

Community Organizing Wins

Major Air Toxics Reduction



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Community Organizing Wins Major Air Toxics Reduction

A how-to guide on organizing for air toxic reductions with lessons learned from a Tonawanda, NY success story

Center For Health, Environment & Justice

June 2015



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Mentoring a Movement

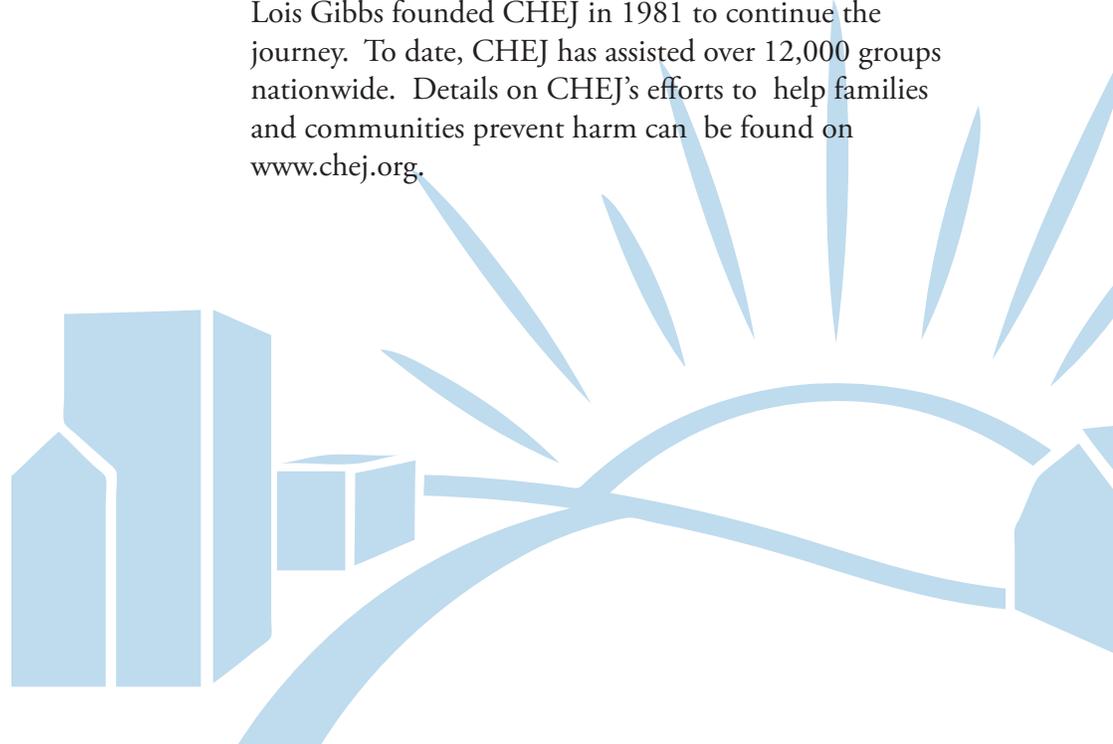
Empowering People

Preventing Harm

About the Center for Health, Environment & Justice

CHEJ mentors the movement to build healthier communities by empowering people to prevent the harm caused by chemical and toxic threats. We accomplish our work by connecting local community groups to national initiatives and corporate campaigns. CHEJ works with communities to empower groups by providing the tools, strategic vision, and encouragement they need to advocate for human health and the prevention of harm.

Following her successful effort to prevent further harm for families living in contaminated Love Canal, Lois Gibbs founded CHEJ in 1981 to continue the journey. To date, CHEJ has assisted over 12,000 groups nationwide. Details on CHEJ's efforts to help families and communities prevent harm can be found on www.chej.org.





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Introduction From Lois Gibbs

From Los Angeles, California to Baton Rouge, Louisiana to the Bronx, New York, toxic air pollution is harming the health of our communities—exposing children, families and workers to elevated levels of dangerous chemicals. Many of these substances that are polluting our air have been linked to cancer, birth defects, asthma and other chronic diseases. Many of the polluting facilities that generate these toxic air emissions are often located in low income and communities of color—disproportionally impacting environmental justice communities.

Nationwide, communities are fighting back to reclaim the health and dignity of their neighborhoods. Residents are forming community environmental health and justice groups, holding polluting corporations accountable and pressing government regulators to enforce the law. CHEJ created this guide to provide strategic guidance on how groups can achieve significant reductions of toxic air pollution in their communities from clusters of industrial sources, such as coke plants and petrochemical plants. The guide features a case study of one community that has achieved incredible success in addressing air pollution in the industrial and residential town of Tonawanda, New York, located near Buffalo. We want to share the story of how the Clean Air Coalition of Western New York (CAC) fought back against pollution which led to major victories for the group.

This guide is meant to help groups on the journey to attaining clean and safe air in their community. The goal is to help community groups learn the lessons of a successful grassroots organizing effort that led to a major reduction in toxic air pollution. The first chapter describes CAC's successful campaign to get state and federal agencies to take action on major sources of toxic air pollution in their town. Their grassroots organizing and advocacy led to a number of precedent-setting major enforcement actions against a polluting company's illegal toxic air releases ultimately resulting in an 86% decrease of cancer-causing benzene emissions. We then describe in Chapter 2 how CAC effectively advocated for an

Air Toxics Reduction project, working with local, state and federal governments to develop a unique, collaborative pollution prevention and air toxics reduction project with local industries.

Chapter 3 provides you with everything you need to know to get started. We describe step-by-step how CAC created their group, organized, conducted community air testing, researched the town's pollution, developed an effective strategy and achieved the formation of a collaborative project to reduce toxic air pollution. There is also a chapter on resources, organizations and federal and state programs that can help your group develop a plan and organize a campaign to reduce toxic air pollution in your community. We close with a chapter that describes how you can use grassroots fundraising activities and foundation fundraising to help you develop a productive fundraising plan to finance your group's air toxics reduction campaign.

By sharing the story of Tonawanda, the lessons learned and many available resources, we hope this guide will assist you in fighting for environmental health and justice in your community! If the residents of Tonawanda could do it, you can too! So go out there and organize!

For clean air and a healthy tomorrow,

Lois Marie Gibbs
Executive Director
Center for Health, Environment & Justice
Falls Church, VA
June 2015



Executive Summary

This guide features a successful case study which shows how strategic and effective community organizing can result in substantial reductions in toxic air pollution and provides a model for communities nationwide impacted by outdoor air pollution. The guide highlights the lessons learned from the case study and explains how groups can wage similar campaigns in their community.

The key lessons to take away from the success of the Clean Air Coalition of Western New York (CAC) is that grassroots community organizing, community-driven science, and advocacy directed at elected officials and state and federal agencies led to an investigation that resulted in action that reduced the toxic air pollution in Tonawanda, NY. If it wasn't for CAC's work to build a strong local group and community that demanded change, it's likely that nothing would have ever happened. The company would have continued to pollute with insufficient oversight by state and federal agencies. It was the organizing and advocacy that forced the state and federal agencies to act.

The case study focuses on CAC's organizing work in the town of Tonawanda, located along the Niagara River near Buffalo, New York. Tonawanda is a heavily industrialized area home to a cluster of 53 industrial facilities, including numerous chemical manufacturers, a coal fired power plant, a foundry coke plant, two petroleum distribution terminals, multiple chemical bulk storage terminals, multiple trucking depots and a tire manufacturer. In addition, two interstate highways and a bridge intersect within the community resulting in heavy traffic and excess amounts of mobile air pollution. This is a community that is clearly overburdened by air pollution.

For years, Tonawanda residents suspected that their health problems and the terrible chemical odors they could smell came from the industrial plants. This guide describes how residents founded the CAC in order to organize and advocate for the right of residents to breathe clean air and live in a healthy environment. With the assistance of two statewide

and national environmental organizations, CAC collected air samples in their neighborhood using homemade "bucket brigade" air testing equipment. The results revealed high levels of benzene in their air.

In response to CAC's advocacy and the testing results, the New York State Department of Environmental Conservation (DEC) sought and received funding from the U.S. Environmental Protection Agency (EPA) to conduct a comprehensive air quality study. The results of the DEC Air Quality Study confirmed the Bucket Brigade test results and showed benzene levels to be 75 times higher than the state's toxic air ambient guidelines. DEC also discovered that the Tonawanda Coke Corporation (TCC), a foundry coke plant, was the main source of the elevated benzene emissions. Benzene is known to cause cancer, skin, and respiratory diseases.

After DEC released the results of the Air Quality Study, coupled with CAC's organizing and advocacy, enforcement actions took place as EPA and DEC investigated Tonawanda Coke's suspected illegal air toxic emissions. In 2009, the U.S. Attorney's Office, EPA and DEC raided TCC in a surprise inspection and enforcement action. After the raid, TCC's Environmental Control Manager was arrested. Both the company and the manager were charged with multiple violations of federal environmental laws including the Clean Air Act and Clean Water Act. In 2013, Tonawanda Coke and the environmental manager were found guilty of illegally dumping cancer-causing toxic chemicals into the air and were convicted on 14 violations. In addition, the manager has charged with obstruction of justice. The community's activism, organizing and air testing led the DEC and EPA to take these enforcement actions. Since these actions have taken place, state air tests found benzene emissions have been reduced by over 86% in the community.

CAC also led a proactive campaign to convince the government agencies to develop an air toxics reduction project to substantially reduce cancer-

causing toxic emissions. Reaching out to allies, such as local policymakers, unions and other organizations, to enlist their support was a key element in their success. Researching government policies that support the community's air toxic reductions goals, such as the EPA Urban Air Toxics Reduction Strategy and writing a detailed proposal to make their case and specifically state their request for action also helped to convince the government to act. Meetings with government officials, media events, community meetings, letters and media coverage of the problems were other activities that helped secure an agreement to implement a special program to reduce toxic chemicals in Tonawanda's air.

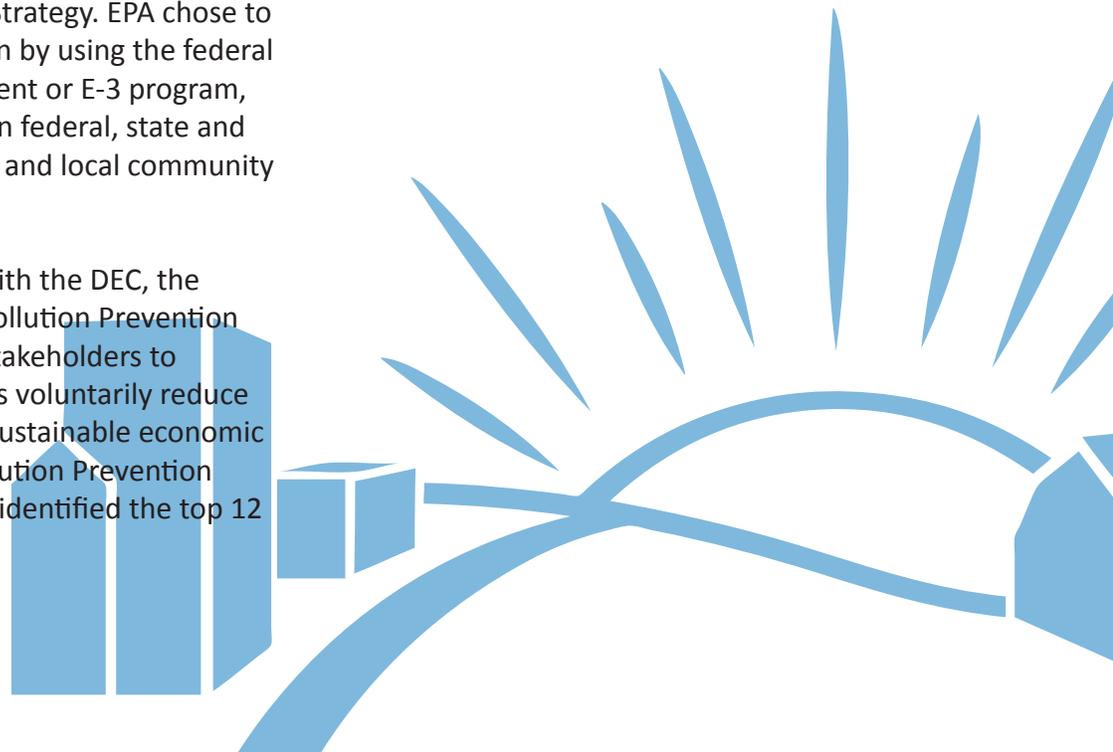
With technical and organizing assistance from the Center for Health, Environment & Justice (CHEJ), CAC led a successful campaign to convince government agencies to implement a precedent-setting project to prevent pollution and reduce air toxic emissions in Tonawanda. CHEJ's research discovered the EPA's Urban Air Toxics Reduction Strategy, a federal guidance policy with the primary goal of reducing carcinogenic emissions by 75% in areas where clusters of industrial facilities are polluting urban neighborhoods. Neither EPA nor any state agency had ever implemented this 2000 policy strategy, as President Bush's EPA administration shelved it due to industry pressure. CAC and CHEJ successfully convinced the EPA Region 2 Administrator to designate Tonawanda as a high-risk community under the Urban Air Toxics Reduction Strategy. EPA chose to address this high risk designation by using the federal Economy, Energy, and Environment or E-3 program, a collaborative initiative between federal, state and local government, local industry and local community groups.

EPA coordinated this program with the DEC, the town of Tonawanda, the state Pollution Prevention Institute, CAC, CHEJ and other stakeholders to develop plans to help companies voluntarily reduce toxic emissions while fostering sustainable economic growth. The New York State Pollution Prevention Institute, town officials and EPA identified the top 12

manufacturing plants in Tonawanda in terms of air emissions and asked them to participate in the E-3 program and to voluntarily develop and implement a pollution prevention or energy efficiency project, with free technical assistance provided by the Pollution Prevention Institute and the New York State Energy Research & Development Authority.

So far, the Tonawanda E3 program has established a collaborative process involving the community, local, state and federal government and local companies. As of 2014, seven companies have agreed to voluntarily participate in the project. Modest improvements in air quality have been reported, but much more needs to be done. We are hopeful that designating the city of Tonawanda as a high risk community under the EPA Urban Air Toxics Reduction Strategy and using the E-3 federal program can serve as a model cooperative program which can be replicated in other urban communities overburdened with toxic air pollution from clusters of industrial and mobile sources.

Finally, another victory for the Tonawanda community came in 2015, when TCC agreed to pay \$2.7 million in penalties. The company will also be required to spend \$8 million to improve the plant. Another \$1 million of company funds must be used to support environmental and public health projects and an additional \$357,000 will be dedicated toward the restoration and preservation of area wetlands.





Chapter 1

A Case Study: Toxic Air Pollution in Tonawanda, NY

Tonawanda is an industrialized, urban town located near Buffalo, New York with one of the highest concentration of air toxics-regulated facilities in the state. Within just a two-mile zone 53 air-regulated facilities including a foundry coke plant, two petroleum distribution terminals, multiple chemical bulk storage terminals, a coal fired power plant and a tire manufacturing plant exist. Large corporations such as Huntley NRG, 3M, Goodyear and DuPont operate some of these facilities. Tonawanda is also home to several State Superfund and Brownfield toxic waste sites, two inactive landfills and a Manhattan Project nuclear waste site created during the development of the world's first atomic bombs. Two major interstate highways intersect in the community and one contains a tollbooth, which results in traffic congestion and significant mobile air pollution.

Community Health Concerns

For many years, residents suspected that their health problems and the neighborhood's bad odors were linked to the industrial facilities. Mary Moore, a resident, stated, *"Our quality of life has been ruined by these plants."* Anna Hackett, another resident, said, for years every morning she

could smell the fumes from factories near her house, *"It just hit you in the face and you couldn't breathe. It was so strong."*

For more than 30 years, Jeani Thomson urged state agency officials to address air toxic pollutants in Tonawanda, especially from Tonawanda Coke, which she believes is to blame for her serious health problems. She is a survivor of multiple cancers and now only has one lung and half a stomach. *"It's not anything that I ate. It's not anything that I drank. I exercise. I'm not overweight. It's from living here and breathing the air,"* says Thomson.

Two state health studies documented that Tonawanda residents suffered from statistically significant increases in various cancers. In 1995, the New York State Department of Health (DOH) conducted a study which found elevated levels of colorectal, brain, breast, lung, and urinary cancers in Tonawanda.¹ Since then, many residents have submitted complaint forms to the DEC documenting a variety of acute health symptoms including respiratory problems and skin and eye irritation.

A second study, published 2013, evaluated the potential health effects from exposure to toxic air emissions from industries and motor vehicle traffic in Tonawanda and surrounding areas in Erie County. This study found that lung cancer, bladder cancer, and total cancers were elevated among both males and females. Esophageal cancer was elevated among males and uterine cancer was elevated among females. Oral cavity/pharynx cancer was elevated among males, and leukemia among females. Pre-term births and heart defects were also elevated.²

In 2001, Jackie James-Creedon was diagnosed with fibromyalgia. Born and raised in Tonawanda, she had become accustomed to the constant terrible smells of toxic air pollution. When Jackie was diagnosed, she suspected that growing up in her polluted community contributed to her illness. Jackie spoke with other residents and realized that the situation was worse than she had ever imagined. Many of her neighbors were sick and together they asked, "Why are we so sick?"

As a passionate and affected resident, Jackie contacted Mike Schade, who at the time was the Western NY Director of the statewide Citizen's Environmental Coalition (CEC) in Buffalo, NY to see if there was an environmental community group in Tonawanda. When Mike told her one did not exist that addressed her concerns, she replied, "Well then, I am going to start one!" With the help of Mike's organizing experience, Jackie and a few residents formed Toxic Tonawanda, (which later changed its name to the Clean Air Coalition of Western New York or CAC), to investigate the industrial air pollution that might be contributing to their health problems.

Community Testing Uncovers Serious Toxic Air Pollution

In 2004, working with CEC, a handful of community residents decided to start a "Bucket Brigade" to collect and measure chemicals in

the air. In many ways, this work was inspired by other bucket brigades around the country, such as the Louisiana Bucket Brigade. CEC raised funds to hire Denny Larson of the Global Community Monitor (GCM) to come to Tonawanda and teach residents how to conduct Bucket Brigade air testing.³ GCM taught residents how to build and use buckets to gather air samples. Community residents used 5-gallon buckets, baggies and hand-held vacuums bought at a hardware store and collected air samples. Once trained, CAC members would regularly go on "patrol" around the plants and take air samples when the air smelled extremely foul, which was often at night. They also kept "log books" to note when the air smelled bad. Two of the samples that the group collected were sent to a laboratory certified by the U.S. Environmental Protection Agency (EPA) for analysis. It only cost the group a few hundred dollars to have these samples analyzed, but the results were critical. *"We really wanted to know what was in the air we were breathing, so a few of us started a Bucket Brigade in Tonawanda,"* explained Adele Henderson.

The results from the Bucket Brigade testing confirmed residents' fears and showed that the air contained high levels of carbon disulfide and benzene, a cancer-causing chemical which is also linked to other serious health problems. *"We took these samples because the people living here have the right to know what is in the air that they are breathing, and what risks they may be taking by breathing these chemicals,"* said Tim Logsdon, Director of the Clean Air Coalition at a 2005 news conference. *"Our samples...showed readings that far exceed many of these standards and that significant levels of chemicals are crossing the fence lines of these facilities."*⁴

The bucket samples found levels of carbon disulfide around one company to be 400 times higher than the amount allowed by the state and the benzene levels in the area were high as well.⁵

Armed with their discovery, the group contacted the New York State Department of Environmental Conservation (DEC) and provided the test results, asking for immediate action. The group organized a press conference and held a community meeting to release the test results. They also began contacting companies that might be significant contributors to the air toxics problems.

CAC repeatedly asked DEC and EPA to confirm that the Bucket Brigade samples were accurate and to take action. EPA uses the term “citizen science” to describe community-led air, water and soil testing activities. Judith A. Enck, EPA Region 2 Administrator, said in 2013, *“Citizen Science is a vital fast-growing field in which scientific investigations are conducted by volunteers who collect data to better understand their local environment and help them address issues of concern to them. Projects such as the one in Tonawanda have been remarkably successful in expanding scientific knowledge, raising people’s awareness of their environment and prompting action.”*⁶

Comprehensive Toxic Air Testing Study

In response to community outrage and the bucket brigade test results, the DEC began a year-long community air quality monitoring study in July 2007. DEC’s Air Division was underfunded so they applied to EPA who awarded DEC with a \$300,000 grant to conduct a comprehensive air toxics sampling study in Tonawanda. Getting DEC to conduct its own study was a huge victory for CAC because it would later provide data to back up their bucket testing results and led to initiatives to improve the health of Tonawanda residents. The goal of DEC’s study was to measure the concentration of air pollutants in the community, including benzene, and evaluate the potential public health risks. Air monitors were installed in four locations and the concentrations of 56 air toxics chemicals were measured.

At the same time, CAC applied for a state envi-

ronmental justice (EJ) grant that was approved by DEC. The \$24,000 grant enabled CAC to have more samples analyzed using their bucket air samplers, as well as filter badges worn by individuals that absorb what is in the air. This grant was used to pay for professional lab analyses of the samples collected by residents, working in partnership with scientists at the university in Buffalo. These results would augment the DEC’s air monitoring results. *“The funding to the CAC allows the community to supplement this information with monitoring, personal exposures to individuals in the area being evaluated and allows the community to best direct how those resources are used,”* said Joe Gardella, University of Buffalo Professor who provided technical assistance to CAC. *“This is a powerful combination to monitor a very large problem in the Tonawanda Community. It allows us to provide additional independent professional expertise and focus on pollutants that are not covered by the EPA grant.”*⁷

The EJ grant and a second grant of \$40,000 were instrumental in helping CAC to organize, research, advocate and do community outreach and education, and eventually hire staff organizers. See Chapter 5 on *Fundraising for Community Groups* for information on how your group can raise funds.

DEC released its Air Quality Study in 2009. This study included a public health evaluation of the test results which showed that the estimated excess annual lifetime cancer risk at one air monitor in the community was 75 times greater than the New York State Annual Guideline Concentration which is based on a one-in-one million cancer risk.⁸ Other monitors exceeded a 100-in-one-million cancer risk (a 1-in-10,000 cancer risk). This level was 100 times **higher** than the state’s risk goal for ambient air, meaning the community was being exposed to excessive levels of cancer causing

toxic air emissions. The annual average concentration for six air toxics (1,3-butadiene, acetaldehyde, acrolein, benzene, carbon tetrachloride, and formaldehyde) each exceeded the state's health-based annual guideline concentrations.⁹ DEC also discovered that the Tonawanda Coke Corporation (TCC), a foundry coke plant, was the main source of the elevated benzene emissions. Benzene is known to cause cancer, skin, and respiratory diseases.

DEC's study concluded that "there is a need for a focused effort to reduce the amount of some hazardous air pollutants being released in the community. This goal, which is already underway, will be accomplished through continued compliance inspections of facilities in the area, assessments of technological advances in air pollution control that can be implemented through new regulations and/or voluntary reductions to reduce emissions at existing facilities, and continued efforts to reduce emissions from the mobile source sector."¹⁰

The DEC Air Quality Study confirmed what residents found with their bucket brigade testing. While the DEC report helped to answer the residents' question "Why are we so sick?," it also provided the community with the evidence it needed to advocate for enforcement action and air toxic emission reductions to reduce the high cancer risks residents were exposed to from industrial toxic releases. For the group, the release of the DEC study was a huge turning point. The residents worked very hard to earn widespread media coverage and attention from the public and elected officials. It was a huge shot in the arm to CAC.

Government Raid on Tonawanda Coke Uncovers Gross Violations

With the knowledge that Tonawanda Coke was the predominant source of the cancer-causing benzene emissions, CAC organized a community

campaign to hold them responsible. If CAC was able to get the state and federal agencies to hold Tonawanda Coke accountable, it would set a precedent for other companies and put pressure on them to be responsible neighbors. CAC contacted Tonawanda Coke's CEO and Plant Manager several times to request a meeting, but the company refused. This further angered residents and mobilized community and political outrage. CAC members went door-to-door asking residents to sign letters and petitions to send to government agencies.

To escalate pressure on the company, CAC held a protest at the gates of Tonawanda Coke and flooded the phone lines of a government agency that provided subsidies to the company. CAC invited CHEJ's Lois Gibbs to speak at a community news conference and rally, and CHEJ organizers held campaign training and organizational development sessions for the group.

The group also developed relationships with current and former workers, who shared the community's concerns. Even before the DEC Air Quality Study was released, residents felt that pollution from Tonawanda Coke was worse than ever. Families living near the plant were concerned about its black smoke and the burned-rubber smell that filled their neighborhood. People suffered from sore throats, headaches and breathing problems. One former worker who heard these health complaints on the local news decided it was time to blow the whistle on his former boss at TCC. He helped give the Coalition the inside scoop on Tonawanda Coke's air emissions.

"He was our 'Deep Throat,'" said Adele Henderson of CAC. She felt that it was the testimony of this former employee that *"triggered the raid on Tonawanda Coke because he knew so much and saw so many bad things happening and so many violations."* CAC also reached out to other

workers including the Western New York Council on Occupational Safety & Health (WNYCOSH), a worker safety and health coalition of local unions. WNYCOSH put them in touch with the United Steelworkers, a union that represented workers at some of the Tonawanda plants, including TCC. CAC and WNYCOSH knew that both former and current workers could help give inside information on the plant's operations that would otherwise be inaccessible.

The study results, media coverage and public pressure from CAC and policymakers led to major action. In December 2009, the U.S. Department of Justice, EPA, DEC and the U.S. Coast Guard raided Tonawanda Coke Corp. with a federal search warrant. During the raid, investigators found numerous violations of clean air, water and toxic waste laws.¹¹ TCC's Environmental Control Manager, Mark Kamholz, was arrested on criminal charges filed by the U.S. Attorney's Office of the Western District of New York and the Department of Justice, Environmental Crimes Section. These charges were based on an investigation by EPA's Office of Criminal Enforcement and the New York State Department of Environmental Conservation that found he had failed to immediately notify the appropriate government agency as soon as he had knowledge of a release of coal tar sludge, a hazardous substance at the TCC facility.¹² Kamholz has also charged with obstruction of justice during an inspection conducted by the EPA in April of 2009.¹³ In total, Tonawanda Coke and its Environmental Control Manager was charged with violating 19 federal laws. This was a huge moment for the group. Never in their wildest dreams did they imagine the federal government raiding the plant and arresting the plant manager!

EPA issued a series of enforcement actions shortly after the raid which ordered the company to operate its coke manufacturing facility without violating state and federal environmental laws.

EPA worked closely with DEC to investigate TCC's operations and coordinate efforts to bring the company into compliance with environmental laws. The community was elated—the EPA and DEC were finally doing their job to enforce the law and hold Tonawanda Coke accountable!

During this same month (December 2009) EPA issued a Water Administrative Order to Tonawanda Coke that cited numerous operation and maintenance violations. Tonawanda Coke was ordered to immediately stop unpermitted discharge of its process and non-process water, conduct an audit to identify cross-connection between process and non-process water, submit a written certification that all of the violations have been corrected, as well as amend its water pollution control plan.¹⁴

Around this same time in December 2009, EPA also issued a Resource Conservation and Recovery Act (RCRA) Administrative Complaint that cited violations related to the coal piles and tanks at TCC. EPA ordered the company to stop mixing tar sludge on coal piles on the ground and to use an impervious pad to prevent waste from contaminating the soil. TCC was also ordered to clean up the remains of two tar sludge tanks that had burned in a 2007 fire and released hazardous waste tar residues to surrounding soil.¹⁵

Then, in January, 2010 EPA issued an Administrative Order to TCC citing violations of the National Emissions Standards for Hazardous Air Pollutants under the Clean Air Act and stack testing requirements. EPA put TCC on notice that it violated environmental requirements because the facility did not have proper air pollution control technology on their quench towers.¹⁶ Later that year in April EPA issued still another Administrative Order citing a different violation of the Clean Air Act. TCC had violated the General Duty Clause of the Clean Air Act which states that companies have a "general duty" to design and maintain

safe facilities.¹⁷ Also, two incidents occurred at TCC in 2009 and 2010 apparently due to power and equipment failures. EPA ordered the company to determine how and why the equipment failed, fix the problems, and take steps to prevent them from happening again.

The EPA issued another Administrative Order in August, 2010 telling TCC to comply with its Clean Water Act permit. The company was discharging industrial wastewater containing cyanide in excess of its permit limits to the Town of Tonawanda's sanitary sewer system. EPA ordered Tonawanda Coke to properly treat any wastewater that resulted from their coke-making process, complete overdue installation of pollution controls and improve monitoring.¹⁸

Also in 2010, the EPA conducted a study to determine what levels of benzene were coming from Tonawanda Coke to determine if TCC was a major source of hazardous pollutants as defined under the Clean Air Act. The Clean Air Act defines a major source of hazardous air pollutants as one that emits more than 10 tons per year of a single air toxic or more than 25 tons per year of a combination of air toxics. EPA's testing showed that Tonawanda Coke did meet that definition for benzene air emissions and that the company was significantly underreporting its emissions. The agency used a highly sensitive laser-based air monitor called Differential Absorption Light Detection and Ranging (or DIAL) that measures fugitive emission rates over large areas. These tests showed that Tonawanda Coke's estimated annual benzene emission rate was actually 90.8 tons per year which exceeded their air permit release limits.¹⁹ EPA's Toxic Release Inventory (TRI) records indicated that TCC released less than 10 tons of benzene per year.²⁰ The community was vindicated once again—no wonder there was so much benzene in the air— Tonawanda Coke had been grossly under reporting their emissions!

Rare Criminal Prosecution of Tonawanda Coke; Potential \$50 Million in Fines May Benefit Community

As a result of the raid and various enforcement actions, Tonawanda Coke and Mark Kamholz, the company's Environmental Control Manager, were found guilty in federal court of illegally polluting the air and soil.²¹ The company was convicted in March 2013 on 14 of 19 counts and Kamholz was found guilty of the same 14 violations in addition to an obstruction of justice charge. Both Kamholz and the company were convicted on 11 counts of violating the Clean Air Act (CAA) and 3 counts of violating the Resource Conservation and Recovery Act (RCRA). According to documents released by the Department of Justice (DOJ), the CAA offenses related to the release of benzene into the air through an unreported pressure relief valve and the operation of a coke-quenching tower without baffles, a pollution control device required by the company's air permit. The RCRA violations involved storing, treating and disposing of hazardous waste without a permit that involved mixing coal tar sludge, a listed hazardous waste that is toxic for benzene, on the ground in violation of hazardous waste regulations.²²

A Buffalo News story described the outcome of the trial this way:

"In the end, it came down to the workers. One by one, they took the witness stand and testified about benzene emissions and toxic sludge and how Tonawanda Coke seemed nervous about government inspectors. A federal jury, after listening to those workers, found the Town of Tonawanda company and one of its executives guilty of polluting the air and ground at its River Road plant."²³

The company and Kamholz face fines as high as \$200 million. Kamholz could also be looking at prison time.

Jackie James Creedon was quoted in the paper at the time saying, “Justice was served ... It was a message to all industrial polluters.” CAC’s Erin Heaney commented, “I think the testimony from workers was very compelling ... I want to thank those workers for coming forward.”²⁴

As described in the Buffalo News, “The case, believed to be the biggest local environmental trial in years and only the second criminal prosecution nationally involving the Clean Air Act, centered around a wide range of allegations. ... ‘This was an historic case on many levels,’ said U.S. Attorney William J. Hochul Jr. ‘In the end, this was all about Tonawanda Coke and Mark Kamholz putting profits ahead of people.’”²⁵

This case is a rare criminal prosecution of the Clean Air Act. Clean Air Act cases tend to be very complex and thus difficult to prove which is why the federal government typically chooses to pursue civil cases with corporate fines and agreements to curtail emissions, rather than criminal prosecution.²⁶

The fine that Tonawanda Coke faced and how it would be spent is to be decided by a federal district judge, the EPA and the Department of Justice. But CAC and the residents whose lives have been affected by Tonawanda Coke felt that they should also have a say in how this money should be spent. Questions they raised included, “How would this money from the EPA court victory be spent? Where would it go? How could it benefit impacted residents and the larger community?” To address these questions, CAC set up a process for the community to provide input on how to spend the money. They held several public meetings where people had the opportunity to raise ideas on how the fine money might benefit the community.²⁷ To guide this effort, CAC developed a list of principles and presented a number of these proposed projects to federal and state agencies who were to decide on how up to \$50

million in fines could best benefit the community.

CAC’s principles were as follows.

- **Community Control:** Residents and workers were significantly impacted by air pollution from Tonawanda Coke. Residents and workers have driven the campaign for accountability and should continue to lead decision making in the future.
- **Transparent, Democratic Decision-Making:** Decisions regarding fines should be public, transparent, and democratic.
- **Environmental Justice Commitment:** Low-income people, people of color, and workers are most affected by pollution and therefore any fines should go to solutions that address real problems in marginalized neighborhoods and high-risk workplaces.
- **Neighborhood Knowledge:** Residents initially brought this problem to the attention of local authorities and thus community knowledge about solutions should be central to the decision-making process.²⁸

CAC’s community involvement process was modeled on a participatory budgeting (PB) process that would democratically allow the community to determine how residents wanted the TCC settlement money to be spent. Participatory budgeting is a democratic process in which community members directly decide how to spend part of a public budget. Residents generate ideas, test their viability and vote for projects that are funded in their neighborhood. PB helps to give residents a say, makes for better and more equitable decisions, creates active citizens, strengthens community organizations, connects politicians and constituents and makes government more accountable and efficient.²⁹ The participatory budget process made it possible for the community to develop potential projects that could be funded with the settlement

funds. This process had the following five key steps:

- **Community Assembly:** A Community Assembly was held where CAC shared possible criteria for potential projects and brainstormed solutions to air pollution and hazardous waste in Tonawanda with 89 residents. The participants came up with 191 project ideas and divided them into policy solutions and possible projects.
- **Community Summit:** A summit was held to examine the ideas and ensure that they met project requirements. Residents determined which projects met the requirements, identified who the projects would benefit and wrote project descriptions. CAC then met with potential lead organizations on the projects and secured letters of support and budgets for the projects.
- **Week of Voting:** 561 residents voted at various locations over a 5-day period for the various projects.
- **Results:** Once the results were tallied, CAC shared them with residents and policymakers at a community meeting.
- **Results Sent to Decision-Makers:** The results were sent to EPA, the Department of Justice and Judge William Skretny who is overseeing the TCC settlement. The results were also shared with town and state policymakers and state agencies to help inform the spending of public funds.³⁰

The outcome of these community meetings were reflected in recommendations submitted by federal prosecutors to the judge asking that the court impose community service obligations on Tonawanda Coke as part of the fines to be issued to the company and that this community service fund local projects that benefit the town.³¹

On May 11, 2015, a victorious settlement for the community was announced. TCC agreed to pay \$2.7 million in penalties and is going to be required to spend \$8 million to improve the plant by implementing new emissions controls, enhancing leak detection and repair, and use a third party to audit production. Lastly, an unprecedented \$1 million of company funds must be used to support environmental and public health projects and an additional \$357,000 will be dedicated toward the restoration and preservation of area wetlands.

Major Benzene Emission Reductions

Two years after the TCC enforcement action, the state found major reductions in benzene emissions in Tonawanda. In October 2011, a DEC Tonawanda Community Air Quality Update announced that there was an 86% reduction in the ambient concentrations of benzene as well as reductions in other air pollutants in the Tonawanda area.³² This was a major victory for the Clean Air Coalition.

The 86% reduction in benzene levels at one air monitor represented an estimated excess annual lifetime cancer risk of 11-in-one-million (down from 75-in-one-million). Results at another monitor showed a reduction in benzene of 69% and an estimated lifetime cancer risk of 4.9 in-one-million. Benzene reductions were partly due to modifications made by Tonawanda Coke in response to DEC and EPA inspections and subsequent federal and state enforcement against TCC. DEC is continuing to monitor ambient air toxics at the monitoring stations so that the effectiveness of various air toxics reduction strategies can continue to be evaluated. The new pollution prevention program that creates a federal, state and local collaborative initiative will hopefully also contribute to a reduction in air toxics releases and ensure the community's health is improved (See next chapter).



Chapter 2

Pollution Prevention Initiative in Tonawanda, NY

In addition to CAC's organizing campaign against Tonawanda Coke, the group also pursued a collaborative initiative with local government officials, state and federal agencies and institutions and local industries to reduce toxic air pollution in Tonawanda. CHEJ provided technical and strategy assistance to CAC and helped successfully convince government agencies to implement a precedent-setting project to significantly reduce carcinogenic air emissions in Tonawanda.

CHEJ discovered a little-known federal policy, the EPA Urban Air Toxics Reduction Strategy, which was used to strategically address Tonawanda's air toxic releases.³³ This policy, developed by EPA and a coalition of state environmental agencies, was approved in 2000. However, it was never implemented because EPA was directed by the Bush Administration to shelve the policy due to pressure from industry.

The EPA Air Toxics Reduction Strategy provides an integrated framework for addressing clusters of industrial and mobile air toxic releases in urban areas. The policy focuses on chemicals known or suspected to cause cancer, also known as prob-

able or known carcinogens. This policy has three primary goals:

- 1) To attain a 75% reduction in the incidence of cancer attributable to exposure to hazardous air pollutants (HAPs) emitted by large and small stationary sources in urban areas;
- 2) To attain a substantial reduction in public health risks posed by HAP emissions from small industrial and commercial sources (known as area sources) in urban areas; and
- 3) To address disproportionate impacts of air toxic hazards in urban areas, such as geographic "hot spots" with highly exposed populations and predominately minority and low-income communities.³⁴

Plan of Action Proposal: A Blueprint for Change
After extensively researching state air toxic policies, Tonawanda industry air permits and the EPA Air Toxics Reduction Strategy, CAC, with support and assistance from CHEJ wrote a "proposal" that they took to the state and federal agencies that detailed the air pollution problems in the town and recommended a toxic air release reduction initiative.³⁵ The detailed 8-page proposal, titled

Improving Regulations and Air Quality in Tonawanda: A Blueprint for Change, coupled with CAC's organizing campaign, helped to convince state and federal agencies to take further action. The proposal stated, "The project goal is to substantially reduce air toxics in Tonawanda. The NYS DEC and Environmental Protection Agency (EPA) should address the cumulative impact and unsafe level of air toxics by reducing the ambient air concentrations of pollutants through improved regulations, and vigilantly enforcing the current and proposed programs."³⁶

The Blueprint for Change document pointed to the existing state and federal policies and stated, "The Tonawanda Project would serve as a perfect pilot project for DEC and EPA to implement the [EPA Urban] Air Toxics Reduction program which has been neglected and ignored under the Bush Administration EPA."³⁷ This document also made clear that, "the Tonawanda project reflected many of the recommendations found in the EPA Air Toxics Reduction Strategy including:

- The need for incentives to ensure industry and community participation
- Stakeholder involvement is critical to the success of the program
- Environmental justice issues are central to the operation of the program
- EPA should be able to intervene in situations where there is an apparent threat to public health."³⁸

CAC's proposal included an action plan targeting major pollutants that had been identified in the DEC air monitoring report such as benzene, acrolein, acetaldehyde, carbon disulfide, formaldehyde, and carbon tetrachloride. CAC's Blueprint for Change recommended that an action plan be developed with DEC, EPA and a Public Working Group and included the following key elements:

1) A commitment from the NYS DEC, US EPA,

NYS Pollution Prevention Institute and community members to work together to achieve ambient toxic air concentration reductions. Appropriate resources, such as new designated DEC staff, equipment grants from EPA, Pollution Prevention Institute technical assistance and state grants, will be needed to adequately implement this project.

2) These institutions would establish an oversight body to evaluate ambient air concentration, set enforceable health-based emissions standards in Tonawanda and oversee the program's implementation.

3) The first stage of the program will be an assessment phase to determine the priority chemicals and health-based goals, including DEC's one-in-a-million cancer risk goal.

4) During the second stage, the oversight group will develop a strategic plan that will significantly reduce levels of toxic chemicals in Tonawanda within a reasonable time period. The plan will address the cumulative impact of heavy industry in Tonawanda.

5) Appropriate companies will be asked to participate in developing a plan, goals and a timeline for air toxic reductions to reduce pollution.

6) Strong public participation by resident participation on the oversight body with public meetings and transparency.³⁹

According to the proposal, when implemented, this project would:

- Reduce ambient toxic air concentration in Tonawanda, thereby improving the quality of life for residents and workers;
- Improve productivity of manufacturing facilities in Tonawanda, thereby generating a more competitive economic base;
- Help Tonawanda businesses achieve environmental excellence and find cost-effective technology; and
- Engage residents and workers in the planning and oversight of the project.⁴⁰

CAC and CHEJ staff met with the DEC Commissioner and separately with the EPA Region 2 Administrator and the EPA Region 2 Air Toxics Director and presented their proposal. The groups asked the agencies to designate Tonawanda as a high-risk community under EPA's Urban Air Toxics Reduction Strategy and to work with DEC, the town and local industries to develop a toxic air release reduction plan.

CAC reached out to local policymakers and organizations and asked them to call or send letters of support to DEC and EPA for the requested air toxics reduction project. CAC had already developed good working relationships with key DEC and EPA staff through their work on the DEC Air Quality Study and the TCC investigation and enforcement action, and many agency staff were well aware of the serious environmental hazards in the community. Another helpful factor was the major media coverage about the many air pollution problems in Tonawanda and health concerns expressed by the residents over the previous four years.

EPA agreed to designate Tonawanda as a priority high-risk community due to severe toxic air pollution, and DEC concurred. This was a major victory for CAC and showed that the federal and state agencies would invest resources and staff time to work with the community on a plan to reduce toxic air pollution. Since the EPA's Air Toxics Reduction Strategy had never been implemented, this was the first time that EPA had designated a community as high-risk in relation to cancer-causing toxic air pollution.

EPA chose to address Tonawanda's high risk designation under its Air Toxics Reduction Strategy policy through a federal program called "E3" or its Economy, Energy, and Environment program. It appears that EPA made this decision in large part because there was no existing Urban Air Toxics Reduction Strategy program that could

be implemented at the community level. The E3 program is a coordinated federal, state and local voluntary technical assistance initiative that helps communities work in conjunction with their manufacturing base to adapt and thrive in a new business era focused on sustainability while using green technology.⁴¹

The E3 initiative in Tonawanda was tailored to meet the specific needs and goals of the community and was designed to "develop and maintain a special focus on air quality issues."⁴² Key stakeholders included the DEC, NY Research, Energy & Development Authority, NYS Economic Development Corporation, the town of Tonawanda and the town's economic development program, the state's Pollution Prevention Institute (P2I), CAC and CHEJ. The specific goals of the project are as follows.

- Improve overall air and environmental quality for the Tonawanda community and workforce.
- Create a permanent Tonawanda sustainability initiative, including an education and training program about sustainability and competitiveness practices, new technologies, and innovation. The Town will solicit business and industrial sector and local leaders in Tonawanda for assistance. The program will set up permanent data measurements and reporting mechanisms.
- Harness federal, state and local expertise and resources to enhance sustainability and competitiveness in local and regional economies with a comprehensive package of technical resources.
- Spur technology transfer, job growth, and innovation through sustainability and bring new sources of technical assistance, knowledge, technology, expertise and labor from federal, state and local resources, including pollution prevention and energy efficiency technical assistance for industries by the state Pollution Prevention Institute.⁴³

EPA Region 2 Administrator Judith Enck described the Tonawanda specific E3 program at the 2011 news conference where it was unveiled “The E3 initiative looks for ways to increase environmental benefits while reducing business costs. Every dollar saved on energy, materials and cleaning up pollution means there’s more money to improve the quality of life for workers and surrounding communities.”⁴⁴

Typically, the federal E3 program provides a framework for companies to voluntarily meet beneficial energy, environmental, and economic goals. This program also has a broad sustainability focus and a majority of existing E3 programs are geared towards energy efficiency, which is not always the primary focus for a community. Because of this, CAC and CHEJ had to push for a Tonawanda-specific E3 program that would focus on the issue of air toxics releases. It resulted in an E3 charter that addresses air toxics pollution. Community groups need to be aware, however, that it can take a long time for agencies and local government officials to come to such an agreement.

One aspect of any E3 initiative is that it is a voluntary program so companies and other stakeholders have to agree to participate. It can take a long time to convince companies to participate, especially since some believe their participation acknowledges they have created an environmental problem and the associated stigma. The first step in the Tonawanda E-3 program was to prioritize which companies to approach. The Executive Team, which CAC was part of, developed a chart listing all the companies in order of the amount of toxic releases from each company, using the federal Toxic Release Inventory. Twelve companies were prioritized as having the highest toxic releases in the community.

The P2I staff, town officials and EPA contacted these companies and asked them to participate in the E-3 program and to voluntarily develop

and implement a pollution prevention or energy efficiency project. Free technical assistance on toxic reduction projects would be provided by the state Pollution Prevention Institute and for energy efficiency projects, by the New York State Energy Research & Development Authority. Initially four major corporations agreed to join the E-3 program. Now a total of seven companies have signed up for the program and have completed or begun work on improving their environmental footprint using the NYSP2I recommendations. One of the companies is specifically working on reducing its emissions of vinyl fluoride and is expected to reduce emissions by 50% between 2010 and 2015. The participating companies have also established a Sustainability Council.⁴⁵

Pollution Prevention Institute Technical Assistance

As part of the Tonawanda E3 program, the EPA announced in 2011 that it was approving a \$130,000 pollution prevention grant for the New York State Pollution Prevention Institute to provide free technical assistance to companies in Tonawanda. With this grant, the P2I partnered with Insyte Consulting and is using its Lean, Energy and Environmental (LE2) manual to help companies reduce their energy use, environmental releases and operational costs.⁴⁶

P2I and Insyte Consulting set up the following assessment process to work with interested Tonawanda companies.

- 1) Scoping: Make initial contact and have a discussion with a company on Tonawanda E-3 program goals, and identify possible energy and environmental improvement opportunities for the company.
- 2) Assessment: Assist a company with the development of a baseline and development of product and process improvement recommendations, including cost and engineering feasibility analyses.

3) Implementation: Provide technical assistance in support of the implementation of recommended solutions, including an annual follow-up to track critical environmental, energy and cost measurements.⁴⁷

CAC and Community Involvement

As a way to help fund the implementation of the E3 program, the federal EPA approved a grant of \$100,000 to CAC in 2012 from EPA's Community Action for a Renewed Environment (CARE) grant program. At the time, the CARE program funded community organizations that create partnerships to implement local solutions to reduce toxic pollutant releases and minimize toxic exposures. Unfortunately EPA cancelled the CARE grant program due to funding cuts. Other funding resources for community groups are described in Chapter 5.

CAC's CARE grant project involved conducting a major community education and involvement program on air toxics pollution and toxic and radioactive waste sites in the town of Tonawanda.⁴⁸ CAC completed the following activities with their CARE grant:

- Held eight workshops with over 100 participants, including workshops on the Toxic Release Inventory, Freedom of Information Act, Zoning and Land Use and Pollution Prevention.
- Conducted additional community air testing in three locations.
- Partnered with 12 Tonawanda organizations on environmental and health education and initiatives.
- Coordinated PhotoVoice, a participatory photography method for residents to capture the social and environmental determinants of health.
- Held three focus group sessions to receive input from residents on health concerns, and conducted interviews with 37 residents.
- Went door-to-door to educate and survey

1,000 residents about toxic air pollution.

- Researched and reported to the community on hundreds of DEC and EPA documents on Tonawanda industrial releases and on-site worker injuries.⁴⁹

The CARE grant funded activities to educate and involve hundreds of Tonawanda residents, businesses and groups on the toxic hazards in their community. CAC used the grant to identify numerous activities that could address these toxic hazards, including the E-3 Tonawanda project, advocating for air toxics reductions as state air permits were renewed, and advocating for the cleanup of numerous toxic waste sites.

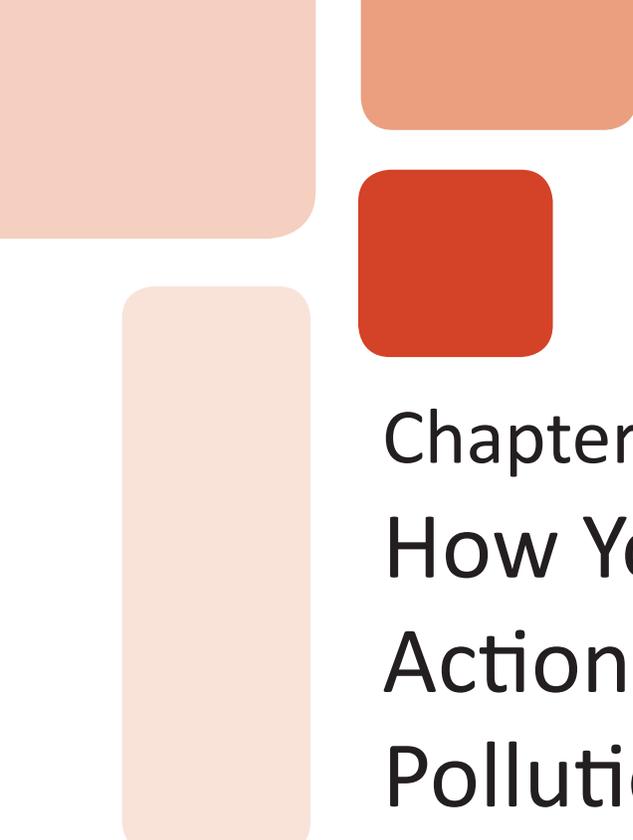
"The grant has allowed the coalition to reach out to a diverse group of stakeholders in Tonawanda," said Erin Heaney, Executive Director of the Clean Air Coalition. "We have built new, powerful relationships with local businesses, parent organizations, local government agencies, faith-based organizations and residents." CAC's CARE project also helped the community develop a list of environmental threats to the community which they ranked according to imminent threats. "Together we will make Tonawanda a better place to work, live, and play," said Heaney. The results of this community-based research have been used since to help the community decide new campaigns to take on for regulatory action in Tonawanda.

Conclusion

So far, the Tonawanda E3 program has established a collaborative process involving the community, local, state and federal government and local companies. As of 2014, seven companies have agreed to voluntarily participate in the project. This program is starting to yield positive results with voluntary pollution prevention projects by local companies and a plan to significantly reduce mobile air pollution. While federal funding was obtained for CAC and the Pollution Prevention Institute to help implement the Tonawanda E-3

program, it is important to note that the E3 federal program is not a grant program. To fund projects through the E3 initiative, E3 programs usually need to access or leverage existing local, state or federal funding programs, as EPA did by providing grants from their CARE program (now defunct) and their Pollution Prevention program.

While modest improvements in air quality have been reported, much more needs to be done. We are hopeful that designating the city of Tonawanda as a high risk community under the EPA Urban Air Toxics Reduction Strategy and using the E-3 federal program can serve as a model cooperative program which can be replicated in other urban communities overburdened with toxic air pollution from clusters of industrial and mobile sources.



Chapter 3

How Your Group Can Take Action to Reduce Toxic Air Pollution

Community Group Organizing

One of the most important lessons we can learn from the Clean Air Coalition's successful campaign against Tonawanda Coke is that it was grassroots community organizing, community-driven science, and advocacy that put pressure on elected officials and state and federal agencies to investigate the problem and take action. If it wasn't for CAC's work to build a strong local group and community that demanded change, it's likely that nothing may have ever happened. Tonawanda Coke would have continued to pollute with insufficient oversight by state and federal agencies. It was the organizing and advocacy that forced the DEC and EPA to take action.

Organizing to protect communities from environmental harm means pulling together a large enough, diverse enough, active enough group of people to convince corporations and the government that they have to stop exposing people to toxic hazards. The Clean Air Coalition started out as just a small group of concerned residents and became an effective, vibrant, diverse and large group of influential and active residents. Much of their success is due to how the organization

developed over time. As the group grew, CAC set up a democratic organization and continually involved the community. It wasn't easy, and like any group—there were many bumps along the way. Workshops were held to educate and involve members. Regular notices, fact sheets and newsletters were distributed. CAC held regular, large member meetings and conducted door-to-door surveys so that members could voice their opinions and vote on CAC plans and projects.

The CAC's Mission Statement notes that their grassroots environmental health and justice organization's mission is "to build power by developing grassroots leadership that runs and wins campaigns that advance public health and environmental justice...We use direct-action campaigns, grassroots leadership development and participatory research to win tangible improvement that improve the lives of our members."⁵⁰

In the beginning, CAC had little money relative to the companies in Tonawanda and therefore the "people power" side was extremely important when organizing for justice. CAC went

door-to-door to speak to residents in person and inform them about the air pollution and the health risks facing the community. By doing so, CAC was able to build a lot of support from their community and showed elected officials that many constituents were concerned.

Once CAC set their goals, they decided what work needed to be done to achieve them by developing a strategic plan (See next section in this chapter). CAC found that committees are the best way to share the workload. They set up committees for key work, such as media outreach, state agency meetings, research, fundraising, community outreach, and so on. They encouraged members at meetings to sign up for at least one committee to make sure members got involved.

Experience has shown CHEJ that the “rules” that government and corporations say you must follow is designed to frustrate community involvement. CAC did not accept the role that DEC tried to define for them. The government rarely offers justice; public meetings traditionally ignore the public, and most corporate deals are made in backrooms where government and industry talk about money; not health, fairness, or the common good. CAC was innovative with their actions to pressure decision makers, holding protest rallies and picketing in front of polluting corporations and the DEC office, conducting community air testing and holding community meetings with DEC staff. They organized an “oral history” project where residents told stories of living with the smelly, toxic air pollution and their health problems and presented a booklet of their stories to state agency officials and local and state policymakers. CAC developed relationships with the newspaper, radio and TV reporters and held regular media events.

CAC met with possible allies, such as a worker safety and health organization that put them in

touch with the local union officials at some of the polluting Tonawanda plants. CAC assured the workers and union officials that they did not want to shut the plants down and take away their jobs, they just wanted the companies to “clean up their act” and reduce their toxic air emissions, creating a safe environment for workers and the nearby residents. CAC met with community, environmental, religious and health groups and policymakers in the region and asked them to support their campaign in concrete ways, such as by attending community meetings or sending a letter to the DEC in support of CAC’s pollution reduction proposal. CAC found that victory is achieved when people build powerful, organized groups, play by their own rules, and make government and corporations answer to them.

A *Buffalo News* article on March 31, 2013 called CAC’s victory “Power to the People” and described how CAC’s organizing led to the TCC enforcement victory:

“Technically, it was the U.S. Attorney’s Office that brought the case and federal and state regulators who gathered the evidence that ultimately brought down Tonawanda Coke. But make no mistake: None of that would have happened, had not the people living downwind of the toxin-spewing plant learned to stand up and fight.”

“A lot of folks deserve credit. But it was so-called ordinary people – with help from an organizer fresh out of college – whose outcry paved the path to victory... The factory had been spewing pollutants for decades. The waste left a coating of grit on neighborhood cars and homes – not to mention the chemicals, including carcinogenic benzene that got into peoples’ lungs and blood. But it was only after the people living in the shadow of the smokestacks learned to flex their cumulative muscle that the bully was brought to its knees. ‘The residents had the power all along,’” said Erin Heaney, head of CAC. “They

*just needed a little help binding together. That's what an organizer does."*⁵¹

Although CAC had accomplished a great deal by the time Heaney joined the group in 2009, the article goes on to describe Heaney's impact. *"But they needed someone who knew how to pump up the volume; someone who knew how to turn a neighborhood battle into the community crisis it was. 'The story needed to be told in a more public way,' Heaney said. Meetings and letter-writing escalated into picketing, protests and press conferences. The coalition publicized campaign contributions from plant officials to politicians and solicited testimonials from cancer-stricken residents. All of it attracted media coverage, which pressured elected officials, who, in turn, encouraged watchdog agencies to grow some fangs. It was the classic snowball effect."*⁵²

As the article continued, Heaney also raised the importance of people power. *"There's an imbalance of power between an industrial polluter and the people who live in the neighborhood,' Heaney noted. 'We had to change that ... by working to turn popular opinion against Tonawanda Coke.'"*

Heaney also found creative ways to involve people as described in the *Buffalo News* article:

"Heaney's first challenge was helping ordinary folks to find their inner activists. Most residents were reluctant to protest or picket, until plant owner J.D. Crane wrote a letter rejecting U.S. Sen. Chuck Schumer's request for a community meeting. Crane infamously dismissed residents' claims that the plant spewed toxic waste as 'a bun with no burger.' That put-down was the engine of Tonawanda Coke's demise."

"I took that letter to a [community] meeting and asked, 'How do you feel about having that rally now?' " Heaney recalled. 'They were like, 'Let's go.' The subsequent protest outside the plant

climaxed when a wig-adorned, cancer-battling resident grabbed the bullhorn. It elevated the movement on the media's radar screen, culminating in an Oct. 11, 2009, front-page story in The Buffalo News. During court testimony, an EPA official said the story by News reporter Mark Sommer sparked the agency's investigation. Two months after the story appeared, EPA investigators raided Tonawanda Coke, after company officials ignored the agency's demand to submit to testing for hazardous materials."

*"The cavalry had ridden to the rescue. Plant officials' lies and cover-ups ultimately led to the convictions. Ten years after the Clean Air Coalition formed...Tonawanda Coke was brought to heel for presumably decades of befouling the neighborhood."*⁵³

For more information on CAC's successful campaign against Tonawanda Coke contact CAC at its website <http://www.cacwny.org/>.

For more information and ideas on organizing, group structure and successful tactics, go to CHEJ's website and download free publications, including *Fight to Win: A Leadership Manual and Organizing Handbook* at <http://chej.org/assistance/publications/>.

Setting Goals and Developing a Strategy

CAC found that it was important to define and be clear about what they wanted to accomplish. They learned to be realistic in setting their goals. They found it was important to define and be clear about what they wanted to accomplish by setting achievable goals. CAC developed both short and long-term goals. For instance, CAC's victory over Tonawanda Coke was a major landmark in the fight to improve the health of the community. Focusing on TCC was very important in furthering CAC's cause because focusing on one facility helped to put pressure on other companies to change their techniques because they didn't

want to be the next targeted violator. Although CAC had the long-term goal to substantially reduce air pollution in Tonawanda, finding a focus to start their campaign was instrumental to their success.

Over time, CAC held a series of community meetings to develop a strategy to achieve their goals. *“Be strategic. Figure out who the person is who has the power to make the decision you need made and target your action on that person,”* says Erin Heaney of CAC. CAC held a series of community meetings to discuss and develop a strategy. For instance, which officials or policymakers are likely to help the cause and be strong champions? How can CAC best influence these decision-makers?

Here is a step-by-step process to develop a strategy to achieve your group's goals:

1) Who has the power to make decisions? Find out the governmental process and decision maker(s) who could approve a community air toxics reduction initiative. Which federal, state or local agency regulates the facilities causing the toxic air pollution? What laws or regulations apply? Have there been any air permit violations that were not addressed?

2) Determine which decision-maker(s) has/have the power to achieve your group's goal(s). Examine the politics of the regulatory environmental agency (the Commissioner and Air Division Director, for instance) and the local, state or federal policymakers most likely to help. Talk to other environmental or community groups to find out about their past actions on environmental health issues. This will help your group determine who is likely to support your cause, oppose it, or remain undecided. Which policymakers (local government officials, state legislators, U.S. Senators or Congress members, etc.) can put pressure on the targeted regulatory

agency? Should the Governor be a potential target as he/she can direct the state agency to take action?

3) Determine which allies, such as organizations, opinion leaders, individuals or institutions, are likely to influence your priority decision-maker(s). Agencies are often influenced by local, state and federal policymakers, media coverage, and strategic community activities, such as protests, picketing, media events and accountability meetings. Policymakers are influenced by a variety of forces. As elected or appointed officials, they need to respond to their constituents and supporters to retain their position. The following are other possible sources of influence: leaders of civic, community, environmental, labor, school and health groups. Maybe members of your group know the Mayor's environmental staff person, an influential state environmental or health organizational leader, or a state legislator. Then your group could ask them if they can help to set up a meeting with the priority decision maker(s) or send a letter in support of your group's action request.

4) What do you want the decision-maker(s) to do? Develop a request for action. CAC developed a detailed proposal which included a plan of action to achieve their goal of reducing air toxic pollution in their community. (See Plan of Action Proposal below.)

5) Develop a series of educational and advocacy activities your group can employ, with the support of allies, to put pressure on the decision maker(s) to agree to support your group's plan of action proposal. CAC held community meetings, protested and picketed in front of polluting companies and the state agency office and had accountability meetings with agency officials asking for action on a violating polluter or to support their plan of action proposal. CAC had meetings with union representatives working at

some of the polluting facilities to ask for their support. They held educational workshops, conducted door-to-door surveys and interviewed residents to gather stories on how it felt to be living with toxic air pollution which resulted in an oral history booklet that was given to government officials and policymakers. CAC distributed leaflets, maps showing the air pollution levels and created an interactive website.

Plan of Action Proposal

After developing a strategy, CAC reviewed state environmental laws, regulations and guidance policies on the regulation of facility air toxics releases, pollution prevention programs, and public health laws on protecting people from toxic exposures. Doing this provided CAC with important information on their state's environmental and health goals in relation to air toxics releases. For instance, the New York State air toxics policies and facility air permits were based on meeting a goal of one-in-a-million cancer risk. DEC's Air Quality Study found that the Tonawanda community was breathing in polluted air that was 100 times higher than this goal and was in violation of the state's policy.

Another key policy was the little-used EPA Urban Air Toxics Reduction Strategy, an EPA guidance policy that sought to achieve a 75% reduction of cancer-causing hazardous air pollutants in high risk urban areas. CAC incorporated these policies in a plan of action proposal that was given to the federal and state agencies. Citing these policies provided a legal justification for requesting the government to take action on toxic air pollution in their community.

CAC wrote a detailed 8 page proposal which included the following sections:

1) The Need for Action described the air pollution problem in their community;

2) The Project Vision described the goal of reducing air toxics pollution with a list of recommendations for action;

3) A Model of Success: Louisville Kentucky STAR Program described a local law which targeted industries to conduct both voluntary and regulatory reductions of toxic releases for priority chemicals;

4) 3M: A Model for Emissions Reduction in Tonawanda described one company's Pollution Prevention Pays program based on the belief that a preventative approach is more effective, technically sound and economical than a conventional pollution control approach; and

5) Regulatory and Institutional Background described how a community air toxics reduction initiative would achieve goals outlined in state laws, state regulations, and the EPA's Urban Air Toxics Reduction Strategy.⁵⁴

This air toxics reduction proposal, which is discussed in Chapter 2, was a valuable tool that coupled with their organizing campaign helped convince state and federal agencies to take action.

Working with Government Staff

While CAC was researching facility air permits, state laws and regulations and EPA policies, they persistently contacted state agency officials and asked them about the regulated facilities and which laws and policies were relevant. CAC found it was useful to work with internal "champions" at DEC and EPA who were sympathetic to their concerns. Although confronting agencies with specific requests for action is crucial, especially in creating a sense of urgency for the issue, creating a good working relationship with agency staff can also be helpful to achieve your group's ultimate goal. If possible, community group members need to try and build a relationship of trust with a sympathetic agency staff person.

Although the agency may be responsible for failing to prevent the problem, there are often people within the agency that can and do want to help. Jackie James-Creedon, one of the founding members of CAC suggests groups try to find a champion within the government agency that can help to work towards your common goal. She said that's exactly what happened in Tonawanda, several people in the DEC and EPA worked with CAC for the common goal of improving the health of residents. CAC's organizing and public pressure then created the political space by which the DEC and EPA could take action against the polluting companies.

Working with State and Federal Legislators

CAC received support from several legislators, which proved to be very helpful in getting state and federal agencies to take action. CAC members held face-to-face meetings with local elected officials. They found making contact with policymakers in person was more effective than discussing the issues by email or phone. Legislators such as U.S. Senator Chuck Schumer, Congressional Representative Louise Slaughter, State Senator Antoine Thompson and State Assembly member Sam Hoyt, played a role in getting the state and federal government to conduct air testing and develop air toxics reduction strategies. The group also utilized their support in the media - by featuring their support and actions in TV, radio and print stories, which helped build public momentum. Every time there was a new development in the campaign, CAC contacted the media. TV and newspaper articles on the problem were a regular occurrence.

Be an Environmental Detective: Toxic Release Inventory & Permits

CAC members researched the air pollution problems in their community by reviewing the air permits of local industries and by reviewing federal toxic release reports. This gave CAC a much better understanding of the problem and helped

them prioritize which facilities were releasing the largest amount of the most toxic chemicals into the air. The toxic release reports for many companies can be found in the federal EPA's Toxic Release Inventory (TRI). TRI is a database containing data on releases of over 600 toxic chemicals from major U.S. facilities and information about how facilities manage those chemicals through recycling, energy recovery, treatment and disposal. The TRI database was established by the federal Emergency Planning and Community Right-To-Know Act of 1986. For information on accessing the TRI database to get reports on facilities in your community, see Chapter 4.

Researching Facility Air Permits

CAC also reviewed Title V air permits which they obtained from DEC. Title V is a federal program under the Clean Air Act designed to standardize air quality permits and the permitting process for major sources of emissions. EPA defines a major source as a facility that emits, or has the potential to emit any criteria pollutant or hazardous air pollutant (HAP) at levels equal to or greater than the Major Source Thresholds.

CAC found that five large facilities in Tonawanda had Title V air release permits which were renewed every five years. After talking with state agency staff, they learned that amendments to the permits could be made at the time of the permit renewal, including a reduction of priority toxic chemical releases. If the facility had violated a permit by releasing toxic emissions above the permitted level, then DEC could also negotiate a permit amendment requiring the company to do additional air testing and develop an air toxics reduction or pollution prevention project.

To ensure that you identify all the sources of toxic air pollution in your community, it is useful to contact your state environmental agency and request an annual summary of toxic releases

from the facilities that have state air permits, but do not submit TRI reports or have Title V permits (in addition to researching companies that have TRI reports and Title V permits). If your agency will not provide this information, your group may need to request copies of each facility's air permit (which lists the amount and type of chemicals they are allowed to release annually) by submitting a Freedom of Information Act (FOIA) request. To do this, you would send a Freedom of Information form letter requesting the documents. Your group can find more information about the Freedom of Information Law (or Act) in your state by searching on the internet.

Most laws require the agency to respond within ten business days. Also, some agencies charge 25 cents a page for copying and administrative costs. Your group may want to ask your Assemblyman or Senator to request the air permits and pass them on to your group, as often state agencies provide state legislators with documents for free as a courtesy.

You may also want to investigate whether any of the facilities had permit violations in the past, including illegal air releases and waste disposal, by doing a search on an EPA website. For more information on how to find these violations, see Air Permits in Chapter 4.

Citizen Science Testing

Conducting citizen science testing was very important to CAC because it provided state and federal agencies with preliminary evidence of the problem, and helped build community, media and political support. Community air testing can document problematic toxic air pollution to spur state and federal agencies to take action. After CAC had collected their data, they reached out to DEC with their results, and held a news conference and community meeting to release the results and call for action.

CAC's bucket brigade test results highlighted the severe toxic air pollution problem that existed in Tonawanda. Due to the bucket results and growing community outrage about air pollution, DEC obtained federal funding from EPA to conduct a comprehensive air testing study. The results of this testing eventually led to EPA's enforcement actions against Tonawanda Coke, the designation of the town as a high risk priority for air toxics reduction, and the implementation of the E-3 pollution prevention program. Without citizen science, it is possible that none of that would have ever happened.

Data that communities collect using citizen science testing can also be used to apply for grants and to gain political support as well as support within the community. The primary purpose of this preliminary testing is to show whether or not further investigation or a study is warranted. It can also provide evidence to document why residents are concerned, which is important in getting state and federal agencies to take action.

Assistance for community groups to do their own testing is available. Global Community Monitor (GCM) is an organization that trains and supports communities to conduct environmental testing to identify industrial air toxics releases in their community. Over the past dozen years, GCM has developed and pioneered the use of "bucket brigades" (a grassroots air monitoring program) as a method for communities to document and understand the impacts of industrial pollution, to launch advocacy efforts against polluters, and to win stunning victories.⁵⁵

Networking

CAC found that early in their campaign, it was important to reach out to likely allies and ask for their support or for help. Networking with other organizations can be instrumental in conducting a successful campaign. CAC learned how other

groups conducted their campaigns by contacting staff at CHEJ who put them in touch with community groups in Kentucky and New York City working on air toxics pollution. Learning about their experiences helped CAC effectively map out their campaign strategy plan. CHEJ also put CAC in touch with national air toxics experts and environmental attorneys to assist them in reviewing federal and state policies and developing a plan of action proposal.

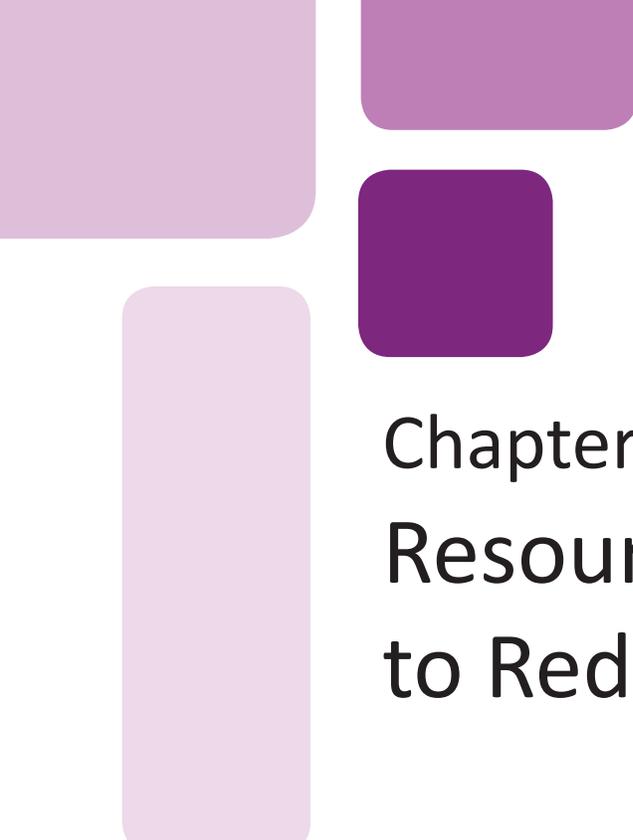
As described earlier, CAC met with WNYCOSH, a non-profit organization comprised of local unions, to learn about worker concerns at the unionized Tonawanda facilities. CAC met with many community, civic, health and environmental groups in the Niagara Falls region to gain support and learn about other environmental hazards impacting the region, and joined regional environmental coalitions. The group even took a trip to Erie, PA where there was another coke plant to learn from their struggles and join together to improve air quality in both neighborhoods.

CAC also obtained technical assistance from a supportive environmental science professor at the University at Buffalo who helped them review air permits, did air pollution maps and helped them interpret technical reports. CHEJ's Science Director also provided assistance by reviewing technical documents. CHEJ organizing staff helped CAC research state and national policies and regulations, and researched other model air toxics programs.

Conclusion

The Clean Air Coalition's successful campaign against Tonawanda Coke offers many lessons that other grassroots community groups can learn from. Perhaps the most important lesson is that grassroots community organizing, community-driven science, and advocacy put pressure on elected officials and state and federal agencies

to investigate the problem and take action. CAC's work to build a strong local group and community that demanded change was critical to their success. This work included setting clear goals and developing a strategy and plan of action; working with government staff, and state and federal legislators; being an environmental detective, researching air permits; using citizen's science; and finding allies and support through networking.



Chapter 4

Resources for Taking Action to Reduce Toxic Air Pollution

This chapter lists resources used by the Clean Air Coalition of Western New York (CAC) in its successful campaign against Tonawanda Coke Corporation (TCC) as well as other resources that may be helpful for groups fighting air toxics pollution. The resources in the chapter can be used as a good guide to lock down resources used by CAC in its campaign against TCC.

CAC is a grassroots, membership-based environmental health and justice organization that organizes communities around environmental health and justice issues. CAC led a resident driven campaign in Tonawanda, NY to address toxic air emissions from a cluster of 53 industrial plants in their neighborhood. This campaign targeted Tonawanda Coke once it was identified as the primary source of benzene emissions in the community. CAC's grassroots organizing and advocacy led to a number of precedent-setting major enforcement actions against Tonawanda Coke ultimately resulting in an 86% decrease in cancer-causing benzene emissions. CAC also led a proactive campaign to convince state and federal agencies to develop an air toxics reduction project with local industries intended to sub-

stantially reduce cancer-causing toxic emissions. Their success in reducing toxic air emissions in their community led to the development of this guidebook. For more information on CAC and its efforts, see <https://www.cacwny.org/>.

Citizen Science Testing

Global Community Monitor (GCM) trains and assists community groups to conduct testing of industrial air toxics releases. GCM's work focuses on helping disempowered "fenceline" communities harmed by serious air pollution from industrial sources and whose concerns agencies and responsible corporations are ignoring. GCM developed and pioneered the use of "bucket brigades" (a grassroots air monitoring program) as a method for communities to document the impacts of industrial pollution. GCM may require that your group provide a fee to hold a bucket brigade training, or they may have a foundation grant that can cover their expenses. For more information, go to <http://gcmmonitor.org/index.php>.

The Center for Health, Environment & Justice (CHEJ) provides technical assistance to community groups working on environmental hazards,

with expert one-on-one scientific consultations. CHEJ's science staff provides site-specific information and personal assistance to leaders and their communities. CHEJ's on-staff toxicologist, Stephen Lester, holds a Master of Science degree in Toxicology from the Harvard University School of Public Health.

The core mission of CHEJ's science and technical assistance is to demystify the scientific aspect of environmental health issues by evaluating technical reports, guiding communities through the maze of technical information, distinguishing good information from bad and translating jargon into plain language. Services include the following:

- Serving as an on-call technical advisor to group leaders.
- Reviewing and evaluating data and analyses from air, water and soil tests.
- Reviewing and evaluating technical reports, health studies and site proposals.
- Traveling to meet with groups to answer questions, educate the public about environmental health risks or evaluate scientific information or data. (Groups must pay travel costs.)
- Preparing specific guidebooks, written for the layperson, on how to use technical information to win a community struggle.

Stephen Lester, CHEJ's Science Director can be reached 703-237-2249 or at info@chej.org. (Callers are encouraged to become CHEJ Group Members, and because of demand, Group Members are given priority access to CHEJ's staff.) CHEJ has fact packs, reports and guides on a wide range of environmental hazards. Go to CHEJ's website and download free publications at <http://chej.org/assistance/publications/>.

CHEJ can also provide organizing assistance. CHEJ's experienced organizing staff has helped thousands of community groups form, grow and

win local fights. We provide personal assistance over the phone, in person, and over the Internet to help individuals form a group, define their goals, and develop a plan to achieve them. By providing groups with the tools they need to organize and win, CHEJ assists community based groups in carrying out their fights in their own self-sufficient way.

CHEJ can assist by:

- Teaching you how to organize in your neighborhood and form a group with a united voice.
- Working with you on the phone to start a group or keep one going once you've started.
- Working with your group to develop strategies to stop polluters.
- Developing ways to involve more people or make your group stronger.
- Showing your group how to hold accountable those responsible for environmental problems in your community.
- Empowering groups with the tools they need to research, negotiate and win.
- Giving you the hope, encouragement, and the knowledge that you can bring about change.

CHEJ can also provide training workshops through its Leadership Training Academy. If you are interested in holding an Air Toxics Reduction Workshop in your community, contact CHEJ at 703-237-2249 or at info@chej.org for assistance.

For publications on organizing, group structure, successful tactics and more, go to CHEJ's website and download free publications, including *Fight to Win: A Leadership Manual* and *Organizing Handbook* at <http://chej.org/assistance/publications/>.

Toxic Release Inventory

The toxic release reports required by the US/EPA for many companies can be found in the EPA's Toxic Release Inventory (TRI). TRI is a database

containing data on releases of over 600 toxic chemicals from major U.S. facilities and information about how facilities manage those chemicals through recycling, energy recovery, treatment and disposal. For more information on the TRI program, go to <http://www2.epa.gov/toxics-release-inventory-tri-program>.

To directly access the TRI database, go to: <http://myrtk.epa.gov/info>. Enter your location. Click “Find Facilities.” The map shows you TRI facilities in your area. To see more detailed information about a facility, click on the name and it will show you the facility’s TRI report with summaries of chemical and pollutant releases, chemical health effects, and compliance history from numerous data systems.

CAC has put together a “how-to” guide on the EPA’s toxic release inventory to educate residents and help other community groups investigate air pollution in their community. This guidebook, *Toxics Release Inventory: Teach-In Trainers Guide* is intended to be used by communities that are just beginning to explore potential sources of environmental exposures in their neighborhood. The guide can also be adapted and used by health care professionals, public health agencies, urban planners, first responders, and unions. You can view the guide at <http://www.cacwny.org/wp-content/uploads/2013/08/CAC-TRI-Guide-final.pdf>.

In addition to explaining how the EPA Toxic Release Inventory works and how to access it, the CAC guide also describes the limitations of the program:

- **Self-reporting.** All companies who report to the TRI are generating their own numbers based often on models, not actual monitoring data. There are very few people at EPA who can check this. For example, there is only two EPA staff for all of NY and NJ to check on companies.

- There are only a small number of chemicals being tracked. EPA requires companies to report on 652 chemicals, but there are over 80,000 chemicals in use.
- TRI applies only to large facilities. Small facilities with less than 10 employees do not have to report their emissions, and certain types of facilities, like municipal waste incinerators, are not required to report their emissions.
- Health impacts could be underestimated. The toxicity levels that EPA determines are based on a “standard” sized man, not a child or a woman, who are particularly vulnerable to toxic chemicals.
- The database doesn’t account for cumulative impacts. The database can’t take into account what happens when all of these chemicals are mixed together. For example, think about when the doctor tells you not to take some prescription pills together because they have bad side effects when combined.
- The data isn’t current. The data contained in the TRI on-line data base is about 2 years old.⁵⁶ The most recent data released in February 2014 is from 2012.⁵⁷

Air Permits

A helpful guide to researching Title V air permits is *The Proof is in the Permit: How to Make Sure a Facility in Your Community Gets an Effective Title V Air Pollution Permit*, written by the by New York Public Interest Research Group and the Earth Day Coalition.⁵⁸

To learn if the major facilities in your community have ever violated their air permit or had an enforcement action, visit EPA’s Enforcement and Compliance History On-line (ECHO) website at <http://www.epa-echo.gov/echo/>. Searching by zip code, you can learn about facility inspections, violations and enforcement actions.

EPA's Urban Air Toxics Reduction Strategy

The EPA's Urban Air Toxics Reduction Strategy is a guidance policy that provides a framework for EPA and local governments to work together to address high risk communities exposed to a cluster of air toxics releases. CAC recommended the Tonawanda Air Toxic Reduction Project as an ideal pilot project for DEC and EPA to implement the EPA Urban Air Toxics Reduction Strategy's goal of 75% reduction of cancer-causing hazardous air pollutants and requested EPA Region 2 to designate Tonawanda as a high-risk community under the EPA Strategy (see Chapter 2).

The EPA Air Toxics Reduction Strategy focuses on chemicals known or suspected to cause cancer. The Air Toxics Strategy has the following three primary goals:

- 1) To attain a 75% reduction in the incidence of cancer attributable to exposure to hazardous air pollutants (HAPs) emitted by large and small stationary sources in urban areas.
- 2) To attain a substantial reduction in public health risks posed by HAP emissions from small industrial and commercial sources (known as area sources) in urban areas.
- 3) To address disproportionate impacts of air toxic hazards in urban areas, such as geographic "hot spots" with highly exposed populations and predominately minority and low-income communities.⁵⁹

For more information, go to www.chej.org to view two documents: US EPA's Workplan for the National Air Toxics Program and the Integrated Air Toxics State/Local/Tribal Program Structure for the Air Toxics Risk Reduction Program, 2000.

Federal E-3 Program

EPA chose to address Tonawanda's high risk designation under the EPA Urban Air Toxics Reduction Strategy policy through the federal Economy, Energy, and Environment or E3 program. This

program is an interagency effort between the Environmental Protection Agency, Department of Energy, Department of Labor, Department of Commerce and Small Business Administration that brings together local, regional and federal agencies, utilities, manufacturers and other interested organizations in the community to:

- 1) Invest in communities;
- 2) Address energy and sustainability challenges;
- 3) Provide valuable technical training and assessments; and
- 4) Enable economic growth.

The E3 model provides a community-based approach to leveraging a wide range of technical resources, services, and knowledge from local, state and federal agencies to reduce energy consumption, conserve natural resources, minimize multi-media environmental impacts and strengthen economic savings. In each designated E3 community, stakeholders prepare an E-3 Charter establishing goals and objectives. Then, local industries are contacted and technical advisers conduct customized technical assessments and offer practical, sustainable approaches that manufacturers can incorporate into their operations. These assessments aim to reduce energy consumption, minimize carbon footprints, prevent pollution, increase productivity, and drive innovation throughout each facility. In the case of Tonawanda, the primary goal was to reduce toxic air emissions. For more information, go to <http://www.e3.gov/about/index.html>.

Federal Pollution Prevention Programs

EPA sponsors several programs to promote pollution prevention through its Office of Pollution Prevention and Toxics, including a grant program. These include the following programs.

Pollution Prevention (P2) Program - This program is designed to reduce or eliminate waste at

the source by modifying production processes, promoting the use of non-toxic or less-toxic substances, implementing conservation techniques, and re-using materials rather than putting them into the waste stream.

The P2 Program seeks to maximize the achievement of results across the following five goals to deliver reductions in emissions of greenhouse gases and use of hazardous materials and natural resources.

- 1) Reduce the generation of greenhouse gas emissions to mitigate climate change.
- 2) Reduce the manufacture and use of hazardous materials to improve human and ecological health.
- 3) Reduce the use of water and conserve other natural resources to protect ecosystems.
- 4) Create business efficiencies that derive economic benefits and improve environmental performance.
- 5) Institutionalize and integrate pollution prevention practices through government services, policies, and initiatives.

For more information, go to <http://www.epa.gov/p2/>.

Pollution Prevention Resource Exchange (P2Rx)

- P2Rx is a national partnership of EPA's regional pollution information centers. P2Rx works to advance pollution prevention as a cornerstone of sustainability. Goals of P2Rx include building and facilitating dynamic regional and national P2 topic driven networks, serving as the trusted source for P2 information, increasing the awareness, accessibility, and usability of P2 information, and evaluating and measuring the impact of various tools to achieve their goals. The regional EPA pollution prevention centers offer a range of services, including the collection, analysis, and updating of technical information and contact information. Community groups can find contacts

for EPA Regional P2 programs and regional P2 information websites through the EPA website. For more information, visit <http://www.epa.gov/p2/pubs/p2rx.html>.

National Compliance Assistance Centers

EPA has united with industries, universities, environmental groups and other agencies to form sector-specific assistance centers. These Centers help corporations, local governments, federal facilities, and academic institutions understand environmental regulations so that they can be in compliance and work to prevent pollution. The centers provide many resources including: updates on relevant regulatory developments, sector-specific regulatory explanations, compliance tools and training, databases on technologies and techniques, pollution prevention tips and ideas, and state resource locators for a wide range of topics to find state-specific environmental compliance information. For more information, visit <http://www.epa.gov/compliance/assistance/>.

National Pollution Prevention Roundtable

The National Pollution Prevention Roundtable (NPPR) is the largest organization within the United States devoted solely to promoting pollution prevention. NPPR is an organization of state pollution prevention programs with the goal of providing a national forum to promote the development, implementation and evaluation of efforts to avoid, eliminate, or reduce pollution at the source. NPPR provides members (state agencies) with access to information on legislative and regulatory developments, information on pollution prevention technologies and technical assistance programs, access to publications of state, local, and other related programs and supports an annual national conference. For more information, visit <http://www.p2.org/>.

State Pollution Prevention Programs

Several states have pollution prevention technical assistance programs. Some of these programs are

also combined with research and development programs or grant programs to increase sustainable businesses.

If your group wants to have an Air Toxics Reduction Project similar to CACs, you will need to research your state environmental agency website to find out if they have a Pollution Prevention or Toxic Use Reduction program, or a state economic, environmental or energy grant program which could provide technical assistance or funds to hire pollution prevention technical assistance consultants to work with facilities in your community. This can include having the company switch to using less toxic chemicals in its manufacturing process. Below are highlights of just a few of the state pollution prevention programs.

Kentucky - Kentucky established and provides funding for the Kentucky Pollution Prevention Center (KPPC) located at the University of Louisville. KPPC is Kentucky's primary resource for technical information and assistance to help businesses, industries and other organizations stay environmentally sustainable and competitive. Program engineers work with organizations to provide customized technical services that help lower operating costs by reducing waste and improving efficiency. On-site assessments by KPPC have helped over 750 Kentucky businesses and organizations improve environmental performance and lower operating costs. For more information, go to <https://louisville.edu/kppc/>.

Massachusetts - The Massachusetts Toxics Use Reduction Act (TURA) of 1989 established the Toxics Use Reduction Institute (TURI) at the University of Massachusetts Lowell. TURI works to provide resources and tools to make Massachusetts a safer and more sustainable place to live and work. The program collaborates with businesses, community organizations, and government agencies in order to reduce the use of toxic chemicals, protect public health and the

environment, and increase competitiveness of Massachusetts businesses. Industries participating in the TURA program have gradually reduced their use and emissions of toxic chemicals. Since 1990, industry toxic chemical use in the state has dropped by 40 percent; by-products by 71 percent; and on-site emissions by 91 percent. In addition to these reductions, TURA has enhanced the competitiveness of Massachusetts industries. An independent survey found that the annual savings in operating costs generated from the implementation of toxics use reduction projects was estimated to be around \$4.5 million.⁶¹ For more information, go to <http://www.turi.org/>.

New York - The New York State Pollution Prevention Institute (P2I) works to encourage cost effective methods to conserve energy, reduce waste and improve performance. Rochester Institute of Technology, Rensselaer Polytechnic Institute, Clarkson University, and the University of Buffalo along with the state's ten Regional Technology Development Centers (RTDC) make up the NYSP2I. The goal of the P2I program is to make New York State more sustainable for workers, the public, the environment and the economy by reducing use of toxic chemicals, reducing emissions and waste, and efficiently using raw materials, energy, and water. P2I provides on-site technical assistance for process evaluation, audit and improvement, pollution prevention strategies, and staff training. P2I also provides grants to non-profit organizations, institutions, and local governments in New York. These grants are used to fund community-based pollution prevention programs and may include research, education, outreach, implementation, and training. For more information, go to <http://www.rit.edu/affiliate/nysp2i/>.

Oregon - The Oregon Department of Environmental Quality (DEQ) provides consumers and businesses with information about pollution prevention. The Oregon DEQ runs the Toxic Use

and Waste Reduction Assistance Program. The Program provides hazardous waste technical assistance in the form of on-site visits, training workshops and telephone consultations. On-site technical assistance helps to identify where individuals can save money through reduced disposal costs and less regulation, explain the hazardous waste regulations that apply to their business, and determine what areas need improvement. In addition DEQ provides fact sheets and resource guides. For more information, go to <http://www.deq.state.or.us/lq/hw/tuhwr.htm>.



Chapter 5

Fundraising for Community Groups

This chapter provides resources and guidance on how groups can raise money to support campaigns to reduce toxic air emissions in their community.

Almost always, we need money for our organizations and campaigns – money to pay for copies, office supplies, phone expenses, a website and so on. Your group needs to think about how it can raise money to cover these costs. Having resources through members, grassroots fundraising, donors and grants enabled the Clean Air Coalition to be successful. Just remember, they started with no money, no bank account, no IRS 501c3 tax-exempt status, nothing! If they did it, so can you!

Your annual fundraising plan should include answers to the following questions.

- **Why does your group need the money?** Does your group have a specific campaign with fundraising goals? People are more likely to give if they know it is going to a specific project or campaign with clear goals and a budget.
- **Does your group have membership dues?**

Do members have good reasons for joining? Are dues high enough? Dues should be affordable. Your group may want to have different member fees for families, individuals, students and senior citizens. Set realistic but serious levels, with several categories so people can give based on their means.

- **Who else can give?** Your group can make direct appeals: at the door; through the mail; or even over the phone. Tie these appeals to your group's campaign. People might share your concern but are "too busy to get involved." These are potential donors. Also, businesses and other institutions (churches, farm and civic groups, etc.) might share your concerns. You are not going to know if they support your group unless you ask them and provide both a good reason and concrete ways to give.

- **Why do people give?** For many, their self-interest is clear as they have a stake in your group's fight. Others feel good when they give to a worthy cause. Businesses can get deductions, please a good customer, or improve their image. "Self-interests" vary, so tailor your appeal. You always do better face-to-face.

Grassroots Fundraising Methods

Tried-and-true grassroots fundraising tactics include spaghetti dinners, barbeques, raffles and auctions. These activities have many benefits, including providing community solidarity, visibility and opportunities for outreach. It helps to keep members involved and committed, and shows that your group has a real base in the community. Here are some fundraising methods used by CAC and other community groups to help get your group started on developing an annual fundraising plan.

Direct Requests via Door-to-Door Canvassing:

Fundraising is people talking to people, just like organizing. What makes you give or refuse? Rehearse your “pitch” before you start. Here are four phrases for your “pitch”:

“I am (your name).”

“We are (your group and what it does in 25 words or less).”

“This is (what we’re doing now - a petition, a meeting, a campaign, etc.)”

We want you (to sign a petition, come to a meeting, etc.) AND show your support by (becoming a member or making a donation).”

This activity requires very little overhead and is low risk for your organization. If your group chooses to do door-to-door canvassing, be sure your volunteers are prepared. Each canvasser should have a clipboard, flyers about the group, and should role-play before heading out. The best pitch will be under one minute and will include only the very basics: your name and group name, the gist of your group’s work and goal, and the “statement of need” for the membership dues or donation request. Once people have rehearsed, send your volunteers out in pairs until they become more comfortable with the process.

Telephone Solicitation: One low-cost, but generally low or moderate in return option, is telephone solicitation. While telemarketers are

nearly universally loathed, this solicitation method can be profitable. It is best to tie your ask to a specific need. For instance, next week there is a public hearing that may decide whether or not a polluting company’s air permit is renewed. We are asking for donations to print flyers to spread the word. Making a compelling case is challenging, and only those truly entrenched in your work will be able to do it effectively. Train your volunteers and provide a written pitch with a request for specific amount of funds you are trying to raise.

Community Events: Events are labor intensive and you can easily spend 50% or more of the gross income on the event, but your group can raise funds and involve lots of people. For instance, you could spend \$1,000 to raise \$2,500. If base-building and public awareness are equally important goals then events make sense. If not, it is useful to first put your energy into obtaining donations through membership, visits and house parties, and doing foundation fundraising. Here is a brief list of events and donor outreach fundraising activities:

- **Car Washes and Bake Sales:** These can be held with very little up front expense and require a minimal planning commitment. However, they are usually not very lucrative.
- **Raffles:** A very popular type of raffle is called a “50/50” raffle, in which half of the money raised goes to the winner and the group receives the other half. Or alternatively, getting an exciting prize donated means low overhead, low risk, and a high rate of return. These types of raffles are especially popular (and profitable) at community events with many attendees, such as a local football game.
- **On-line Auctions:** This event is hosted on a website and spans a period of weeks. The number of people with the opportunity to bid is much greater than would be the case for a live event. Also, on-line auctions can easily be combined with live events. Set a fundraising goal. The total value of the items up for bid may need to

be as much as double the total you want to raise. For instance, if your fundraising goal is \$2,500, you'll need \$5,000 worth of auction items. Then, estimate the average value of the items you're likely to receive and about what fraction of the people/companies you solicit will donate. These numbers will help you decide how many donations you'll need to ask for. Donations can come from stores, your members, friends, etc. On-line auctions are best done just prior to major gift-giving occasions, i.e. Christmas, Mother's Day, etc. Recruit volunteers to secure donations of auction items. Asking for an item, getting a yes, and then actually receiving the donation, can all be time-consuming tasks. It can be easy to greatly underestimate the amount of time these tasks will take. Plan ahead and budget two or even three times the amount of time you think you will need. On-line auctions are great fundraisers because they add names to your database or list of supporters. This gets your foot in the door and makes a later "ask" for a donation easier and more likely to succeed. Be sure to keep close tabs on the name and contact information for all the bidders in your auction.

- **Evening Parties and Themed Events:** Other kinds of moderately risky events include dances and small dinners, as well as themed events such as casino nights, bingo nights or film festivals. These types of in-person events can be labor intensive. It is often helpful to form a host committee of volunteers in charge of tasks such as sending invitations, soliciting sponsorships, dealing with caterers, and making follow-up calls.
- **Walkathon or Race:** An event that is moderate in cost—but often high in volunteer time—is a road race or walkathon. While walkathons can be a great way to involve people in your cause and energize your group members, they take a great deal of planning to pull off. Additionally, with so many well-known non-profits already

holding races or walks, your group may face more competition than you would have expected. Set a fundraising goal and assess how many walkers to recruit, how many sponsors each walker will need to get, and about how much each sponsor will have to donate. In order to recruit walkers, invite them to create teams. Get prizes donated that you can award to the most successful fundraising teams. Walkathons differ from 5k or 10k runs or bike-a-thons in that they are accessible to a greater range of participants.

Resource: *Fundraising for Social Change* by Kim Klein is a helpful book with guidance and ideas on a wide range of grassroots fundraising activities. (\$20.00, Chardon Press, P.O. Box 101, Inverness, CA 94937.) Available on-line at <http://www.philanthropynewsdigest.org/off-the-shelf/grassroots-grants>.

Foundation Fundraising

Deciding to seek grants and actually getting them are two different things. Competition for grant funds is tough. Most foundations only fund ten to fifteen percent of the applications they receive, and a three to six month wait for a response is typical. Most foundation grants are directed toward specific projects, rather than a group's core mission and ongoing work. Grant funding can vary from one year to the next as foundations' boards or staff unpredictably shift their funding priorities.

With a few exceptions, the most likely sources of funding for local environmental justice programs are not the large, national foundations that have become household names, like Ford and MacArthur. In fact, the number of national funders of local organizing programs has dramatically shrunk in recent years. A far more likely and abundant source of grant funds for local organizing are the local and regional grantmaking programs of small to mid-sized foundations. Local and regional funders are not hard to find. Many libraries house collections of fundraising reference books in

cooperation with The Foundation Center. The Foundation Center's website is www.foundationcenter.org and includes a list of cooperating libraries, an on-line database of contact information for foundations, links to hundreds of grant maker websites (for a subscription fee) and several commonly used grant application forms for users to download.

While some of the largest community foundations are in major urban areas, others cover entire states or regions within states. Community foundations fund mostly education, charity and the arts. Still, because they are close to home and the grassroots base of environmental justice organizing, grassroots groups should be able to make themselves heard by community foundations. Some community foundations have "donor-advised funds" that focus on a particular issue, such as the environment.

CAC did receive grants from two community foundations in Western New York for a number of years. It helped that the Tonawanda air pollution issue was well known and covered extensively by the media.

Approaching a Foundation

CAC learned about two community foundations from other environmental groups in their region. They also learned that before speaking to any potential funder it is crucial that your group has done its homework. Their first impression of you should be that you are well-informed and have done some research. The key things to research before you contact a funder are the following:

- Does the funder fund the types of work your organization does?
- Does the funder fund groups in your geographic area?
- What is the amount of a typical grant from this funder?
- What are the funder's application and dead-

line requirements?

The usual process to approaching a foundation is to send a two-page letter of inquiry which describes the problem your group is addressing, your group's history and past achievements, and your group's project goals. At the end of the letter of inquiry, you would ask for the opportunity to submit a grant proposal for X amount of money. You may also want to ask for a meeting with the foundation staff to discuss the project in more detail.

A good part of foundation fundraising is building relationships with people. Some foundations have different application procedures, so make sure to view their website thoroughly to find out how to apply for grants.

If your letter of inquiry is approved, then your group needs to write up to a grant proposal (often 10 pages or so) and an annual budget. The foundation may have specific requirements on the length of the grant proposal and its content. A grant proposal usually includes the following sections:

1. Problem Statement (describe in detail the problem your group is trying to address);
2. Goals and Objectives (describe in detail your project goals, the activities your group will do, include any groups, policymakers, etc. who will work with your group and are supportive);
3. Evaluation (describe how your group will determine if the project has been successful, such as X number of people will attend educational workshops); and
4. Annual Budget of expenses and income.

Resource: *Grassroots Grants: An Activists' Guide to Proposal Writing* by Andy Robinson is a very helpful book on foundation fundraising. (\$25.00,

Chardon Press, P.O. Box 101, Inverness, CA 94937.) Available on-line at <http://www.kleinandroth.com/fundraising-for-social-change>.

Federal Grants

CAC benefited from a federal EPA CARE grant given to community groups impacted by environmental hazards. When the E-3 Tonawanda Project was started, EPA staff let CAC know about the CARE grant program. CAC reached out to other groups that had written grants to review sample grant proposals. CAC found that federal grant proposals require a lot of detail, and once a grant is approved, CAC had to submit quarterly reports and budgets. However, it provided a large amount of funds (\$100,000) and enabled CAC to hire staff and do major community outreach, education and organizing. Unfortunately, the EPA CARE program has been cancelled due to funding cuts.

There are, however, other EPA grant programs, such as EPA's Environmental Justice Small Grants Program. This program provides financial assistance to eligible organizations to build collaborative partnerships, to identify the local environmental and/or public health issues, and to envision solutions and empower the community through education, training, and outreach. EPA's Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program provides financial assistance to eligible organizations working on or planning to work on projects to address local environmental and/or public health issues in their communities, using EPA's "Environmental Justice Collaborative Problem-Solving Model." For more information, visit <http://www.epa.gov/environmentaljustice/grants/index.html>.

If your community's toxic air pollution comes from mobile sources, such as buses or congested traffic areas, you can apply for a grant at EPA's National Clean Diesel Funding Assistance Program. This program issues competitive grants

through EPA Regional Offices to fund implementation of diesel emission reduction technologies on school buses, vessels and equipment used in ports, construction and agriculture among others. Eligible entities include units of government including federally recognized tribes and nonprofit organizations whose principle purpose is promotion of transportation or air quality. Community groups can partner with eligible applicants to apply for grants. For more information, go to <http://www.epa.gov/cleandiesel/grantfund.htm>.

There may be other potential federal grant programs. To find out about grants awarded by other EPA offices and EPA Regions that address environmental justice issues, EPA recommends you contact the agency's Office of Environmental Justice (OEJ) who can direct you to potential EPA funding opportunities and to a regional coordinator based on your location. Contact the OEJ at <http://www.epa.gov/environmentaljustice/>.

Is Your Group Incorporated and Tax-Exempt?

To receive a grant your group needs to be incorporated and a tax-exempt (501 c 3) organization. If your group is not incorporated and tax-exempt, you will need to find a "fiscal sponsor" organization who can receive the grant because they are incorporated and have tax-exempt status. It could be a church or civic or environmental organization. Fiscal sponsor groups may charge a small fee (perhaps 5-10% of the grant) to cover bookkeeping and administrative costs as the fiscal sponsor needs to oversee how your group spends the grant funds and prepare a final budget report for the foundation.

If your group does not have tax-exempt status, you may want to consider becoming incorporated (file a form with the state) and tax-exempt (submit an application to the federal Internal Revenue Service). Before starting this process, your group needs to pass by-laws and set up a Board of Directors. This process can take months. Sometimes a

sympathetic lawyer will do this for your group on a “pro-bono” basis, or for free.

Resource: For more information, view CHEJ’s free publication, *Should Your Group Incorporate?* available at <http://chej.org/assistance/publications/>.

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