

## Environmental Justice Case Study: Waste Technologies Industries, Inc. and the Fight Against A Hazardous Waste Incinerator in East Liverpool, Ohio

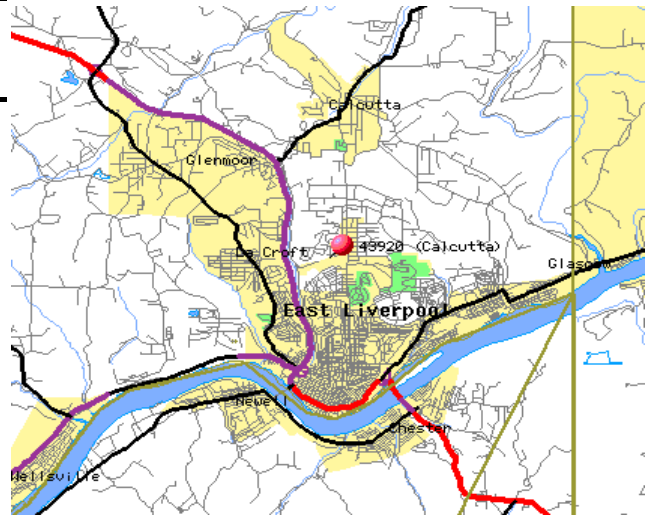
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*Above map taken from Tiger Mapping Service, 1997.*

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### The Problem

The Waste Technologies Industry, Inc. incinerator is located in the floodplain of the Ohio River in East Liverpool, Ohio. The surrounding area is elevated on a bluff, such that incinerator's stack is level with the windows of local buildings. The incinerator is located about 300 feet from homes and just 1100 feet from an elementary school. The location of the facility has been intensely criticized by citizens, scientists, and government officials alike. East Liverpool is located at the juncture of Ohio, West Virginia, and Pennsylvania, approximately 35 miles from Pittsburgh.



The WTI struggle is a regional issue that drew much national attention during the early 1990's, much to the credit of organizer Terri Swearingen, a citizen of Chester, W. VA. who coordinates the Tri-State Environmental Council. Tri-State Environmental Council became outraged by the various environmental problems that the WTI facility has created for several reasons. First, there has never been a comprehensive study of the potential health effects upon the surrounding community, either from inhalation of toxics or accumulation of materials (such as dioxin, a known carcinogen) in fatty tissues and subsequent transmission via mother's milk or the food chain. Also, the incinerator will be pumping hazardous chemicals into the environment, including mercury and other heavy metals. It is expected to emit 4.5 tons of lead per year, and this less than 400 yards from an elementary school and residential area.

Foremost, issues of environmental justice have been avoided by regulatory officials through this struggle, although it has been observed that East Liverpool and the surrounding communities are predominantly low-income and minority neighborhoods. These neighborhoods have already incurred adverse environmental effects from existing local industry. Government response during the reauthorization process for WTI as well as towards these concerns has been conspicuously slow.

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### Background

Waste Technologies Industries' hazardous waste incinerator was first proposed in 1977, and has been under severe scrutiny from its neighbors since 1980. Once construction began in 1990, an intense campaign against the WTI facility and incineration as a means of hazardous waste disposal commenced in East Liverpool, surrounding communities, and eventually the nation. WTI itself has been a topic of national controversy, and was mentioned specifically during the 1992 Clinton-Gore campaign. Clinton and Gore promised the American people that not only would the Clinton Administration never let such a facility become a reality, but they aimed to prevent the WTI facility from opening before questions regarding the safety and legality of its operation were answered. Vice-President-Elect Gore, along with five U.S. Senators and two Representatives, followed up on this promise by requesting a General Accounting Office (GAO) investigation of the facility. However, after sixteen years of community struggle after the incinerator was proposed, the facility is currently operating, despite an array of procedural and legal mishaps.

There have been repeated discrepancies in ownership throughout the permit application process. RCRA permits are not transferrable between parties, thus the Ohio Attorney General declared the permits invalid. Furthermore, the initial permit applications were not signed, and thus technically cannot be issued. The initial permits listed Columbiana Port Authority as part owner of the facility. Later, Columbiana Port Authority asked to be removed from the permit, and may have been listed as part owner simply because the land on which WTI sits was once owned by the Port Authority. The land then taken in eminent domain from the Port Authority, later to be sold to WTI. Eminent domain requires that a public entity show "proper public purpose" before it acquires property for public use. Whether WTI's incinerator demonstrates proper public purpose is obviously still at question by the community of East Liverpool.

WTI's facility seems to have escaped various environmental regulations. For example, an Ohio law passed in August 1984 prohibits any incinerator within 2000 feet of a school, hospital, prison or in a floodplain. However, WTI was exempted because the new policy did not go into effect until after pending appeals were resolved with the WTI case and permits granted in January 1985. Later, the 18 month moratorium on new incinerators imposed by U.S. EPA in 1992 would exempt WTI and other incinerators that had already begun the permit application process, as did a 1991 moratorium on new hazardous waste incinerators in the state of Ohio.

Citizens opposing the incinerator filed suit to enjoin the incinerator in Ohio and Pennsylvania District courts under provisions of RCRA. However, the lawsuit failed because do not have discretion to issue, revoke, deny or otherwise affect permits for hazardous waste incinerators. Hearings concerning WTI have been held before U.S. Senate and House Committees. However, none of these actions produced evidence that the EPA would consider grounds for the "automatic revocation" of the RCRA permit.

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## **Key Actors**

### **● Waste Technologies Industry, Inc. (WTI)**

WTI is solely owned and operated by Von Roll America, Inc., a Swiss company. WTI has been able to garner considerable citizen support because the financial resources it brings to the area. WTI promised the citizens of East Liverpool 1\$ per ton of waste burned toward the local hospital (approximately \$60,000 per day) and \$10 per ton to the city for infrastructure improvement (\$600,000 per day). They sponsor community organizations such as sports teams and recreational facilities. WTI has also gained significant political support, as one of the original partners in the corporation was Jackson Stephens. Stephens, an Arkansas investor, was known as a significant contributor to Reagan, Bush, and Clinton campaigns. WTI attempts to improve public image through a variety of campaigns, including proclaiming adherence to "stricter standards" by EPA. The latest such campaign is to become involved in the remediation of Superfund sites. The corporation also employs a Citizen Advisory Committee to oversee WTI activities . This committee has unlimited access to the site, and is given monthly reports on the facility.

### **● Citizens for Progress**

Citizens for Progress is local citizens group in support of WTI. They cite economic benefits to the community, including revenue from "tipping fees" and employment possibilities, a common ground in a community abandoned by most industries that were once present. Citizens for Progress has held rallies, demonstrations, and press conferences, appealing to government actors not to intervene with WTI's operation.

### **● Ohio Governor George Voinovich**

Voinovich has the power to stop WTI's facility, but despite pleas from citizens, scientists, and government officials in Ohio, West Virginia, and Pennsylvania, he has not done so. He also stated that the issues surrounding WTI have become "too emotional" and expressed his desire that emotions play an insignificant role in governmental actions regarding the incinerator.

### **● Tri-State Environmental Council**

This citizen opposition group formed as an umbrella organization for smaller community groups in 1991. Coordinated by Terri Swearingen, who became nationally known for her aggressive activism and strong leadership, the group now functions as the primary resource for citizens concerned about WTI. This group is based in Chester, W. VA, directly across the Ohio River from the incinerator. The group's membership is diverse, and their strongest assets are their intellectual resources, persistence, and coalition-building efforts.

### **● Save Our County**

This citizen opposition group, based in East Liverpool, was involved in efforts to prevent the permit approval for the incinerator at the onset. To this day, the group meets regularly and serves as an information clearinghouse for the community.

## ● Greenpeace America

Greenpeace joined the local groups in fighting WTI in 1992. Their activism brought needed resources to this campaign, including experts, researchers, and experience in anti-incinerator and anti-toxics battles. They also brought additional financial resources and national name recognition, adding to the legitimacy of the local struggle.

## ● U.S. Environmental Protection Agency

The EPA has been accused of having bias in favor of WTI and carrying out decision-making activities without required public participation. The agency also violated rules established in RCRA during the WTI permit application process. EPA admitted such wrong-doing at a hearing before the House Judiciary Committee's subcommittee on Administrative Law and Government Relations, as well as the Senate Environment and Public Works Committee.

## ● Ohio Environmental Protection Agency

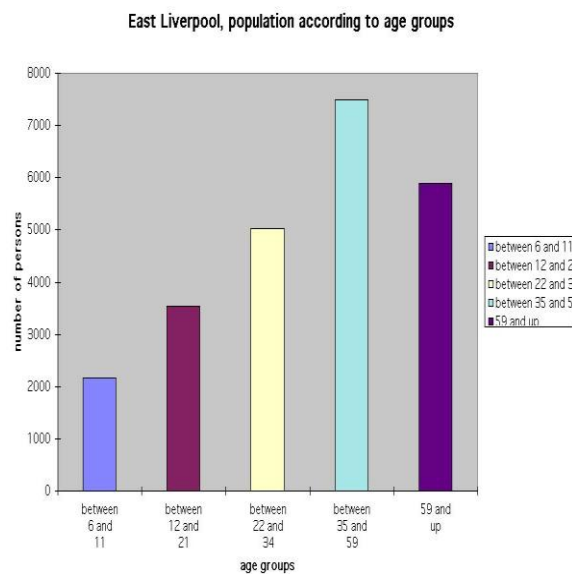
Ohio EPA has the power to revoke or deny renewal of WTI's operating permit. WTI's RCRA permit expired in January 1995, yet the facility continues operate. Ohio EPA has not issued a new permit, nor has it indicated that a new permit will not be reissued.

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## Demographics

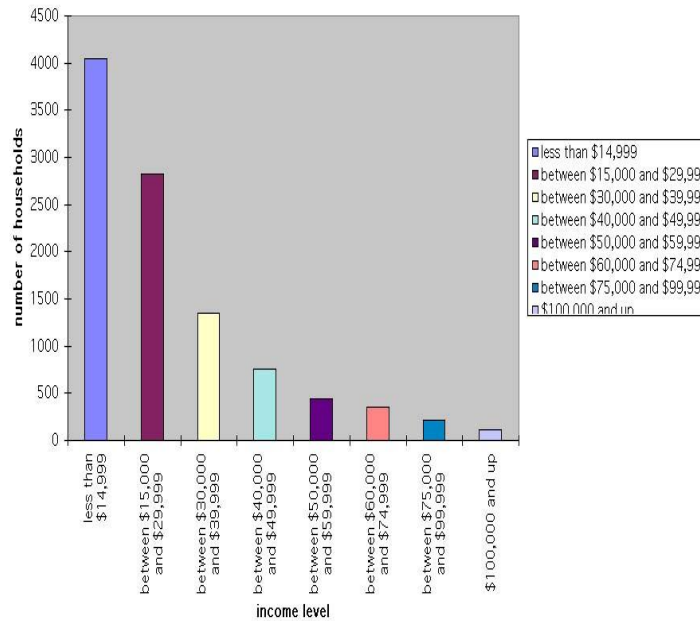
East Liverpool is an economically depressed community of about 13,000 people. Although minorities comprise only 4.0% of the population, the majority of the city's African American residents live in the immediate vicinity of the facility. Most of the community's residents are at or near the poverty level (about \$15,000 per year for a family of four). Many households are headed by single women, and East Liverpool has a large number of unoccupied homes. All of these characteristics are indicators of economic depression.

Below are some charts that detail several demographic characteristics of East Liverpool. All information is taken from 1990 U.S. Census Data.



It is important to note that children and the elderly make up a large proportion of total population in East Liverpool. It is obvious that these two population groups are most susceptible to health risks created by polluted air, especially during periods of air inversion.

East Liverpool, population according to household income



As stated, a significant proportion of households in East Liverpool lives on \$15,000 or less annually. This might imply that much of the population would be unable to move if air quality continues to decline as a result of the WTI incinerator. Further, it is likely that few households can afford health care to help cover costs of possible damage to their respiratory systems.

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## Strategies

### Information Gathering and Networking

Local citizens have traditionally monitored activity surrounding WTI. Currently, a "core group" of about ten local residents watch the operation of the incinerator closely, and investigate any unusual circumstances. The citizens who monitor the facilities operation also keep their neighbors well-informed. Regular meetings of local opposition groups Save Our County and Tri-State Environmental Council serve as important means of information dispersal, in addition to the group's regular contributions to the media.

### Coalition Building

Citizens groups initially formed in the tri-state area surrounding the incinerator. Later, the Tri-State Environmental Council was established to serve as an umbrella organization for these groups.

### Media Attention

Getting successful media attention has been important to the protest against WTI. Terri Swearingen cites the creative attention-getting techniques. For example, after a newspaper called George Voinovich a "weenie on waste", her group embarked on a series of hotdog-wielding demonstrations. A group of citizens held a weenie roast on the lawn of the governor's mansion, placed awareness-raising stickers on packages of hot dogs in local supermarkets, sent the governor's mansion wieners on a regular basis, and arrived at the governor's speaking engagements presenting footlong hotdogs--once embarrassing him so much that he cancelled his speech. She recommends this kind of creative, and often spontaneous approach to others. Terri emphasized that the easiest way for citizens to gain coverage by the media is to create an event, because it is easier for the media to cover a protest than to check citizen research.

### Civil Disobedience

Nonviolent protests have been one of the primary methods used by the groups to gain attention from other citizens, government officials, and the media. These groups made of coupling creativity and attention-getting tactics with strategies of civil disobedience.

### **Drawing Support from Non-Governmental Organizations**

Enlisting the support from nationally known organizations greatly strengthened the efforts of the citizens of East Liverpool and surrounding areas. Greenpeace's efforts brought experience, person power, experts, financial resources, national name recognition, and a reputation for persistence to East Liverpool. Although this was an effective strategy, Greenpeace eventually withdrew their support.

### **Gaining Access**

Through meeting with a variety of public officials, the citizens' groups gained critical access to policymakers and regulators. In this way they attempted to circumvent the common stereotypes of citizen activists by demonstrating competence and knowledge on a variety of issues pertaining to WTI. Unfortunately, this strategy may have intimidated public officials.

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### **Solutions**

The citizens involved in the East Liverpool incinerator struggle gained national attention for their cause, and pleaded with citizens of this country for support. They have shown extraordinary determination and tenacity throughout the sixteen-year struggle.

New developments concerning WTI suggest that there may still be opportunity for action that will benefit the citizens of East Liverpool and the surrounding area. In order to successfully resolve this case, large numbers of citizens must be mobilized to pressure their elected officials to hold governmental agencies accountable. As Terri Swearingen said, when a battle has been ongoing for sixteen years, it's difficult to get mass participation. She said that the residents near WTI are far from apathetic, but they are beginning to feel discouraged. She states, "We're just not going to get 1500 people to participate in a demonstration like we used to be able to." Should the battle begin on a national level again, environmentalists must be prepared to act. When the problems are as deep-rooted and pervasive as they have been with the WTI facility, the government needs to hear that people disapprove. Many people mistakenly believe that the WTI struggle is over, because the facility is currently operating. However, there are opportunities for action right now. Citizens involved in WTI need to actively seek national attention once again.

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### **Recommendations**

The citizens involved in the fight against the Waste Technologies Industries, Inc. hazardous waste incinerator have been successful. They built strong coalitions, engaged in a multitude of non-violent protests and civil disobedience, drew media attention to their cause through press conferences and staged events, garnered national support, engaged in litigation, and gained access to elected and administrative officials at the local, state and federal level. Nonetheless, their actions have not resulted in the attainment of their goal, which is to either (a) prevent the facility's further operation, or (b) restrict its operation such that chlorine wastes and heavy metals will not be processed there and no waste burned at all during periods of air inversion.

The struggle against WTI should be continued. Not only have irregularities and misconducts been identified in the permitting process, and principles established that render the WTI incinerator illegal or questionable, but the citizens have already been very successful in bringing the hazards associated with such incinerators to national attention. They deserve national support from environmentalists as well. It was their persistent efforts that brought more stringent regulation of hazardous waste incinerators nationwide, and it is grossly unfair that these victories cannot be used to defeat the hazardous waste incinerator in their own community.

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### **Key Contacts**

One may request a 1995 Facility Master Report for WTI. These are made available by OMB Watch and Unison Institute, through the Right-To-Know Network (RTK NET)'s copies of a number of EPA databases.

Information may also be obtained from the citizens' organizations at the forefront of this long struggle:

Terri Swearingen, Tri-State Environmental Council (304) 387-0574

Alonzo Spencer, Save Our County (216) 385-4584

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