

Small Victories *are* Major Gains for Environmental Justice

The 2009 legislative session felt strange compared to past years working on environmental justice issues as part of the New Mexico Environmental Justice Working Group (NMEJWG). It was a 60-day session, but there was little money in state coffers. On many days the halls of the Round House were actually quite empty and quiet. When there were large numbers of people, it was for a press conference or a special day at the legislature. Many of those present were either industry lobbyists, state agencies, religious and advocacy groups, or community organizations that do work around a variety of issues. Industry and its legislators quickly introduced bills to weaken regulations, create laws to protect industry, and keep poor people impoverished, so there was plenty of social and environmental justice defensive work to be done.



Drums of hazardous waste were dumped at this landfill in New Mexico.

ENVIRONMENTAL JUSTICE

The NMEJWG, with the support and sponsorship of Senator Linda Lopez (D), proposed Senate Joint Memorial (SJM) 46, "Regional Health Profiles." This memorial would have directed the New Mexico Environment Department (NMED) and the New Mexico Department of Health to gather existing health data in three specific EJ communities: the uranium belt in west central New Mexico; a 20-mile radius around Mesquite, New Mexico, an area surrounded by feedlots, a chemical plant, and large agribusinesses; and the Mountain View Community in the Albuquerque South Valley, which is surrounded by industry, more than 30 EPA-regulated-sites, and two superfund tracts. SJM 46 would have gathered data from community organizations, not just from government institutions or agencies. From this, regional health profile databases could be created to provide beneficial information for planning and decision-making services for state agencies as well as communities. SJM 46 made it through the Senate but was delayed. The memorial made it to the House floor on the last day but ran out of time.

The NMEJWG also did defensive work on some solid waste bills. Before the legislative session began, the NMED's Solid Waste Bureau held three meetings with industry, municipal, and county governments to engage in dialogue about the bureau's fee for processing landfill permit applications. The state's solid waste regulations cap these fees to \$10,000, even though it costs \$50,000 to \$110,000 to process each permit. The NMED introduced a bill to raise fees to no more than \$100,000 depending on the size of the facility. Industry came out against the bill almost immediately and killed it with the support of municipal and county associations.

In the meantime Senator Phil Griego (D) and Representative John Heaton (D) introduced their own permit fee bills. Senator Griego's bill, Senate Bill (SB) 643, asked that permit fees be capped at \$50,000 and would have given private and municipal landfills the option of applying for a life-of-facility permit. Present regulations give private landfills a 10-year permit and municipalities a 20-year permit. Griego's bill would have severely limited the information communities can gather about regulated facilities in their communities, curtailed formal public hearings and forums, and compromised regulatory oversight. The bill made it through the Senate Conservation Committee but then died.

Representative Heaton's bill, House Bill (HB) 824, made it further due to strong support by industry. The bill would have capped permit fees at \$50,000, a level acceptable to municipal and county governments, and would have lengthened a private permit from 10 to 20 years. This bill passed the House but didn't make it through the Senate. Constituencies that have struggled against landfills in their communities in both southern and northern New Mexico made many effective calls to their representatives about this legislation.



Northwest New Mexico Regional Landfill, Wagon Mound.

URANIUM

Work by the Multicultural Alliance for a Safe Environment (MASE) focused on both good and bad uranium legislation. Senator Patricia Lundstrum (D), who represents portions of the Grants uranium belt in New Mexico, again sponsored the "Uranium Legacy Fund" (HB 84), which sought to start a funding stream for uranium legacy issues by imposing a tax on new mining. The impacted communities and native peoples of MASE remain opposed to this bill as it links cleanup to new mining and doesn't hold past parties liable for their cleanup responsibilities. This bill was quickly killed thanks to organizing efforts and attendance by members of affected tribes during Indian Day at the Legislature — the day the Lundstrum bill was heard in the House Energy and Natural Resources Committee (HENRC).

Continued community opposition to creating a funding stream tied solely to new mining encouraged Representative Roger Madalena (D), chair of the HENRC, to sponsor HB 749, another Uranium Legacy Bill that would have created a funding stream from the general budget. This bill was gaining support but died due to time. Meanwhile, Representative Benjamin Rodefer's (D) HB 755 would have made old polluters responsible for cleanup. Though it too failed to pass, issues that MASE members have identified as important were recognized and discussed.

There were uranium memorials that called for health and water studies, abandoned uranium mine assessment, cleanup, and a uranium task force. One memorial that did pass, SJM 15, was introduced by Senator Lynda

Lovejoy (D). It asks the federal government to assist in abandoned uranium mine assessment and cleanup.

In the last two legislative sessions there has been heightened awareness in addressing uranium legacy issues because of the work that MASE member organizations have done to prompt cleanup of mining sites. This awareness was also spurred by the 2007 hearings and roundtables held by U.S. Representative Henry Waxman, and Representative (now Senator) Tom Udall on the uranium legacy.

OTHER LEGISLATION

The NMEJWG did support work on some bills in which affiliate members of the Southwest Network for Environmental and Economic Justice were involved. One big news item from the legislature was that New Mexico joins 14 other states that have repealed the death penalty. Representative Gail Chasey (D) sponsored the bill. In



Protective clothing was needed to check groundwater contamination levels at this landfill.

addition, the Prohibition of Profiling Practices Act (HB 428) passed, which makes it illegal for law enforcement agencies or officers in New Mexico to profile on the basis of race, ethnicity, color or national origin, etc.

The Farm and Ranch Employee Workers' Compensation Act, HB 62 sponsored by Representative Antonio Lujan (D), would have extended workers compensation

to ranch hands and farm workers, some of the poorest of the poor. This bill was killed by industry and big ranchers.

Senator Cynthia Nava (D) introduced legislation that would have identified irresponsible environmental actors and allowed the NMED to deny a permit application based on poor enforcement history. The bill never made it out of the Senate Conservation Committee.

A measure proposing a Water Quality Control Commission, SB 607, was sponsored by Senator David Ulibarri (D). The commission would have established a Water Quality Control Board favoring industry with no community representation. It passed the Senate but died in the House.

Meanwhile, Representative Richard Berry (D) introduced HB 45 State Rule Regulatory Impact Statements, which quickly died. This bill contended that regulations discourage industry from coming to New Mexico, and it would have required an impact assessment on the cost to industry from regulations devised to protect rights, people, and natural resources. Pro-industry regulatory reform bills have become a real challenge. We can expect more of these in future legislative sessions.

Some good legislation did pass, positioning New Mexico to be a player in renewable energy and the green economy. Yet many legislators who receive high grades from conservation groups continue to compromise their low-income constituents and communities of color for cultural capital and industry support. But as with uranium issues, there are small victories that bring us incrementally closer to true environmental justice, and therein lies our hope. ✨

— Sofia Martinez

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