, flaking leaded paint in public housing projects with their many minority occupants. Tenants of one such project, Stanton Dwellings in Southeast Washington, D.C., sued HUD to protect their children's health. In 1983, a federal appeals court found that HUD had failed in its duty to protect children from the effects of lead-based paint in public housing and had improperly used cost-benefit analysis to formulate its obligations under federal law.¹⁵

How did HUD respond? Not only did the agency fail to promptly issue the required regulations, but it also closed the Division of Environmental Hazards Research and gutted the Office of Environmental Quality, the two offices within HUD which had shown interest in lead paint hazards.¹⁶ Then, in May, 1984, HUD finally issued an advanced notice of proposed rulemaking strongly suggesting that its response to the D.C. lawsuit would be to further weaken its statutorily mandated program for removing lead paint from HUD-assisted housing. The notice, which downplays the importance of childhood lead poisoning, hints at future efforts to restrict the types of housing covered by the program and to require removal only after children living in housing units have been shown to have elevated blood lead levels.¹⁷ This last requirement would be especially onerous given the cutbacks in screening programs.

The lead-based paint poisoning prevention program established in the Department of Health, Education and Welfare in 1971 has also suffered under the Reagan Administration. The General Accounting Office (GAO), a Congressional watchdog agency, recently studied changes in federal maternal and child health services under Reagan's block grant initiatives. The GAO found that expenditures for the effort had decreased by over 40% between 1981 and 1983 in the eight states surveyed. Only one of the eight states, Pennsylvania, expanded services during that time; two larger states, Texas and California, eliminated the lead paint prevention program entirely and the others reduced resources in varying degrees, with dramatic cuts in staff and number of children served.¹⁸

The Workplace

Lead poisoning is also a problem for adult minority workers, not just urban children. Many minorities work in battery plants and lead smelters; in a sample of eight battery plants in Cook County, Illinois, 52% of the blue collar positions were held by non-whites. All 42 of the workers from a battery plant in Skokie, Illinois screened at Cook County Hospital between 1976 and 1978 had lead poisoning -- and most of them were black.¹⁹

Overall, approximately 835,000 workers in 120 occupations are exposed to lead on the job.²⁰ In 1978, OSHA took the first desperately needed steps to protect those workers from kidney and central nervous system damage and other medical complications by issuing regulations limiting allowable lead exposure in the workplace and monitoring workers' blood lead levels for harmful contamination. These regulations came as the result of lengthy deliberations and have withstood court challenges by industry.

The Reagan Administration has repeatedly tried to place workplace lead protections on hold while attempting to permanently weaken the standard. Former OSHA head Thorne Aughter first delayed the tightening of medical removal protections for lead workers. The "trigger" level at which workers must be removed from exposure to lead was supposed to drop progressively lower during the implementation of the lead standard, but Aughter stopped the phase-down until ordered by the courts to restore it. Next, in December 1982, OSHA issued a stay relieving the smelting and battery manufacturing industries of their obligation to submit written compliance programs for meeting the standard. The United Steelworkers of America filed suit against OSHA, and in June, 1984, the stay was lifted under a federal court order. At one point OSHA even agreed to a "human experiment" in which a worker with dangerously high blood lead levels was allowed to continue working while wearing a respirator so that company officials could "research" the effectiveness of respirators in such situations. The experiment was suspended after one month because OSHA discovered that the worker had a serious kidney problem, probably as a result of years of lead exposure.²¹

OSHA has not given up on permanently weakening workplace lead protection. The lead standard was a prime target of Reagan's Task Force on Regulatory Relief for many months during which OSHA repeatedly drafted new, weaker standards in consultation with industry officials. Proposed revisions to the lead standard now being examined by the Office of Management and Budget would extend the compliance deadline for secondary lead smelters by five years and allow the use of respirators for longer periods of time.²² OSHA thus continues to threaten protection for these 835,000 workers, their families and communities exposed daily to toxic lead.

Lead regulation provides a striking and tragic example of the Reagan Administration's response to the toxics threats faced by urban and minority Americans. Like so many of its environmental and health and safety policies, the Administration's weakening of lead controls can in no way be justified in a human sense. Furthermore, the abdication on lead controls makes for bad economics: in 1978, University of Illinois researchers calculated that the excess medical and educational expenses and losses in productivity due to lead contamination cost this nation between \$429 million and \$1 billion each year.²³ Still, the oil, chemical and battery/smelter industries do derive some marginal, short-term benefit from lax lead regulation, and it is their interests, rather than those of minorities' and public health, that the Reagan Administration has consistently advanced.

Notes

1. Industrial Safety & Health Consultants (Jackson, Tennessee), "Technical Services Study -- Evaluation of Murmur Business Plan," February 21, 1984, p. 16.
2. Interview with Patricia Spears, September 10, 1984.
3. New York Times, April 25, 1983, p. A10; "Hernandez' Era of Good Science Changed EPA," Dallas Morning News, March 27, 1983; J. Lash, K. Gillman and D. Sheridan, A Season of Spoils: The Story of the Reagan Administration's Attack on the Environment, New York: Pantheon Books, 1984, pp. 131-38. Lead cleanup finally began in response to actions by the city of Dallas and the State Attorney General.
4. U.S. Environmental Protection Agency, Air Quality Criteria Document for Lead (preliminary draft), p. 13-58; National Center for Health Statis-

tics, Plans and Operation of the Second National Health and Nutrition Examination Survey, 1976-1980, Washington, DC: National Center for Health Statistics, 1981.

5. "Children and Lead: New Findings and Concerns," New England Journal of Medicine, September 2, 1982, p. 615 (editorial).

6. Washington Post, July 22, 1984, p. A17.

7. New Orleans Times-Picayune, June 9, 1983, p. 8.

8. K. Mahaffey and I. Michaelson, "The Interaction Between Lead and Nutrition in Low Level Lead Exposure" in H. L. Needleman (ed.), Low Level Lead Exposure, New York: Raven Press, 1980, pp. 159-200.

9. National Coalition for Lead Control, Children, Lead Poisoning and Block Grants, Washington, D.C.: Center for Science in the Public Interest, October 1982.

10. "Leaded Gasoline: Is the End in Sight?," Consumer Reports, May 2, 1984, p. 285; Washington Post, February 13, 1973, p. A1.

11. Lash, supra note 3, pp. 139-44.

12. National Coalition for Lead Control, "Comments on EPA's Draft Report: 'Anti-Tampering and Anti-Fuel-Switching to Reduce In-Use Emissions from Motor Vehicles'," September, 1983.

13. Testimony of Clarence Ditlow, Center for Auto Safety, before Environmental Protection Agency public hearings on lead phasedown relaxation, April 15-16, 1982.

14. Federal Register, August 2, 1984, pp. 31,032-50; Environmental Health Letter, July 1, 1984, p.3; Washington Post, July 31, 1984, p. A1; New York Times, July 31, 1984, p. A1.

15. Ashton v. Pierce, 716 F.2d 56 (D.C. Cir. 1983); Washington Post, August 27, 1983, p. B3.

16. "US Closes Unit That Cited Health Effect of Lead in Gas," New York Times, July 25, 1983.

17. Federal Register, May 4, 1984, p. 19,210.

18. U.S. General Accounting Office, Maternal and Child Health Block Grant Program Changes Emerging under State Administration, GAO/HRD-84-35, May 7, 1984.

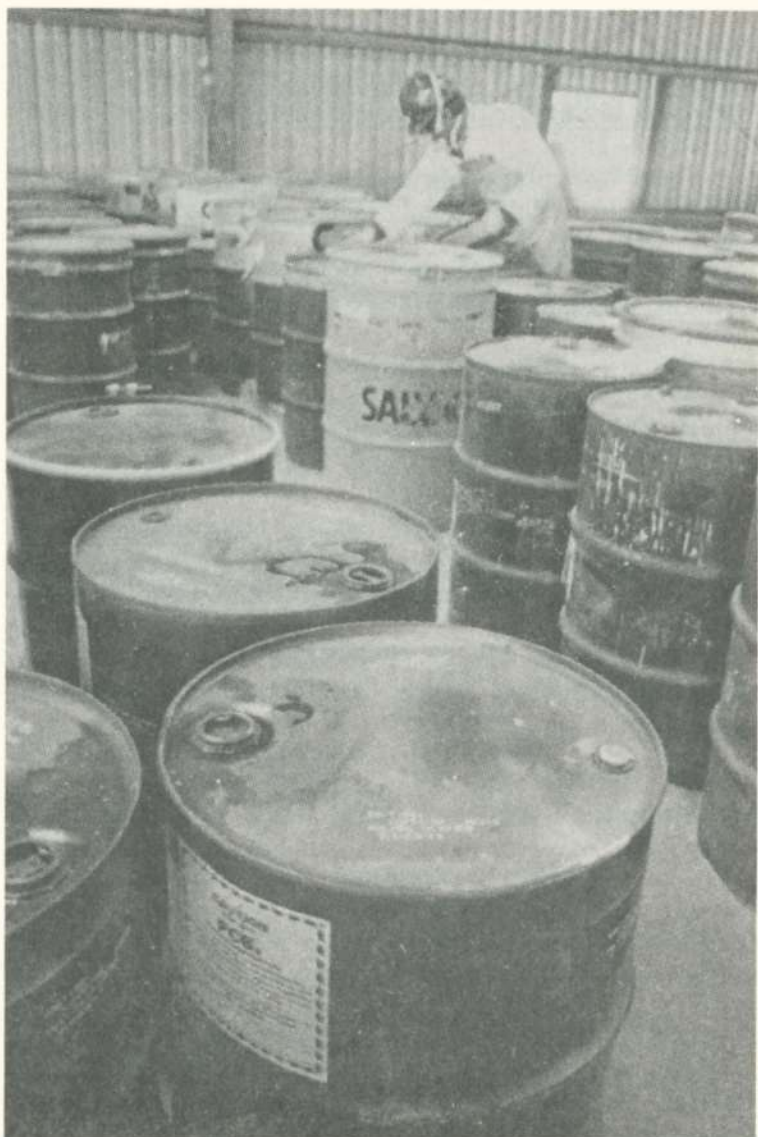
19. "Workplace May Be Hazardous to Health of Blue Collar Minorities," The Chicago Reporter, March 1981, pp. 2-3.

20. U.S. Occupational Safety and Health Administration, Fact Sheet: Lead Exposure Standard, November 13, 1978.

21. Lash, supra note 3, pp. 144-46; J. Grozuczak, Poisons on the Job: The Reagan Administration and American Workers, San Francisco: Sierra Club, October 1982, pp. 8-10; New York Times, June 4, 1984, p. B11.

22. Lash, supra note 3, p. 145; Occupational Safety and Health Reporter, April 12, 1984, p. 1196; Occupational Safety and Health Reporter, February 16, 1984, p. 990.

23. G. Provenzano, "The Social Costs of Excessive Lead Exposure During Childhood," in Needleman, supra note 8, pp. 299-315.



Barrels of PCBs in a storeroom at the Emelle, landfill in Sumter County, Alabama. (Phil Scarsbrook)

III. Dumping on Minorities

"Our county is close to 70 percent black. It's poor and agrarian, and awareness here is low. This would never happen in a place like California -- they're banning landfills in California."

--Linda Munoz, activist in Sumter County, Alabama

The story of toxic wastes in the United States today is often the story of minority communities, and the Reagan Administration has been a major contributor to the toxics problems of these communities. Efforts to clean up toxics from abandoned hazardous waste dumps under the four year old "Superfund" law have not been supported by the Reagan Administration. Implementation of the Resource Conservation and Recovery Act (RCRA), which could insure the future safe disposal of hazardous wastes, has been so slow that EPA has permitted only four percent of the nation's hazardous waste facilities in the last three and one half years.¹

The manufacture of polychlorinated biphenyls (PCBs), a family of virtually indestructible and highly carcinogenic chemical compounds, was banned by the 1976 Toxic Substances Control Act. PCBs can still be found all over the United States, however, and one good place to look is in minority communities. PCBs at levels as much as five times higher than what federal scientists consider "normal" can be found in the bloodstreams of the black residents of Triana, Alabama. In addition, some Trianians have the highest blood serum levels of DDT ever recorded.² PCBs can also be found in dumps in black communities in Warren County, North Carolina and Sumter County Alabama. In fact, high concentration PCBs

from across the country have been illegally stockpiled at Emelle, in Sumter County, Alabama.

The story of PCBs and other toxic wastes in the United States is too often the story of "someplace else." Under the Reagan Administration, the operation and siting of hazardous waste disposal facilities proceeds to the last "someplace else" -- low-income, minority communities, often in sparsely populated areas where land costs are low and residents have little political clout. Hazel Johnson, a resident of the largely black Altgil Gardens development in Chicago, has summed up the problems of minorities living near dumps: "We have 13 chemicals in the water, 25 in the air and 20 in our soil. We're getting double doses of everything. All this stuff is slowly killing us (and) everything's gotten worse since Reagan."³

Operating Waste Disposal Sites

A 1983 Washington Post headline accurately summarized the Reagan Administration's role in siting new hazardous waste disposal sites: "Carolinians, Fighting Toxic Dump, Find No Ally in U.S. Rules." The article tells the story of attempts to block a new dumpsite in Anson County, North Carolina, a largely black area. Residents took their concerns about the threat to local surface and groundwater supplies all the way to EPA Administrator Ann Gorsuch. When Cheraw, South Carolina resident Clyde Wallace asked EPA representatives how a landfill could be safe when it was only seven feet above the water table, he was told "Hell, those regulations say you could build the site in the water table."⁴

"Those regulations" are the rules EPA promulgated under RCRA to establish location standards

for land disposal sites. The regulations took effect on January 26, 1983, and require only that sites be located sufficiently far from seismic faults and floodplains or follow special procedures if located nearby. In addition to these location standards, the regulations include standards on groundwater monitoring and operating requirements.⁵ As the residents of North and South Carolina opposing the new landfill in Anson County found, the regulations don't protect much. The proposed site is bounded on three sides by streams which flow into a major drinking water supply and is located in a floodplain, but apparently still passes muster under the regulations. Luckily for those residents, many of them minorities, their opposition -- unlike the EPA rules -- forced Chem-Security Systems, Inc. to drop its plans.⁶

The regulations are of similarly little aid in assuring the safe operation of existing hazardous waste disposal sites. Regulations provide that landfills in operation before November, 1980 can continue to operate on interim status until they are permitted under the new regulations. EPA acknowledges that it may take up to eight years to finish the permitting, either by issuing final permits or closing down dumps. As of July 30, 1984, only 270 of 8,000 active facilities have been permitted, out of up to 22,000 toxic waste sites in the country.⁷

While permitting drags on, citizens are often unaware that disposal sites exist -- or that new ones are being proposed. For example, many residents in the area of the nation's largest operating toxic waste dump in Emelle, Alabama, were not aware of what it was until recently. One person thought that it was a fertilizer factory. When inquiries are made about proposed sites the facts are not forthcoming, as in the case of Lowndesboro, Alabama mayor Ted Lingham. When crews for the nation's second largest

hazardous waste disposal firm, Browning Ferris, Inc., began drilling for core samples in his community, he was told they were drilling for oil.⁸

RCRA requires that an opportunity for public participation be provided in landfill permitting. However, the people most likely to be affected sometimes don't find about permits until they have been granted, especially in states which have not strengthened the rules for public notice released by the Reagan Administration. According to Vicki Breman, an attorney with the Georgia office of the Legal Environmental Assistance Foundation, "notices are published in the legal sections of the newspaper and mailed to people on the EPA's mailing list. Affected citizens aren't contacted so that the public doesn't really know what's happening until it's too late."

In June, 1983, the General Accounting Office (GAO) released a study of hazardous waste landfill siting in eight Southeastern states. Of the four sites in the region, three were located in communities in which blacks make up the majority of the population. At the fourth site, near Lake Marion, Alabama, blacks make up 38% of the population.⁹

The GAO did not attempt to determine the reasons for placing sites in minority communities, but residents near two of the sites -- Emelle, Alabama and Afton, North Carolina -- believe that the motivation was racial. In addition, as one commenter has noted, even if the motive is "economic rather than racial, that's little solace for blacks, Hispanics, and other racial minorities who form a disproportionately large percentage of our low-income citizenry."¹⁰

Superfund and Minority Communities

The Comprehensive Environmental Response, Compensation and Liability Act, better known as "Superfund," was passed in 1980. EPA's National Priorities List, created as a result of the Act, now lists 538 highly hazardous sites requiring long-term cleanup action, while thousands more await designation to the list. EPA estimates that there are 16,000 to 22,000 abandoned hazardous waste sites. Listing is only the first step, however. Under the Reagan Administration, only six of the sites have been cleaned up and closed.¹¹ Among the sites waiting for designation and cleanup are many located in minority communities including, for example, the North Hollywood dump in Memphis, Tennessee; the South Valley neighborhood outside Albuquerque, New Mexico; Church Rock, New Mexico; and the harbor of New Bedford, Massachusetts.

A more immediate problem for some minority communities, however, is that the current, sporadic clean-up efforts often constitute no more than movement of leaking barrels from one unsafe dumpsite to another. According to one EPA toxic waste expert, "It appears to be inevitable that some sites to which Superfund wastes have been taken will also become Superfund sites."¹² Because many active disposal sites are located in minority communities, these communities are now being exposed to fresh, federally-funded injections of highly hazardous wastes. Two of the sites in minority communities studied in the GAO report are being used for disposal of wastes under Superfund.

One, the nation's largest commercial hazardous waste dump, is located in Emelle, Alabama, which has been described as "a tiny community in Alabama's socially and economically undernourished Black Belt."

Twenty four hours a day tanker trucks carrying chemical wastes pass through rural Sumter County, where 69% of the population is below the poverty level. The site is owned by Chemical Waste Management, a firm that has been criticized for its practice of hiring EPA officials. At one time, John Sanderson was working for both former EPA Administrator Anne Gorsuch and Chemical Waste Management.¹³

Waste from 45 states is dumped at Emelle --and not all of it legally. The company is under investigation by a grand jury convened by Montgomery County district attorney Jimmy Evans, who claims that the landfill is turning Alabama into the "toilet bowl of the nation." The grand jury is investigating allegations that Chemical Waste Management improperly accepted such deadly wastes as dioxin at Emelle without informing the state. The company has also been cited for failure to record the location of waste in the trenches and has been storing thousands of barrels of PCBs in violation of a federal rule prohibiting their storage. Thanks to Reagan's EPA, however, the PCB violation won't hurt Chemical Waste Management financially -- agency lawyers negotiated a settlement in which the company received a 22 month extension and paid only a \$100,000 fine which will be remitted once the PCBs have been cleaned up.¹⁴

As local residents have learned more about the Emelle site, many have become increasingly concerned -- about the threat to Alabama's groundwater and the health of the predominantly black workforce at the dump. At the urging of local residents, the recently elected all-black Sumter County Commission has taken steps to set up local testing facilities to monitor the Emelle site. "This should be done by state and federal folks," said Wendell Parris of the Sumter County Coalition, "but since they're not doing

it, we've got to do it ourselves."¹⁵ Meanwhile, a national protest against the Emelle site has been announced by the United Church of Christ Commission for Racial Justice. According to Dr. Charles E. Cobb, "We believe Sumter County is yet another example of the siting of hazardous waste facilities in defenseless poor and minority communities."¹⁶

Because nationally publicized nonviolent marches and protests were unsuccessful in halting its development, the Warren County, North Carolina "Superfund" receiving site has become one of the nation's most controversial dumps. The PCB disposal site was created in 1982 with \$2.5 million in Superfund money used both to construct the site and to remove soil contaminated with PCBs from North Carolina roadsides and bring it into the site. EPA also furthered the development of the dump by modifying its permit to allow the site to be only 15 feet above the water table, rather than the 50 feet generally required under EPA's special regulations governing PCB disposal.



Equipment contaminated by PCBs in the Emelle landfill. (Phil Scarsbrook)

While the federal government and the state of North Carolina may have been relieved to find a disposal site for the PCBs, many of the 16,000 residents of sparsely-populated, rural Warren County -- 60% of them black and 4% Native American -- were scared and furious. The decision to put the dump in Warren County was racially motivated, according to many area residents. Once that choice had been made, however, a broad coalition of religious leaders, farmers, educators and citizens of all races attracted national attention with its nonviolent opposition to the site, including marches and protests which resulted in over 500 arrests.¹⁷ Although they eventually lost this battle, opponents raised the alarm about where and how toxic materials are being dumped.

Ocean Incineration

Toxic wastes don't just move from minority community to minority community on land: Chemical Waste Management has been attempting to obtain permits to dispose of toxic waste, including PCBs illegally stored at its Emelle, Alabama site, by burning them on a ship in the Gulf of Mexico. Opposition by residents of Texas' Rio Grande Valley -- 80% of whom are Spanish speaking -- and other groups along the Gulf Coast has resulted in a denial of the EPA permits needed before incineration can begin.

The citizens' fight against EPA and Chemical Waste Management began in December of 1981 when the company began to incinerate 3.6 million gallons of PCBs in the Gulf of Mexico under an EPA-approved research permit. Rio Grande Valley citizens became aware of the long-range incineration plans for their area only while a ship, the Vulcanus II, was actually incinerating PCBs at sea in the research

"burn." According to Robin Alexander, a lawyer for Texas Rural Legal Aid in Weslaco, Texas, EPA's notice of tentative determination to grant the research permits had been published only in English in a newspaper in Houston, several hundred miles from the Rio Grande Valley. The incineration plans would also have involved transport and storage of tons of wastes. Farmworker and environmental organizations coalesced and repeatedly delayed the permitting process. In October, 1983, EPA approved special and research permits for the burning of mixed organic compounds, including PCBs and DDT, at the Gulf Incineration Site.

Opposition to these permits was immediate and widespread. Thirty one plaintiffs, including the states of Texas and Louisiana and environmental, shrimping and fishing organizations, filed suit against EPA. When the court ruled that the case was premature, over 6,000 people attended an EPA hearing in Brownsville, Texas, in November, 1983. Most condemned the issuance of the permits. As one spokesman testified, "A majority of people in the Valley are poor, Chicanos and Mexicanos. But we want you to know that we are educated . . . We are citizens of the United States. You work for us. We demand that you protect and safeguard our environment."¹⁸ Valley residents were concerned about the possibility of catastrophic damage to the marine environment due to spills, fires or other accidents and about damage to their own health and environment because shipboard incinerators are not subject to the same technological or legal requirements as land-based incinerators.¹⁹

The report from the hearing officer recommended the denial of the general permit but the issuance of a research permit. Although this permit did not specify that the waste to be burned was that

illegally stored at the Emelle site, the type of waste and the amount specified in the permits matched that stored in Alabama. Moreover, during the EPA's consideration of the permits Chemical Waste Management had signed a consent agreement with federal enforcement officials regarding the Emelle PCBs which stated that disposal by onboard incineration was to begin within 30 days after receipt of a permit for incineration at sea.²⁰ Community criticism of EPA's research permit was thus even harsher, condemning EPA's blatant attempt to permit incineration in the name of research.

In May, 1984, EPA reversed its tentative approval and decided not to issue either special or research permits for ocean incineration in the Gulf. EPA had originally intended to issue permits to Chemical Waste Management although the agency had not yet issued general regulations governing ocean incineration. In the May decision, however, EPA conceded that the correct course was to refrain from issuing operational permits until after completing several studies and issuing comprehensive regulations for at sea incineration.²¹ In other words, in the face of widespread public and Congressional opposition, EPA finally backed down. Yet, even then, the EPA failed to deal with the issue with integrity, according to Robin Alexander. When several citizen organizations, including Texas Rural Legal Aid, were invited to attend a June, 1984, meeting to plan for EPA ocean incineration regulation, they found that those regulations had already been written by the agency.

* * * * *

The moral of this story is that no matter where toxic wastes are generated they seem to end up in minority communities. The PCB dumpsite in largely

black Warren County was opened as an alternative to moving the PCBs to the the minority community of Emelle's "Cadillac" of hazardous waste sites. In the meantime, Emelle's owners were trying to move PCBs to ocean incineration ships operating in the Gulf of Mexico, close to the Spanish-speaking communities of Texas' Rio Grande Valley. While the toxic wastes go round and round, however, the minority communities involved are not being brought into the decisionmaking and remain unconvinced by claims that the wastes pose no threat of environmental and health damage.

Notes

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3. "Hazardous Waste in Georgia," Southern Changes, August/September 1984, p. 8; Interview with Hazel Johnson, September 14, 1984.
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6. Washington Post, supra note 4; J. Lash, K. Gillman and D. Sheridan, A Season of Spoils: The Story of the Reagan Administration's Attack on the Environment, New York: Pantheon Books, 1984, pp. 111-12.
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8. "Toxic Waste Cadillac," Southern Changes, August/September 1984, p. 3.

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10. "Environment Study Off Base," The Daily Press (Utica, New York), January 21, 1983.

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13. "EPA Officials Now at Chem Waste," The Advertiser (Montgomery, Alabama), June 1984, p. 13.

14. "Toxic Waste Merry-Go-Round," supra note 12; "Alabama: The Nation's Dumping Ground (A Special Report)," The Advertiser (Montgomery, Alabama), June 1984, pp. 2, 3, 7; Washington Post, July 15, 1984, p. G3; General Accounting Office, supra note 5, Appendix I, p. 1; "Toxic Waste Cadillac," supra note 8, p. 5.

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18. "Valley Residents Organize," The Texas Observer, February 10, 1984, p. 12.

19. Greenpeace U.S.A., "Position Paper on Ocean Incineration of Toxic Waste."

20. Letter from Robin Alexander (Texas Rural Legal Aid) to James Jeter (Urban Environment Conference), May 9, 1984, p. 2.

21. U.S. EPA, Fact Sheet: Ocean Incineration Permits Decision, April 23, 1984, p. 2; U.S. EPA, Assistant Administrator's Determination on Applications of Chemical Waste Management, Inc. and Combustion Services, B.V. for Special and Research Ocean Incineration Permits, April 23, 1984.

IV. We Just Come To Work Here

And if its always level on the floor where
you're workin'
And your telephone is OSHA approved.
When you tell me how much you're spending
on safety
Pardon me if I'm not moved --
'Cause ever since 1970 the law has been on
our side
That's why we just come to work here --
We don't come to die.
--From the song by Harry Stamper

The efforts of President Reagan's Occupational Safety and Health Administration (OSHA) to turn back the clock on protection of workers' health have been amply documented elsewhere,¹ but not enough emphasis has been placed on the disproportionate impact of these regressive policies on minority workers. Statistics on occupational safety and health are generally lacking, and numbers broken down by race are even harder to find. The evidence that exists, however, demonstrates that minority workers are hit hardest by failures in health and safety regulation since they are often forced by economic circumstance and discrimination to take the least safe, dirtiest jobs.

Blacks have a 37% higher risk of occupationally induced disease and a 20% higher death rate from occupationally related diseases than whites. Job-related health problems also plague other minorities: 13% of the Latino population is severely disabled, compared to 8% of the white population. Blacks and Latinos represent 15% and 4.8% of the workforce, respectively, but these minority workers are concentrated in certain industries, many of which have

above average injury and illness rates. Industries in which blacks and Latinos are over-represented include laundry and drycleaning, tobacco manufacture, fabric mills, smelters, hospitals (as orderlies and attendants), and service industries. Minorities not only work in unsafe industries, but are often assigned the dirtiest jobs in those industries. Black steelworkers are most likely to work at coke ovens, for example, and black textile workers in the more dusty opening, picking and sorting operations.²

The plight of minority workers is best told in their own words. The wife of one disabled black worker has observed, "You find blacks and Latinos in all the dirty jobs. The whites won't stay long. They'll keep looking. But the average black person, he gets a job, he tries to hang on to make the best of it."³ Within industries, minorities are more likely to be assigned the dirtiest jobs; one black woman who worked in an automobile parts plant has said that "The worst job in the place was packaging ball bearings in lithium grease -- all day long. There were about 25 women who did that -- and they were all black. There never was a white woman assigned to that job."⁴ Richard Womack of the AFL-CIO's Civil Rights Department has summed up the problem: "despite provisions of the Occupational Safety and Health Act, safety and health standards remain a myth for many black workers. In death, as in life, the white and black gap is growing."⁵

While the gap between the occupational health of minorities and whites is a problem predating President Reagan, his Administration has been particularly insensitive to the issue of minority occupational health. This chapter examines the mishandling of only two occupational health problems particularly affecting minority workers, although many of the actions taken -- or not taken -- by Reagan's OSHA

similarly have disproportionate effects on minorities. The cases of cotton dust and ethylene oxide, therefore, must be considered in the broader setting of Reagan's policies.

The Dismantling of OSHA

A little-noticed but telling sign of the Reagan OSHA's lack of concern for minority occupational health was the defunding of "New Directions" training and education grants for organizations addressing primarily minority workers. In 1981 and 1982, OSHA completely eliminated the funding of eight out of eleven such organizations. Another organization was cut from over \$200,000 to \$5,000 in 1981 and did not reapply in 1982. Included in the eleven were all of the national organizations training and educating minorities and developing educational materials for minorities. Most of these organizations, such as the A. Philip Randolph Institute and the National Urban League, received satisfactory ratings on their grant refunding applications and were nevertheless cut. Only 10% of other grants were eliminated, compared to the 80% rate for minority grants. One former grantee charged "that despite what the agency is saying, and despite the funding situations, the cuts are discriminatory and are being made on racial grounds."⁶ (In June, 1981, EPA had similarly eliminated its sole program to train and educate minorities on toxics hazards.)

OSHA's disinterest in worker health extends beyond minority workers. During the last three years, President Reagan and former OSHA Administrator Thorne Auchter effectively dismantled workers' safety and health protection. The Occupational Safety and Health Act of 1970 was designed to protect workers' health by creating OSHA and having it both promulgate health and safety standards and

enforce those standards through inspections and penalties. The Reagan attack on enforcement of the Act has come from all directions: failure to promulgate and weakening of standards, cuts in staff and budgets, and decreases in inspections and citations.

A recent report by Environmental Safety documents the emasculation of OSHA enforcement. From 1980 to 1984, the OSHA enforcement budget was cut 30% and OSHA closed more than one third of its field offices. From fiscal year 1980 to fiscal year 1983 inspections dropped by 16%, serious citations fell 47% and willful citations 92%, and the amount of penalties assessed fell by almost 80%. Just over 2 million workers were covered by OSHA inspections in fiscal year 1983, down 45% from the 3.7 million covered in fiscal year 1980.⁷

Numbers alone cannot convey the effects of Reagan's worker non-protection policies, effects which can most easily be seen by examining the consequences of the Administration's persistent refusals to promulgate or strengthen long-needed health and safety standards. Over 11 million workers are exposed full or part time to only 11 substances documented as human carcinogens, yet standard setting efforts have all but ground to a halt under the Reagan Administration. The Reagan record on new health standards is easily summarized:

- no standards for more than two and one half years;
- a weakened hazard communication standard;
- a November, 1983 emergency temporary standard on asbestos, vacated by a court;
- an April, 1984 proposal for a revised permanent asbestos standard which "has nothing to do with worker protection;"
- a June, 1984 final standard for ethylene oxide promulgated under court order which has already been challenged in court as inadequate.

All other efforts have been directed to cost-effectiveness reviews and weakening of existing standards, including the lead and cotton dust standards. These weakening efforts have been launched despite court decisions upholding the standards and an absence of new scientific data justifying any changes.⁸

Cotton Dust

More than half a million workers are employed in the cotton agriculture and yarn and fabric manufacture industries, and more than 80,000 of these workers face impaired breathing and possibly death from byssinosis, commonly called Brown Lung. Thirty thousand active and retired workers already suffer from Brown Lung, which is caused by exposure to cotton dust in inadequately ventilated work environments; 800 workers are completely disabled from the disease annually. Brown Lung worsens with continued exposure to cotton dust, and can eventually result in narrowing of the airways in the lungs, destruction of lung tissue and death from infection or respiratory failure. Cotton dust exposure is a minority health problem because an average of 25% of textile workers, and as many as 60% in some areas, are black. And, as is often the case, black cotton workers are more likely to work in the dustiest part of the mills, where cotton bales are opened and the cotton is picked and carded to remove plant debris.⁹

OSHA established a health standard for cotton dust in 1978, but the new Reagan Administration decided to subject the standard to cost/benefit review in March, 1981. The Administration unsuccessfully asked the Supreme Court to delay ruling on a challenge to the standard, but the Court refused the delay, affirmed the standard and held that cost/benefit analysis cannot be used in setting OSHA standards. OSHA switched tactics slightly after this

setback, instead subjecting the rule to "cost effectiveness" analysis. In June, 1983, OSHA proposed revisions to the standard which would deny over 360,000 workers the protections provided by the 1978 standard and delay the deadline for installing engineering controls even where the standard's coverage was maintained. These revisions did not include a wage retention clause, which would have helped minority and low income workers by allowing at-risk workers to change jobs without loss of pay. The proposed revisions were still in the final stages of OSHA review in February, 1984, so at that point OSHA granted a six month extension of the deadline for compliance with engineering and work practice controls to one segment of the cotton industry. ¹⁰



Woman at a carding machine in a cotton mill (Earl Dotter, American Labor Education Center)

Another example of the Reagan Administration's attitude toward textile workers threatened by cotton dust and Brown Lung was the OSHA endorsement of a request for an experimental variance at Dan River, Inc. in Virginia. The company sought a variance from the state of Virginia to experiment with the lives of 210 "volunteer" workers by paying them to be exposed to cotton dust levels in excess of the legal standard while monitoring them to try to determine whether Brown Lung is caused by bacteria. Virginia granted the variance after OSHA head Thorne Auchter interceded on behalf of the company, telling the state commissioner of labor that OSHA had reviewed the proposal and found it deserving of serious consideration. Auchter made these representations despite concern among OSHA and National Institute for Occupational Safety and Health staff about the proposed human experimentation. Dan River eventually abandoned its proposal in the face of widespread opposition from labor leaders and other critics,¹¹ not including the Reagan Administration.

Ethylene Oxide

Ethylene oxide is a colorless, odorless gas originally developed as a poison gas for World War I. More than 140,000 workers, in hospitals and in furniture, anti-freeze and chemical plants, are exposed to ethylene oxide in various production processes and in its use as a sterilant for medical equipment. Ethylene oxide is a potential human carcinogen which increases the cancer risks of leukemia and lymphoma and may be responsible for reproductive damage including a threefold increase in miscarriages in hospital workers exposed to the gas for as little as ten to twenty minutes per day. Many of the exposed workers are minorities. Twenty eight percent of nursing aides, hospital orderlies and attendants are black and Latino. Blacks constitute forty percent of

the membership of the American Federation of State, County and Municipal Employees, one of the protagonists in the ethylene oxide battle on behalf of its members working in public hospitals.¹²

In 1981 several unions representing hospital workers petitioned OSHA to issue a temporary emergency standard for ethylene oxide. The current legal limit, set more than a decade ago, is 50 parts per million in an eight hour work day. The unions wanted the limit cut to one part per million. OSHA denied the petition and the unions went to court, winning a ruling from a federal appeals court ordering OSHA to stop its unreasonable delay and issue a permanent, not emergency, standard. The court accused OSHA of following the least responsive course by taking three years to revise its standard, and gave the agency one year from its March 15, 1983 decision to promulgate the standard. The deadline was extended to June 15, 1984, and that is the day the standard was issued. The new standard lowers the exposure limit to one part per million, but allows averaging over an eight hour period. Thus, a worker could legally be exposed to 96 parts per million over a five minute period and the employer would be in compliance. A short term exposure limit had been included in a proposal sent to the Office of Management and Budget, but that agency protested and OSHA chose to leave the rulemaking record open while gathering additional information about the need for a short term limit. The petitioning unions have challenged the new rule in a federal appeals court, charging that the lack of a short term limit creates an inadequate standard that does not take into account the conditions under which workers are normally exposed to ethylene oxide.¹³

* * * * *

The cotton dust and ethylene oxide standards are only two examples of the Reagan Administration's attitude toward occupational safety and health in general and the workplace problems of minorities in particular. Similar incidents involving the lead standard and farmworker field sanitation standard are described elsewhere in this report. Even small policy shifts by the Reagan Administration adversely affect minority workers. Two examples are OSHA's decision not to follow up on a May, 1980, proposal to give farmworkers access to medical records already in their employers' files and OSHA's 1982 decision to exempt certain laundry, dry cleaning and food service establishments, all of which heavily employ minorities, from keeping illness and injury records.

OSHA truly has become, in Ralph Nader's words, "a hollow percussion chamber through which the euphemisms and mercury-smooth public relations ploys of regulatory mirage, false hopes and twisted statistics echo daily."¹⁴ For many minority workers, there are not even twisted statistics -- just false hopes.

Notes

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8. Ibid., pp. 82-85; Occupational Safety and Health Reporter, April 19, 1984, p. 1251; "Tougher OSHA Rules on Exposure to Ethylene Oxide Still Criticized," Washington Post, June 19, 1984.

9. Grozuczak, supra note 1, p. 7; Lehmann, supra note 5, p. 17; Martin and Higgins, "Byssinosis and Other Respiratory Ailments: A Survey of 6,631 Cotton Textile Employees," Journal of Occupational Medicine, July 1976.

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12. Taking Back Our Health, supra note 2, p. 2; Grozuczak, supra note 1, p. 13; "Tougher OSHA Rules," supra note 8.

13. "Tougher OSHA Rules," supra note 8; AFL-CIO News, June 23, 1984, p. 5; New York Times, April 15, 1983, p. A15.

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Florida farmworker suffering from dermatitis due to pesticide exposure (Steve Herendeen, courtesy of Rural America).

V. Down on the Farm

When we work in the fields, our whole family goes, my children ranging from six years to one year. While we were working . . . a duster plane started spraying the field right next to us. The wind started blowing the pesticide toward us. We were hoeing cotton and were at one end of the field, and my children were playing outside the car at the other end. There was no way to tell them to get inside the car. That day when we got home I felt very dizzy and had a lot of blurred vision . . . My children . . . got a lot of burning sores all over their bodies.

--Deposition of a farmworker in Texas' Rio Grande Valley¹

Farmworkers have among the most dangerous and least protected jobs of all minority workers -- and most seasonal farmworkers are minorities. Of the estimated 5 million migrant and seasonal farm workers in this country, 75% are Chicano and 20% are black. Minorities are assigned the most hazardous tasks in the fields. A study of Florida agricultural workers, for example, found that blacks were assigned mostly to the dangerous tasks of mixing, formulating and spraying pesticides and that those black workers had the highest rates of liver and kidney dysfunction.²

Although statistics are sparse, there is no doubt that farmwork is extremely dangerous. Exposure to pesticides, heat, mechanical hazards, noise and dust, combined with poverty and poor medical care, lower the life expectancy of a farmworker to 49 years, more than 20 years less than the national average.

The National Safety Council has calculated that the death rate in agriculture is 66 per 100,000, far higher than the industrial average of 18 per 100,000. Excepting accidents, pesticide poisoning probably constitutes the single largest occupational health problem for farmworkers; although few statistics are available, one government estimate is that 80,000 to 90,000 field workers get sick and 800 to 1,000 die each year from pesticide exposure. No nationwide mandatory reporting system for pesticide poisonings exists, and statistics are further blurred because farmworkers are reluctant to report problems, doctors misdiagnose pesticide poisonings, and residues disappear quickly and may allude detection. Even California's mandatory reporting system may reflect only one percent of the actual incidence of poisonings.³

Both EPA and OSHA have responsibility for the occupational health of farmworkers. Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA is responsible for registering pesticides and controlling their use, monitoring the effects of pesticides on humans and the environment, and preventing unreasonable adverse effects of pesticides on farm workers. Farmworkers are supposed to be protected by rules governing procedures for applying pesticides, including the setting of re-entry times specifying how long farmworkers should wait before returning to a field that has been sprayed. OSHA has the authority to regulate all aspects of farmworker safety and health except those related to pesticides.⁴ Under the Reagan Administration, both agencies have failed to live up to their statutory duties to protect farmworker health.

Farmworkers and Pesticides

To be a farmworker is to be exposed to pesticides in the fields and at home. Almost half of the Florida farmworkers surveyed in 1980 had been sprayed directly with agricultural chemicals at least once. A lawyer for Texas Rural Legal Aid told state legislators in 1982 that, of the hundreds of farmworkers and farmworker family members she had talked to, all had been exposed either to direct pesticide spray or to drift from neighboring fields. Neither does exposure to pesticides end when farmworkers leave the fields. Many farmworkers carry pesticide residues home on their clothes, and the homes to which they go are in or near fields which may also be directly sprayed or contaminated by drifting pesticides. One farmworker has said "The field that is located just across the street from our neighborhood . . . is always sprayed and the spray is always carried to our house by the wind. Every morning the grass is all white from the pesticide and when I step over it, my shoes get wet and I immediately get sores all over my feet."⁵

Many farmworkers suffer from adverse health effects as a result of their frequent exposure to pesticides. Two doctors who studied the health of migrant farmworkers found that 56% had abnormal liver and kidney functions and 78% had skin rashes, all effects potentially related to pesticides. Similarly, a health survey of farmworkers in Texas' Rio Grande Valley found that over 50% had experienced dizziness, 40% chronic headaches and 23% blurred vision -- again, all symptoms of pesticide poisoning.⁶

EPA's record in dealing with farmworker exposure to pesticides has historically been inadequate, with few rules promulgated and those barely enforced. The Reagan Administration has, however,

exacerbated pesticide problems by increasing use of pesticides under special exemptions, failing to enforce and tighten existing protections, and stalling Congressional reform of FIFRA.

The Administration has used two back doors to circumvent FIFRA's careful procedures and quickly increase the amount of pesticides used in the United States. Section 18 of FIFRA allows EPA to grant exemptions from FIFRA in case of emergency, authorizing the use of old chemicals on new crops, for new pests or in new formulations. Section 24(c) allows states to provide registrations for additional uses of federally-registered pesticides to meet special local needs; EPA approval is required. The Reagan Administration has dramatically increased the use of these two sections. In fiscal year 1980 EPA approved 198 emergency exemptions (47% of all applications) but by fiscal year 1983 the number had risen to 409, 69% of all applications. Emergency exemptions granted in fiscal year 1982 covered 179 million acres in the Midwest alone. Through the end of fiscal year 1982 states had granted over 8,500 special need registrations, with EPA formally denying fewer than 15 applications; over 1400 were granted in 1981 and over 1600 in 1982.⁷

The increase in pesticide use due to emergency exemptions and special need registrations has not been accompanied by increased protections for farmworkers exposed to pesticides. EPA's re-entry rules were set in 1974 and apply only to the twelve pesticides considered most toxic at that time. Even these inadequate rules have gone largely unenforced: states are responsible for enforcing them and EPA has refused to use its oversight powers to correct the states' failures to act. EPA's own enforcement budget and staff have been cut by one quarter over the last three years. EPA is both failing to enforce

the existing, inadequate re-entry standards and doing little to update and strengthen them. In its 1980 action memo on farmworkers, EPA planned to propose new standards by the end of 1980; the 1983 version notes that "due to current data gaps revision could take up to three years or longer."⁸ In August, 1984, the Environmental Protection Agency issued an advanced notice of proposed rulemaking to consider expanding worker protection standards for agricultural chemicals in several ways. EPA expects to propose the new rule "within 12 months."⁹

EPA has also stalled Congressional efforts to reform pesticide legislation and focus it more on the health and safety problems of farmworkers exposed to pesticides. In August, 1983, the FIFRA Reform Act was introduced in both the House and Senate, backed by a coalition of public health, consumer, labor, farmworker and environmental groups. Among other provisions, the bill would transfer enforcement authority over farmworker exposure to OSHA and require that manufacturers take worker exposure into account when registering pesticides. A House subcommittee had scheduled three mark-up sessions on the bill, but at a November, 1983 hearing EPA Administrator William Ruckelshaus told the subcommittee that he needed more time before he could comment on the bill, and the markups were subsequently cancelled.¹⁰

Field Sanitation Standard

The Occupational Safety and Health Act covers farmworkers and gives OSHA the authority to issue regulations pertaining to farmworker health and safety issues other than pesticide exposure. The Act as passed required basic sanitation facilities for all workers, but in 1971 OSHA exempted agricultural employers from the sanitation rule. The National

Congress of Hispanic American Citizens challenged OSHA's action in 1973, beginning the battle for a field sanitation standard which continues to this day.¹¹ Although the Reagan Administration was not the first to deny farmworkers basic sanitation protections, it has further delayed issuance of the standard and its current actions, taken only under court order, indicate that OSHA remains unconvinced of the need for a field sanitation standard.

A field sanitation standard providing farmworkers with toilet facilities, drinking water and washing facilities would protect the workers from several kinds of health problems. Dermal exposure accounts for most pesticide injuries and could be greatly mitigated if soap and water were available to farmworkers. Washing facilities could also reduce the incidence of infectious diseases. Potable drinking water is needed to reduce the occurrence of heat stress and heat stroke. Finally, sanitary toilet facilities would help to reduce the spread of infectious disease and the incidence of bladder infections.¹²

The field sanitation standard proposed by OSHA in March, 1984 grew out of a 1982 court settlement in which OSHA committed itself to publish a standard by January 16, 1984, 18 months from the date of the settlement. The proposed standard was published only after a federal judge threatened to hold OSHA in contempt of court for delaying the standard. The delay occurred in part because OSHA insisted on submitting its proposal to the Office of Management and Budget.¹³

The field sanitation battle is far from over: the proposed standard may never go into effect. OSHA's preamble clearly indicates that the agency remains skeptical about the need for a field sanitation standard. The Federal Register notice emphasizes that

the issue raised by the proposal is whether the standard is necessary, given the existence of state regulations and the "limitations on quantitative data showing excess risk of disease among field workers."¹⁴ Hearings on the standard have been filled with racist comments about how "those type of people" don't wash their hands and would rather urinate and defecate in open fields. Rev. Leon White, a former farmworker, has identified the real reason for opposition to the field sanitation standard:



California farmworkers. (Steve Herendeen, courtesy of Rural America)

"It's not the money the farmers are concerned about. It's the dehumanizing effect that the lack of toilet facilities has. Farmers are afraid that if they begin to treat farmworkers like human beings, farmworkers will begin to demand more of their rights."¹⁵ OSHA's solicitation of comments on its proposed standard may either provide support for humane work conditions in the fields or allow the agency to side with those who would dehumanize farmworkers.

* * * * *

Although farmworker health and safety is theoretically protected by two federal agencies, farmworkers have received no effective protection under the Reagan Administration. Pesticide exposures from illegal but unchallenged practices will continue to grow as pesticide use increases under special exemptions. Those farmworkers sprayed will not even be able to wash off the residues unless OSHA becomes more convinced of the need for a field sanitation standard. Unless Administration policies change, the poisonings and humiliations will continue for black and Latino farmworkers.

Notes

1. J. Lash, K. Gillman and D. Sheridan, A Season of Spoils: The Story of the Reagan Administration's Attack on the Environment, New York: Pantheon Books, 1984, p. 197.

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4. U.S. Environmental Protection Agency, "Farm and Farmworker Action Plan -- Action Memorandum," February 1980, pp. 14-16.

5. K. Grannis and B. Zacovic, Danger in the Fields: The Myth of Pesticide Safety, Florida: Florida Rural Legal Services Corp., 1980; Lash, supra note 1, pp. 197-98.

6. Lash, supra note 1, pp. 196.

7. W. Drayton, America's Toxic Protection Gap, Washington, D.C.: Environmental Safety, 1984, pp. 92-93; U.S. Congress, House Committee on Agriculture, Subcommittee on Department Operations, Research, and Foreign Agriculture, Hearings on EPA Pesticide Regulatory Study Program, 97th Cong., 2d Sess., December 17, 1982, pp. 28, 113, 117.

8. Lash, supra note 1, p. 199; Drayton, supra note 7, p. 93; EPA, supra note 4, p. 33; U.S. Environmental Protection Agency, "Pesticides Farm Safety Program Policy Statement and Action Plan," March 1983, attachment pp. 1-2.

9. Federal Register, August 15, 1984, pp. 32,605-09.

10. Farmworker Justice Fund, Inc., "FJF Supports Brown-Harkin/Proxmire Pesticide Reform Bill," press release issued August, 1983; "Subcommittee Puts Reform Bill on Hold," Pesticides and You (National Campaign Against the Misuse of Pesticides), December 1983, p. 1.

11. "A Victory for Field Sanitation," In These Times, March 28-April 3, 1984, p. 5.

12. Migrant Legal Action Project, "Why Farm-workers Need Field Sanitation," September 25, 1980.

13. "OSHA Under the Gun on Farm-Site Rules," Washington Post, February 20, 1984.

14. Federal Register, March 1, 1984, pp. 7590-92.

15. "A Victory for Field Sanitation," supra note 11.

VI. Irradiating Native America

In describing the results of uranium mining on a region, Los Alamos Scientific Laboratory suggested that the land be "zoned into uranium mining and milling districts so as to forbid human habitation."¹

Native Americans have sacrificed their land and their lives in order to provide Americans with uranium to fuel the nuclear arms race and nuclear power plants. In return, they have received little revenues and even less environmental protection. While the cumulative royalties from all uranium production on the Navajo reservation amount to less than \$1 million, left behind is much disturbed land and the contamination of underground water from uranium operations. The Reagan Administration has exacerbated the Native Americans' uranium problems by allowing radiation emissions from abandoned and active tailings piles at a rate which exposes nearby residents to levels of radiation creating a risk of one cancer death for every 1,000 people exposed, the highest risk ever allowed to members of the public. This risk estimate does not include any generic effects.²

Native Americans and Uranium

Western Indian nations own half of the United States' privately owned uranium. Three Indian nations -- the Navajo, the Spokane and the Laguna Pueblo -- accounted for 24% of U.S. uranium production and 12% of world production in 1980. The 17 million acre Navajo reservation alone contains 52 uranium mines and 10 uranium mills, many of which are temporarily on stand-by due to lack of demand

for uranium.³

The Bureau of Indian Affairs negotiates resource development leases on reservations because the United States holds the title to the land in trust for the Indians. Most leases for uranium mining include provisions for uranium-processing facilities and tailings disposal sites. Uranium tailings are a waste material created during the processing of uranium ore. Sludge-like tailings are pumped from uranium mills to tailings ponds where the liquids evaporate, leaving piles of highly radioactive dry tailings that contain 85% of the radiation in the raw uranium.⁴

Navajo miners produced uranium exclusively for the government during the 1950s and 1960s with no regulation of mine health and safety, and former miners now face the prospect of lung cancer at rates estimated to be more than fourteen times greater than those for non-miners. Of 100 Navajo miners who worked at the now-abandoned Kerr-McGee mine, 18 have already died of lung cancer and 21 have developed malignancies. In a recent study, uranium miners accounted for 72% of the lung cancer victims in the Navajo male population of New Mexico, Arizona and Utah. Further, miners were found to have lung cancer twenty years earlier than non-miners, at a median age of 44 years.⁵

Even after the passage of mine safety laws to protect workers, Indian communities are being exposed to high levels of radiation in the form of radon gas being vented from mines in order to lower exposure for miners underground. As a result, the dangers of radiation are not exclusive to mine workers. According to one study, "the risk of lung cancer (from radon daughter exposure) does not stop at the exit from the mines."⁶

Recent studies in northwestern New Mexico, bolstered by a preliminary March of Dimes study, show a two-fold excess of still birth congenital anomalies and birth defects among Navajo children living in the Red Valley/Skyrock uranium districts. Another survey performed by the Indian Health Services shows that the rate of bone cancers is five times the national average and reproductive organ cancer is 17 times higher for Navajo teenagers in former uranium districts. These studies, which are critical in gathering data to insure that safety standards are set at proper levels to protect the public health are being continued, but slowly, because of lack of funding.⁷

The greatest radiation health hazard, however, may come from uranium mill tailings. Wind-blown tailings contaminate the air and seepage of leachate liquids from tailings ponds contaminates surface water and groundwater supplies. Virtually all existing tailings piles have contaminated the surrounding groundwater. Another hazard from tailings occurs because Indians living near tailings dumps have used the waste in the construction of their homes; some Navajo homes near a mill site emit more than 20 times the amount of gamma radiation allowable under federal exposure guidelines.⁸

Mill Tailings Standards

The Reagan EPA has the responsibility, under the Uranium Mill Tailings Radiation Control Act of 1978, to issue standards for the stabilization, disposal and control of tailings at both active and inactive milling sites. EPA issued its standard for radiation from abandoned uranium mill tailings sites in January, 1983, and was immediately challenged in court by four environmental groups. The final rule, covering 26 million tons of tailings at over two dozen sites

in Pennsylvania and the Western United States, represented a drastic change from previous proposals supported by environmentalists and health professionals which would have required five to ten times greater radiation protection through the burial of high priority tailing piles in thicker covers and liners on other piles. The generous limits for radon gas emissions and lack of requirements for protection and clean-up of groundwater allows tailings to remain in piles above ground with cover requirements that are anticipated to last a minimum of 200 years, although the radiation hazards from these piles will continue at least 80,000 years, the half-life of thorium 230.

In October, 1983, undaunted by the lawsuit, EPA issued identical radiation limits in its standard for active uranium mills. EPA's own risk assessment indicated that the limit of 20 picocuries per square meter per second could result in one death from cancer for every 1,000 people exposed near the mills over a lifetime. Under previous administrations, risks remaining after environmental standards had generally been held to 1 in 100,000 or 1 in 1,000,000. EPA's assessment was based in part on the total number of deaths rather than the risk, taking into account the number of people living near the sites and establishing a precedent for turning Indian reservations and other sparsely populated areas into "risk dumps" where higher risks are permitted because fewer people are exposed.⁹ This standard may set a very dangerous precedent which allows greater health risks to all populations near polluting and hazardous industries.¹⁰ As has been the case with toxic dumps, those few are likely to be poor people and minorities.

Notes

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2. Americans for Indian Opportunity, Messing With Mother Nature Can Be Hazardous to Your Health, 1981, pp. IV-A-2-5 - IV-A-2-6; New York Times, September 18, 1983, p. 1.

3. LaDuke, supra note 1, p. 74; Bregman, "Uranium Mining on Indian Lands: Blessing or Curse?," Environment, September 1982, pp. 7-9, 34.

4. Bregman, supra note 3, pp. 8-9; Young, "What Price Progress? Uranium Production on Indian Lands in the San Juan Basin," American Indian Law Review, 1981 (volume 9), pp. 18-19.

5. Americans for Indian Opportunity, supra note 2, p. IV-A-2-2; Young, supra note 4, pp. 24-28; Samet, Kurvirt, Waxweiler and Key, "Uranium Mining and Lung Cancer in Navajo Men," The New England Journal of Medicine, June 7, 1984, p. 1481.

6. Harley, "Radon and Lung Cancer in Mines and Homes," The New England Journal of Medicine, June 7, 1984, p. 1526.

7. L. Shields, "Birth Anomalies Among the Navajo in Skyrock, New Mexico Uranium Mining Area," Report of the Principal Investigator to the March of Dimes Birth Defects Foundation, Fall 1982; D. Calloway, "Neoplasm Among Navajo Children," Report submitted to Division of Health Studies, Navajo Tribe (Fort Defiance, Arizona), February 1981.

8. Young, supra note 4, pp. 20-22, 28; Bregman, supra note 3, p. 13.

9. Sierra Club National News Report, February 24, 1983, p. 3; L. Taylor, "Known and Suspected Health Hazards Associated with the Mining and Milling of Uranium," Paper presented to American Association for the Advancement of Science,

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VII. Conclusions

What Ronald Reagan and his appointees do not realize is that the problems of minorities exposed to toxic pollution at home and work are the problems of real people. This report is the story of some of those people: black children with lead poisoning in West Dallas; public housing tenants with lead paint on their apartment walls; scared and angry minorities living next to hazardous waste dumps in Alabama and North Carolina; Spanish-speaking residents of the Rio Grande Valley fearful of ocean burning of PCBs; minority textile workers in the South and hospital aides throughout the country threatened by hazards on the job; Latino and black migrant workers in Texas, Florida and California suffering from pesticide poisoning and lack of sanitary facilities; and Native Americans exposed to life-threatening amounts of radiation from uranium mill tailings.

This report is also the story of the Reagan Administration -- the entire Administration, not any single person or agency. The blame for the increasing health damage to minorities that will occur for years into the future falls collectively to those officials in charge of agencies like EPA, OSHA and HUD. The policies carried out by these officials reflect those of President Reagan, with his ideology of "ignore the law and blame the victim." The legacy of his coordinated attack on the protections for minorities -- and others -- exposed to toxic substances at home and on the job will live on for years in the form of lead-poisoned children, occupational cancers, and contaminated air and groundwater. In his health and safety policies, as in other areas, President Reagan has violated the civil rights of minority Americans and made a lasting contribution to the perpetuation of inequality and unfairness in the United States.