

CHANGING NOTIONS OF ENVIRONMENTAL JUSTICE IN THE DECISION TO HOST A NUCLEAR FUEL STORAGE FACILITY ON THE SKULL VALLEY GOSHUTE RESERVATION

Noriko Ishiyama

Rutgers University, Department of Geography
54 Joyce Kilmer Avenue, Piscataway NJ 08854, USA
tel: 1-732-247-5720
noriko@eden.rutgers.edu

Kimberly TallBear

International Institute for Indigenous Resource Management
444 S. Emerson Street, Denver CO 80209, USA
tel: 1-303-733-0481 fax: 1-303-744-9808
kimberlytallbear@iirm.org

Presented at
Waste Management 2001 Symposia
Session 51: Equity and Environmental Justice

ABSTRACT

This paper examines the conflict surrounding the Skull Valley Band of Goshute Indians' decision to host an interim storage facility for high-level radioactive waste on their reservation in Utah. This paper challenges the predominant tradition of environmental justice scholarship and activism that focus on the inequitable distribution of hazards in low-income minority communities. We examine the underlying historical, political, and geographical contexts of the emerging nuclear landscape of the American West and focus on how the political and environmental dynamics of siting a nuclear facility intersect with issues of community self-determination and identity formation. Specifically, we examine notions of tribal sovereignty and contemporary tribal identity politics and how these complicate and hinder tribal involvement in a full range of decisions about development. Environmental justice activism and literature tend to restrictively define the authentic indigenous response to development and natural resource management, particularly when projects are controversial and technologically complex. The restrictive definition expects that tribes will refuse to grapple with technology, calling it an anti-spiritual manifestation of the non-tribal world. In labeling the tribal response, there is no distinction made between the variety of indigenous players and distinct communities represented, the differing scopes of governing authority, and heterogeneous responses to projects tagged as environmentally unjust. Rarely is there discussion of the range of values placed on specific sites by specific tribes and how these values should inform development decisions. Finally, this view of "authentic," legitimate tribal involvement undermines the capacity building necessary for tribes to achieve a level of sovereignty and justice where they are educated and proactive in a full range of development and resource management decisions.

INTRODUCTION

This examination of the conflict surrounding the Skull Valley Goshute decision to host an interim storage facility for high-level radioactive waste challenges the bulk of environmental justice scholarship that focuses on the inequitable distribution of hazards in low-income minority communities (1). We propose that the monolithic concept of environmental racism reflected in the rhetoric of many environmental justice advocates facilitates a simplistic understanding of the highly complex politics in Skull Valley.

Rather, we suggest that concepts of tribal self-determination, tribal sovereignty, and contemporary tribal identity politics make it impossible to assess this situation as simply a case of environmental injustice.

When the U.S. Department of Energy (DOE) began looking for a place to site interim storage of high-level radioactive waste, some communities—the majority of which have been Indian tribes—showed interest in accepting the facility in return for economic compensation. This paper briefly discusses U.S. nuclear waste policies in relation to Indian tribes in general and gives an overview of the peoples and landscape of Skull Valley in order to further highlight the complexity of the politics of environmental justice in this conflict. This paper will also discuss how some academics and activists call attention to the history of colonialism by emphasizing environmental racism in explaining the locational correlation between ecological contamination and Indian tribes (2). Such discourse espouses a theory of environmental justice that is based primarily on an absolutist understanding that a tribe can only be victimized in relation to racist white society, that there is no room for exercise of tribal sovereignty in relation to a situation such as that which exists in Skull Valley. While such literature promotes social justice for tribes, it does not properly address the issue of sovereignty and tribal self-determination. Unfortunately, other literature seems to question the legitimacy of tribal governmental authority on the grounds that tribal governments sometimes make harmful environmental decisions for economic benefits (3). While debating and challenging questionable *decisions* of tribal governments can be seen as a sign of vibrant political life, this is not the same as questioning the very authority of tribes to govern themselves. American Indian lawyers, Kevin Gover and Jana L. Walker (4) have specifically addressed what they see as the paternalism and racism inherent in the arguments of some environmental activists:

Too often, the environmental community appoints itself the officious protector of the Indians. . . . To people like ourselves, Indians who have devoted our careers to the defense of Indian rights, this is unspeakably arrogant. . . . Much of the environmental community seems to assume that, if an Indian community decides to accept such a project, it either does not understand the potential consequences or has been bamboozled by an unprincipled waste company. In either case, the clear implication is that Indians lack the intelligence to balance and protect adequately their own economic and environmental interests. This is clearly a racist assumption; the same assumption that guided the federal policies that nearly eradicated Indian people in the late nineteenth and early twentieth centuries.

A few scholars such as American Indian law expert Dean Suagee (5) harshly criticize some environmental justice advocates for not understanding the sovereign status of tribes. Other scholars have discussed the significant, yet complicated, implications of tribal sovereignty as demonstrated in the power dynamics between tribal, federal, and state governments and have explored conflicts between environmental justice advocacy and tribal governments' abilities to act as sovereigns (6). Without acknowledging the intersection of tribal sovereignty and environmental justice in the context of historical colonialism, environmental justice scholars fail to address the issue of community self-determination and this can lead to tense relationships between struggling tribes and environmental justice advocates.

In addition, there are increasingly divisive identity politics that inform the positioning of players in the Skull Valley conflict. Such politics within Skull Valley are part of a growing tendency within and without Indian Country to view such internecine struggles as occurring between morally pure "traditionalists" and less moral "assimilationists." This paper shows how identity politics have helped frame this conflict simplistically as an example of environmental injustice in which corrupt and assimilationist tribal leaders are portrayed as unwitting victims in schemes to exploit their own peoples. Finally, given our assertions that environmental justice is more complex than is commonly portrayed, a central and difficult question is explored: What exactly constitutes environmental justice? What is required for a situation to be classified as environmentally just? Simple answers are not provided. Rather, environmental justice scholars are encouraged to assess the underlying historical and structural

contexts as they assess the extent of environmental justice or injustice in the Skull Valley locational conflict.

PROCEDURAL JUSTICE: ADDING COMPLEXITY TO ENVIRONMENTAL JUSTICE

Environmental justice activist movement and scholarship have resulted in significant political, legislative, and social developments. While environmental justice advocates have striven for participatory democracy, the movement has also generated internal conflicts and philosophical contradictions. The majority of related scholarly literature does not address the political and historical complexity of environmental justice. Such literature also simplifies understanding of the issue as being simply a matter of environmental racism and too often limits analysis to a superficial distribution of hazards.

An oversimplified notion of environmental racism obscures more complex ecological processes in which racism intersects with other forms of oppression. Laura Pulido critiques influential environmental racism literature by highlighting conceptual flaws imbedded in such an understanding. First, racism is simplified as consisting solely of overt actions as opposed to also, and perhaps more importantly, being institutionalized within economic, educational, and political systems (7). Related to this, racism is neglected as an ideology and is portrayed as fixed, without mobility or change. The predominant concept of environmental racism also suggests the existence of a clear and wholly oppositional political and cultural line between white society and communities of color. Accordingly, some studies of environmental justice movement romanticize struggling communities of color as a cohesive entity in opposition to a white-dominated society (8). Neglected are difficult discussions about internal power structures, identity politics, and ideological disparities that confront communities of color.

Moreover, early environmental justice scholarship has been dominated by the theory of distributive justice that problematizes the unequal allocation of hazards based on the racial and economic characteristics of communities. It has been said that such literature “make(s) clear the . . . belief that the ‘environment’ is no more—and certainly no less—than a particular form of the goods and bads that society must divide among its members” (9). Overall, the analytical framework of distributive justice has downplayed complicating issues of class, social relations, and broader historical, cultural, and ideological contexts. In order to clarify the broader context, the concept of procedural justice should be further elaborated. A crucial criticism has been made that “redistributing outcomes will not achieve environmental justice unless it is accompanied and indeed, preceded by a procedural redistribution of power in decision-making. . . procedural equity entails full democratic participation not only in decisions affecting distributive outcomes but also, and more importantly, in a gamut of prior decisions affecting the production of costs and benefits to be distributed (10).”

In summary, environmental and social justice are determined not simply by the equal distribution of environmental risks and benefits. Rather, justice is also determined by meaningful community participation as opposed to intended or structural exclusion from social processes and political and economic decision-making (to use Skull Valley as an example) in decisions related to the production, siting, and management of radioactive waste.

A BRIEF ENVIRONMENTAL HISTORY OF SKULL VALLEY

In the contemporary and predominately Mormon cultural landscape of Utah, the situation of the Skull Valley Band and its evolution as a community is both interesting and discouraging. While tribes in nearby states visibly influence the contemporary cultural landscape, the Director of Utah’s Division of Indian Affairs has described his state as a “monolithic cultural landscape dominated by one religion (11).” The Skull Valley Band, before Mormon settlement in the area, was a nomadic tribe that roamed an area from present day Salt Lake City to Tooele County and Skull Valley. Although they were largely

culturally overrun in large-scale Euro-American/Mormon settlement in the 1840s, the Goshute resisted relocation to the Utah/Nevada border. In 1917, an executive order approved federal recognition for the tribe. Predictably, the land officially designated as the Goshute reservation consisted of only a small piece of land useless to agricultural settlers. While Goshutes had hunted and gathered and relocated seasonally to efficiently use the limited resources available in their homeland, Euro-American settlement transformed the ecological system of the desert. Euro-Americans introduced horses and mules that overgrazed the grasses and lessened the prevalence of seeds that the tribespeople gathered.

Modern-day Skull Valley and Tooele County have been characterized as the “nation’s greatest concentration of hyper-hazardous and ultra-deadly materials” (12). Skull Valley and Tooele County have also been described as one of the federal government’s national sacrifice zones in the American West for the purpose of fulfilling the military industry’s Cold War interests (13). Specifically, several federal military territories surround the Skull Valley Goshute Reservation. Open-air nerve agent tests, as well as chemical and biological weapon tests and incineration have been conducted on these military reserves. The Deseret Chemical Depot in Tooele County stores artillery shells filled with sarin gas, and some filled with mustard gas, as well as land mines filled with VX gas (14). The Pentagon has estimated that a serious accident involving these stored agents could kill up to 89,000 people in the surrounding area. In 1968, more than 6,000 sheep died after a nerve gas leak from an airplane conducting open-air experiments with hazardous chemical and biological agents; the sheep carcasses were buried within the reservation boundaries (15). Seeking to promote job growth and increase revenues, both Tooele County and the State of Utah host numerous environmental hazards in the region. Commercial facilities, including hazardous waste incinerators and low-level radioactive and mixed waste disposal facilities are located in the vicinity of the reservation. Tooele County commissioners have allowed chemical weapons to be incinerated in the Tooele Army Depot in exchange for 20 million dollars used to build a hospital (16). Also established was the West Desert Hazardous Industry Area that created more than nine hundred jobs and brings in \$2 million in annual mitigation fees which have allowed the county to freeze its property taxes. The State of Utah also supported a project in the early 1980s to relocate uranium tailings from densely populated Salt Lake County to the desert of Tooele County.

While providing short-term economic benefits, the existing waste and military facilities have caused serious pollution problems. A magnesium refinery in Tooele County emits 85 percent of the point source chlorine gas emitted in the nation. West Desert HEAL, a local environmental advocacy group, states that “more than 33 pounds of toxic pollution per capita is emitted each year in Utah. . . compared to a national average of just under 6 pounds per capita per year” (17). The impact of pollution on the local population is feared to be significant. High rates of cancer, respiratory problems, reproductive problems, birth defects and other health problems are reported among the county’s residents (18). Nonetheless, since the facilities provide tremendous economic benefits, they have been tolerated and even sought after by local communities.

THE SKULL VALLEY BAND OF GOSHUTE INDIANS AND NUCLEAR WASTE

In addition to seeking a permanent repository for radioactive waste and spent nuclear fuel at Yucca Mountain, the U.S. Department of Energy (DOE) has been searching for communities to host a Monitored Retrievable Storage (MRS) facility for such materials. In 1991, all states, counties, and 535 federally recognized tribes received solicitations to apply for several phases of grants in increasingly larger amounts of money (\$100,000; \$200,000 and \$2.8 million) to study the feasibility of hosting such a site within an applicant’s state, county, or reservation. Most of the interested communities were tribes. After several controversial rounds of funding study grants, Congress pulled funding for this program in 1994. The federal government failed to site an MRS facility. However, private electric utilities facing legal restrictions on storing spent fuel on-site decided to seek a community that would agree to host such a facility. Direct negotiations, unmediated by the federal government, were pursued between the utilities

and several tribes. The utilities failed in their most promising negotiation with the Mescalero Apache in 1996. Consequently, Private Fuel Storage (PFS), a limited liability company composed of eight electric utilities, began negotiating a leasing contract with the Skull Valley Band of Goshute Indians to locate an interim storage facility on that reservation in Tooele County, Utah. Despite keen competition for study grants early on, in 1996, Skull Valley was the only entity still seeking to accept a temporary storage site for commercial high-level radioactive waste.

Environmentalists, environmental justice advocates, and other tribes and tribal organizations, as well as some Skull Valley Goshute members have vociferously objected to the tribe's consideration of a spent nuclear fuel facility. Ironically, the tribe has encountered harsh objections from the State of Utah despite the state's notorious environmental policies. The Skull Valley Goshute Chairman has criticized the hypocrisy of his critics:

People need to understand that this whole area has already been deemed a waste zone by the federal government, the state of Utah and the county. That's why we're so surprised about Gov. Leavitt's opposition. Tooele Depot, a military site, stores 40% of the nation's nerve gas and other hazardous gas only 40 miles away from us. Dugway Proving Grounds, an experimental life sciences center, is only 14 miles away, and it experiments with viruses like the plague and tuberculosis. Within a 40 miles radius there are three hazardous waste dumps and a low-level radioactive waste dump. From all directions, north, south, east and west, we're surrounded by the waste from Tooele County, the state of Utah, and US society (19).

In the decision-making processes that have resulted in a contaminated Tooele environment, neither the federal nor the state governments invited the participation of the Goshute Indian Tribe. The desert was seen as desolate and its residents were invisible to policy-makers. This exclusion of tribal input has been pointed out by Skull Valley Goshute Chairman, Leon Bear (20). "They've never asked us for our permission when they built all these facilities around our reservation." In keeping with the prevalent political tradition of the federal and state governments, the Skull Valley Goshute leaders have not consulted with neighboring communities as they have negotiated a plan to host a temporary storage of high-level radioactive waste.

Governor Mike Leavitt issued a state executive order in 1997 creating a task force opposed to the facility. The governor also established the Office of High-Level Nuclear Waste Storage Opposition. Since then, Leavitt has pursued an "over-my-dead-body" policy to prevent high-level radioactive waste from coming into Utah for storage. The governor and other Utah policy-makers resent that the state has been excluded from the environmental decision-making processes developed at both tribal and federal levels. Federally recognized tribes have environmental regulatory authority within reservation boundaries. Not having legal authority over the tribe's political and environmental decision-making processes has further aggravated Utah political leaders who have been excluded from federal government nuclear policies dating back to the 1950s when the U.S. military performed nuclear bomb testing in Nevada with the wind blowing towards Utah. In an effort to exercise some control, the Utah legislature seized control of the road to the Goshute reservation so that trucks loaded with radioactive waste would not be able to reach the spent nuclear fuel facility. However, PFS accordingly changed its transportation plan and proposed building a railroad that would cut across Federal Bureau of Land Management land.

THE POLITICS OF TRIBAL SOVEREIGNTY IN SKULL VALLEY

The Skull Valley Goshute Tribe's decision to accept nuclear waste has raised difficult issues related to environmental justice, tribal sovereignty, retention of Goshute community and identity, state fear of not having control and state resentment against federal nuclear policies, the federal government's legal responsibility to find a repository for nuclear waste, friction among tribal members, as well as the politics

and ecological considerations of the production of nuclear waste. However, the standard environmental justice framework of powerless Indian tribe and corrupt tribal leadership as unwitting victim to a corrupt company bent on destroying the ecological balance of sacred tribal land does not do justice to the true complexity of the history and players in this region. It should be understood that the Skull Valley landscape, Tooele County and the State of Utah more broadly, already reflect years of environmental exploitation rendered by federal, state, and county governments. Having witnessed and suffered Tooele County's history of environmental colonialism, the Skull Valley Goshute tribal leaders realize that Utah politicians adamantly oppose the PFS project for political rather than ecological reasons. In addition, the Skull Valley conflict gives rise to challenging questions for environmental justice movement about how to account for calls for tribal rights to exercise sovereignty.

The issue of tribal sovereignty has very much confused discussions of environmental justice in Utah. The State of Utah, despite its notorious environmental history, adamantly opposes the Goshute-PFS project and uses environmental justice rhetoric to that end. The state also morally opposes tribal exercise of sovereignty as it relates to this project, but it has no legal authority to back such opposition. Like many of the involved environmental justice activists, Utah politicians have little understanding of the complexity of tribal sovereignty. The political use of environmental justice language by state policy makers disregards Skull Valley Goshute tribal sovereignty, thus striking at the most fundamental principle of justice for tribes. The State of Utah's opposition to the PFS facility is clearly inconsistent with its previous policy on environmental hazards in Tooele County. Goshute Chairman, Leon Bear, has refuted those who point to the injustice of the council's decision to host the facility and their perception that this decision amounts to betraying what is perceived as a traditional American Indian spiritual connection with the earth:

In our circumstances, that is hypocritical. People talk about environmental justice, but in Skull Valley we talk about environmental injustice. The impact on us [from PFS] will be a lot less than all the hazardous waste sites we already have around us.

However, the capacity of the tribe to act like a sovereign has been structurally restricted as the tribe has not been able to develop solid political and economic infrastructure for environmental management and community development. Lack of economic autonomy due largely to the contamination of the land-base has also structurally prevented the tribe from pursuing robust economic sovereignty. Therefore, whether the tribe actually does host the facility or not, the current state of land-use in the area already represents a state of procedural environmental injustice.

The concept of tribal sovereignty has been at the heart of the divisive politics of the Skull Valley case as well as underlying national debates about siting environmental hazards on tribal lands. Tribal sovereignty recognized by treaties and the U.S. Constitution, is claimed by tribes as the basis of self-government that is seen as absolutely necessary for the political (and it can be argued, cultural) survival of tribes (21). American Indian activists engaged in the environmental justice movement have explicitly addressed the importance of sovereignty (22). They participated in the process of drafting the *Principles of Environmental Justice* during the first National People of Color Environmental Leadership Summit in 1991. Within these, Principle 11 states that: "Environmental justice must recognize a special legal and natural relationship of Native People to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination." This principle emphasizes the significance of sovereignty that distinguishes a tribal political strategy for activism from that of other ethnic groups fighting against environmental injustice. In keeping with this principle, environmental justice activists have demanded for tribes appropriate federal assistance to establish tribal government environmental protection infrastructure equivalent to that of state governments so that tribes can develop environmental programs to protect tribal lands and resources.

While stating their support of tribal sovereignty, activists for social and environmental justice face a challenging question about who has legitimate rights to realize tribal sovereignty. Activists tend to question the legitimacy of tribal representatives and governments when ecological philosophies are not shared. For example, Tom Goldtooth, Director of the Indigenous Environmental Network has revealed a political and moral challenge to tribal government leaders who he views as misusing sovereignty:

We as indigenous grassroots are the most protective of our sovereignty and do not hide behind it or use it as a cloak or shield like some of our Tribal government leaders. Some of our Tribal leaders use sovereignty to protect them from criticism or legal attack on tribal developments that are environmentally unsound (23).

Grace Thorpe is another key American Indian figure in the environmental justice movement. She has criticized tribal leaders who support nuclear waste sites in Indian country of “selling our sovereignty” (24). While both groups recognize that tribal sovereignty should be defended against outside threats, tribal leaders and grassroots activists hardly share a consensus about *how* to defend sovereignty. The politics of Indian activism in the environmental justice movement can be better understood if one understands the widespread and divisive identity politics occurring in Indian Country today.

THE POLITICS OF IDENTITY IN SKULL VALLEY

Some Indian activists have adopted and vociferously promote a romanticized ethnic identity of American Indians as stewards of the environment for the purpose of justifying their right to self-determination in environmental management. They have utilized what has been called “ecological legitimacy,” a concept rooted in cultural essentialism that seeks to empower and establish solidarity within the movement (25). Accordingly, Tom Goldtooth, Executive Director of the Indigenous Environmental Network (IEN), has asserted such legitimacy (26):

There are ideological differences with the mentality of our Indian “relatives” who had decided to follow the “American dream.” The American dream is about money and power. It is about owning the land. . . Indigenous Peoples don’t think this way. We are only caretakers of this great sacred land.

Similarly, Winona LaDuke (Anishanaabeg), a high profile environmental activist and Ralph Nader’s Green Party Vice Presidential candidate, asserts throughout her 1999 book, *All Our Relations*, ecological legitimacy by asserting a universal environmental consciousness and morality on the part of native peoples:

In our communities, Native environmentalists sing centuries-old songs to renew life, to give thanks for the strawberries, to call home fish, and to thank Mother Earth for her blessings. . . We live off the beaten track, out of the mainstream in small villages, on a vast expanse of prairie, on dry desert lands, or in the forests. We often drive old cars, live in old houses and mobile homes. There are usually small children and relatives around, the kids careening underfoot. We seldom carry briefcases, and we rarely wear suits. . .

Cultural essentialism as it informs assertions by some American Indians of a more “authentic” or morally pure identity and as it informs other peoples’ perceptions of “authentic” Indians has been integral to the development of the environmental justice movement. Within such movement, a highly generalized rhetoric has been used to advocate what has been described as a “holistic tribal world-view” (27). The environmental justice movement has built on the widespread belief within broader environmentalist circles that American Indians were the original and perfect conservationists. The movement has applied this belief to people of color to varying degrees for the purpose of organizing across racial lines (28). While an effective organizing strategy, the movement has promoted what is a problematic generalization

of a culturally diverse population and has dismissed the cultural and political legitimacy of those who do not share the stereotypical ideology by espousing a dichotomous Native American traditionalist vs. assimilationist paradigm.

Identity politics as they play out in the difficult process of understanding and defining sovereignty—especially as it is perceived and exercised within the intellectual confines of the Skull Valley debate—have been integral to political action undertaken by tribal members with distinct beliefs. Margene Bullcreek, one of the main tribal opponents of the Skull Valley decision and somewhat of a hero in environmental justice circles, has voiced her acceptance of both the ecological stereotype and the assimilationist/traditionalist paradigm that conditions legitimate tribal governance on such a restrictive definition of authentic indigeneity:

As . . . a traditionalist, I want to be able to say that we ought to protect where we're from and not to destroy it. Because we need to strengthen our . . . government to be strong, to be able to have a government to govern ourselves. I say this because right now we do not have a strong government. We do not have traditionalists on our council. If we did, they would oppose this [hosting a high-level radioactive waste storage facility on the reservation] (29)

Margene Bullcreek, Skull Valley Goshute Tribal Member

Similarly, a Utah history scholar asked to comment on the Skull Valley situation generalized about what he sees as two identity choices for Indian people:

You have traditionalists who resist European inroads in their lives, and you haveassimilationists [who] take what they can, and sometimes that pertains to [compromising] religious beliefs like veneration of the land and its spiritual meaning (30)

Dr. Michael Quinn, leading scholar on Mormon and Utah history

Margene Bullcreek has also directly stated her definition of sovereignty (31):

Sovereignty means who we are. We need to protect who we are. Our tribal leaders are taking traditional cultures away from us, using the corporation language. They are taking away some spirit, which has always been in the tribe.

In the Skull Valley land-use debate, divisive Goshute identity politics, struggles for self-determination, and the politics of tribal sovereignty have the potential to clash with the agenda of the environmental justice movement. Goshute elected tribal leaders have explicitly expressed their annoyance with paternalistic suggestions by environmental justice advocates that they have “sold out” their traditions and have become victims of environmental injustice. Goshute tribal leadership has emphasized tribal capacity for environmental management and its right to self-determination based on tribal sovereignty. Chairman, Leon Bear, was quoted on the front page of the New York Times:

I don't belong to two nations. I belong to one—the Skull Valley Goshute Nation. . . We are alive and well and a sovereign nation. And we're using that sovereignty to attract the only business we can get to come here (32).

Tribal identity politics as they play out in the process of defining sovereignty have clearly influenced the environmental decision-making of the Goshutes. The tribe's utilization of sovereignty in order to strike a business deal with PFS contradicts the image of American Indians as perfect preservationists. The position of that government certainly challenges the stereotype of Indian people solely as passive victims and perhaps this also feeds sentiment in environmental justice circles that this tribal government is not a

legitimate government because it does not consist of “traditionalists” as defined according to a narrow, generalized, and romanticized definition of tradition. In the predominant environmental justice view, sovereignty is respectfully acknowledged, but its implications of self-determination seem to be lost in that movement’s understanding of the scope of tribal responsibilities and choices. Sovereignty seems to be characterized not as the ability of indigenous peoples or tribal nations to make decisions in what they see as the best interests of their communities and then develop the institutions and financing to implement those decisions, but as the *freedom* to live according to a romanticized and uncomplicated view of tradition.

However, this is not to say that there are not *specific* cultural practices connected to *specific* tribes and lands that involve *specific* resources and spiritual relationships. Sometimes, such practices and resources do indeed have sacred connotations. However, specific cultural claims do not generally inform environmental justice discussions and they haven’t informed the debate in Skull Valley. Rather, generalizations and stereotypes are advocated in the defense of tribes and this not only undermines sovereignty, but it may even undermine dynamic cultural practice in the long-term.

CONCLUSION: WHAT IS ENVIRONMENTAL JUSTICE?

The Skull Valley case illustrates the complex nature of environmental justice, since justice for one group can mean injustice for another politically and geographically distinct group. This case study presents a more complex rendition than those presented in the majority of existing literature that analyze environmental racism and distributive notions of environmental justice. In the Skull Valley case, and probably in many others, environmental justice must be examined in relation to community demands for self-determination. In addition, the history of colonization of the Goshutes and of the landscape in which they live has structurally limited the capability of the tribe to achieve economic and environmental self-determination.

The Skull Valley case reveals theoretical defects in the predominant discourse of environmental racism. Skull Valley’s toxic landscape has developed historically within a context of social processes conditioned by the ideology and institutions of racism. It is not simply a matter of personal choice on the part of individuals and intentional actions by electric utilities and by the federal government to target a powerless tribe (although such choices have, of course, been exercised historically) for the siting of nuclear waste. Institutionalized racism is a concept that takes into account the systems and systematic practices of governments and private capital, institutions and practices that spatially reproduce racism. It is the effects of institutionalized racism that have created the economic and ecological landscape of Skull Valley. Therefore, the home of the Skull Valley Band of Goshute Indians was already zoned to be the nation’s and the state’s sacrifice area. The tribe has experienced the effects of structural racism over a period that far predates the current conflict involving nuclear waste. Add to this the political debate surrounding tribal sovereignty and the Skull Valley case reveals that the discussion of environmental justice based solely on a definition of distributive justice is insufficient.

In addition, the usual perspectives on environmental racism tend to label and want to see a victimized community as a homogenous and united group of people. However, the land-use debate surrounding the PFS facility has intensified already existing frictions in the community; tribal leaders and other tribal members have disparate views about the risks and benefits of the PFS facility and this has played out controversially within the environmental justice community at a national scale. The standard perspectives of environmental justice within that community do little to shed light on the complexity of this case. Rather, responses from that community tend to perpetuate an oversimplified dichotomy composed solely of intentional or personal racism on one hand and on the other hand all the victimized people of color. As the situation is complicated by the emergence of disparate views within the tribal community, the

dilemma is “solved” by depicting those Indians who espouse accepted environmental justice views as traditionalists who have the sole legitimate right to act on behalf of that community.

However, justice will not necessarily have been achieved for the tribe simply because the tribe exercised its sovereignty to site the PFS facility on the Skull Valley reservation. Also to be considered are the responsibilities that come with such an assertion of sovereignty. For example, has the tribe developed or does it have a plan for developing the governmental program infrastructure and economic capacity to support such a decision as hosting a spent nuclear fuel facility? If the tribe sees this project as being in the best interests of its community, it behooves that tribe to negotiate aggressively on behalf of the long-term best interests of its people such that PFS also finances a comprehensive education, training, and employment program for tribal members in the appropriate technical fields necessary to build tribal expertise for a knowing tribal role in the oversight of this facility. Tribal exercise of sovereignty should also consider the training and deployment of hazardous response teams and how this will be paid for. In order to protect the interests of its people, the tribe must also consider legally binding clauses that hold PFS responsible for the spent fuel after the 40-year temporary storage period if a permanent repository is not available. In summary, a sovereign will aggressively negotiate an agreement that provides for the greatest benefits possible for the tribe and for other local citizens, if possible (33).

All in all, discussions of sovereignty need to consider the context in which a tribal decision is made to accept high-level radioactive waste. It cannot be ignored that a history of colonialism of this and other tribes has severely structurally limited the choices of tribes. Even if a tribe such as the Skull Valley Goshute make an informed and democratic decision to host such a facility, that tribe and tribes in general have never participated in the decision-making process that has led to the production of nuclear waste or that has led to the absence of alternate means of economic survival in the desert landscape to which this tribe has been relocated.

There is no easy answer that will resolve this conflict, including making a simple judgment regarding environmental justice solely in the context of the siting of the PFS facility. While this paper does not provide specific suggestions to resolve the immediate conflict, environmental justice scholars are urged to reframe their research questions to articulate the truly complex practices of political economy and historical colonialism over communities’ struggles for self-determination. The landscape and the people who play active roles in the Skull Valley conflict would not then be caricatured by simplistic analyses of environmental justice that have too long undermined our understanding of this debate.

REFERENCES

1. L. WESTRA and P. WENZ. Editors. *Faces of Environmental Racism: Confronting Issues of Global Justice*. Lanham: Rowman & Littlefield Publishers (1996); B. BRYANT. Editor. *Environmental Justice: Issues, Policies, and Solutions*. Washington DC: Island Press (1995); B. BRYANT and P. MOHAI. Editors. *Race and the Incidence of Environmental Hazards: A time for Discourse*. Boulder: Westview Press (1992); R. D. BULLARD. *Dumping in Dixie: Race, Class, and Environmental Quality*. Boulder: Westview Press (1990); R.D. BULLARD. Editor. *Confronting Environmental Racism: Voices from the Grassroots*. Boston: South End Press (1993); R.D. BULLARD. Editor. *Unequal Protection: Environmental Justice and Communities of Color*. San Francisco: Sierra Club Books (1994); S.L. CUTTER. "Race, Class and Environmental Justice." *Progress in Human Geography* 19: 107-118; R. HOFRICHTER. Editor. *Toxic Struggles: The Theory and Practices of Environmental Justice*. Philadelphia: New Society Publishers (1993).
2. D. BROOK. "Environmental Genocide: Native Americans and Toxic Waste." *American Journal of Economics & Sociology* 57 (1998); W. CHURCHILL. *A Little Matter of Genocide: Holocaust and Denial in the Americas 1492 to the Present*. San Francisco: City Lights Books (1997); A. GEDICKS. "Racism and Resource Colonization." *The Struggle for Ecological Democracy: Environmental Justice Movements in the United States*. Edited by D. Faber, public participation. 272-292 (1998); D. GRINDE AND B. JOHANSEN. *Ecocide of Native America: Environmental Destruction of Indian Lands and Peoples*. Santa Fe: Clear Light Publishers (1995); J. HERNANDEZ. "How the Feds are Pushing Nuclear Waste on Reservations." *Cultural Survival Quarterly* (1994); C.K. JOHNSON. "A Sovereignty of Convenience: Native American Sovereignty and the United State's Government's Plan for Radioactive Waste on Indian Land. *St. John's Journal of Legal Commentary* 9: 589-597 (1994); V. KULETZ. *The Tainted Desert: Environmental and Social Ruin in the American West*. New York & London: Routledge (1998); W. LADUKE. *All Our Relations: Native Struggles for Land and Life*. Boston: South End Press (1999); W. LADUKE and W. CHURCHILL. "Native North America: The Political Economy of Radioactive Colonialism." *The State of Native America: Genocide, Colonization, and Resistance*. Edited by M. Jaimes, pp. 241-266 (1992); G. THORPE. "Our Homes are Not Dumps: Creating Nuclear-Free Zones." *Natural Resources Journal* 36: 715-723 (1996).
3. K. HALL. "Impacts of the Energy Industry on the Navajo and Hopi." *Unequal Protection: Environmental Justice and Communities of Color*. Edited by R. Bullard, pp. 130-154. San Francisco: Sierra Club Books (1994); K. SHARADER-FRECHETTE. "Environmental Justice and Native Americans: The Mescalero Apache and Monitored Retrievable Storage." *Natural Resources Journal* 35: 703-714 (1996).
4. K. GOVER and J. WALKER. "Escaping Environmental Paternalism: One Tribe's Approach to Developing A Commercial Waste Disposal Project in Indian Country. *University of Colorado Law Review* 63: 933-942 (1992).
5. D. SUAGEE. "Turtle's War Party: An Indian Allegory on Environmental Justice. *Journal of Environmental Law and Litigation* 9: 461-497 (1994). D. SUAGEE. "The Indian Country Environmental Justice Clinic: From Vision to Reality." *Vermont Law Review* 23: 567-604 (1999).
6. J. WEAVER. Editor. *Defending Mother Earth: Native Perspectives on Environmental Justice*. Maryknoll, New York: Orbis Books (1995); S. FOSTER. "Justice From the Ground Up: Distributive Inequities, Grassroots Resistance, and the Transformative Politics of the Environmental Justice Movement." *California Law Review* 86: 775-841 (1998); K. GOVER and J. WALKER. "Escaping Environmental Paternalism: One Tribe's Approach to Developing A Commercial Waste Disposal Project in Indian Country. *University of Colorado Law Review* 63: 933-942 (1992); L. LOUIS. "Sovereignty, Self-Determination, and Environmental Justice in the

- Mescalero Apache's Decision to Store Nuclear Waste. *Boston College Environmental Affairs Law Review* 24: 651-688 (1997); N. SACHS. "The Mescalero Apache Indians and Monitored Retrieval Storage of Spent Nuclear Fuel: A Study in Environmental Ethics. *Natural Resources Journal* 35: 661-672 (1996).
7. L. PULIDO. *Environmental and Economic Justice: Two Chicano Struggles in the Southwest*. Tucson: The University of Arizona Press (1996).
 8. R. AUSTIN and M. SHCILL. "Black, Brown, Red and Poisoned." R. Bullard. Editor. *Unequal Protection: Environmental Justice and Communities of Color*. San Francisco: Sierra Club Books, pp. 53-76 (1994); A. SZASZ. *Ecopopulism: Toxic Waste and the Movement for Environmental Justice*. Minneapolis and London: University of Minnesota Press. (1994); G. DI CHIRO. "Environmental Justice from the Grassroots: Reflections on History, Gender and Expertise." D. Faber. Editor. *The Struggle for Ecological Democracy: Environmental Justice Movements in the United States*. New York and London: Guildord Press, pp. 104-136 (1998).
 9. A. DOBSON. *Justice and the Environment: Conceptions of Environmental Sustainability and Dimensions of Social Justice*. Oxford and New York: Oxford University Press (1998).
 10. R.W. LAKE. "Volunteers, NIMBYs, and Environmental Justice: Dilemmas of Democratic Practice. *Antipode* 28: 160-174 (1996).
 11. Personal Interview by Noriko Ishiyama of the executive director of the State of Utah Division of Indian Affairs. Salt Lake City, Utah. November 4, 1999.
 12. M. DAVIS. "Utah's Toxic Heaven." *Capitalism, Nature, Socialism: A Journal of Socialist Ecology* 9: 35-39 (1998).
 13. V. KULETZ. *The Tainted Desert: Environmental and Social Ruin in the American West*. New York and London: Routledge (1998).
 14. CENTER OF THE AMERICAN WEST. *Atlas of the New West: Portrait of a Changing Region*. New York and London: W.W. Norton Company (1997).
 15. K. FEDARKO. "In the Valley of the Shadow." *Outside*, May (2000).
 16. M. GERRARD. *Whose Backyard, Whose Risk: Fear and Fairness in Toxic and Nuclear Waste Siting*. Cambridge: The MIT Press (1995).
 17. NUCLEAR REGULATORY COMMISSION. "Transcript for Scoping Meeting for Preparation of an EIS for the Private Fuel Storage Facility License Application." June 2, 1998.
 18. H. BALL. *Justice Downwind: America's Atomic Testing Program in the 1950s*. New York and Oxford: Oxford University Press (1986); J.G. FULLER. *The Day We Bombed Utah: America's Most Lethal Secret*. New York: New American Library (1984); C. WARD. *The Grantsville Community's Health: A Citizen Survey*. Tooele: HEAL West Desert Healthy Alliance (1996).
 19. R. HANSON. "Nuclear Agreement Continues U.S. policy of Dumping on Goshutes." *The Circle*. January 31. 16:8 (1995).
 20. L. BEAR. Personal Interview by Noriko Ishiyama. Salt Lake City, Utah. November 2, 1998.
 21. K. TALLBEAR. "Comments of Kimberly TallBear Regarding Private Fuel Storage Project on the Skull Valley Band of Goshute Reservation, Nuclear Regulatory Commission Atomic Safety and Licensing Board Public Hearing, Salt Lake City, Utah, 24-25 June 2000.
 22. L. PULIDO. "A Critical Review of the Methodology of Environmental Racism Research." *Antipode* 28: 142-159 (1996).
 23. T.B.K. GOLDTOOTH. Personal correspondence with Noriko Ishiyama (1996).
 24. G. THORPE. "Our Homes are Not Dumps: Creating Nuclear-Free Zones." *Natural Resources Journal* 36: 715-723 (1996).
 25. L. PULIDO. "Ecological Legitimacy and Cultural Essentialism: Hispano Grazing in the Southwest." D. Faber. Editor. *The Struggles for Ecological Democracy: Environmental Justice Movements in the United States*. New York and London: The Guilford Press (1998).
 26. T.B.K. GOLDTOOTH. Personal correspondence with Noriko Ishiyama (1996).
 27. W. LADUKE. *All Our Relations: Native Struggles for Land and Life*. Boston: South End Press (1999); M. TANO, K. TALLBEAR, AND H. PACEY. "Beyond the Rhetoric of a 'Holistic'

Tribal World-view: A Framework for Understanding the Cultural Complexity of 'Place.'" Denver: International Institute for Indigenous Resource Management (2000); J. WEAVER, J. Editor. *Defending Mother Earth: Native Perspectives on Environmental Justice*. Maryknoll, New York: Orbis Books (1995)

28. L. PULIDO. "Development of the 'People of Color' Identity in the Environmental Justice Movement of the Southwestern United States." *Socialist Review* 96 (3&4): 145-180 (1996).
29. NUCLEAR REGULATORY COMMISSION. "Transcript for Scoping Meeting for Preparation of an EIS for the Private Fuel Storage Facility License Application." June 2, 1998.
30. B. MIMS. "Different Views: For the Goshutes, a Test of Tradition," Salt Lake City Tribune, July 17, 2000.
31. M. BULLCREEK. Personal Interview with Noriko Ishiyama. Tooele. November 17, 1999.
32. T. EGAN. "New Prosperity Brings New Conflict to Indian Country." *The New York Times*, March 8, 1998.
33. K. TALLBEAR. "Comments of Kimberly TallBear Regarding Private Fuel Storage Project on the Skull Valley Band of Goshute Reservation, Nuclear Regulatory Commission Atomic Safety and Licensing Board Public Hearing, Salt Lake City, Utah, 24-25 June 2000.