

Remediating a Toxic Town:
Power, Place, and Justice in Anniston, Alabama

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DEDICATION

For my parents, who gave more than they could to help me complete this journey.

Thank you for your selflessness.

For Ben, for keeping my chin up.

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I owe a debt of gratitude to the Department of Geography, for being a supportive place to explore and develop these ideas. Thank you for being a nurturing place to learn and grow.

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ABSTRACT

This dissertation examines a struggle for Environmental Justice over the long term to understand the impacts of current state-led strategies for achieving Environmental Justice. Recent geographic scholarship in Environmental Justice literatures suggests that state-centric strategies come with problems scholars have yet to fully comprehend. This dissertation, based on fieldwork and archival research in Anniston, Alabama, supports this claim with three main findings: 1) Corporations produce scaled identities to advantageously empower themselves and weather shifts in their profitability, while ordinary people are limited in their capacity to respond in kind to such unequal power arrangements. 2) Current legal solutions for Environmental Justice are not meeting the demands expressed by Environmental Justice movement actors, and in themselves demonstrate a resistance to solutions that would more fairly address a collective body of victims due to the normative economizing of neoliberalism. 3) The process of remediation is confined to limiting risks from the physical environment, even while the city itself continues to struggle. This can cause a source of pain and frustration for residents who remain in impacted areas, who wish to see a more holistic solution to resolving environmental injustice, including remediating a sense of place.

PREFACE

Readers may find it helpful to refer to maps of Anniston while reading this dissertation.

Online maps are available at www.ReconstructAnniston.net as part of a planned expansion of this research. Refer any questions about the website to the author's permanent email address: melbtennessee@gmail.com.

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CHAPTER 1

INTRODUCTION

The intersections of race, class, and environmental harm have motivated decades of research and activism in the Environmental Justice movement. Environmental Justice describes a social movement and interdisciplinary research agenda to change the destructive patterns of industrial activities (Holifield 2012) among other environmental problems. Despite the institutionalization of Environmental Justice language in state policy, the path to justice in the wake of environmental inequalities remains uncertain (Pulido et al 2016, Pellow and Brulle 2005). What does it mean to achieve Environmental Justice? Who decides? Recently, scholars observed through retrospective inquiry that most Environmental Justice movements have relied heavily on direct engagement with the state to achieve justice, but the limits to such an engagement are becoming clearer (Pulido et al 2016). State institutions have not yet proven able to sufficiently provide justice for communities harmed by pollution and environmental neglect. This dissertation expands on this notion through analysis of the implementation of the state's praxis for Environmental Justice through a case study in Anniston, Alabama. Since the mid-1990s, Anniston residents, legal professionals, corporate actors, and state environmental officials have participated in the cleanup of

Polychlorinated Biphenyls (PCBs) dumped by The Monsanto Company¹. Stretching over several decades, involving one of the world's most notorious multinational corporations, and home to one of the largest toxic tort settlements in US history, the Anniston case is a rich, well-documented microcosm of the challenges many communities must face to compel neoliberal US state institutions to meet the demands of the Environmental Justice movement.

This case study lies at the confluence of Environmental Justice, political economy, legal geography, and public memory, and examines the tensions between everyday people, the state, and corporations in the struggle for Environmental Justice in Anniston. The design and implementation of environmental laws, legal decisions, and regulations largely excludes public involvement, relegating such decision-making to scientific and legal experts (Kohl 2015). As a result, the ideals expressed by Environmental Justice movement actors and ordinary residents are distant from the day-to-day design and implementation of Environmental Justice policy. This has an

¹ At times, I refer to The Monsanto Company, rather than its more well-known name, Monsanto. This is to signify a different time period for the company. When it was actively polluting Anniston, it was called The Monsanto Company. Changes to its name were part of broader structural changes to the company, which are discussed in more detail in chapter 3.

enormous impact on the way places recover from environmental injustice over the long term.

This research is guided by observational and archival methodologies. From 2013-2016, I attended semi-monthly Community Advisory Group (CAG) meetings held by Anniston residents. These meetings, a relatively common piece of long-term EPA cleanups, are held to inform impacted communities about the state of the pollution in the area and the progress to clean it up. Over the course of my time in Anniston, themes continued to emerge (and erupt) from these meetings around the dialectical tensions of power/disempowerment and recognition/erasure. The case of Anniston exemplifies the notion that everything contains its opposite (Ollman 2003). These emergent themes drive the research questions in this dissertation, which seeks to shed light on the historical and spatial underpinnings of the tensions that animate Anniston's story. This research is guided by the following questions:

1) What relationships do corporate actors produce across scales to mitigate the consequences of environmental injustice?

Corporate entities are key players in many Environmental Justice conflicts as the instigators of environmental problems and as major players in processes to clean up pollution. However, corporations' relationships to cleanup processes are complex in

contemporary neoliberal environmental governance. Corporations may be environmental policymakers (Pellow 2001), environmental stewards (Berry and Rondinelli 1998), and environmental violators (Brammer and Pavelin 2005) depending on the time and circumstances. Corporations shift the ways in which they identify with environmental issues depending on situational, temporal, and spatial circumstances, strategically transforming their relationships with actors across different scales. Corporations' relationships to the environment both shape and are shaped by the notion of scale.

In chapter three, "Corporate Transformations and the erasure of Environmental Injustice in Anniston, Alabama," the author uses archival data to reconstruct how The Monsanto Company shifted its relationships with environmental issues over time in response to multiple pressure points across scales. A dialectical analysis of these shifts demonstrates that multi-scalar pushes toward enforcing greater environmental stewardship in corporate culture had the inverse effect of empowering corporate actors' ability to control the debates about pollution in Anniston. The institutionalization of corporate environmental sensibilities created a new avenue to take power in environmental decision-making and messaging. Monsanto's strategic shift toward environmental stewardship produced new relationships across scales to

downplay the impacts and scope of the pollution, ensure the survival of the company, and ensure influence in the cleanup process itself.

2) How did legal and scientific experts guide the construction and implementation of the cleanup plan? How is environmental governance shaped by the political economy of the US?

Legal and scientific authorities rely heavily on scientific “objectivity” and “expertise” to create authoritative remedial plans and guidelines. These plans calculate acceptable levels of risk for residents living in the midst of polluted environments, and determine the process through which acceptable levels of pollution are achieved. However, as Giddens, Beck, and many others who use the framework of the “Risk Society” argue (Beck 1992; Beck 2013; Cable, Shriver, and Mix 2008; Ekberg 2007; Giddens 1999; Giddens 2013), the notion of risk is more than a scientific calculation. Risk is also socially constructed and shaped by political-economic context. In Anniston, acceptable risks were calculated to manage the limitations of the political and economic moment during which the crisis unfolded.

Chapter four, “Anniston’s Neoliberal Environmental Policy in Practice,” a critical reading of Anniston’s settlement documentation, analyzes the way scientific and legal authority is used to manage pollutant risks in Anniston. This chapter uses three

moments to demonstrate this point: the rationale and decision-making behind the decision to settle lawsuits in 2003, the decision to designate Anniston as a Superfund "Alternative" Site, and the distribution of the settlement funds.

3) What role does memory play in the articulation of ongoing environmental injustices?

Remedial plans focus on the physical erasure of pollution – clean soil, water, and air – but in the process of the cleanup in Anniston, the remediation has also contributed to the erasure of a sense of place. Lots lay vacant, many homes are dilapidated, many businesses in the most heavily impacted areas have struggled or failed, schools are being shut down, and the population is dwindling. Among people still living in the area who are still involved in the remediation process, this transformation raises questions about what the remedial plan was designed to accomplish.

Chapter 5, "Remediating a Sense of Place," analyzes the impacts of PCB pollution and remediation on the qualitative notions of "place" in Anniston. While remediation may have positive intentions, it neglects the qualities of life that people in West Anniston valued most: a sense of community, and a positive sense of place. This analysis draws questions about the way systems of environmental governance (re)produce racialized inequalities expressed in space and place. In addition, due to the

impact that this pollution has and continues to have on black lives and livelihoods in the city, this speaks to broader issues about the (de)valuation of black life in US society. What appears to be a benign extension of environmentalist goodwill unto West Anniston instead functions as another violent encounter from the state; remediation becomes a tool to facilitate the violence of forgetting.

Geographic Context

Nestled in the foothills of the Appalachian Mountains, Anniston's tree-lined main thoroughfare, Quintard Avenue, showcases a quaint downtown complete with stately stone churches, elegant old homes, and several local businesses and restaurants. West of Quintard Avenue is Noble Street, the downtown area that city officials seek to revitalize after several decades of depression. Recent additions to the district include several new restaurants, boutiques, and a micro-brewery. The city is reminiscent of many small southern industrial towns, where officials attempt to reinvent a cultural life in the wake of neoliberal reorganization and industrial divestment.

The West Anniston neighborhood, a wide-reaching area that begins west of Noble Street, seems exempt from this attention. West Anniston stands in stark contrast to the quaint charms of the east side. Elegant old homes are crumbling, some with residents inside, others abandoned to the elements and a thriving kingdom of kudzu.

Many lots sit curiously vacant, leaving gaps that disrupt the flow of the streets, drawing questions about what is missing. Why does this land sit in such contrast—yet in such close proximity—to parts of the city that are actively redeveloping?

Carver Community Center breathes some life into this landscape. It holds a branch of the community library, recreational facilities, and is a common meeting place for organizations in the neighborhood. It has been the longtime public meeting location of the Community Advisory Group for the Consent Decree (CAG), a group that organizes informational sessions about the progress of the PCB cleanup in the area. The pollution's severity earned Anniston the unfortunate nickname, "Toxic City," after Monsanto was held liable for the negligent disposal of PCBs in the city's soil, water, and air. The meeting is located in West Anniston because it is the neighborhood that was most directly affected by the pollution, and has been the home of a significant amount of cleanup activities.

Historical Context

From the 1930s to the 1990s, The Monsanto Company operated an industrial chemical company in Anniston. During that time, it manufactured PCBs, a key component of its best-selling product, Aroclors, used as insulation for heavy equipment (Spears 2014). This product, engineered by industrial chemists working for Monsanto,

was one of the most profitable products in the entire company, and Anniston was one of only two places in the United States that manufactured it². As part of the manufacturing process, PCBs were routinely dumped into a landfill or directly into the nearest river, and today, the town's soil, water, and air remain contaminated some 37 years after the chemical was banned in 1979 due to global concerns about its toxicity for humans and the environment.

Anniston is the PCB contamination "capital" of the United States. Residents are routinely cited in EPA documentation with the highest blood levels of PCBs of any known population (Health Consultation, 1999). PCBs are widely known to cause health problems, and are included on the EPA's "probable carcinogens" list (Cogliano 1996). The dangers of PCBs have been documented almost since the very start of their manufacture, when workers reported developing a skin condition called chlorachne, wherein large, painful open sores would emerge and linger after direct contact with the substance. Workers complained of headaches, nosebleeds, and would frequently come down with strange cancers and illnesses of the liver and major organs. Before long, residents were complaining of the same kinds of conditions, and local informal records

² The other town was Monsanto, Illinois. It has since been renamed Sauget, Illinois. It is part of the St. Louis metropolitan area.

kept by residents indicate that people living near the factory, in the predominantly black West Anniston neighborhood, frequently died from strange diseases that no one could medically explain (Spears 2014). Horrific stories abound in the archives, like this one, where a reporter recounted the story of a young boy: “[His sister described] How Manuel “blanked out” and went into seizures at age 9. How doctors took a spinal tap and reported “unknown toxins” in his body. How by his late 30s, he was so weak he could not lift his hand to feed himself. How Manuel, completely blind, was overcome by psychosis and saw monsters coming for him at the end. He died of heart failure last year at a nursing home, at the age of 40” (Barry 2004).

It was not until Monsanto began quietly buying up properties in Anniston in the 1990s that the pollution became more widely known to the general public. These buyouts resulted in massive changes in the landscape that made the issue increasingly difficult to ignore, particularly among West Anniston residents, who were propositioned to make choices about selling their homes or continuing to reside on polluted land. While Monsanto intended to avoid a conflict by acting “proactively,” the company actually stirred residents’ long-held fears about the impacts of the factory.

As a result, local residents organized a social movement to investigate the pollution and advocate for those who were becoming entangled in this conflict. Community leaders and residents from areas most affected by the pollution—

particularly in the West Anniston neighborhood—formed a group called Community Against Pollution (CAP) to organize against Monsanto's negligence and fight for their community, which was being rapidly depleted by the property buyouts (Spears 2014). A once vibrant black community was decimated, as Monsanto tore down structures on its buyout properties, leaving them vacant, and devaluing those that remained.

In many ways, the movement spearheaded by CAP was terrifically effective. It was eventually revealed, through persistent investigation and advocacy, that Monsanto had scientific evidence about the toxicity and dangers of PCB pollution as early as the 1960s (Spears 2014). In addition, through a series of permit applications for landfill sites, it was also evident that the State of Alabama was aware of the presence of hazardous material, but did little to inform the broader community about potential dangers (“ADEM Hazardous Waste Facility Permit No. 004-019-048” 1986). The discovery of this information enraged local residents, and inspired mass numbers of people to pursue multiple lawsuits against Monsanto and the company to which it strategically divested its chemical holdings in the late 1990s, Solutia.

These lawsuits attracted national attention in the news media (“Monsanto Hid Decades Of Pollution” 2015; “Toxic Secret” 2013), and they attracted internationally renowned supporters, notably Johnny Cochran, a lawyer famous for his defense of O.J. Simpson, and who attracted 5,000 potential clients when he came to meet with people

in Anniston in 2001 (Spears 2014, 262-3). His suit would grow to attract nearly 20,000 plaintiffs. In addition, the trials allowed the movement to partially achieve its goals of winning compensation for Anniston residents. One of the trials, Sabrina Abernathy v. Monsanto, was successful in earning a ruling that Monsanto was responsible for negligent pollution, forcing the company to award damages totaling \$40 million. This put substantial pressure on Monsanto, Solutia, and the courts to bring all of the cases to a simultaneous conclusion in 2003 with a global settlement totaling \$700 million (Spears 2014, 263).

During the settlement negotiations, a consent decree document governing the cleanup process ordered: 1) a lump sum of money to be divided amongst the plaintiffs according to various degrees of damages; 2) an environmental remediation plan to be funded by Solutia and co-executed and managed by the Environmental Protection Agency (EPA); 3) the formation of the Community Advisory Group for the Consent Decree (CAG), which was tasked to oversee the cleanup process and represent the community's interests; 4) a health clinic funded by Solutia; 5) at least two nonprofit entities to support the West Anniston community: The Anniston Community Education Foundation and the West Anniston Foundation. These various groups are key stakeholders throughout this cleanup process.

Dissertation Context

The questions guiding this dissertation pick up Anniston's story at a time when the public drama surrounding the PCB crisis was largely over. When I began visiting Anniston in 2013, the settlements were distributed, the cleanup was designed, and the system was simply executing the plans that various stakeholders had created. However, there is a quiet danger in that banality that is important for scholars and Environmental Justice activists to understand. Long after the excitement of these cases dwindles down, there are many more decisions to be made, a hundred more meetings to attend, tens of thousands of pages to be read – settlements and consent decrees are hardly resolutions at all. It is the beginning of a next step in environmental governance where experts take the helm, where law executes its authority (for better and for worse), and where cities are reshaped from pollution minefields into whatever it is they will ultimately turn out to be. At this point, there is little more that ordinary people can do within the confines of our current system to change the outcome, even if the outcome is as dismal as West Anniston's appears to be. However, the current state of affairs should not be a death-knell for the future. This study, and others in this vein, can do the work of documenting these shortcomings in order to innovate more justice-oriented strategies.

My approach to this field seeks to clarify the path to Environmental Justice by taking seriously the contributions of critical human geography's understandings of the production of space and uneven development. In political economy, I draw on the work of Neil Smith and Erik Swyngedouw, who seek to understand the reorganization of spatial relationships in the wake of neoliberal globalization. Their analyses, which broadly argue that uneven development is a necessary component to capitalism as it continuously seeks out the most profitable places for development, dovetails well with the patterns that scholars observe in Environmental Justice literatures. Often, the places that are most vulnerable to environmental malfeasance are also the places that have low costs of doing business- lax environmental regulations, low restrictions on labor, and so forth. This is why there is a broad global trend of primary industries – such as mining – taking place in the global south, and increasingly, in the US south, where states are in a race to the bottom for attracting re-investment from mining, manufacturing and other heavy industries. In addition, scholars like Ruth Wilson Gilmore, Katherine McKittrick, and Josh Inwood, connect this uneven development to broader processes of racialization that dialectically shape the production of landscape. They bring into sharp focus that development is not just about economics but it also about ethics: who is included, how people are heard, and how that is expressed both in our legal systems and through the landscapes that we create. Policymakers have to

think beyond paradigms of Environmental Justice that only quantify injury, to those that assign differential values to bodies, and that reproduce the patterns of uneven development that continue to injure nonwhite communities in the United States and beyond.

This dissertation, as critical as it may be of the impacts of certain strategies of Environmental Justice, is shaped by a deep appreciation for struggle; even when people face incredible odds against success, and may be devalued by systems of governance, they fight. And sometimes, they win. Appreciating the people's struggle for Environmental Justice, as scholars like Laura Pulido and Rob Nixon do, can help society create a primer for building a better world. This work joins Pulido and Nixon in calling for a stronger critique of the progress and challenges facing the project of Environmental Justice. It is through bearing witness to the acts of courageous people that courage may become contagio

CHAPTER 2

LITERATURE REVIEW

Introduction

Struggles for Environmental Justice frequently include a direct engagement with the legal system; legal systems often significantly shape the possibilities for how Environmental Justice is conceived. However, the multiple scales of power embedded in legal actions, proceedings, and arguments raise questions about inclusion/exclusion; Are the scales of justice truly balanced in a system where corporations have the rights of "personhood" (Barkan 2011; Barkan 2015; Pollman 2011)? What are the legal-political implications of scalar transformations such as globalization, as corporate persons have obligations, interests, and networks that transcend the local (Fraser 2010)? What does this mean for local actors who lack access to such arrangements, and how is power gained (Swyngedouw 2004)? This research takes place in a context where the legal system's prescriptions for justice do not align with conceptions of justice victims advocate, suggesting a spatial mismatch to be explored.

Modern geographic scholarship teaches how humans are all linked, albeit unevenly, by the current economic epoch of global neoliberal capitalism. Humanity's problems, human lives, and the ultimate outcomes of human existence are all intertwined as capital leaves, arrives anew, exploits, connects, separates. Everyone plays a role in capital's search for its "fix," a term in Harvey's (2001) geographic analyses of globalization. The nature of capitalism's changes depends on what is

needed to achieve capital's fix—"fix" meaning both its immediate survival needs, but also its ability to continue to exist, be fixed, in a particular place. In this analysis, Capitalism's current incarnation has three important characteristics: 1) it is necessarily expansionary for its survival due to crises of over-accumulation; 2) it requires innovations in technology and communication to facilitate this expansion; 3) it changes based on its mode of expansion, whether seeking new sources of resources, labor, and/or markets.

The law is ever-present in the circulation of capital and resources, and is produced alongside capital's fixity in place as well as its journey to find its fix across space. It creates and destroys paths for capital accumulation and mobility, a process that has been well-documented on the macro-scale as new supra-state structures have been created to facilitate capital expansion and mobility (Gowan 1999; Robinson 2001). In addition, there is work about the local impacts of globalization, that shows capital transformations are not limited to a macro-scalar event (Herod 2001; Grant and Nijman 2002). This research explores a messy middle area somewhere between the local and the global where the law plays a particularly important role. In legal disputes, actors at multiple scales of power converge and are forced to reckon with each other, and the impacts of that reckoning create new structures that have material consequences. Thus, this work is structured as an answer to Barkan's (2009) call for

geographic scholarship that engages with the law empirically and theoretically to “help us conceptualize more rigorously the processes by which political and economic space is formulated, contested, reproduced, and transformed” (2009: 602) in a global society.

Similarly, Pulido’s (2000) call asks scholars to take seriously the relationship between environmental injustices and the structures that produce racialized, classed, and white supremacist spaces. Because pollution and environmental hazards disproportionately impact communities of color, the structures in place that shape those outcomes should be challenged. Social science literature is full of examples of how our current systems of governance—economic, social, and legal—disproportionately underserve and/or exploit poor, nonwhite populations. However, there is less known about the opposite side of that coin: how do our current systems of governance favor the white, wealthy, and powerful? Just as systems are created to serve the exploitative needs of capital, they are created to benefit those with significant economic and social privilege. Thus, I argue, if the point of our scholarly existence is to help create positive, just changes in the world- if, as Marx wrote, “the point is to change it” (Marx 1888)- then decisions to engage with the formal legal system in its current moment must be critically scrutinized as an avenue through which scholars, advocates, and activists might engage.

This review weaves together relatively disparate conversations about the environment and justice in three sub-fields: political economy, legal geography, and landscape/memory studies. Furthermore, it explores the intersections of Environmental Justice with these fields, and identifies the key areas in the field to which this dissertation is poised to make a contribution: first, strengthening the connection between Environmental Justice and the critical use of scale in geography. Second, deepening a critique of neoliberalism's impact on the current legal systems for Environmental Justice. Third, strengthening connections between Environmental Justice and memory studies.

Risk, Scale, and Tensions with Justice

Ulrich Beck's now-classic text, *Risk Society*, identifies a paradigm that emerged hand-in-hand with modern industrialization (1992). He argues that class society, or the "dictatorship of scarcity," has dominated the source of conflict and social stratification throughout modernization. However, in some parts of the world, "the struggle for one's 'daily bread' has lost its urgency as a cardinal problem overshadowing everything else," and collective risks created by modernization have emerged as the basis of a new social system.

The geographic arrangements, and the different scales at which risks are experienced, determined, and mediated raises questions about how the risk society produces scalar configurations of political and economic power. Expanding on the work of geographers like Erik Swyngedouw (Swyngedouw 2004), Neil Smith (Smith 2010), and others writing about environmental political economy (Beck 1993, Foster 2011), I expand analyses of the risk society by analyzing the role of scale in cases of environmental inequality such as Anniston's. This kind of understanding is important because, according to Swyngedouw (2004), the production of scale is intimately tied to "struggles for control and empowerment" (33). An understanding of how scale is produced and by whom it is harnessed is important for innovating solutions in Environmental Justice cases.

As scholars work toward comprehensive solutions to environmental inequalities, it is imperative that we understand notions of justice across scales in order to understand the local context of environmental inequalities in relation to the global activities of corporate actors and institutions. Otherwise, we risk allowing a cycle of impunity to persist, wherein corporations are able to settle conflicts in one geographic area, satisfying localized prescriptions for justice, while continuing to inflict environmental injustices in other places. Moving forward, I discuss how these concerns about scale intersect with Environmental Justice and legal geography literatures.

There are geographies embedded in the risk society that suggest multiple scales of political and economic power are produced in this trend. For example, the same uneven development that brings industrialization to the neoliberal, deregulated US South (Cobb 1993) also brought with it uneven industrial exposures in black and brown communities (Bullard 2000). Communities that desperately needed employment opportunities and tax revenue have participated in the "race to the bottom" for high-risk industries on a regional scale. On other scales, the risk society is defined, in part, by a reliance on expert knowledge to mediate between the scientific world and the world of economic development, which operate in less localized institutional and social arrangements through national bureaucratic agencies such as the EPA. This mirrors the tendency in neoliberalism to rely on a world of international experts to drive economic and political policy such as the IMF, World Bank, and World Trade Organization. In both risk society and neoliberal society, the impetus for decision-making is decidedly "top-down," from the risk society's scientific intelligentsia class to neoliberalism's academic and policy elite.

Nancy Fraser argues we are in a period of "abnormal justice," where the formal systems and discourses that society has constructed to achieve justice are proving themselves to be decreasingly applicable to modern claims of injustice. This assessment hinges largely on the diminishing relevance of the Westphalian system of

organizing statehood and citizenship in the wake of an increasingly globalized civilization.

In our most recent moment of "normal justice"—which she defines as being in the midcentury, after WWII, sometime before the deeply globalized present—the "Keynesian-Westphalian" (Fraser 2010, 12) imagination dominated the ways in which justice was conceived, sought, and dispensed. In the Westphalian political imagination, the "domestic" and "international" spheres of legal and political space are distinct (ibid, 12), limiting the bounds of justice claims to national geographic units. Only a few issues were "international"—famines, genocides, refugee crises (ibid, 13), but the framing of such conflicts still hinged on the national unit. Similarly, the global economic system, managed through the Bretton-Woods agreement, relegated economic distribution to the national unit, and, at least in the Western context, claims for redistributive justice were sought through a Keynesian "moral economy" framework (ibid, 12; Harvey 2007).

However, major shifts in the economic organization of the world, particularly driven by the onset of global neoliberalism, have created a moment of "abnormal justice" where the Westphalian national unit has become an inadequate scale for addressing many claims of injustice. She argues that emerging claims of injustice at this moment in history struggle with "radical heterogeneity" and "incommensurability" in

the way justice systems assess claims. It is because the claims coming forward are qualitatively distinct — radically heterogeneous—and difficult, if not impossible, to measure with any degree of impartiality—they are incommensurable within the current Westphalian model.

Legal Geography & Environmental Justice

Recent reviews throughout the discipline of geography have called for more substantial engagement with the way in which law forms space, place, and scale (Barkan 2013, Delaney 2015, Kurtz 2003, Walker et al 2009). Rather than viewing law as a taken-for-granted norm, these calls urge a critical view of the law and the systems of power it embeds and naturalizes during globalization (Barkan 2009), landscape production (Mitchell 2013), and racialization (Kurtz 2003). These calls have a resonant unity when viewed through the lens of Environmental Justice, where people mired in racialized inequality challenge global scales of power by confronting corporations responsible for deadly pollution in their communities.

My research examines the law's role in creating new geographies by critically examining the conceptions of justice that are included and excluded from environmental settlement and cleanup agreements, interrogating the multiple scales of power that become inscribed in those geographies (Barkan 2009, Kurtz 2003), and

understanding how they are expressed in the landscape (Mitchell 2013) and in geographies of memory (Till 2014). The way settlements are designed and implemented is instructive for answering questions about the interactions between the law, the environment, and community stakeholders (corporations, citizens, local and regional governance) and for the ways the landscape changes wrought by remedial agreements impact understandings of Environmental Justice.

I also explore how movement actors push beyond the realm of the legal in search of justice. This brings alternatives to current modes of justice to the fore, including restorative notions of justice (Inwood 2012; Kurki 2000; Llewellyn and Howse 1999). In the context of the US South, a region that has been a major target of environmental racism, and one that is also mired in legal injustices through what many increasingly argue is a white-supremacist legal system (Alexander 2012), one of the ways in which geographers can contribute to innovating new modes of justice is to conduct analyses that empower notions of space and place conceived from the "bottom-up," rather than relying on the present modes of expert-driven authority.

Justice and Legal beings: Claims, Grievances and Corporate Personhood

Claims for legal recognition are framed in two ways 1) in regard for the need for a place in the political order—what Fraser describes as "ordinary political injustices...when skewed decision rules compromise the political voice of some who are already counted as members, impairing their ability to participate as peers in social interaction" (Fraser 2010, 6). This draws into question the ordinary modes of liberal democratic systems: are electoral voting mechanisms sufficient means of representing the political body (Ibid, 19)? Further, is a system that is blind to identity, but claims political equality, actually following through with that claim (Ibid, 19)?

These are questions endemic to liberal democratic systems whose main concern is to ensure political equality for all while also privileging individual rights above all others (Purcell 2008, 40). This is bound in a *negative* conceptualization of rights and liberties wherein protection from state tyranny includes protection from obligation. If there are no *formal* restrictions from being able to vote, participate in public life, and be represented in the political system then the system is working.

Redistributive claims are the most econometric of the three types Fraser elaborates upon, as they seek justice through an egalitarian distribution of resources throughout society. She cites organizations such as labor unions as being emblematic

organizational apparatuses for these claims (Fraser 2010, 103), but during much of the labor movement's heyday, redistributive claims were not extended to everyone. They were limited to the national framework, and they often only included white men, because of the racial exclusivity of many labor unions (Mandel 1955) and the lack of labor organization rights granted sectors of the economy where nonwhite workers were most prevalent (Meltzer 1974).

This discussion highlights a moment representation comes into tension with claims around redistribution in the US context. According to liberal logic, the state should only be concerned with reducing its interference in people's personal lives, not necessarily with promoting a "positive" conception of rights. This would entail "ensure[ing] the provision of people's basic needs so that they are free to flourish to the best of their abilities" (Purcell 2008, 41). Many of the fights for civil rights in the United States have hinged on these representational claims, including the right to vote, the right to exist in public space, and most importantly, the right to be recognized as a citizen, regardless of skin color. While these advances certainly allowed greater participation in the formal system, they did not necessarily align with what would be considered "equality," a more economically redistributive concept. Martin Luther King, quoted in Dawson's *Black Visions*, touches on this tension:

“There is not even a common language when the term ‘equality’ is used. Negro and white have a fundamentally different definition. Negroes have proceeded from a premise that equality means what it says, and have taken white Americans at their word when they talked of it as an objective. But most whites...proceed from a premise that equality is a loose expression for improvement” (Dawson 267).

This tension is palpable because the very logic of negative rights that was used to justify racially progressive reforms, which mainly focused on advancing representation, was also used to justify their retreat. During the 1970s economic crisis and later, in the 1980s under the Reagan administration, policy became radically more conservative and pro-white than in previous decades, as Reagan and Bush took a strong anti-affirmative action stance (Browne-Marshall 2007), claiming that such policies gave additional privileges to nonwhite people, promoting unfair advancement. Part of what made this possible lies in the ambiguity of anti-discrimination law, which makes it difficult to “defend its genuine interests against those whose interests are supported by opposing visions that also lie within the same discourse” (Crenshaw 1988, 1349).

For opponents of many civil rights advances, equal representation was being stripped from white Americans with policies like affirmative action, even going so far as to call these policies “reverse discrimination” or “reverse racism” (Omi and Winant 1994) because they supposedly levied advantages to people of color that were

unavailable to white people. The epistemological stance of the “colorblind” or “raceless society” was being applied to preserve privilege instead of progress the disadvantaged, and this was legally possible because of the state’s imperative to prioritize individual liberty above group interests.

Recognition, and who can legally claim it, is debated on a number of fronts:

"...group identity, autonomous achievement, or autonomous personhood; cultural distinctiveness, individual achievement, or autonomous personhood; cultural distinctiveness, common humanity, or the claimant's standing as a partner in a social interaction (Fraser 2010, 32). "

What political unit deserves the recognition of the law? In my estimation, this tenet of Fraser's argument pushes the boundaries of the law the furthest in claims for racial justice. Claims for recognition demand an alternative.

Legally, personhood is closely connected to how and for whom rights are defined and protected. The notion of corporate personhood draws the power of the concept into sharp focus. Personhood has been utilized strategically over time to ascribe rights to certain beings, entities, and institutions over the course of the history of United States. Conversely, the denial of personhood has been used to strip rights from certain beings and institutions over the course of that same history. This draws into question the morality of the use of personhood at all:

The concept of personhood, has a dual function: (1) It protects those considered persons against suffering the hurts and indignities which the selfish tendencies of human psychology could inflict on them, and (2) it justifies treating those not considered persons selfishly. By assigning them moral rights, the concept of personhood protects some from being treated merely as means to human satisfaction. By denying them moral rights, the concept of personhood, justifies treating others, that is, those considered property or creatures of nature, merely as means to human satisfaction. Is it morally acceptable and preferable to have a concept which functions in this way? (Sapontzis 1981, 617)

For other types of entities that have and enjoy legal personhood, the struggle for legal recognition has been less difficult. It is particularly telling that nonhuman entities, such as corporations, are able to be recognized as persons in a legal sense. Thus they are able to enjoy some of the same rights that an individual person has. How is this possible? Graver (1999) argues that it is wrapped up in the way that the court is able to define persons:

To recognize an entity as a person, the court asks to what extent the entity acts as an individual agent. Because corporations can act with purposes distinct from those of the people that comprise them, the court is disposed to accept corporations as people. After all, corporations are vividly in action before the law. They obligate themselves (but none of the humans that make them up) through contracts. They sue and are sued. They carry out projects, deliver goods and services, collect and distribute money, hire and fire employees. An extreme

version of the real entity theory would end its analysis here and declare the corporation just as much a person as any living human being because it acts individually in the world and is liable for its actions just like any human being (Graver 1999, 242-243).

In order to see why a corporation would prefer to be treated as an individual, it is important to understand the reasoning for an incorporation in the first place. The corporation is a business entity in which ownership is held by multiple shareholders. Shareholders are entitled to profit from the corporation's activities, but they are not necessarily involved in the day-to-day operations of the corporation. For that there is usually a Board of Directors or some form of leadership in place. Corporations have birthdays but not death dates; they are intended to extend the life of wealth and capital beyond a single generation. The corporation itself can be held liable, can be sued and counter-sue, can enter agreements, and generally function as an individual businessperson while its existence is predicated on its ownership and control by multiple actors. The overarching value of incorporation, however, is to protect the personal property of individuals (Pollman 2011).

Litigation & Justice

Throughout the history of the United States, litigation has been a "go-to" strategy for many in social movements to attempt to bring progressive change to major

institutions. The decision to engage in litigation is heavily influenced by the legacy of previous successes, most notably the landmark *Brown v. Board of Education* decision. Social movement actors move fairly fluidly between causes throughout their lives, and they bring with them their experiences of success and failure that influence future decisions. The decision to litigate is influenced by the actors' previous experiences, combined with the climate of political opportunity which often facilitates the ability to emulate previous strategies for social change (Boutcher 2013).

However, in spite of some landmark victories, the empirical impacts of the many decisions to engage in litigation are unclear, at best. Institutional barriers embedded in litigious strategies make it difficult for alternatives to be proposed. Scholars argue that limited liberal legal logic restricts the scope of the problems that may be addressed and the solutions that may be proposed (NeJaime 2011, 950-1). Even landmark civil rights cases such as *Brown v. Board of Education* have been critiqued in light of their limits. Rosenberg and Klarman's study (as cited in Nejaime 2010) found that the judge's decision alone did not spur desegregation of schools, nor did it massively change public opinion or cause great reaction within the African American community. They write that the "claim that a major contribution of the courts in civil rights was to give the issue salience, press political elites to act, prick the consciences of whites, legitimate the grievances of blacks, and fire blacks up to act is not substantiated"

(NeJaime 2010, 951). Further, many scholars extend this pessimistic view by noting that segregation still exists, as does massive racialized inequality in the public school system, drawing the utility of the decision even deeper into question in the long view (Bell 2004).

NeJaime offers a different perspective on the outcomes of litigation. A positive outcome in court makes it easier for organizers to frame issues and construct campaigns around enforcing a legal decision, it raises consciousness and awareness of a particular problem, and it provides a central post around which groups can form their identity (NeJaime 2011, 954-955). Furthermore, these engagements may increase a movement's bargaining power, connections, and in the event of victory, authoritative affirmation of the movement's central aims (NeJaime 2011).

On the other hand, the legal literature gives the impression that there is a great deal of pressure to settle out of court: "Since the court dockets are overflowing with lawsuits, all else equal, litigants should be encouraged to resolve their disputes privately through out-of-court settlement" (Spier 1994, 84). The vast majority of all cases do settle, in part because the incentive to settle is high when compared with the cost of going to court. The decision is most often framed as an economic one: "When two litigants resolve a dispute through out-of-court settlement rather than trial, they realize joint gains of trade equal to the sum of the costs both parties would have

incurred had they obtained a trial judgment minus the costs they incur reaching settlement" (Korobkin and Guthrie 1994, 1).

Because of the costs involved, and the "winner take all" outcome of going to trial, trials are often considered failures within the legal profession (Lederman 1999, 319). However, there could be a multitude of additional factors that influence this decision beyond economics. For example, Korobkin and Guthrie (1994) argue that the style and strategy behind the negotiation process can greatly impact the likelihood of successful negotiations. There is also a good deal of discussion about the (a)symmetry of the information about the lawsuit between the two parties, and how that information is shared during the negotiation process (Reinganum and Wilde, 1986).

If the state itself is engaged in a project of racial exploitation and domination, then why does Environmental Justice activism so frequently center its efforts in the litigious arena? What are the limitations of that kind of engagement?

With her studies of Environmental Justice in southern California, Laura Pulido spearheaded the effort to bring Environmental Justice to the fore inside the discipline of Geography (Pulido 2000; Pulido 2014). One of the main problems in this field has been the issue of conceptual framing, as the imperatives for justice press against the scales at which justice can be achieved (Kurtz 2003): at what scale does one assess responsibility for claims of injustice, and whose claims are legitimate?

While litigation may quell a conflict in one area, the underlying problem remains, if not for the individual or group involved, then for the people in the neighboring town who have tin ore under their feet waiting to be extracted, or the children living next to an open field that is being considered as the next landfill location for a chemical company. Pollution, sickness, and the general neglect of human welfare are symptomatic of a broader problem in legal systems' (de)valuation of human life.

Memory, Power, Place, and Justice

How we remember and why, shape how societies and social actors place themselves in the world. Geographic research has amassed a wide range of theoretical and empirical work in understanding the impacts of memory in the landscape, and how collective and individual memory is formed and deployed on multiple scales and in multiple venues. Following, I examine some of these dimensions of memory research, assaying how memory is used to express identity, how it holds power, and how it shapes place through "memory work" in places such as museums, memorials, and grassroots/vernacular sites of memory. I discuss why geographers would connect studies of race and justice to geographies of memory, both from theoretical and research praxis perspectives.

The way in which people construct and deploy memory can be seen "as a social activity, as an expression and active force of group identity" (Hoelscher and Alderman 2004, 348). One of the most important aspects of memory is the power it wields, or can potentially wield, in society: "...social memory is inherently instrumental: individuals and groups recall the past not for its own sake, but as a tool to bolster different aims and agendas" (ibid, 349). The power of memory to shape identity and to express power has been of particular interest to geographers. For some, memory may be a grounding force in a world of "rapid social transformation" as in some ways grounded identities have been lost in "unrelenting social-political-economic forces that have come to be called globalization" (Azaryahu and Foote 2007, 349). In large-scale national memory projects, wherein versions of national identity are expressed through memory projects such as memorials to wars and other historical events, memory is used as a tool to build the relevance of the nation-state. In the "post-Westphalian" context of the national body, borders are theorized to be decreasingly relevant with the rise of transnational identity and state formations (Fraser 2010), and memory deployed in the service of nationalism can be a powerful force that grounds identity in place.

This observation connects memory to material expressions of power; memorials and memorial landscapes often reflect the power structures and regimes that created

them (Azaryahu and Foote 2007), communicating selectively about historical events, figures, and valued identity characteristics (Till 2005). These expressions are frequently tied to an effort to build national cohesion as "hegemonic forces in society manipulate historical memory to legitimize their authority" (Foote and Azaryahu 2007, 130). The rhetorical and discursive construction of such events is deeply influenced by memory actors' agendas, leading to representations of significant people and events that may be altered and/or sanitized to satisfy various political motives (DeLyser 1999). This has resulted in significant, powerful biases in the remembrance of events throughout the world that influence the lens through which the public is able to interpret modern social issues.

Among the many reasons why some events are remembered more frequently and clearly than others are the lack of invested individuals to bring obscured events to the collective fore as important moments for reflection, debate, and learning (Fine and McDonnell 2007, 171; Foote 2003). As a result, decisions regarding which events should be remembered publicly through concrete acts such as commemoration and memorialization often remain in the hands of those with enough resources, influence, and institutional connections to ensure the survival of those memories (Dwyer 2000).

This can result in "historical amnesia" (Foote and Azaryahu 2007, 129), wherein events unimportant to the narratives espoused by the powerful are omitted and

thereby forgotten. Not all sites with great social significance are necessarily recognized by the state or actors powerful enough to construct formal memorial sites. As Dwyer and Alderman (2008, 168) note, "...the social process of remembering is accompanied, simultaneously, by a process of forgetting—an excluding of other historical narratives from public consideration and recognition." No nationalized identity is a completely inclusive one, rendering discursive analyses of memorial sites and landscapes particularly important in understanding the complex, contesting meanings of official, unofficial, and unrecognized sites of memory.

Memory, of course, is expressed on more scales than the national. Karen Till's notion of wounded cities offers a way to understand memory on the urban scale by actors who do not necessarily act in any "official" capacity. She argues that places which have undergone mass violence and histories of displacement are active centers for "memory work" around those issues, and the memories surrounding these issues are so ubiquitous that they become integral pieces that shape urban life. In regard to displacement, she notes how city residents experience "root shock" when confronted with massive changes in urban environments, changes that create an emotional and physiological connection to places even when physical relationships have been broken. "When places are physically demolished, not only is the stability of the taken-for-granted rhythms destroyed, an individual's personal and intrasubjective emotional

ecosystems become damaged (root shock)" (Till 2012, 10). As a result, people attempt to create healing places in the wake of such damage through artistic and activist work to maintain emotional connections to those places, and to articulate alternative political visions. "Materially, memory-work motivates the creation of social capital, provides a range of memorialization activities, creates new forms of public memory, and is committed to intergenerational education and social outreach" (Till 2012, 7). For people who have experienced displacement and marginalization, this work can simply beg for people to become visible, to stake their claim in a landscape and urban system that renders them invisible and not valuable. Her work highlights the "performative" nature of memorial expressions (see also Dwyer and Alderman 2008), where memory is invoked through (a number of ways but in this instance) political protest and artistic activism. Till's research is an important contribution to understanding how social groups actively resist annihilation from the landscape by deploying the political implications of memory work.

These examples demonstrate that memory is potentially a powerful tool for advocating and acting for transformative social justice. Memorial sites, for instance, "are important conduits not just giving voice to certain visions of history, but casting legitimacy upon them—a way of ordering and controlling the public meaning of the past" (Alderman and Inwood 2013). The act of bringing marginalized voices to the fore

through memory projects, then, provides a venue for legitimation (Dwyer and Alderman 2008); similarly, the act of contesting memorial landscapes from oppressive regimes legitimizes the struggles of the oppressed. Landscapes, again borrowing Dwyer and Alderman's (2008) framework, can be analyzed discursively, disentangling the textual metaphors defining memorial sites and projects, as arenas of politicized conflict and debate, and as areas of memorial participation, where people actively shape memorial landscapes and sites. These overlapping perspectives and analytical tools can be used not just to understand the official narratives that memorials present, but can also help scholars and society understand and appreciate who and what is missing from our memorial landscapes, and why. Understanding these invisible narratives is an important project that also extends beyond wanting a "just" representation in memorials. From a broader perspective, it is about learning as a society to value one another enough to be inclusive in the first place when constructing memorial projects, and to engage with the past through multiple historical and geographic perspectives even if they conflict with one another. "Like all cultural landscapes, memorials have a normative power, at once reflecting and reproducing social ideas about the past, and thereby shaping the future" (Dwyer and Alderman 2008, 167). If the future we want is one that values participation, democracy, and inclusion, then a good place to start is to make sure the way we communicate about

our society is inclusive, embraces debate, and allows the people most impacted by the events we memorialize the ability to participate in their construction.

Throughout the course of this dissertation, these literatures build upon one another to build a synthesis between the legal geography, political economy, and memory. The Anniston case study is a microcosm of how these seemingly disparate ideas and processes interact to shape the outcomes of struggles for Environmental Justice. Chapter 3 examines the way corporations strategically manipulate scale to gain power, Chapter 4 dissects the details of the legal settlement agreement to understand the structural biases ingrained into Environmental Justice legal and policy systems, and Chapter 5 explores how memory can inform cleanup agreements to provide a more holistic perspective on remediation.

CHAPTER 3
CORPORATE SCALAR TRANSFORMATIONS AND THE PRODUCTION OF
ENVIRONMENTAL INEQUALITIES IN ANNISTON, ALABAMA

Abstract

Anniston is home to a struggle for Environmental Justice that has marked the city for several decades. The Monsanto Company placed Anniston on the map as one of the most toxic cities in United States because of its negligent disposal of Polychlorinated Biphenyls (PCBs) in the city's soil, water, and air. In the wake of the pollution and its impacts on the city, Monsanto has shifted its "persona" in ways that are instructive for understanding the power of corporate identity, how it shapes corporations' relationships with legal systems and other state bodies, and how it impacts the production of space as communities seek to recover from corporate-driven environmental degradation. As scholars work toward comprehensive solutions to environmental inequalities, it is imperative to understand environmental inequalities in relation to the ways corporate actors and institutions strategically utilize and transform scale to ensure their survival. Drawing on literatures in legal geography, critical economic geography, and broader theoretical debates about the production of scale, this work, based on field research in Anniston, identifies how corporations produce identities that allow them to function with a great deal of flexibility as compared to other actors who become embroiled in struggles over environmental injustices.

Introduction

Much of the archival research for this dissertation was conducted in the main branch of the Anniston Public Library. The library is always bustling, particularly with internet users – people filling out job applications, browsing, listening to music. One day, while taking a break in the periodicals, a young man approached me and asked what I had been working on all day. (Most of the library is one large room, so there is not much anonymity or expectation of privacy to be had.) I told him I was researching Monsanto and the PCB pollution in Anniston. Typically, when I talked to Annistonians about this topic there was a familiar groan of understanding – “oh, it’s awful isn’t it, really terrible what happened.” However, I was stunned by this young man’s reply: “But, isn’t Monsanto responsible for feeding half the world?”

Admittedly, he was not entirely wrong–Monsanto has had a major impact on the global agricultural system. However, there is something else to work through in this interaction: Anniston, Alabama, ground zero for one of Monsanto’s worst pollution disasters, seems like one of the most unlikely places in the world to find a Monsanto defender. However, in the long view of Monsanto’s activity in Anniston, it makes more sense: Monsanto was a very important part of the community even while it was engaging in practices that were actively eroding the quality of life in the city. On the local scale, for many years Monsanto crafted a relatively positive identity as a

benevolent employer. On a national, or even global scale, Monsanto was able to construct a progressive identity. For most of Monsanto's history, it was known primarily as an industrial chemical company rather than a biotechnology company, and its advertising claimed that its products were used to advance the modern world.

This analysis examines Monsanto's transitions over time in the context of growing public awareness of environmental issues and a rapidly developing environmental regulatory system in the US, also known as the "risk society." This analysis shows how corporate actors use scale and a legally flexible identity to mitigate the legal, financial, and environmental impacts of their productive activities. As scholars work toward comprehensive solutions to environmental inequalities, it is imperative to understand them in relation to the multi-scalar strategies of corporate actors and institutions. Drawing on literatures in legal geography, critical economic geography, and broader theoretical debates about the production of scale, this work identifies how corporations produce identities that allow them to function with a great deal of flexibility as compared to other actors who become embroiled in struggles over environmental injustices.

In this chapter, I argue that corporations construct different identities according to the scale at which they seek to become powerful or maintain power relations. Corporations employ these identities in order to occupy strategic scalar positions that

allow them to survive and create advantages for themselves within legal and state systems, unavailable to other legal individuals. Corporations transform themselves regularly with activities such as acquisitions, mergers, and divestments. These activities may seem to be mundane financial transactions, occurring in some a-spatial realm of financial capital. The material significance of these activities becomes more apparent when understood as strategic endeavors to shape a corporation's ability to survive across multiple scales, directly influencing the production of space and place.

This chapter traces how corporate actors strategically produced and transformed Monsanto's identities at different scales over time to 1) produce a chemical known to be dangerous within such close proximity to a residential district, 2) to reduce anxiety about the danger of their operations, and 3) survive in the wake of litigation. Such mundane corporate activities have important impacts on the production of space, the experience of place, and the struggle to achieve Environmental Justice. In this analysis, geographic scale is a frame for understanding the development of corporate political and economic strategies to 1) cultivate collective consent to risk and 2) engender a pro-business, if higher-risk environment.

Next, a brief overview of relevant literatures contextualizes this case within the political-economic framework of the "risk society," and discusses how this conceptual framework intersects with geographic theorizing about scale and Environmental

Justice. The case study is a discourse analysis of newspaper coverage, internal corporate communications, and corporate publications and advertisements to analyze the transformations of The Monsanto Chemical Company's identity in Anniston. The shifting political context of environmental risk guided the company's discursive and material scalar transformations, a process instructive for understanding the strategic use of scale by corporate entities in the wake of environmental conflicts.

Risk Society, Neoliberalism, and Scale

The motivation undergirding this analysis has two key components: first, there is relatively little critical literature about the specific strategies deployed by corporate actors in Environmental Justice conflicts (Prechel and Zheng 2012). It is strategically important in the struggle for justice in these scenarios to understand more clearly the specific moves and strategies of corporations as they seek justice from their perspectives.

Second, this analysis can lend insight on the relationships that corporations form with legal bodies, state bodies, and state actors to gain/retain power in the US political economy. Corporations are powerful entities in the United States, most popularly known as such because of the financial power they hold in electoral politics. However, I argue that the power they employ is much more widespread and mundanely practiced

through the relationships they cultivate with state agencies such as the EPA, and through agreements and cleanup processes such as the one in Anniston. Corporations play a key role in cultivating the culture and practice of state-sanctioned neglect, thereby playing a part in the production of racialized spaces of inequality in the US

Anniston's story is important to understand within the context of the broader trajectory of US-led global industrialization, wherein the distribution and management of risks have become an important aspect of modern life. Ulrich Beck (1993) argues that as modernization has improved living conditions due to technological and industrial innovations, collective risks emerged, threatening the survival of humanity. For example, PCB pollution takes hundreds of years to decompose and causes serious diseases, yet PCBs were a key component of the expansion of the electrical grid throughout the mid-20th century. Some level of risk was collectively accepted throughout their use. As a result, new social and institutional arrangements have formed to reckon with hazards endemic to modern, industrialized societies (Cable et al. 2008, Ekberg 2007), such as CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act), the EPA, and the notion of corporate environmental responsibility.

The "risk society" has developed in tandem with neoliberalism, which has been shown to heighten the potential for collective environmental risks. Industrial and labor

deregulation can result in higher potential risks for accidents and exposures to substances that are harmful to human health (Bullard 2000). The US South participates in an (increasingly) nationwide “race-to-the-bottom” for such regulations (Woods 2006). States compete to attract industry and corporate investment by eliminating any potential barriers to the “free market” (Harvey 2007). However, Environmental Justice movements have raised attention to the fact that the same neoliberal deregulation that attracts heavy industries to the US South (Cobb 1993) also brings with it uneven exposures along the lines of racial identity (Bullard 2000). Heightening deregulation increases environmental risks to vulnerable populations, meaning that the neoliberal era has seen increased systemic environmental violence directed at poor communities of color (Pellow 2016).

The different scales at which risks are experienced, determined, and mediated raises questions about how key actors within the risk society produce unequal scalar configurations of political and economic power. Though geography has seen a robust debate about the nature of scale (see especially Brenner 2001, Marston and Smith 2001), this research draws specifically on the notion that scale is socially produced (Marston and Smith 2001). There is not a fixed scalar hierarchy of local, national, global, or otherwise to which certain issues/people/institutions inherently belong. Instead, scale is constantly being actively created and reworked to advance particular

understandings of the world. While there is a materiality to scale – for example, in the way states divide bureaucratic systems on local, regional, and national levels – this approach denaturalizes these hierarchies and provides an analytical framework to understand for what purposes they are produced.

In this sense, scale is a more than an analytical concept, but is also a powerful *tool*. Kurtz (2003) uses the framing concept to analyze when and how scale is being summoned and created, how actors connect scales, and the purpose of scale in struggles to gain power. This kind of understanding is important because, according to Swyngedouw (2004), the production of scale is intimately tied to "struggles for control and empowerment" (33). Kurtz's (2003) notion of "scale frames" and "counter scale frames" explains the discursive constructions of responsibility and blame utilized by activists fighting the construction of a PVC production facility in Louisiana. Using Swyngedouw and Kurtz, this paper employs the analytical concept of "framing" and joins it with the idea that scales are produced. The result is being able to view different lenses through which corporate entities in Anniston constructed scalar framings and understandings to diminish and mitigate risks wrought by their chemical production activities in the city. As such, when viewing corporations, a number of scalar positionalities can be simultaneously present, depending on the political, economic, social, and geographic context. This creates a way into understanding the nuance and

multi-pronged scalar strategy embedded in corporate environmental governance, a level of scalar manipulation and power that is much harder for ordinary people to harness.

Case Study: Corporate Scalar Transformations and A Struggle for Environmental Justice

Monsanto's Early Corporate Identity

The story of Monsanto's involvement in Anniston can be confusing, in no small part because Monsanto is no longer directly involved in the Anniston situation at all. In fact, the only obvious marker left by Monsanto in the City of Anniston is a lone street sign (figure 1) – Monsanto Avenue – off of Highway 202 near the chemical factory where Monsanto was once located.

Monsanto's absence from Anniston's landscape reflects decades of strategic corporate transformations made by the company in order to mitigate the impacts of growing awareness of the environmental risks posed by their products on multiple scales.

Early in its development, Monsanto was primarily a chemical company, specializing in a wide variety of products but gaining early prominence in the early 1900s as a manufacturer of the artificial sweetener saccharin (Spears 2014, 34-35). Many of the company's most profitable products facilitated rapid industrialization and infrastructure development. For example, the development and production of Aroclors

(the branded name for PCBs), exemplifies this trend, as it was used as an industrial-grade insulant, largely for electrical plants and throughout the power grid in transformer boxes on utility poles.



Figure 1 Monsanto Rd. Photo by author.

Originally manufactured in Anniston by the Swann Chemical Company (Spears 2014), Monsanto acquired the Anniston plant in 1935 (Spears 2014, 57). With the growth of electrical connectivity came the expansion of the market for PCBs, and the growth of

the geography that PCBs impacted, a sobering reality that would only be revealed in the coming decades as knowledge of the substance's toxicity became widely known.

Therefore, Monsanto's early corporate identity was closely tied with the chemical industry's role in industrial development and modern life. In a 1938 booklet, "The Story of Monsanto Company," the company describes a history of chemistry, commenting:

Thus the chemical industry was born of the union of scientific knowledge and the needs of industry. How rapid has been its growth is evidenced by the almost unbelievable fact that we are not in some way brought into contact with many things in the production of which chemistry and chemical products have played a vital, although often unseen, part. Practically everything we eat and wear, every article we touch or smell, a large part of what we see and much of what we hear, somewhere along the line of their production came in contact with chemicals.

Figure 2 is an image from the same booklet drives the company's point home—

"home" in the sense that Monsanto frames its scalar identity as both a key player in modernization—nationally, perhaps even globally—all while Monsanto is an integral part of one's mundane personal life. "The morning shave" becomes both a moment of self care and a moment to marvel at the advancements of modern chemistry.

Monsanto communicates power in this scalar identity construction through its ubiquity and inescapability. Akin to modernization itself, the whole of the world is wrapped up in the project of industrial progress, including the customer enjoying the fruits of

Monsanto's factories and lived in their vicinity. On the local scale, in close proximity to the production of these modern benefits, the ubiquity of industrial chemistry took on a very different meaning. Anniston Monsanto workers and residents living near the factory were regularly exposed to levels of PCBs that Monsanto corporate executives knew were extremely hazardous, well before the formal ban of PCBs in 1979 (Spears 2014). "Every article we touch or smell" in West Anniston may very well have been subject to PCB exposures greater than in any other place in the United States.

In contrast, the company was forging a positive identity for itself in the city as a gracious employer and community presence, acting in direct contrast with the company's pollution. The 1953 and 1954 issues of the company's magazine for the Anniston Plant, "The Record Buster," pictured in figures 3 and 4, advertised community activities such as bowling leagues and golf tournaments, commemorations of workers winning safety awards, and columns giving safety tips and advice on accident prevention. Company Christmas parties and picnics, while racially segregated, earn considerable space in the magazine, depicting well-dressed employees playing games, dancing, and celebrating with their families. This contrast between the company's active environmental negligence and the company's active community presence is evidence of the strategy in the production of a scaled identity. On a local scale, creating the identity of trusted community steward through corporate literature makes

the active poisoning of the surrounding community more difficult to digest in retrospect. In addition, it is a way in which collective consent to risk is constructed; while yes, the products in the plant may be dangerous, the jobs and quality of life that surround that production process are appealing. Thus, those who may have known about the negative implications of the pollution in the city had some ability to decide that the benefits outweighed the risk – at least in the short term.

During this period, Monsanto balanced two scalar identities: a global company that was ushering in the modern world, and a friendly place to work in a small town. These identities worked in tandem to construct a collective, if uninformed, consent to risk from industrial chemicals because of the lifestyle and modern conveniences that came from that trade-off. However, this identity was not to last, as Monsanto's products started causing trouble on a global scale, as PCBs were increasingly linked to human illnesses and environmental problems. In order to survive, it had to engineer a transformation of its identity on both a global and local scale, rendering major changes in the corporation's global and local scalar relationships over time.

Christmas Party—For All Plant Employees Held December 11, At Legion Hall—A Gay Party



A Quiet Moment—With Deep Concentration.



Dancing for all, to the music of J. E. Duncan and his orchestra.



Jack Cleghonn & the magician, Ken Fagan, one card trick Jack couldn't guess.



The Bunny Hop—can you recognize your fellow workers.



Homer Broadwell's work was never done.

Safety depends upon you—and those you work with.

Christmas Party—Legion Hall

Those of you who attended the Plant Christmas Party held December 11th at the Legion Hall, will agree that it was an excellent party and fun was had by all.

There was some excellent dancing to the music of J. E. Duncan and his orchestra, entertainment by Ken Fagan the magician and dancing and singing by Miss Frankie Shinn.

We want to thank the members of the committee who arranged the Christmas party and did all the work. The Refreshment Committee composed of H. L. Gray, F. O. Dickerson, Edna Hughes, Dorothy Massey, H. L. Woodruff and George Findley; Arrangements:—Edna Ballard, Bill Cargal, H. C. Broadwell, J. F. Gann, Lou Campbell, D. F. Francisco, Mark

(Continued on Page 4)



Jack Rogers Promoted

Jack Rogers has been appointed to the position of Production Superintendent for the Inorganic Production Group here. He will coordinate the work of the Potassium Phosphates and miscellaneous small products, plus Stearox, Alkyl Phosphates, and Furnace Operations.

Born in Sanford, N. C., Jack (Jonathan Polk) is a graduate of Alabama Polytechnic Institute with a B. S. in Chemical Engineering. Upon graduation he started with the B. F. Goodrich Rubber Company joining Monsanto in October 1950. His first assignment was with Division Engineering. He was then transferred to the plant as Assistant Supervisor in the Chlorine Plant and in August 1953, was made Inorganic Supervisor. He is married and has two children, a daughter Xan and a son Jack, Jr. His hobbies are hunting dove and quail when he can find them.

We join the employees of the



Jack Crouch Promoted

Jack Crouch has been appointed to the position of Production Superintendent for the Organic Production Group here. He will coordinate the work of the Biphenyl, Chlorine and Isocyanate units.

Jack is a graduate of Mississippi State with a B. S. degree in Chemical Engineering. Upon Graduation he taught math in an all-girls school for one year. He joined Monsanto in 1950 with his first assignment in the Division Research Department. When the plant started the construction of the DeNora Cell Chlorine Plant he was appointed supervisor of the unit. He is (recently) married, very active in the Presbyterian Church, the Jaycees, and Kiwanis. He is also an active member of the Naval Reserves, holding a commission of Lt. J. G.

We join the plant in wishing Jack the best of luck in his new assignment.

plant in wishing Jack the best of luck in his new position.

Figure 3 The Record Buster. January 1964, page 2.

Plant Colored Christmas Was Held December 18, Carver Center



A hot card game, all for fun.



H. O. Tittel says goodbye to all.



A formal shool, early in the evening.



Each wondered if he would be the winner of a grand door prize.

Christmas Party—Carver Center

The party at Carver Center was really a party and fun was had by all who attended. Those who didn't attend missed an excellent party. There was bingo for all with some swell prizes, dancing for those who wanted to cut-a-rug and plenty of food and fun for all. If you didn't attend this last party make plans to attend the party in '54. Oh! yes some door prizes were given, a Sunbeam electric razor, a steam iron, a card table, and a hair clipper set.



BINGO! Players.

Unsafe practices are the fault of you.

Jan. 1, 1954 SAFETY SCOREBOARD	
Days worked since last disabling injury	440
Hours worked since last lost time accident	1,237,282

Christmas Party —Legion Hall (Continued from Page 2)

Williams and Vera Crowley; Entertainment Committee:— J. P. Rogers, J. E. Crouch, Margaret Sills and Hiram Kirby.

The decorations were done by the Homer Broadwells with assistance from Hiram Kirby.

If you enjoyed the party thank the Committee members—they are the ones that made the party a success . . . right?

RESEARCH CHRISTMAS PARTY (Continued from Page 3)

a souvenir booklet of the Research Department and a little notebook labeled "Aniston Research."

The planned entertainment included a delicious buffet dinner, audience participation games, a thoroughly enjoyable skit aimed at clarifying the workings of a research executive's mind, and dancing to the music of Johnny Long's orchestra. Long and Co. left at 1 a. m. but records were then pressed into service and the last stalwarts wondered home at around 3 a. m.

Since just about everyone in Research was involved in the preparations for the party it was only fitting that they should enjoy the fruits of their labors. If noise is any indication of success, we had a doggone nice party.

A LETTER

(Continued from Page 3)

of the "Record Buster" each month while he remains in service and an answer to his letter.

Remember—spend 2c for a post card and drop Curtis a line. His address: Pfc. Curtis L. Robinson, US53115211, 545th M. P. Co., 1st Cav. Div., A. P. O. 201, San Francisco, California.

Lost-Time Accident

Many of you will remember that on October 17, 1952 Tull Allen injured his elbow while working in the plant. At the time the physicians didn't consider the injury such a nature to require that we take a lost-time accident. Since then complications set in and additional medical attention was required.

After extensive treatment and an operation we were told that there would be a 25 per cent loss of use to the arm. This means that our Safety record date, since the last lost-time accident, no longer starts in April of 1952 but on October 17, 1952. We have now, using our correction, 440 days without a lost-time accident. Let's not let up on Safety.

Register So You May Vote (Continued from Page 1)

you will have to pay a poll tax, that is if you are not exempt, before February 1. The only difference now in paying poll taxes is that instead of a cumulative tax, one only has to pay two years back tax (\$3) and his poll tax for 1954. This was made possible by the passage of the poll tax amendment to the Constitution on December 15.

February 1st is a very short time away so be sure to register and also advise your friends of the necessity to register and to pay their poll tax. It matters not that you vote Republican or Democrat but that you vote, that you take an active part in "hiring" the best available man for each place in your government.

We have only two eyes, protect them with safety glasses or goggles.

Figure 4 The Record Buster. January 1964, page 4.

Trouble in Chemical Paradise

Monsanto started experiencing financial and public relations difficulties in the late 1970s and throughout the 1980s. This time period was cited by future Solutia executive Dennis Canver as an early time of transition for the company in a speech, “How Solutia Became Its Own Company” at an engineering conference in 1998, stating that Monsanto was responding to the 1979 global oil crisis by investing in biotechnology, and “systematically began to shed underperforming businesses – mostly in the chemicals area.” This period marks a crisis in Monsanto’s identity as a great innovator of modern life through chemistry as collective consent to the risks of chemical exposure began to wither.

While Canver’s narrative cites global economic crises as a main factor of the transition, and paints Monsanto as a company adapting to a changing global business climate through shifts in investment, he omits that at the time, the US was leading the world by regulating the emission of toxic chemicals in the environment (Spears 2014). Environmental movements across the world took notice of the global impacts of chemicals such as PCBs and pesticides (Carson 2002), and as a result companies like Monsanto were facing greater scrutiny than ever before.

In fact, the year Canver cites, 1979, is the very same year that the US banned the production and use of PCBs. The Anniston plant was one of just two manufacturing

facilities for PCBs in the United States. As a result of this legislation, one of Monsanto's most profitable products was illegal, and forced the company to transform its global corporate identity. The transition away from industrial chemistry and toward biotechnology was a strategy to maintain Monsanto's identity at both the cusp of innovative science and the height of profitability, a new frontier for global modernization. This mirrors the way Beck (1993) discusses the risk society; due to new knowledge construction about the dangers some chemicals posed to society, it became imperative for governing bodies, and corporate bodies, to learn to manage that risk in such a way that fewer people would be endangered by it – or as in Monsanto's case, profitability would not be risked by a growing environmental awareness.

This transition was not limited to PCB production. Locally in Anniston, Monsanto officials also halted the manufacture of Parathion, a controversial insecticide, citing a “global restructuring” that was taking place on a company-wide level (Edwards 1985). Parathion, like PCBs, came under scrutiny at a grassroots level because of its toxicity. Canver's omission of the environmental activism surrounding the company's restructuring, signals how Monsanto and Solutia were able to actively produce an alternative scalar frame (Kurtz 2003) of the company's transformation. Rather than a response to wide environmental criticism, Monsanto simply made an economically

rational move in a complex global business climate. This allowed the company to appear in control and powerful when, in fact, its means of subsistence – industrial chemistry — was under heavy assault at that time.

This assault was felt more acutely on the local scale. This transition threatened Monsanto's survival as the friendly neighborhood employer, and many people in the city suddenly faced the prospect of unemployment. "I feel like somebody's died. I really hate it. They've benefitted a lot of people," said Melvin Womack, an Anniston community member, quoted in *The Anniston Star* (Sapers 1985). By the late 1980s, however, Monsanto was beginning to recover, and newspaper headlines signified a new direction for the company's local identity: "Monsanto gets new Environmental Permit" (Mullan 1986), "Monsanto has new manager, new plan" (Spoon 1987), "Monsanto vows to lower emissions" (Saltonstall 1988). Throughout the late 1980s and early 1990s, Monsanto locally transitioned into a proactive environmental steward, a new version of the local community steward identity, but with increased public awareness and with a more proactive and aggressive response to environmental risks. The underlying strategy behind this transition becomes even clearer when considered in light of the litigation that would soon assault the company in the early 1990s. Its transition to environmental steward became a strategic insurance policy against brimming criticism.

Shedding Chemical Roots

In the 1990s, Monsanto started buying up properties surrounding its plant in Anniston. It set up an office in the Sweet Valley-Cobbtown neighborhood, the area of West Anniston closest to the plant. Residents were offered lump sums of cash for their properties in exchange for agreements not to litigate in the future. (Chapters 4 and 5 cover these events in greater detail.) In the wake of these buyouts, a group of activists called Community Against Pollution (CAP) started to investigate the health problems in this community, drawing connections between the Monsanto factory and the litany of illnesses plaguing the community. Many people were suffering from cancer, liver disease, and kidney disease, and other diseases that no one could readily explain.

When CAP and other groups engaged in litigation against Monsanto starting in the late 1990s, Monsanto used its early environmental “proactivity” as evidence of its good community stewardship. Discursively placing itself as a caretaker of the environment, it attempted to soften the blow of the accusations it was facing as an intentionally negligent polluter. In a climate of increased scrutiny of the impact of chemicals on the environment, and the enforcement of regulations through legislation such as CERCLA, Monsanto’s identity transition shielded the company from the consequences of the modern world it helped create.

In the following excerpt from a letter to the editor written by Robert G. Kaley, an environmental affairs director for Solutia, the “proactive environmental steward” identity comes into play as a defense of criticism levied in an article published in the Nation called “What Monsanto Knew”:

Monsanto's responses to finding PCBs in the environment were swift and effective. It dealt with the emerging issues at the highest levels of the company, committing personnel and resources to learn as much as possible about PCBs and their potential environmental and health effects. Never before had a company responded as quickly and as fully to environmental concerns. It restricted sales to electrical-equipment manufacturers only, in order to prevent environmental releases; established stringent control practices; sponsored research on environmental and health effects; and worked closely with state and federal regulatory agencies.

Despite a federal report that eliminating PCBs would cause severe disruptions in electrical distribution, Monsanto committed to stop making PCBs as soon as substitutes were developed. It voluntarily stopped making PCBs in Anniston in 1971 and ceased making PCBs altogether in 1977, two years before the EPA ban. For thirty-five years, Monsanto/Solutia has responded appropriately to PCB issues, based on sound science and effective cleanup measures” (Kaley 2000).

Here, Kaley draws on Monsanto’s proactivity to defend itself against evidence presented by journalist Nancy Beiles that it acted irresponsibly. In addition, he draws on Monsanto’s role in “modernity” through its reference to the risks posed to electrical

distribution due to the halt in manufacture. He talks about the company's changes while reminding the reader of the company's positive role. While Kaley goes on to say that it acted quickly once PCBs were discovered in water in 1993, Beiles' article provides evidence that Monsanto was aware of the potential extent of the PCB pollution long before that date, casting doubt on Kaley's analysis. Beiles' response to these criticisms in particular was short, but effective:

While Monsanto did cease the manufacture of PCBs two years before the EPA banned them, that doesn't mitigate the fact that the company had, for years, been releasing them into the environment, activity which has created a contaminated community (Beiles 2000).

Unfazed by Monsanto's shifts, Beiles sees no difference in the Monsanto of 2000 and the Monsanto of 1950. No matter what transformations the company may have undergone, and no matter how "proactive" they may have been in certain respects, the fact remains for Beiles that Monsanto is responsible.

The final scalar strategic transformation was ultimately, the spinoff of Monsanto's chemical division into a new company entirely—the neutrally denominated "Solutia." The new name was part of a carefully crafted transition for Monsanto away from the chemicals business and for Solutia's quiet, sanitized entrance. Solutia is a rebranded Monsanto: "We're an almost 100-year old, brand-new company," said Solutia executive Dennis Canver. Solutia lives on in the community—in part, as a prominent

corporate sponsor of civil rights memorials, a bitter irony that is deeply unsettling considering its role in the perpetuation of racialized environmental injustice in the city. Even more recently, Solutia was bought by Eastman chemical, a growing presence throughout the southern United States. Eastman's name is also present on Anniston's landscape, sponsoring scholarship programs, a teen reading room at the local library, and participating heavily in the activities of the local Chamber of Commerce. Through these activities, corporate actors are again rebuilding the company's identity as a strong community presence.

For Monsanto, its association with chemical production was rendered toxic by the many revelations of the company's malfeasance across the globe (Spears 2014), and in 1997, it fully transitioned into a biotechnology company when it shed its chemical holdings. Its global survival as Monsanto was dependent on producing a new identity, and a new scale of responsibility. The effectiveness of this transition can also be measured more directly by its financial impacts. On September 8, 1997, *The Anniston Star* reported that "Monsanto Co.'s shares have risen 10 percent since it spun off its chemicals division, as investors bet the company's agricultural and pharmaceuticals business will thrive without it" (Clarke 1997). Monsanto, and the trail of destructive pollution associated with its name, managed to create a new life for its brand of risk-driven modernization and profitability.

Conclusion

The scalar transformations deployed by Monsanto have reaped enormous rewards for corporate actors in the long run. Monsanto remains powerful globally. Solutia continues to be a community presence, sponsoring scholarship contests and donating to the local library. In 2008, Solutia declared bankruptcy, a move that many argue was intended to slow down the cleanup process in Anniston, a move that is more directly addressed in Chapter 4. In 2012, Solutia emerged from bankruptcy and was sold to Eastman Chemical for \$4.8 billion. Solutia continues to pay for the cleanup of PCBs in the city, although no human individual was ever legally held responsible for the pollution in Anniston. While Monsanto/Solutia were held liable, neither entity ever had to admit fault.

When strategizing solutions for environmental inequalities, it is important to understand the power that corporations hold within the legal system as both legal individuals and as entities that are able to undergo transformations like those described here. More than transfers of ownership, these are transfers of responsibility, and transformations of scalar relationships that render corporate actors disproportionately powerful in comparison to ordinary people who face them in a court of law. By placing Monsanto's identity transitions in the broader context of the Risk Society, the construction of different scalar identities for the company – a global force

of modernization, a local community steward, a victim of the global oil crisis, a proactive environmental steward – made it possible for the company to survive popular assaults against its most profitable enterprises. The company's slow shedding of its chemical holdings in favor of biotechnology allowed it to become an almost entirely different company by the time its most contentious litigation came to pass in Anniston, giving it the ability to lean on its new status as an environmentally responsible, entirely "new" corporation, to deflect local concerns.

In contrast, West Anniston struggles to survive; the landscape is littered with abandoned factories, homes, schools, and businesses. The settlement was divided among over 20,000 plaintiffs, meaning, after legal fees, many received little, if anything at all. The city attempts to move on from this struggle, but the scars remain.

In the immediate future the power that corporate entities hold in the US justice systems is concerning, not least of which because the Anniston case teaches they have the power to reproduce inequalities, even when they are held responsible for social and environmental degradation. Scholar-activists and activists must strive to innovate alternate strategies that halt the reproduction of inequalities and uneven development. In addition, the neoliberal era draws new questions about the role of risk and development, as a lax regulatory culture impacts environmental policy across scales.

CHAPTER 4
ANNISTON'S NEOLIBERAL ENVIRONMENTAL POLICY IN PRACTICE

Abstract

The outcomes of the movement for Environmental Justice in Anniston largely center around the results of a combination of lawsuits which settled for a total of \$700 million. While many residents had high expectations for the outcomes of this settlement, in the long term, many were disappointed by the way the cleanup was designed and implemented, and in the size of the settlements they received. This chapter examines the structural conditions that influenced the outcomes of the settlement, arguing that neoliberal influences on Environmental Justice policymaking resulted in an outcome that many viewed as favorable to corporate actors involved and unfair to those most acutely impacted by the pollution.

Introduction

Legal and scientific authorities rely heavily on scientific “objectivity” and “expertise” to create authoritative remedial plans and guidelines. These plans calculate acceptable levels of risk for residents living in the midst of polluted environments, and determine the process through which acceptable levels of pollution are achieved. However, as Giddens, Beck, and many others who use the framework of the “Risk Society” argue, the notion of risk is more than a scientific calculation (Beck 1992; Beck 2013; Cable, Shriver, and Mix 2008; Ekberg 2007; Giddens 1999; Giddens 2013). Risk

is also socially constructed and shaped by political-economic context. In Anniston, acceptable risks were calculated to manage the limitations of the political and economic moment during which the crisis unfolded.

One of the most important ways risk has been discussed and managed in the Anniston case is through the large settlement (\$700 million) awarded to lawsuit participants. In addition, the EPA negotiated a Consent Decree with Monsanto/Solutia for the cleanup, and funds for an education foundation. For a town whose population hovers around 25,000 people, this may seem comprehensive. However, after examining how that money was managed and distributed, a lump sum can hardly be equated with “justice” as defined by activists who set the wider Environmental Justice movement in motion in the 1990s (Principles of Environmental Justice 1991). The processes used to determine and administer the outcomes of the Anniston case raise serious questions about the notions of justice embedded in the legal Environmental Justice system, and how this system is guided by a neoliberal, econometric logic.

There are disparities between what many litigants hoped for when this case began and what was delivered in the long run. What caused these disparities? How did legal and scientific experts guide the construction and implementation of the cleanup plan? How is environmental governance shaped by the political economy of the US? This chapter explores these questions through policy and legal perspectives. After a

brief discussion of methodology, the first empirical section, “A Litigious Landscape,” details the development of litigation, as one lawsuit after another formed when residents became aware and activated around the toxicity in their midst.

The next section, “Superfund Alternative: A Policy Choice Driven by Neoliberal Expertise” examines the rapidly changing political discourse about the Superfund program and environmental regulation more generally at the time of this case. These shifts impacted how the cleanup in Anniston was conceived and implemented, giving corporate actors a roomier seat at the table than would be expected in a traditional Superfund arrangement. This reflects a deepening neoliberal order, where cuts in state funding forced the creation of new financial and political arrangements that lowered barriers for businesses to play a direct role in policymaking.

“Settlement and Distribution” examines the complexity of the process for claimants to participate in the lawsuits, critiquing the individualization of responsibility for obtaining the best settlement possible. Because there were multiple lawsuits filed at different times with different requirements and different law firms, the distribution of the settlement funds was uneven and confusing. This raises questions about the decisions imposed on ordinary people who wind up in an impossibly difficult situation. Reflecting on recent debates regarding reparations, and radically different visions for what judicial systems could provide, this case highlights inconsistencies, inefficiencies,

and limitations within liberal, individualized judicial systems, problems which deeply conflict with the ideals and aspirations of the Environmental Justice Movement.

The final discussion and conclusions section brings these pieces back into conversation with the 17 principles of Environmental Justice as laid out by activists at the First National People of Color Environmental Leadership Summit held in 1991.

There is a stark contrast between these activists' vision of justice and the policies and procedures documented throughout the rest of the chapter, painting a bleak picture of the current state of affairs for Environmental Justice policy. This juxtaposition is an important reminder that such policies, while they may co-opt terms like Environmental Justice, are strongly shaped by the actors and institutions holding the strongest political power. At the time of the Anniston case, a corporate-friendly federal administration lead to a cleanup process that favored an increased collaborative role with corporate actors. While "collaboration" sounds positive, when the collaborator on cleanup design is also the polluter, it raises serious concerns about the potential for corruption and conflicts of interest at the cost of disempowering impacted communities from meaningful involvement and restitution.

Methods

This chapter emerged from observations of public meetings about the PCB cleanup in Anniston, Alabama. I regularly attended the semimonthly meetings from

2013-2016 to understand the cleanup process itself and how its progress was communicated to the community. The questions guiding this chapter were motivated by the consistent observation that community members in attendance at these meetings continued to inquire about accessing settlement funds, gaining assistance for health problems, and otherwise seeking restitution that, at this point in time, was largely no longer available. The settlements that were distributed in 2003 (as described in more detail throughout this chapter) were intended to end all litigation related to the PCB pollution in the Anniston area.

If that was the case, why did the community continue to raise the question? Why was it so unclear to so many where all that money went? In addition, attendees at the meetings also raised consistent concerns about the cleanup. Why did Monsanto/Solutia play such a large role? The tensions surrounding these latter questions were especially intense. Nearly every meeting I attended erupted with contention about the progress and manner of the cleanup. Some questioned the timeline, which had lagged for years behind what had been promised. Many questioned the quality of the cleanup, raising concerns about the EPA's "capping" methodology and whether simply removing the first two feet of soil in residents' yards was sufficient and actually made the polluted region safer.

This led me to question more deeply how the agreements guiding this cleanup process came to be. How was this cleanup designed, and who designed it? Why do these issues remain so contentious, so many years after a formal agreement? Why do the outcomes of this settlement remain so unclear to so many? Through an exploration of multiple archival resources, I reconstruct the story of the litigation, the settlement, and the context in which the cleanup was designed and implemented. I used several different types of archival data:

- 1) Newspaper coverage from the local paper of record, The Anniston Star, dating back to the earliest litigation over PCBs in 1993
- 2) Newspaper coverage from a national paper of record, The New York Times, about the shifts in EPA funding, environmental regulation
- 3) Public comment periods convened by the EPA
- 4) Chemical industry periodical coverage of the Anniston PCB litigation
- 5) EPA policy documentation, in particular a report about the Superfund Alternative Approach (SA)
- 6) The text of Anniston's settlements and settlement distribution documentation
- 7) Legal analysis of the settlement distribution from academic legal journals

I chose to use this combination of sources in order to construct a holistic perspective on the timeline of settlement and cleanup in Anniston- from local to national, from layperson to expert, from ordinary people to corporate individuals. I organized these sources into an overlapping timeline, and then coded the data through multiple “sweeps” – for organization of the timeline, and then again for deeper analysis and interpretation of events (Waitt 2010, 233).

A Litigious Landscape

In 1993, fish contaminated with Polychlorinated Biphenyls (PCBs) were discovered in Choccolocco Creek, a narrow river that winds through Calhoun, Talladega, Cleburne, and St. Clair counties in north-central Alabama. Its watershed impacts the cities of Anniston, Oxford, and Talladega, a mostly rural area with pockets of rapid development, particularly surrounding I-20. A contractor working in the creek discovered several deformed fish and informed the Alabama Department of Environmental Management (ADEM), which completed further testing and found all but one of the 19 fish they tested surpassed the permissible amount of 2 parts per million (ppm). “One spotted bass registered more than 38 ppm, or 19 times the limit” (Reilly 1994a)

Property owners living alongside the water on the southern stretch of the watershed, including on popular recreation area Logan Martin Lake, sued The

Monsanto Company in several separate suits, citing declining property values and fear for their health. One suit was filed by Gordon and Rita Sewell, owners of a fish market (Reilly 1994b), for whom the problem of contaminated fish was a direct threat to their livelihood. Some simply wanted someone to take action, as described in the Anniston Star:

“Standing in the doorway of one of those [Logan Martin Lake] homes, Herbert Miller – tanned, shorts, no shirt – looked like an advertisement for the waterfront good life. ‘This water is the only reason we’re down here,’ said Miller, who has lived 11 years on the creek. ‘If it gets much worse, it’s going to lower the property values.’ Given that the PCBs might be disperse (sic) everywhere throughout the creek, however, he wasn’t sure the creek will ever be cleaned up. ‘I don’t know how they could get it out.’ A few docks down, his pessimism was shared by James McCullars. Formerly of Oxford, McCullars guessed that he hadn’t eat (sic) a fish from the creek in two or three years. Like a number of his neighbors, he has signed on to one of the lawsuits currently pending against Monsanto. As far as any state or federal action, he had heard nothing. ‘I just wish somebody would do something about it,’ he said” (Reilly 1994b).

As time wore on, awareness of the PCB problem continued to creep closer and closer to the source of pollution, the Monsanto factory in Anniston. A landfill used by the company overlooked the West Anniston neighborhood, a working class, largely black area of the city. In 1995, residents in Sweet Valley – Cobbtown, the

neighborhood nearest the factory, gathered at the request of ADEM, where they were asked to submit “their soil, house dust, and even, possibly, their blood” (Pezzullo and Spencer 1995) for PCB testing. The meeting coincided with Monsanto’s launch of a home buyout program, an effort to consolidate 40 acres of land surrounding the contaminated creek. If they lived on contaminated land, residents would be offered the appraised value of their home, plus a 75 percent premium, and up to \$7000 in miscellaneous and moving expenses. This was the first restitution offer made in the Choccolocco watershed PCB saga that would continue to unfold until even the writing of this chapter, over two decades later. However, a response to this first meeting foreshadowed the upcoming struggle:

“‘I grew up in this area and lived off of everyone’s vegetable garden,’ said [Alberta Freeman] the mother of three, who grew up around the Mars Hill Church [near which soil had tested for 200,000 ppm PCBs]. ‘With the smell from the plant I always worried that there was some contamination.’ Thursday’s meeting didn’t put Ms. Freeman’s mind at ease. ‘I’m leaving here more concerned than when I came,’ she said” (Pezzullo and Spencer 1995).

Eventually, others would share her concern. For Sharon Cowan, whose 4-year-old daughter died of a rare form of cancer, falling ill soon after moving into her mother’s West Anniston home, the PCB pollution raised questions about the root cause of her death. “At a meeting conducted by Alabama Department of Public

Health...residents were angry and confused at what they view as a cover-up by the health department and Monsanto. 'Rich people can get away with anything they want,' shouted one resident. 'We have lots of cancer around our neighborhood,' said another resident. 'How do we know that hasn't caused it'" (Pezzullo 1996a). The buyouts did not fully assuage these fears. "'What kind of message does it send to these people when Monsanto is trying to get them off the land, buy up their homes and property?' asked Anniston attorney Bud Turner, who is representing some of the residents. 'The fact is, for folks who live out there, the anxiety and the fear is very real'" (Pezzullo 1996a).

On March 30, 1996, the Anniston Star reported that residents of Sweet Valley-Cobbtown were suing Monsanto for \$750 million. "One lawsuit seeks \$3 million for each of the 250 plaintiffs who 'have lived in and around ... Monsanto company's plant site or have worked or visited the areas around (the plant) on a regular basis for many years.' The other seeks \$3 million for Thomas Long, a resident of the Sweet Valley community who registered a high level of PCBs in a blood test." These suits were in addition to a \$20 million lawsuit filed by Stewart on behalf of Mars Hill Baptist Church on March 19. In May 1996, Cassandra Roberts organized a meeting of the Sweet Valley Cobbtown Environmental Justice Task Force, which organized yet another lawsuit of 450 current and former residents of West Anniston. In addition to unspecified

damages, the suit asked for a full accounting of information regarding pollution so residents could make an informed decision about whether to stay or leave, as well as lifelong medical expenses for the impacted populations (Pezzullo 1996c).

Monsanto resisted these claims. “Monsanto denies that it knowingly contaminated communities around its West Anniston plant and says *residents must take some responsibility for any health hazards they encountered as a result of PCBs being dumped there.... ‘Plaintiffs did not take reasonable steps available to them to mitigate the damages alleged to have (been) suffered* (emphasis added)...’” (Pezzullo 1996b). The company also called its buyout program “more than fair” (Pezzullo 1996d). Monsanto also leaned heavily on etiological uncertainty, or the lack of toxological data tying PCBs directly to deadly illnesses, although the EPA does list the chemical on its “probable carcinogens” list (“Chemicals Evaluated for Carcinogenic Potential” 2004). Over time, more and more people were recruited to participate in lawsuits. Meanwhile, Monsanto spun off its chemical holdings and liabilities to a new company called Solutia.

The next sections of this chapter compare the expectations of residents as expressed in the lawsuits described above - which focused on fair restitution, health compensation and monitoring, and an effective cleanup plan – to the legal and policy results of their efforts. The following sections analyze two key moments in Anniston’s

legal history that have not received much attention in previous literature, but have wide implications for Environmental Justice struggles beyond this context- the decision to use a Superfund Alternative (SA) approach, and the ways in which the settlement funds were divided.

Superfund Alternative: A Policy Choice driven by Neoliberal Expertise

EPA officials remediated the Anniston site³ using a Superfund Alternative Approach (SA), rather than a traditional Superfund arrangement including a listing on the National Priorities List (NPL). The SA program was created during the Bush Administration, which defunded the Superfund itself and created a cozier relationship between the state and corporations in environmental policymaking. As a result, residents, community groups, and environmental activists raised questions about the manner in which the EPA designed the Partial Consent Decree (PCD), namely in meetings with Monsanto/Solutia, the Potentially Responsible Party (PRP). While the EPA maintained this was nothing out of the ordinary, critics raised the structural potential for improper collusion between corporate actors and the state. This is an example of “common-sensification” of neoliberal values throughout many areas of

³ “Site” refers to the entire impacted area, not just the area within the Anniston city limits.

state government (Brown 2015); the justice system serves to mitigate the financial and economic risks posed by places like Anniston, a project distinct from the notions of justice espoused both by the people of Anniston and by broader Environmental Justice movement principles.

The intent of the Superfund program, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), is to ensure that environmental contamination is cleaned up in a timely manner whether or not a company steps up to the plate to fund it. The Superfund was once funded mostly through corporate taxes, but that shifted in 1995 when Superfund taxes expired. President Clinton tried and failed to push the taxes through Congress, and President George W. Bush elected not to renew them at all. This had a substantial impact on the public burden for Superfund:

In 1994, taxpayers paid \$250 million for Superfund cleanups, or about 21 percent of the \$1.2 billion fund, with corporate taxes paying \$950 million, or about 79 percent. Taxpayers paid \$350 million in 1999, and since then have paid about 50 percent of the cost. Mr. Bush proposes that taxpayers pay \$700 million, or more than 50 percent of the \$1.3 billion fund, in 2003 (Seelye 2002).

This shift of tax burden from corporations to individuals reflects neoliberal policies that reorganize regulatory apparatuses to favor a pro-business, market-driven economic environment (Peck, Theodore, and Brenner 2012); in effect, this move also shifts the financial burden of environmental risk from PRPs to individuals.

One of the impacts of this restructuring was the implementation of the Superfund Alternative (SA) program as a solution to the reduction in revenue to replenish the Superfund. Before the introduction of SA, the EPA would independently execute the cleanup and pay for it using the Superfund trust. Later, after PRPs were identified, the EPA would sue to replenish the fund under the “polluter pays” principle.

In contrast, in a SA agreement, if a PRP takes responsibility for the pollution and agrees to pay for the cleanup up front, they sign a consent decree agreement with the EPA to fund and execute the cleanup according to CERCLA procedures and regulations. The major difference is an increased involvement of the PRP from the outset; in a traditional arrangement, the EPA would act independently of a known PRP. An SA allows for a company to act proactively at the discovery of the pollution and play an active role in cleaning up the site. One of the issues with this, however, is the potential for a conflict of interest; should a company that actively played a role in creating a major pollution event have such a large role in designing and implementing the cleanup? While the EPA’s internal review of SA “found no obvious trends that

distinguished SA sites from NPL sites” and “the general response to SA [was] positive” (Superfund Alternative Approach Baseline Assessment April 2011), the program has been the subject of criticism from environmental groups (“House Panel Seeks Review of ‘Alternative’ Cleanup Approach” 2009).

In Anniston, the implementation of this program was marked with significant skepticism among community activists involved in the case. There were several reasons for this. One, the EPA met with Monsanto/Solutia independently from the people of Anniston or other potential stakeholders to craft the consent decree. As a result, the Consent Decree came unexpectedly (Bluemink March 21, 2002). While this is consistent with EPA procedures once a PRP is identified, the deal raised concerns about the coziness between the EPA and corporate actors, and the role of corporate actors in conducting their own cleanup. “Plaintiffs’ attorneys have accused the EPA of ‘letting the fox out of the henhouse’ by allowing the companies to perform the investigations” (Bluemink 2002).

This reflects the state’s reliance on expert-driven, top-down decision-making for Environmental Justice (Fischer 2000) by restricting significant community input or participation in shaping the terms of the agreement (Bluemink 2002). This stands in contrast with notions of justice that scholars have identified in the broader Environmental Justice movement. The Environmental Justice movement’s vision of

justice advocates “increasing participatory parity, so that all individuals and groups are able to participate as peers in environmental decision making, scientific research, and regulatory agenda setting” (Harrison 2014).

Two, the consent decree did not include long term health studies or compensation. Instead, it created an education fund for children with learning disabilities.

“Plaintiffs’ attorneys have described the EPA consent decree as insufficient to meet the needs of their clients, who have PCBs in their property and their blood. In the lawsuit, they ask [Judge] Laird to require Solutia to pay for medical monitoring for people in the Anniston area who were exposed to PCBs, and they ask for PCB removals in waterways, landfills, and other contaminated areas. Anniston officials also have complained that the \$3.2 million provided in the consent decree for special education programs in Anniston is not a meaningful sum” (Bluemink 2002).

Therefore, not only were impacted community members divorced from the consent decree negotiations, their demands were not honored, further increasing the grounds for suspicion of corporate actors’ involvement.

In contrast, the EPA was publicly very proud of this agreement, even though it did not reflect popular demands. While EPA official Annie Godfrey stated, “I feel that this is one of the best consent decrees we’ve ever had,” and EPA assistant regional

attorney Dustin Minor stated, “We shot for the moon” (Bluemink 2002), the EPA nonetheless neglected to include the healthcare demands sought by Anniston residents in the negotiations. The lack of a public comment period for SA negotiations indicates that this process is designed to limit public input from the outset, while giving those responsible for the pollution itself a privileged seat in the cleanup negotiation process. This reproduces an unequal power dynamic between the state, corporations, and ordinary people mired in this conflict.

Three, the consent decree was agreed upon while litigation was being tried in court. The lawsuits may have put ADEM in charge of the cleanup of public areas and dump sites. After the consent decree was entered, Monsanto/Solutia filed a motion for the court to dismiss the state’s cleanup as part of the litigation, saying that the Consent Decree covered that need. This indicates a tension between environmental policymaking and enforcement bodies operating at different scales.

However, the decision against listing the site on the NPL resonated positively with some commentators in the wider Anniston area. Many in the city were worried about a potential “stigma” surrounding a Superfund designation. An editorial in the Anniston Star stated:

“...a lot of people have an aversion to Superfund and being designated a Superfund site. That’s totally understandable. If your community is designated Superfund, you can get some powerful help from the federal officials, but the label it gives you isn’t something to brag about. ‘Hi, I’m from Anniston, Ala., home to the nation’s most recent Superfund site’ isn’t a line that would go over too well at a cocktail party much less an industrial recruiting trip” (Fleming 2002).

This concern for Anniston’s perception among others connects the notion of “Superfund Stigma” to a need for municipalities to be competitive in bids for (re)development. Anniston must not only have a basic infrastructure to support businesses, but it also must be a desirable place. An NPL list may negatively impact its public visibility as a place for doing business; Anniston, as a place in itself, is subsumed in market logic at a moment when a citizen-centric logic seems especially appropriate. This again signals the power of the neoliberal logic dominating this moment in time and space: “...as the legitimacy and task of the state becomes bound exclusively to economic growth, global competitiveness, and maintenance of a strong credit rating, liberal democratic justice concerns recede” (Brown 2016, 40).

An EPA report about SA also mentions this “stigma,” noting concerns about future redevelopment in places on the NPL and concerns about companies’ ability to be bought and sold if a NPL site is listed in its liabilities (GAO 13-252 2013). While

Solutia claimed that “it’s going to get everything done in an expedited manner,” (Bluemink 2002a), the Anniston PCB site cleanup remains incomplete, confirming the EPA’s own assessment that the SA program does not result in shorter cleanup times. Throughout the debates about the institution of the SA program, there was an assumption that a cleanup designed in cooperation with PRPs would result in a faster, more comprehensive cleanup. This assumes that private corporate involvement would be better, a key guiding tenet of neoliberal policy reforms (Peck, Theodore, Brenner 2012). The profit motivation that drives companies is thought to be enough to encourage expeditious environmental recoveries; however, the Anniston case suggests that the assumption of expeditiousness was unfulfilled.

In the eyes of the state, the Anniston case was not so much an injustice – which connotes a sense of outrage – but more a problem to be managed. It was a pollution incident that had to be taken care of and paid for with some expediency because of an outraged and active impacted-population. Transparency and community input were sacrificed in service to that goal as the SA arrangement expedited the construction of an unexpected consent decree. Embedded within this arrangement, too, was the assumption that private management of the cleanup would be better—no need to sue later, and the cleanup could happen much faster with a stable funding stream. However, this assumption of the superiority of the market-driven motive for

environmental responsibility has proven deeply questionable in the long-run, as the cleanup drags on and tensions with the community continue to mark the cleanup proceedings to this day. While some of these tensions stem from the decision to use SA and not to be listed on the NPL, other people remain embittered by the decision to settle with Monsanto and the way in which the settlements were distributed.

Settlement and Distribution

This section analyzes the legal settlement and distribution of funds for the nearly 20,000 plaintiffs who eventually participated in the suits. There was a lack of centralized, coordinated response to the PCB pollution as the crisis unfolded for the population of the Choccolocco watershed. Relatively small groups of individuals filed multiple lawsuits with different requirements for participation and expectations of restitution. It was often unclear which state agencies to call on for assistance, and, in the buyout program, Monsanto functioned as an environmental agency in a pre-emptive attempt to avoid the litigation that ensued. The EPA did not become involved until 1998. In spite of residents' and activists' agitation for greater recognition of the qualitative concerns surrounding health and safety, many were met with an individualized, quantitative logic. The choice of where one lived, which lawsuit one joined, whether one got a blood test – those were the choices that determined one's settlement. In contrast, Monsanto never had to admit fault for the choice it made to

pollute. Instead, it was positioned to impose a series of choices upon a population who never asked to be a part of this conflict in the first place. This devolution of responsibility away from a centralized state and toward the individual (Herbert 2005) is one of the key tenets of neoliberal logic. However, as Herbert argues, this devolution actually delegitimizes the work of the state because of the negative impacts it has for ordinary people. The fallout from the settlements is a root cause of the caustic tension in ongoing meetings about the cleanup, and a consistent source of the distrust held by community members toward the state.

The legal literature notes that there is a great deal of pressure to settle out of court: "Since the court dockets are overflowing with lawsuits, all else equal, litigants should be encouraged to resolve their disputes privately through out-of-court settlement" (Spier 1994, 84). The vast majority of all cases *do* settle, in part because the incentive to settle is high when compared with the cost of going to court. The decision is most often framed as an economic one: "When two litigants resolve a dispute through out-of-court settlement rather than trial, they realize joint gains of trade equal to the sum of the costs both parties would have incurred had they obtained a trial judgment minus the costs they incur reaching settlement" (Korobkin and Guthrie 1994, 1). While the pressure to settle is real, I argue that it forces parties to overlook the qualitative characteristics of claims for Environmental Justice in favor of

econometric considerations of time and money, resonating with Brown's observation of the evolution of justice in the neoliberal state: "justice, peace, or environmental sustainability may be pursued to the extent that they advance economic purposes" (Brown 2016, 40). The design and implementation of this settlement is a painful exhibition of the way litigants in this case experienced this logic in practice.

In 2003, the judge overseeing the Anniston lawsuits—at that time largely consolidated into two mass action suits (*Abernathy v. Monsanto* and *Tolbert v. Monsanto*)—strongly encouraged the litigants to settle, as Solutia threatened bankruptcy. In the archives, it is constantly mentioned how lengthy, complex, and wide-ranging this case was for everyone involved:

"At the outset, [Judge] Laird said he wanted to expedite the hearings, and perhaps the PCB cleanup itself...However, the hearings have been plagued with 'stops and starts,' attorneys said. In spite of the delays, the acrimony and Solutia attorneys' regular objections to Laird rulings, a certain boot-camp atmosphere has pervaded the hearings. Some of them have lasted almost to midnight and involved hours of testimony on PCB data collection and the multi-regulatory actions at the site since 1993" (Bluemink 2002c).

When the time came to settle,

"The two judges had proven instrumental in bringing both sets of cases—state and federal—to a simultaneous conclusion. 'Ordinarily, federal and state courts

don't interact,' Judge Clemon said later. But the companies were not going to settle unless the parties could resolve all of the cases pending in federal and state court....Overhanging the state cases was the prospect that the conservative Alabama Supreme Court might overturn all the verdicts hammered out in Laird's court. When the landmark accord was announced in Judge Clemon's Birmingham courtroom, all of the lawyers rose to acknowledge the judges, with a standing ovation" (Spears 2014, 263).

In Anniston, the issues that were considered allowable in court were significantly whittled down from the residents' original major concerns. When the PCB problem first became public, health issues were consistently the most frightening and pervasive issue for residents in the city. However, as a result of the legal process, health issues were largely ruled out as potential liabilities for Monsanto/Solutia. According to articles published by the International Chemical Information Service (ICIS), a market research provider for industry professionals, ruling these out was a key concern and goal for the defendants.

Solutia has said there is 'no consistent, convincing evidence that PCBs are associated with serious, long-term health effects' (Johnson 2002).

'Medical monitoring is not appropriate for PCB exposure anyway,' says Peck, one of the attorneys who will argue the case for Solutia. 'The overwhelming

weight of scientific evidence suggests there are no chronic human health effects associated with exposure to PCBs' (Sissell 2000).

In these examples, health issues were an obstacle that Monsanto fought. Lawyers relied on scientific uncertainty regarding the direct toxic impacts of PCBs in order to argue, and eventually win in court, that health claims could only be considered if the patient was currently ill and could tie that illness directly to the PCB contamination (Sauer 2002). Therefore, even though many people had PCB levels in their bloodstream that were tens of times higher than was allowed by the standards set forth by the Centers for Disease Control (Spears 2014), the fear of the impacts of PCB content in their blood was not enough to win compensation because the court agreed that claims citing "fear of future illness" could not be included, a boon to the defendants. Furthermore, even if the plaintiffs were currently ill, and suspected that PCBs were the cause, unless there was a toxicological study providing scientific proof that their condition was tied to PCB contamination, then they could not prove that their illness was not caused by some external factor, in spite of the widespread belief among scientists that PCBs are wholly carcinogenic (Spears 2014). Due to the ban of PCBs, conducting a new toxicological study was extremely unlikely.

Herbert's (2005) notion of the "trapdoor of community" contends that neoliberal devolution of state responsibilities to the community level results in communities losing

confidence in the state. While the context here is quite different than Herbert's argument, the notion of neoliberal logic acting as the "trap door" for collective social burdens stands: the state devolves the responsibility here for proving the harm of PCBs on individual claimants. Through no fault of the claimants (for who could have known there would be such a great need for PCB toxicological studies?), people were burdened with proving the desperation of their situation, rather than the state recognizing the clear imposition of a collective burden by a corporate actor.

What happened after the settlement was reached constitutes one of the most contentious pieces in any legal drama: the struggle over money. The cases were agglomerated into two main groups: *Abernathy v. Monsanto* and *Tolbert v. Monsanto*. *Abernathy* claimants, of whom there were roughly 3,500, were some of the earliest to enter into litigation once the PCB drama made its way back up the river to Anniston from Logan Martin Lake. *Tolbert* claimants began signing up in 2001, when community groups helped organize a second case to ensure that everyone who wanted to attempt restitution could participate. The participation in this case ballooned when celebrity lawyer Johnny Cochran came to Anniston to recruit clients, and at the time of the settlement, 18,447 claimants were represented (Kitchens 2004).

Herein lies the rub: the settlement was divided evenly between the two groups. Each group of lawyers were also compensated the same amount - \$120 million in each

case. The remaining amounts were split among the plaintiffs based on a combination of factors including property damage, time living in the area, and the amount of PCBs in their blood. The Abernathy claimants' average payout was \$49,000. The average payout for Cochran's clients was under \$9,000.

The decisions people made about which case to sign up for represent an individualization of the responsibility for determining restitution. An example in a Forbes article on the settlement distribution highlighted the peculiarity of this problem: "Cynthia Tucker, 46, and her older sister, Julia Oliver, grew up in the same house, located 2 miles away from the Monsanto plant. But Julia was a Stewart [Abernathy] client, and she was, Cynthia says, 'paid handsomely.' Cynthia, on the other hand, is a federal [Tolbert] plaintiff and is still waiting for money" (Kitchens 2004).

There are few public details available about how the Abernathy settlement was distributed, aside from what was reported in the press:

"[Judge] Laird gave Stewart [the lawyer] sole discretion in allocating cash, except for payouts to children and some estates. Rather than devising a payment matrix on his own, Stewart says he relied on a statistical analysis company in New York to decide on levels of compensation, based on earlier jury awards. He insists that he is happy with the settlement and most of his clients are, too. But some claimants, such as Reverend Thomas Long, say they aren't

sure how Stewart came up with the compensation amounts that he did. 'There is no accountability here,' he says" (Kitchens 2004).

In a letter addressed to Tolbert claimants who complained about the diminutive size of their settlements in comparison, lawyers explain the disparity in further detail (see Figure 5).

In the Abernathy case, the letter pictured in Figure 5 states that most of the claimants lived near the factory, which is a working class, largely black neighborhood. In early newspaper coverage, legal teams and local health authorities talked about blood testing, encouraging residents to participate. Qualitative evidence suggests once again a low income level for these claimants: "'I don't have time to get to the post office [to get test results],' said Juell Jackson, a Cobb Town resident who works the night shift at Tyson Foods. 'I get home from work in the mornings and have enough time to take a bath and go to bed'" (Pezzullo 1996e). Additionally, after the settlements were divided, the caretakers of the Abernathy settlement fund were sued by the United States government to recover Medicare payments; the suit alleged that 907 of the 3,500 claimants were Medicare beneficiaries ("Medicare Flexes Its Muscles" 2010).

March 18, 2004

Dear Claimant:

Many of you have questioned the decision to settle the Tolbert/Oliver case for 300 million dollars; when the Abernathy claimants were receiving the same amount. Many factors played into this including:

- 1) The fact that the Abernathy plaintiffs had been in litigation for seven to eight years.
- 2) That actual verdicts were being handed down in the Abernathy case (a jury had actually been impaneled for 18 months).
- 3) Abernathy had twice been argued before the Alabama Supreme Court.
- 4) On average the Abernathy plaintiffs lived closer to the Solutia/Monsanto facility.

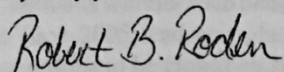
The attorneys for the Tolbert plaintiffs argued long and hard that all these factors should be given less weight and that Tolbert plaintiffs should receive more.

In the end the attorneys for Tolbert were advised that 300 million was all there was for them; and further that if it were not accepted Solutia was prepared to file for bankruptcy within a few days. This raised the real possibility that the plaintiffs could get little or nothing.

The attorneys for the plaintiffs researched the bankruptcy issue and hired outside counsel specializing in bankruptcy. In the end, it was their conclusion that the plaintiffs were at risk of receiving nothing if Solutia did bankrupt. As you all know, Solutia did subsequently file for bankruptcy. We should all be thankful that the case had already settled and the settlement will not be affected by this unfortunate event.

The attorneys in the Tolbert matter worked very long and hard for the plaintiffs and used their best judgment in the end. We all appreciate the tragedies you people have suffered and we all continue to be with you. Thank you for allowing us to represent you in this matter. We look forward to seeing you all at the next community meeting.

Very truly yours,



Robert B. Roden

Figure 5 Letter to Tolbert claimants.

It is possible that many of the people most acutely exposed and impacted by the pollution did receive a comparatively more significant settlement than those who participated in the Tolbert case, which encompassed a much wider range of people. However, the original lawsuits sought roughly \$3 million in restitution for each individual claimant, hardly close to the average \$49,000 award per claimant reported.

In contrast, the Tolbert suit represented an astoundingly wide range of people. "Of the 18,000 claimants in the Tolbert case, about 14,000 lived in Alabama, mostly in the Anniston area, but 4,000 lived in forty-four other states and overseas. Two hundred were in prison and one hundred were located in foreign countries. Three hundred were deceased when Tolbert settled" (Gentle 2008, 1251). Edgar C. Gentle, III was appointed as the claims administrator for the suit, and he describes the process to distribute the funds as "Design by Collaboration" (Gentle 2008, 1256). The legal team held meetings in Anniston to construct a formula where residents' settlements were calculated, including the amount of PCBs in the claimants' blood stream, personal property damage and time spent living in the Anniston area. After all expenses, including \$25 million set aside for a health clinic, the average settlement amount was \$7726.63 (Gentle 2008).

During the Abernathy trial, Monsanto tried to have Judge Laird recused from the case, citing bias against them in the courtroom. The Supreme Court of Alabama

denied their claim, but the following passage quoted helps contextualize the overall candor of some discussions in the courtroom. The passage begins with Judge Laird discussing Monsanto's legal responsibility for property values before and after the pollution:

The Court [Judge Laird]: There again, if you are looking at it-If the jury comes back with an award—say the difference between before and after the fair market value is \$50,000, and they come back and give a plaintiff \$50,000, but yet it costs \$100,000 to clean it up, then the plaintiff still can't clean it up. And there is still a continuous-

Mr. Prater [Monsanto Lawyer]: Perhaps, your honor, that plaintiff[s] may have to elect that remedy; although, I still think the law is clear in Alabama that they are not entitled in a property-damage case to get more than the value of the property before and after. That law is 200 years old in this state.

Mr. Stewart [Plaintiffs' lawyer]: Of course, that law doesn't contemplate what happened in this instance, judge.

The Court: Well, a person's home is his castle, right.

Mr. Prater: Yes, sir.

The Court: I wonder what the king would think if his property was contaminated. I really wonder what the president of Monsanto would think if his property was contaminated and it was worth less than-it had a negative value, was going to cost twice as much to clean it up as it was worth, and his wife didn't want to leave that castle. What do you think the king would do when the queen didn't want to leave?

Mr. Prater: One of those things we are going to persuade you, your Honor.

Mr. Peck [Monsanto lawyer]: Your Honor, aside from the legal point that –

The Court: I'm ready to go.

Mr. Peck: Ok. There is also a foundational problem.

The Court: I'm past ready to go.

Mr. Peck: Ok. Got it" (Supreme Court of Alabama).

The Judge's admonition to Monsanto – what would Monsanto do if their property were contaminated and the settlement offer was not economically sufficient –slides right off the Monsanto lawyers' back. While Monsanto complained of a bristly atmosphere for them in an unsympathetic courtroom, their defense cites laws that protect their ability to restrict the amount awarded for property damages to the value of the home before and after. While the judge's pithy parable is not legally binding, it attempts to communicate a moral message about Monsanto's responsibility that the company does not accept, nor does it have to. A legal system dominated by econometric logic is unable to grapple with the more qualitative questions of morality, with the place-based complexities that shape environmental conflicts. "The replacement of citizenship defined as concern with the public good by citizenship reduced to the citizen as *homo oeconomicus* also eliminates the very idea of a people, a demos asserting its collective political sovereignty" (Brown 2016, 39). In the following conclusion, I argue this

abandonment of the collective in favor of the individual has much deeper implications for fulfilling the ideals and goals of the broader Environmental Justice movement.

Conclusion

In 1991, the First National People of Color Environmental Leadership Summit was held in Washington, DC. The attendees drafted and adopted a list of 17 principles of Environmental Justice, with the following text as an introduction:

“We, the people of color gathered at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to ensure Environmental Justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic, and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice” (Environmental Justice Network 1991).

The demands here cut deeply to the origins of modernity on the American continent. Environmental Justice is connected to justice for a longer settler colonial

project that destroyed people and land, and calls for a radical recognition of the value of human life and the environment. Just five years after this proclamation, in 1996, President Clinton signed Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The following excerpt captures the strategic goals for the order:

"1–103. Development of Agency Strategies. (a) Except as provided in section 6–605 of this order, each Federal agency shall develop an agency-wide Environmental Justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The Environmental Justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the Environmental Justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions."

I present these documents in conjunction with each other not for comparative purposes; they are almost incomparable except to say the demands placed on government agencies by President Clinton were hardly as revolutionary as the first document's ideals. Rather, this juxtaposition is presented to stir reflection on the ways in which activist ideals are significantly filtered by the time they make their way into public policy. These are both Environmental Justice documents, but they are almost unrecognizable from one another in terms of their substantive content. The Clinton order is marked by a series of measurable outcomes- enforcement of statutes, ensuring public participation, collect more data, and so on. How does one measure the demands sought by the Environmental Justice activists in the previous statement – social and cultural liberation? Perhaps what is called for is actually a new form of system entirely, one not dependent on quantitative measurement of property and loss, but instead on redefining relationships, and restructuring power dynamics.

In a similar way, the Anniston case demonstrates how the expectations people in Anniston held for the justice system were filtered by the structural conditions of environmental policymaking as well as the individualized liberal logic that governs the US justice system. Structurally, the manner in which Anniston's case was managed was strongly shaped by the current moment of neoliberal devolution of responsibility for environmental regulation. The Bush Administration's refusal to reinstitute the

Superfund Tax resulted in the creation of the SA arrangement structure, that gave PRPs a stronger voice in the cleanup design and implementation. On the local level, while some feared a conflict of interest as the corporation held responsible for the pollution was also the entity handling the cleanup, others feared more the implications if Anniston were to be placed on the NPL. Some were convinced the city could not “sell” itself in the future with the “stigma” attached on the NPL. Meanwhile, this fear of urban un-competitiveness played into the hands of corporate entities who also stood to benefit, as the Superfund “stigma” could look problematic on a company’s liabilities balance sheet.

Additionally, the dispensation of settlement dollars had at least as much to do with one’s individual choices as it did with the injuries one actually experienced. Which case one signed up for at what point in time, where one chose to live, whether one owned property or not—these factors reduced the collective trauma of pollution to its constituent measurable parts. The high burden of proof for health claims—the illness must be current, and directly tied to toxicological data that proves it was caused by PCBs—made it possible for Monsanto to exclude health claims from the settlement, except for Tolbert claimants willing to take a blood test. The individualized burden of proof for health claims from victims demonstrates the uneven power relationships embedded in this arrangement; those who have been harmed must prove the harm.

These decisions and tensions surrounding SA and the distribution of settlements in Environmental Justice suits beg for more investigation. There is a regional pattern to SA agreements, in EPA regions 3 (Southeast) and 5 (Midwest/Rust Belt). More research would help determine any broader political and economic trends driving this pattern. On a very general level, more investigation is needed about what actually happens when settlements are dispersed in Environmental Justice cases. There is very little documentation in the literature of the ways in which the awards are distributed and whether the settlements actually resolved issues in the long run. This research, then, contributes new knowledge to Environmental Justice literatures by extending the narrative beyond the pinnacle of a trial and investigating the long-term implications of the justice system's methods for achieving justice.

This is especially important because there seems to be no end in sight for Environmental Justice conflicts in the United States. Scholars must look backwards in time with a critical eye at both what Environmental Justice activism, research, and legal progress has achieved and also what it has not been able to accomplish. While the notion of "justice" is contested and takes many forms, if the project of the Environmental Justice movement is to achieve justice for those who have experienced the brunt of modernity, then cases like Anniston's teach us that Environmental Justice remains an unfinished, deeply imperfect project, particularly if it continues to rely

uncritically on engagement with the state (Pulido et al 2016). Future research needs to continue documenting the results of engaging with the state to achieve Environmental Justice in order to fully understand the challenges communities like Anniston may face in achieving a collectively effective and grassroots-empowering resolution for environmental conflicts.

CHAPTER 5
REMEDIATING A SENSE OF PLACE: MEMORY AND ENVIRONMENTAL
JUSTICE IN ANNISTON, ALABAMA

Abstract

Anniston, Alabama is home to an ongoing struggle for Environmental Justice as residents remain embroiled in a remediation process to clean up PCB pollution left by The Monsanto Company. This paper engages with literature in Black Geographies, public memory, and Environmental Justice to argue that remedial processes neglect senses of place that are valued by impacted communities. In West Anniston, the predominantly black neighborhood that bore the brunt of the pollution, the remediation's failure to restore a sense of place contributes to an ongoing erasure of black life from the landscape. As a result, the remediation transforms from a relatively benign project to one that facilitates a violence of forgetting. This paper examines how black life is remembered, commemorated, and valued by residents who participate in the remedial process.

Introduction

"The material landscape itself, as it is produced by the black subject and mapped as unimaginably black, must be rewritten into black, and arguably human, existence on different terms.... invisible geographies, marginality, indicate a struggle, and ways of knowing the world, which can also illustrate wider conceptual and material spaces for consideration: real, lived disposessions and reclamations, for example. The margins and invisibility, then,

are also lived and right in the middle of our historically present landscape.”

Katherine McKittrick, *Demonic Grounds* – pp. 5- 7

From 1935 to 1997, Monsanto operated an industrial chemical factory in Anniston, Alabama, a small city nestled in a picturesque area in the southernmost tip of the Appalachian Mountains. Polychlorinated Biphenyls (PCBs), manufactured at the facility from 1929 (before Monsanto by the Swann Chemical Company) to 1971, were a key component of its best-selling product, Aroclors, an industrial-grade insulant that was commonly used in electrical transformer boxes (Spears 2014). Throughout their manufacture, Monsanto routinely dumped PCBs into a landfill or directly into the nearest streams. Today, although the chemical was banned by the US government in 1979 due to concerns over its toxicity, many parts of the town and surrounding area remain contaminated, earning the city the unfortunate designation as the “Toxic City” (Tutor 2016).

Anniston residents are routinely cited in EPA documentation as having the highest levels of PCBs in their blood of any known population (“Anniston- PCBs and Dioxins/furans in Soil, Blood, and Air and Pesticides in Soil” 1999). PCBs are widely known to cause health problems, and are included on the EPA's "probable carcinogens" list (Cogliano 1998). The dangers of PCBs have been documented almost

since the very start of their manufacture, when workers reported developing a skin condition called chloracne, a reaction where large, painful open sores would emerge and linger after direct contact with the substance. Monsanto workers in Anniston would also complain of headaches, nosebleeds, and would fall ill with strange cancers and illnesses of the liver and major organs. Before long, residents were complaining of the same kinds of conditions, and records kept by local residents indicate that people living near the factory in the predominantly black West Anniston neighborhood were routinely exposed to PCBs and frequently died from strange illnesses that no one could medically explain (Grunwald 2002, Spears 2014).

The issue takes on greater significance considering most pollution occurred during the state's enforcement of Jim Crow segregation laws that kept black people in neighborhoods with poisoned soil, water, and air. This segregation, which persists in contemporary settlement patterns, ensured that vulnerable and marginal populations were routinely exposed to the most dangerous environmental conditions in the city.

While there is evidence that the state of Alabama was aware of the pollution and its dangers for many decades (Shelby 2002), it was not until Monsanto began quietly buying up and razing properties as part of a buyout program in Anniston in the 1990s that the pollution became more widely known to the general public. Community leaders and residents from areas most affected by the pollution—particularly in the

West Anniston neighborhood—formed a group called Community Against Pollution (CAP) to organize against Monsanto's negligence and fight for the neighborhood, which was being rapidly decimated by the property buyouts (Spears 2014). Eventually, this group joined with others in the region to sue Monsanto, which eventually resulted in a \$700 million settlement divided among tens of thousands of plaintiffs, and the implementation of a consent decree, which included the founding of the CAG. This research picks up Anniston's story roughly at this point in time, examining the implementation and impacts of the remediation in the city.

On September 23, 2013, people in Anniston gathered at the Carver Community Center in the West Anniston neighborhood. The CAG gathered around several folding tables positioned in a U-shape in front of a small audience. One at a time, a representative from the EPA, a corporate representative, and a technical advisor gave presentations about the progress of the PCB cleanup, now over a decade in progress. These meetings were often very tense as residents and experts would openly spar over the details of the cleanup. Over the next three years of attending these meetings and reconstructing Anniston's cleanup process in the archives, the author observed that community participants would use a "Band-Aid" analogy frequently to describe a pervasive sense of dissatisfaction with the outcomes of a long-term struggle for justice in the wake of environmental violence. While many residents of Anniston share pieces

of \$700 million in restitution awarded from litigation, including cleanup costs, a health clinic, and individual payouts determined by property damage and amounts of PCBs detected in residents' bloodstreams, many people remain concerned about the state of the city over the long term and call into question the adequacy of the EPA's remediation procedures.

The buildings that remain intact in Anniston, particularly West Anniston, which was most acutely impacted by the pollution, are surrounded by vacant lots, dilapidated homes, closed schools, and abandoned industrial sites. While the remedial process has been largely completed for residential areas in Anniston, save for several places where the EPA has not been granted access by the owners, people who attend meetings about the cleanup frequently invoke the state of the West Anniston neighborhood as a persistent source of pain because of the memory of what this neighborhood once was—a black neighborhood with a strong sense of community.

Scientific environmental remediation is not designed to reconcile this memory with the present state of the city; it has a very specific mandate to achieve acceptable levels of pollution risk for the soil, water, and air. However, residents' use of memories of this neighborhood invoke a vision of West Anniston with which the remediation is not designed to engage. I argue this is a missed opportunity to engage with a deeper notion of Environmental Justice that people express through place. The state's failure

to take seriously the memories and sense of place expressed throughout the cleanup process in Anniston becomes another layer of injustice in a long history of violence toward black life.

While environmental remediation may be able to repair the soil, water, and air, could it also be possible to remediate another piece of what's lost in what Nixon (2011) would call the slow violence of environmental disasters: a "sense of place"? This paper argues that environmental remediation conducted by the EPA in its current form, even while well-intended, contributes to an ongoing systematic devaluation and erasure of black life in the landscape because it does not take seriously the qualitative connections people have to "place." The pollution itself is invisible in the city's contemporary landscape; one cannot readily see PCBs, or lead, another widespread contaminant throughout the neighborhood. But, seeing through the lens of what West Anniston once was, the pollution scarred more than the physical geography of the city; it ruptured the city's sense of place. While residents express a desire for Anniston to be made "whole" again, this cannot happen without communities having a valued place for memory in the remediation.

This paper highlights ways in which residents expressed qualitative characteristics of West Anniston's sense of place throughout various stages of the remedial process. In particular, residents' use of memory to critique the impacts of

remediation accomplishes two things: 1) it challenges the boundaries of what remediation is designed to accomplish, and 2) invokes a little-recognized memorial geography of black life. The remediation's failure (by accident or design) to value the ongoing "memory-work" (Houston 2012, Till 2012) happening in the process to clean up the city implicates it as a participant in an ongoing erasure of black life, one layered among the already devastating erasures wrought by the pollution, and the devastation wrought by the impacts of deindustrialization in this working class city. It represents an active neglect of what people value about place at the very moment that one could reasonably hope some sense of place to be restored.

This paper brings scholarship about black life, memory, and the environment into conversation with one another and with the mundane reality of environmental remediation in practice. Not intended to be read as a wholesale indictment of state-driven remediation, instead this work makes a case for encouraging a greater synthesis between physical environmental remediation and the human values that are also impacted by environmental injustice. By integrating the ways impacted communities express what is valued about place, in this case through memory, remedial projects could make much greater progress in making places feel "whole" again after traumatic incidents of environmental and racial violence.

Literature Review

Environmental Justice scholars are increasingly taking up the role of memory in communities' struggles against environmental violence. Geographers have long shown interest in memorial landscapes and formalized memorial projects, and have contributed to understanding the relationship between memory, geography, and power. Memorial projects often reflect the power structures and regimes that created them (Azaryahu and Foote 2007), communicating selectively about historical events, figures, and valued identity characteristics (Till 2005). This has resulted in significant, powerful biases in the public memory of events and people throughout the world that influence the lens through which the public is able to interpret modern social issues. In part, this can explain why Black Geographies are absent or marginalized; a lack of formal recognition and power leads to a lack of formal memorial geography of marginalized populations and events (Nieves 2007, 85). As a result, decisions regarding which events should be remembered publicly through concrete acts such as commemoration and memorialization often remain in the hands of those with enough resources, influence, and institutional connections to ensure the survival of those memories (Dwyer 2000). This can result in "historical amnesia" (Azaryahu and Foote 2007, 129), where events unimportant to the narratives espoused by the powerful are omitted and forgotten. As Dwyer and Alderman (2008, 168) note, "...the social process

of remembering is accompanied, simultaneously, by a process of forgetting—an excluding of other historical narratives from public consideration and recognition." In Anniston, changes wrought in the landscape by pollution and remediation have begun this process of forgetting—without a formal recognition of the lives and communities that made up that landscape, the knowledge and memory of an entire community stands to be lost.

However, memory is not always so destructive. There are ways in which memory is used as a tool for achieving social and Environmental Justice and producing counter-narratives. It can "serve as a bulwark against the erasure, neglect, or elision of a memory as a potential source and opportunity for history" (Hanchard 2008, 52). Recent literature in Environmental Justice explores how people use personal and collective expressions of memory to bring alternative environmental and social visions to public life (Houston 2012, Vasudevan 2012). "The tasks of witnessing, storytelling, and memory work create a space through which the unimaginable of environmental pollution and unequal environmental protection can be expressed...storytelling provides a framework for understanding how multiple realities of environmental injury come together in ways that are not always readily discernible through policy or scientific practice" (Houston 2012, 419). A common problem with environmental policy and enforcement is that it does not necessarily attempt to reconcile what communities

value about places, while it takes great efforts to remediate the physical injuries of the landscape.

Memory is a tool through which impacted communities and individuals can articulate this disconnect. In Pavithra Vasudevan's account of making a film called "Remembering Kearneytown," about a foundational case of environmental injustice in Warren County, North Carolina, she writes, "it may seem, from outsider accounts and mainstream narratives of Environmental Justice, that the remediation of the landfill brought closure to residents of Warren County. Yet...the story has not ended" (Vasudevan 2012, 22). Vasudevan writes of how the widespread notoriety surrounding Warren County's story created the assumption among outsiders that justice was achieved.

However, locally, residents continue to face "substantive challenges that constrain citizens from having effects" (Pezzullo 2001, 3). Vasudevan contextualizes her use of filmmaking as "an attempt at using performance as research to enable proximity where distance has failed to do justice, an effort to re-root the story of Environmental Justice in the bodies and landscapes of Warren County" (Vasudevan 2012, 22).

Karen Till's notion of wounded cities offers another way to understand how memory is used by actors who are not creating formalized memorial projects. She argues that places which have undergone mass violence and histories of displacement

are active centers for "memory work" around those issues. "When places are physically demolished, not only is the stability of the taken-for-granted rhythms destroyed, an individual's personal and intrasubjective emotional ecosystems become damaged (root shock)" (Till 2012, 10). As a result, people attempt to create healing places in the wake of such damage through artistic and activist work to maintain emotional connections to those places, and to articulate alternative political visions. "Materially, memory-work motivates the creation of social capital, provides a range of memorialization activities, creates new forms of public memory, and is committed to intergenerational education and social outreach" (Till 2012, 7).

In addition, taking note of how the state uses erasure can be instructive for understanding another layer of the power relationships embedded in struggles for Environmental Justice. In Anniston, the lack of recognition of the memories community members articulate throughout the cleanup process works to facilitate an erasure of black life. Community uses of memory can give scholars and activists fresh demands in the Environmental Justice movement. Learning to integrate the ways black life is actively remembered and valued into a remedial schema can shape how community reparation in the wake of state-sanctioned violence is conceptualized. "The realization of these desires can transform a world when these visions are based in traditions that see place as the location of co-operation, stewardship, and social justice rather than

sites just to be dominated, enclosed, commodified, exploited, and segregated. Black Geographies will play a central role in the reconstruction of the global community” (McKittrick and Woods 2007, 6). In Anniston’s case, environmental remediation could value the sense of place that West Anniston residents express through memory-work, leading potentially to a very different outcome for the future of the city as it is reconstructed.

This paper contributes to the literatures on memory and Environmental Justice in two ways. After a brief discussion of methods, “Remediation and Forgetting in Anniston,” gives an example of how state environmental remediation encourages the erasure and forgetting of qualitative concerns about the cleanup in Anniston in favor of a cleanup process that operates according to EPA-defined conventions. It demonstrates the limitations EPA imposes on what the cleanup is designed to accomplish. In the following section, *Reconstructing the Invisible Through Memory*, Black Geographies are analyzed in both memorial projects in the city and participation in the remedial process through informal “memory work.” This analysis highlights the disconnect between the process of PCB remediation in the city and the way residents use memory to articulate alternative visions of Anniston’s sense of place and the potential for remediation.

Methods

This research is based on fieldwork conducted in Anniston from August 2013-January 2016. The author attended CAG meetings about the cleanup of PCBs in Anniston. CAGs are commonly used by the EPA to inform impacted communities about the progress of remediation processes. They are composed of a volunteer group of community members who review and comment on cleanup procedures and progress, and they are tasked with helping solicit community attendance and participation in semi-monthly meetings where the EPA and corporate actors executing the cleanup give updates. These meetings were an important venue for learning about the ongoing concerns people in Anniston had and continue to have about the cleanup and the long-term impacts of the pollution in the city. They were also helpful for understanding the often tense relationships between community members and the scientific and legal experts who were planning and executing the cleanup.

In addition, the author conducted archival research of local publications such as the Anniston Star newspaper, documentation from the EPA describing and governing the cleanup, and documentation kept by local organizations regarding the history of Anniston and the cleanup process. This archival work was both a necessity for understanding the context of the discussions happening in CAG meetings, as well as for building a deeper understanding the complex institutional arrangements and

decisions that everyday people must navigate in the wake of an environmental disaster like Anniston's.

The cleanup documentation includes evidence of how residents' and remediators' perspectives on priorities for the cleanup differed. One of the most used documents in this study is a public comment period held by the EPA. There are thousands of pages of documentation about the cleanup of PCBs in Anniston, and most of this is scientific documentation of every step of the cleanup. Public comment periods lend understanding to the way the EPA views its responsibilities to public concerns about the remediation and are sources for understanding what those concerns are throughout the cleanup process. Public comment periods work like this: the EPA publishes a document outlining a plan, the public has an opportunity to comment, and the EPA issues responses to the comments. The comment periods in Anniston were a widely used opportunity to participate in the discussion about remediation. A wide range of participants, including community groups, law firms, individuals, and corporate entities, are represented.

Additional sources, such as the Anniston Star newspaper, help piece together the way residents have used memory throughout the remediation to express both a sense of pain about the changes wrought in the city, but also to articulate a vision for what could be restored. While aspects of the pollution and remediation have left large

swaths of city in disrepair, there is an underlying geography of black life in this landscape that is not valued explicitly by the remediation. This is important because Anniston's geography is more than a horrible incident of racialized environmental violence; it is more than a poisoned landscape. It is also a home, and for many, a place with struggling for and defending. Residents' memories are a way to "recount the archive differently" (McKittrick 2014) and tell Anniston's story from a vantage point that values the life that was and remains there.

Remediation and Forgetting in Anniston

The EPA held a public comment period in response to "Section 122 Administrative Agreement and Order on Consent for Removal Action," the results of which were published on January 17, 2006. This agreement clarified the responsibilities for the cleanup of lead and PCBs in the Anniston area. While PCBs clearly had one major polluter, The Monsanto Company, responsibility for the cleanup of widespread lead pollution that was discovered during the PCB cleanup had to be divvied among several additional parties. According to the EPA, most of the lead pollution came from foundry sand that was used as filler dirt in residential properties.

The ways in which the EPA responds or does not respond to certain types of criticism is significant. For example, in the following comment, residents question which

properties are being focused upon for the cleanup, with particular concern about where children play:

Comment: The area covered by the Agreement is too small; Agreement should require cleanup of commercial properties. How many properties must be sampled? Are all lots that are undeveloped excluded from the definition of Residential Properties or only those not zoned residential? The definition of Residential Properties should include vacant lots since they could be developed in the future and children sometimes play on them.

These comments were submitted in various forms by several parties, including a law firm, a church, individuals, community groups, and a petition signed by 237 people.

EPA's response explains the logic guiding the cleanup, stating that over 2,000 residential properties have been sampled. It does not directly address the concern about where children play. Rather, they attempt to assuage concern:

...Only "Undeveloped Vacant Lots" are excluded from the definition of "Residential Properties." These are intended to be properties that, although zoned residential, have no indication that they have ever been subject to development or re-grading. As such, they are unlikely to have had Foundry Sand placed on them and there is little risk of lead exposure from Respondents' past activities.

The inattention to concern about children's play is significant because the issue of where children play continued to be raised frequently in CAG meetings I attended

years after this comment period in Anniston. In spite of the city's toxic history, there are no signs that indicate where pollutants may be or have been in the city, even though attendees at CAG meetings have requested them. EPA officials have given two responses to such requests: one, it is up to the city to place such signs. Two, EPA has conducted a thorough cleanup and no one is in danger.

An example of this second type of response is also evident in the comment period. When comments requested continued oversight, the EPA plainly cited a handbook:

Comment: The agreement should provide for long term monitoring and institutional controls, including procedures for enforcing the controls.

This comment was submitted by several parties, including three community groups.

Response: After completion of the cleanup called for in the Agreement, all residential soils addressed by the Agreement will contain less than 400ppm in the top 2 feet of soil. Consistent with EPA Region 4's practices and EPA's Superfund Lead Contaminated Residential Sites Handbook, OSWER 9285.7-50, EPA believes this provides adequate protection without the need to implement additional institutional controls.

Another very brief exchange is almost comical:

Comment: The people of Anniston should be treated fairly and with respect.

This comment was submitted by seven individuals.

Response: EPA agrees with this comment and will continue to treat the residents of Anniston fairly and with respect.

Rather than respond with concern for where children play, or whether the neighborhood has access to continued monitoring, the EPA's response is consistent: thank you for participating, we are currently doing everything correctly. This shows a limitation to the EPA's willingness or ability to engage with public concerns that do not fully align with its mandates; based on observations of CAG meetings, this unwillingness can read as a willful lack of concern for community input.

This lack of concern (perceived or real) contributes to an erasure of residents' concerns because residents are expected to forgive and forget long-term, well-founded feelings of mistrust toward state agencies for the sake of the expediency of the cleanup. Concerns like those above about technical aspects of the cleanup are regularly dismissed under the banner of scientific and regulatory authority, both in this document and in CAG meetings. When the EPA says, trust us, the community is being asked to forget that some community-driven concerns are not being attended to, all while the city continues to suffer. This is reminiscent of Hanchard's use of Nietzsche to explain forgetting: "...forgetting is necessary in order for people to live beyond the burdens and impasses of past traumas" (2008, 50). In remediation, it serves the state and the process well to encourage people to forget.

This forgetting, however, does not serve the people of Anniston equally. In addition to The Monsanto Company, state authorities also hold responsibility for allowing the city to become polluted. The following exchange regards an agency called the Alabama Department of Environmental Management (ADEM), which repeatedly allowed The Monsanto Company to continue dumping PCBs in Anniston, and they did almost nothing to tell the public about the pollution after testing revealed its persistence throughout the 1980s and early 1990s (Shelby 2002).

Comment: Explain what oversight issues are charged to ADEM. Why is ADEM given any oversight authority when the community does not trust them?

This comment was submitted by several parties, including two individuals, and two community groups.

Response: EPA strives to create and promote strong partnerships with its State counterparts. Although EPA and ADEM have not yet finalized any specific division of labor for oversight responsibilities of the work required under the Agreement, EPA believes ADEM's involvement will provide valuable assistance to EPA and the Anniston community. EPA anticipates that in addition to reviewing and providing comments on work plans and reports, ADEM will assist EPA by directly providing on-site field oversight of Respondents' sampling and cleanup activities under the agreement.

In its response, EPA says nothing to acknowledge the statement that the community does not trust ADEM. It only says that ADEM will be highly involved in this process, and they are actively investigating how ADEM could be more involved as per usual in

EPA policy. While the EPA, and the remediation, may very well benefit from a partnership with ADEM, by not acknowledging the issues residents have with the agency, people are being asked to forget and put aside a long history of environmental neglect and this agency's role in it.

These exchanges demonstrate the human limitations in the remediation. The process is only designed to achieve a prescribed physical condition – 400 ppm of lead in the top two feet of soil, for example. Remediation is a very impactful and invasive experience for a residential community to undergo. Federal authorities come onto private land and determine, with very little choice or input from the people living there whether or not a dwelling and its surrounding area is safe. This could decide whether your property remains valuable, whether your neighborhood is desirable, whether you are even able to keep your home, or able to reasonably maintain the belief that you will be safe from illness.

Therefore, the EPA's lack of response to the qualitative concerns residents raise in the comment period and in meetings about the nature of the cleanup acts to erase those concerns and, in the ADEM example, attempt to forget key details of how the pollution came to be in Anniston in the first place, such as state neglect for black life. In the following section, however, it is clear that residents do not allow those details to be

so easily forgotten. The open question is if, and how, such memories could become valued by remedial processes.

Reconstructing the Invisible Through Memory

On October 20, 1996, an Anniston Star headline reported: "Last Days for a Neighborhood," describing Eloise Mealing's decision to sell her home to Monsanto and move away from her neighborhood, Sweet Valley-Cobbtown. Her daughter, Cassandra Roberts, received land in the same neighborhood from her father when she got married, and had just sold it to The Monsanto Company. "My daddy wanted me to have that land....I had a real hard time signing those papers. It was so emotional I could hardly take it" (Pezzullo 1996). The article describes Mrs. Mealing's beauty salon, her friendly connections to neighbors, and the farming practiced in the neighborhood before pollution was discovered that changed their lives, and changed the city of Anniston, Alabama for years to come.

Just before these events, it became public that The Monsanto Company had knowingly polluted large swaths of the city. Sweet Valley-Cobbtown in West Anniston was the neighborhood closest to the factory and was the first area in the city to experience any kind of cleanup. This initial cleanup deal, struck between ADEM and Monsanto in March 1996, stipulated that Monsanto had 21 days to offer relocation to

residents, and 60 days to identify all PCB contaminated areas. By October 1996, Eloise Mealing and her neighbors were the last to leave. In 6 months' time, a neighborhood built over the course of decades – complete with memories, and a sense of community - was physically erased.



Figure 6 The old car wash in Sweet Valley – Cobbtown. Photo by author.

Now the entire area lies vacant (see Figure 6) as an open wound to remaining residents, with no marker of what once existed. Aside from an abandoned car wash,

there is little evidence there today to suggest what had been there. Now the entire area is bordered by a chain link fence. In a couple of places, roads turn into the area and eerily stop where the fence starts.

As noted in the opening quote to this paper, McKittrick argues such “invisible geographies” are home to a story of struggle that deserves to be told; this struggle is important, but has been a neglected facet of Anniston’s geography throughout the PCB cleanup. As properties lay to waste or are destroyed, so go too many of the physical manifestations of the memories that people so frequently describe, not uncommon in areas with histories of black life and struggle (Nieves 2007). Sweet Valley-Cobbtown is not the only place in the city where these “invisible geographies” exist, but it is the most concentrated site of physical destruction. Other parts of the West Anniston neighborhood, such as the West 15th street district, once known for local businesses, seem relatively more active, but, largely, play unfortunate host to vacant lots, abandoned homes, and closed-up businesses.

However, there are several ways in which residents have sought to recover a sense of place in West Anniston. One is through the struggle to have a greater recognition of values and interests beyond physical remediation through residents’ participation in the formal cleanup process. This is why the CAG meetings were often contentious. As mentioned in the introduction, the cleanup is referred to as a “Band-

Aid solution” by community members in attendance at CAG meetings, an impermanent solution to the city’s, and West Anniston’s, long term problems. While the cleanup may meet benchmarks for soil, water, and air quality – all of which still come up for debate in these meetings – it has not repaired the ruptured the pace and quality of life in West Anniston since the extent of the pollution was discovered.

One CAG member frequently emphasized the need for Anniston to “be whole” again, signaling what needed to be replaced could not be found in scientific remediation. This resonated frequently with what I heard in the time for community feedback at the meetings. Attendees would talk about specific properties that remained in disrepair, express anxieties about the air quality or soil quality due to properties that had not been cleaned up, relate fear over safety in schools and churches frequented by many people from all over the city – parts remediated and not. Field notes include observations of corporate and remedial officials getting into arguments with community members about the manner of the cleanup process, expressions of frustration over ongoing unaddressed health issues, and, most relevant to this paper, expressions of pain and frustration about Anniston today compared to what it once was. These discussions in particular are “memory work” (Houston 2012, Till 2012). While they take place outside of a conventional memorialization context,

memory and connection to place emerge as important factors that remain overlooked in the remedial process.

In meetings, residents would frequently recall a different time for the city, when West Anniston was a much better place to live: when there were thriving black-owned businesses, when the population was higher, and neighborhoods felt more like communities. Many of the worries about West Anniston's present state – crime, poverty, threats to close schools in the area, a lack of development – were tied by residents to a disconnect between the idea of what Anniston once was and what the remediation process was actually designed to accomplish.

While the settlement agreement did include provisions for an education fund and a health clinic, pollution has left a scar on the landscape that people have difficulty ignoring- in part because the pollution interfered with a sense of neighborhood-scale self-reliance in West Anniston. In meetings, people described the practice of subsistence fishing and agriculture before the pollution, and a landscape of gardens and fruit trees—but the PCB pollution made that impossible to continue. David Baker, a leader in the fight against PCBs, stated in a Senate hearing in 2002:

"...we have had to take off our shoes when we got ready to go into the house. Our children cannot play on the grass, so they play in the streets. Our children should wash their balls if they are playing outside, wash the dogs if they wanted to play with their own pets in their yard. We cannot plant a garden in our yard

anymore. Many of the times we have been told, 'Well, you can plant the garden, but you have to be careful how you plant it.' We have people planting collard greens in five-gallon buckets just to enjoy the land that they live on."

Outside of the remediation process, residents have left a record of this ignored sense of place formally in a public mural project and informally in the archives of local historical newspapers. These sources are additional sites to understand West Anniston's sense of place; the mural inserts an alternative narrative directly into the site of erasure caused by environmental injustice. The newspaper articles are an undervalued record of life in the city that reflects many of the testimonies about that life that have been expressed in CAG meetings.

West 15th Street in Anniston holds a legendary status among many in the community, particularly among older generations of people who have memories growing up in the area. It runs perpendicular to the main thoroughfares of the historically white side of the city – Quintard Avenue and Noble Street. Today, driving West on 15th street from Anniston's downtown, one is greeted to the neighborhood with a mural titled, "A City Within a City."

Designed by a black artist named John Davis, and assisted by white artist Joseph Giri, who completed the mural after Davis' untimely death just before the mural's completion (Hayes 2016), the piece covers the entire side of a building. In an online interview Giri stated that he and Davis, along with the Spirit of Anniston



Figure 7 A City Within a City. Photo by author.

Foundation, a nonprofit organization that also created a Civil Rights trail in the city, solicited input from the West Anniston community for the contents of the mural. From left to right, he describes women singing in a church choir, and children roller skating on West 15th and Pine street, in front of "some buildings that are now gone." A worker, said to be local West Anniston artist John Davis, stands in front of pipe factories, an industry that Anniston was once known for but "has gone by the wayside." Next, Cobb Avenue High School (which no longer exists) and its mascot, the Black Panthers, a World War II soldier, and a church, said to be a Presbyterian church that has since been torn down and replaced (West Anniston Mural, Anniston, Alabama 2014). This mural functions as a memorial counter-narrative to what is readily observable in West Anniston: a neighborhood suffering from poverty and abandonment. It reimagines what the space of West Anniston was and could be as it stands in contrast to the readily observable "material 'lack'" in the neighborhood (McKittrick and Woods 2007, 7). The presence and themes of the mural give visibility to a black sense of place that is rooted in a sense of community and particular sites of pride. While Giri tends to point out what has gone away – the buildings, the pipe factory – the mural demands a recognition of a different perspective on the value of this neighborhood, that "there are always many ways of producing and perceiving space" (McKittrick and Woods 2007, 7).

The mural also connects to the concerns that people expressed in the remediation process; for example, the children in the mural could be the same children someone wrote about in their comment to the EPA. While the landscape of West Anniston may be an open wound, the mural provides a powerful visual alternative in a small town landscape. In this sense, the mural is a story: "...people are making decisions all the time about the kinds of worlds they want to live in and they are imaginatively and practically striving towards them. Stories about Environmental Justice can carry these diverse ideas along together to produce different environmental imaginaries...in and of a damaged world" (Houston 2012, 433). While the mural may not be directly about Anniston's struggle for Environmental Justice, its positive presence and placement directly in a landscape so marked by environmental devastation acts as an "Angel of Alternate History," (Solnit, as used in Houston 2012). Houston explains, "Solnit's angel asks us to believe in the invisible and the unimaginable because it is here that alternative knowledge is sustained and where different futures might be enacted" (Houston 2012, 419). In other words, the mural is a reminder and an encouragement to imagine something different for this place.

Building on reconstructing a black sense place in the city, the Anniston Star newspaper, as a relatively progressive newspaper in the region, did include some limited sections dedicated to the mundane aspects of everyday black life in the city (as

opposed to nothing at all). For example, in 1901, the paper describes a celebration of Emancipation Day: "A feature of the parade, which was an unusually long one, was a trade display in which a dozen floats represented as many negro business housed in the city, drug stores, grocery stores, bicycle repair shops, restaurants, benevolent insurance societies, herb doctors and general stores, all being represented" (The Anniston Star 1901). Much of the coverage in subsequent years accompanies this business theme, and several articles mention the formation of a chapter of the Negro Business and Professional Men's Club. This club, which first started meeting in Anniston in 1943, was part of a nationwide network of such organizations which were started by Booker T. Washington. Washington's approach to achieving black equality- a focus on education, entrepreneurship, and an acceptance of incrementalism and assimilationism, was and remains controversial, particularly among more radically minded-thinkers such as W.E.B Dubois. However, Anniston residents' participation – along with neighboring Hobson City, which was an all-black municipality nearby – gives perspective on the pervasiveness of Washington's ideas and the impacts of his organizing, something that has been largely under-explored due in no small part to Dubois' critique (Boston 2010).

Not only does this archival evidence provide a paper trail for residents' claims of a thriving black business district earlier in Anniston's history, it helps bring that memory

to life in a more animated way. Given Anniston's currently wounded landscape, the Emancipation Day Parade, and the streets lined with businesses once again open up an alternate history for the city. Anniston was not just a place where the KKK bombed Freedom Riders, it was not just a place where pollution ruined lives. If stories produce a new world (Houston 2012, 422), archives help recreate a once-valued, now-forgotten world. These moments in time and space add up to a "sense of place" that has been badly damaged by environmental violence. What if remediation could restore the communities one can read about here? If these qualitative aspects of place could also be valued –whether looking back through history, paying attention to art, or simply listening to what people say in public meetings—the project of remediation might synthesize attention to both human and environmental needs.

Conclusion

The Monsanto Company was responsible for some of the most dramatic and deadly destruction in Anniston – a massive pollution event, poisoning the air, water, and soil, contaminating the bloodstreams of thousands of people, setting the stage for massive divestment from West Anniston and the City of Anniston as a whole. The scale of The Monsanto Company's destruction calls for something much deeper and more transformative than a lead or PCB soil content quota. It calls for a serious, deep reckoning, with the toll that pollution takes on human life and human connections to

place. Without this, remediation plays its own quiet role in the ongoing devaluation of black life because it fails to even nominally recognize pleas to restore the qualitative characteristics that make places worth living in.

In between the memory of West Anniston and the present day landscape, there is a story to be told – one about urban blight, and deindustrialization, and pollution, but also one about a vibrant community that residents value. This was a community built in segregated, white supremacist Alabama, a place people – and public art – describe as “A City Within a City.” Through the lens of memory, state-driven remediation emerges as a tool in the ongoing strategic erasure of black life from the state’s project to move on from Anniston’s legacy of pollution. What appears to be a benign extension of environmentalist goodwill unto West Anniston instead functions as another violent encounter from the state. Remediation becomes a tool to facilitate the violence of state-sponsored forgetting.

In remedial projects, particularly in cases of environmental racism, there is a need to innovate methods to not only remediate the soil, but remediate that sense of place that has been lost over time, and to take seriously the rupture created by absence. To remediate means to repair, to make right, to restore. In any case of environmental injustice, pollution isn’t a discrete issue- its presence is embedded in a context that allowed it to be there, that allowed the slow painful death of friends,

family, neighbors, and place. People engaged in remediation projects should be challenged to think beyond the current structures of environmental remediation and pay closer attention to grassroots demands for justice over the long term. Scholars must pay closer attention to what communities value in life- not just what has been lost through death.

CHAPTER 6

CONCLUSION

Anniston, Alabama is home to a particularly egregious and sad case of environmental injustice. While operating an industrial chemical factory in the city, Monsanto dumped tons of Polychlorinated Biphenyls (PCBs) in the town's soil, water, and air. The pollution impacted an area encompassing dozens of miles of waterways, but most acutely impacted the majority-black neighborhood in the shadow of the factory. The active pollution began roughly in 1933 and continued until Monsanto halted the manufacture of PCBs in Anniston 1971. Latent pollution from runoff and other means continued for much longer.

For many decades, the pollution went unaddressed, until, in 1993, fish contaminated with extremely high levels of PCBs were found downstream from the factory in Choccolocco Creek. Residents living in the polluted area sued Monsanto, and soon the toxic knowledge of PCBs spread back upstream to the source. Before residents living close to the factory organized, Monsanto started a buyout program for residents in the Sweet Valley-Cobbtown neighborhood. While Monsanto described its relocation offers as "generous," some residents found that the offers were not enough to be able to relocate. Others refused to relocate, in spite of the pollution, because of the value placed on a sense of community.

Over time, residents began organizing environmental groups to advocate for themselves and for a strong cleanup and remuneration process. While these groups

organized community meetings, protests, and garnered significant news coverage, one of their primary activities was to organize and participate in litigation against Monsanto.

This dissertation research began in 2013, some ten years after a settlement agreement was reached in Anniston. However, observations of informational community meetings about the progress of the cleanup found a great deal of tension still animated the cleanup process, undergirded especially by distrust of corporate actors and the EPA by community members.

Why was such tension still so palpable, so many years after a formal legal agreement, and so far into the remediation process? Is this what Environmental Justice looks like? This dissertation uses three vignettes through which to understand the problem of ongoing tension in Anniston and the implications for understanding the current state of affairs in Environmental Justice more broadly.

First, in the chapter titled “Understanding Corporate Scalar Transformations and the Production of Environmental Inequalities in Anniston, Alabama,” a discourse analysis of archival documentation of changes in Monsanto’s corporate identity over time reveals a strategic use of scale to produce uneven power relations between corporate actors and ordinary people.

Second, the chapter titled, “Anniston’s Neoliberal Environmental Justice Policy in Practice,” critiques the justice system’s notions of Environmental Justice as they

played out in the Anniston case. First, the state effectively privatized the responsibility for the cleanup by agreeing to a Superfund Alternative agreement, where the corporate actors responsible for the pollution played a controversial hands-on role in the construction and implementation of cleanup plans. Second, the settlements themselves were distributed unevenly and based on an individualized, quantitative logic of injury, rather than responding in a centralized way to a collective problem. This raises concerns about the logic guiding current Environmental Justice legal policy and its inability to align the demands of impacted communities with long-term results.

The third analysis chapter titled, “Remediating a Sense of Place: Memory and Environmental Justice in Anniston, Alabama,” examines how the remediation process in Anniston facilitates the violence of forgetting the life and sense of place that animated the West Anniston community. While the remediation focuses on cleaning the soil, water, and air, in its wake is a scarred neighborhood marked by abandonment. The remediation’s failure to reconcile the memory of West Anniston’s rich history with the present state of the neighborhood is one more injustice in a long history of violence toward black life in the city. Memory-work surrounding the cleanup process is an important, neglected source for understanding the sense of place that residents hope to see restored.

The major conclusions of this research are:

- Corporations produce scaled identities to advantageously empower themselves and weather shifts in their profitability, while ordinary people are limited in their capacity to respond in kind to such unequal power arrangements.
- Current legal solutions for Environmental Justice are not meeting the demands expressed by Environmental Justice movement actors, and in themselves demonstrate a resistance to solutions that would more fairly address a collective body of victims due to the normative economizing of neoliberalism.
- The process of remediation is confined to limiting risks from the physical environment, even while the city itself continues to struggle. This can cause a source of pain and frustration for residents who remain in impacted areas, who wish to see a more holistic solution to resolving environmental injustice, including remediating a sense of place.

This research contributes to a growing conversation about the current state of affairs for Environmental Justice scholarship and activism. Laura Pulido (2016) and David N. Pellow (2005), two leading voices in the field, have both called for a radical re-examination of Environmental Justice strategies and practice after looking retrospectively at the project so far. This case study fulfills their calls for critical interpretations of Environmental Justice engagements and policies.

In addition, this scholarship brings together three sub-fields in geography that rarely converse with one another: legal geography, political economy, and memory. By centering this study so firmly in place, and by engaging in the field for an extended span of time, it became possible to see these unexpected linkages more clearly. Therefore, in addition to contributing through connecting these sub-fields, this research stands in advocacy for extended temporal engagements with research communities. It would not have been possible to draw these conclusions over the course of a summer research cycle; it took years of extended observation and time in the archives to draw these lines, however crooked they may be at times. This project is in line with research that tries to span the divide between nature and humankind; we cannot have one without the other.

There are several areas ripe for future research. First, more analyses should be done of the geographies embedded in corporations' strategies to gain an advantageous power footing in environmental conflicts. This research could directly inform movement actors and their allies as they seek future Environmental Justice victories.

Second, more investigation is needed regarding Environmental Justice conflict resolution over the long term. The Anniston case is particularly bleak; are there counter-examples of great successes? Or, more likely, are there more disappointing

stories from which cautionary tales should be learned? Simply put, not enough is known about how these scenarios play out over the long term.

In addition, there is almost nothing in the literature that discusses the Superfund Alternative program at all, in spite of its widespread use in the southeastern and mid-western states. Why are these regions so concentrated with this method?

Finally, memory and environment is an important, emerging field. How are environmental conflicts, solutions, and futures shaped by memory? What role could memory play in innovating solutions for Environmental Justice problems? The connections between the pain of environmental injuries and memory are underexplored.

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