

# Best in Show? Climate and Environmental Justice Policy in California

Julie Sze, Gerardo Gambirazzio, Alex Karner, Dana Rowan, Jonathan London, and Deb Niemeier

## ABSTRACT

In this article, we outline the important role that environmental justice organizations played in the development of AB 32, California's landmark climate change legislation (AB 32) in ensuring that a wide range of environmental justice ideas were incorporated into policy. We distinguish between the formal elements contained in the legislation and the discursive impacts, particularly in relation to public health concerns and about cap and trade and market mechanisms. Drawing from interviews, public documents, and legislative archives, we document the process by which these diverse environmental justice elements were incorporated into AB 32 to ask a seemingly simple question. Is California really "best in show" when it comes to climate and environmental justice policy? The complex politics involved in the drafting and passage of the legislation show to what extent environmental justice organizations played in AB 32's passage. We then argue that understanding the contentiousness in how AB 32 was drafted lends insight and context to the ongoing conflicts over the implementation of AB 32, specifically the role of cap and trade and market mechanisms more generally. Given the historical and continuing prominence of California in national and environmental policy development, the intersection of environmental justice movements with the development of state policy, described here, has larger implications for the broader climate justice movement and the complicated engagement between social movements and policy-making.

## INTRODUCTION

**T**HIS ARTICLE DOCUMENTS how environmental justice organizations influenced the legislative process in passing California's landmark climate change legislation, the California Global Warming Solutions Act of 2006 (commonly known as AB 32). Although AB 32 represents just one aspect of the multi-pronged approach that California is taking toward addressing climate change, the legislation is significant because it was the first major climate change policy passed in the United States. The Act mandates a reduction in greenhouse gas (GHG) emissions to 1990 levels by 2020 and delegates the responsibility for achieving the target to the California Air Resources Board

(CARB). Thus, AB 32 provides targets to meet within a specified timeline, but leaves CARB with the responsibility for developing the specific details of how those goals will be achieved.<sup>1</sup> AB 32 mandates a greenhouse gas emissions target, or a cap, but does not specify the means by which CARB should achieve the cap. The Scoping Plan, which outlines these details, has recently been adopted by CARB and calls for GHG cuts across every sector.<sup>2</sup>

In this article, we identify the environmental justice elements contained in AB 32, distinguishing between the *formal* elements in the law itself, and the broader *discursive* elements. Drawing from interviews, organizational

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Dr. Sze is Associate Professor of American Studies at University of California at Davis. Dr. Gambirazzio is a postdoctoral scholar at Dartmouth College. Mr. Karner is in the Dept. of Civil and Environmental Engineering at U.C. Davis. Ms. Rowan is in the Graduate Group in Ecology at U.C. Davis. Dr. London is Assistant Professor of Human and Community Development at U.C. Davis. Dr. Niemeier is a Professor of Civil and Environmental Engineering at U.C. Davis.

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<sup>1</sup>The federal government's decision to not participate in the Kyoto Treaty worried many in California. For an overview of California's engagement in climate policy, see W.M. Hanemann, "How California Came to Pass AB 32, the Global Warming Solutions Act of 2006." 2007. CUDARE Working Papers 1040, escholarship repositories, UC Berkeley. <[http://repositories.cblib.org/cgi/viewcontent.cgi?article=1141&context=are\\_ucb/](http://repositories.cblib.org/cgi/viewcontent.cgi?article=1141&context=are_ucb/)> (last accessed on March 18, 2009).

<sup>2</sup>California Air Resources Board. AB 32 Climate Change Scoping Plan Document. <<http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm>> (last accessed on March 18, 2009).

reports, public documents, and legislative archives, we show the multiple ways in which environmental justice organizations were a key component of the legislative process, including their role in opposing a *mandated* cap-and-trade market mechanism. Our methods are based on discursive analyses of the political and social processes of the environmental justice movement and of the policy arena surrounding and shaped by AB 32. This article draws on 10 semi-structured interviews<sup>3</sup> with key actors in the legislative drafting process<sup>4</sup> and forms one aspect of a larger research project that examines the role of environmental justice principles and politics in AB 32.<sup>5</sup>

*Environmental justice* (EJ) is clearly prominent within AB 32—both in the formal elements and in the discursive realm around protecting public health and opposition to mandated cap and trade. One component of the story we tell is focused on how environmental justice organizations exercised their political capital in inserting formal environmental justice elements into the legislation. But this dynamic is not the full extent of the complicated and convoluted story we tell. The multiple actors and interests in the tale include mainstream environmental groups which have different interests and ideologies from the environmental justice groups, politicians (including the governor and state legislators), and state agencies appointees and staff. In addition, our analysis of environmental justice in AB 32 shows how even victories for environmental justice constituencies are often much more complicated in practice or during the implementation phase. We also explain the *particular* contexts in which environmental justice organizations were seen as key constituencies. Given California's long tradition of prominence in national and environmental policy development, the complicated picture of environmental justice movements and state policy that we trace in the development of climate change legislation has larger implications for the broader climate justice movement.

### ENVIRONMENTAL JUSTICE ORGANIZATIONS AND THE DRAFTING AND PASSAGE OF AB 32

In this section, we ask a seemingly simple question: how did environmental justice get written into AB 32? To answer this question, we first outline the three formal elements of environmental justice that are in AB 32 (See Table 1).

As discussed below, the formal elements of environmental justice are a result of the unique political strength of the environmental justice movement in California and a set of self-conscious political calculations by the mainstream environmental community. AB 32 was sponsored by two mainstream national environmental organizations: Natural Resources Defense Council (NRDC) and Environmental Defense Fund (EDF).<sup>6</sup> As the broad story of AB 32's passage has been told elsewhere, we are primarily interested in the interactions between environmental groups and environmental justice organizations and the actions by the environmental justice organizations in the legislative process.

In short, environmental justice organizations were seen as an important political player by traditional environmental groups because they had the potential to act as obstructionists to the bill's passage. On the theme of environmental justice advocates as potential obstructionist actors, this sentiment was made explicit from at least one of the two sponsors. EDF's newsletter proclaims, "Advocates for minority communities don't always see eye to eye with environmentalists. So, it wouldn't have taken much to derail the Global Warming Solutions Act, especially during an election year."<sup>7</sup> In other words, Democratic Latino legislators in California are not necessarily seen as reliably pro-environmental, often depending on the geographic region they represent (especially in the Central Valley). Environmental groups perceive significant elements of the Latino legislative caucus as reliably pro-business and anti-environmental. As one member of a mainstream environmental group put it: "The nature of the legislature is that not many groups, whether environmentalists in general or local governments... can necessarily put a coalition together to pass something but a lot of people have the power to *block* something" (emphasis added).<sup>8</sup>

To stave off the potential and perceived "derailment," EDF hired a Latino staff person to focus solely on minority legislators and in outreaching to environmental justice groups. This staffer's "experience working with minority groups proved invaluable in passing this law." The newsletter continues that "Environmental justice groups want air-quality protections for local communities.... We (EDF) want that, too." The staffer "went door to door in the State Capitol stressing the link between global warming, smog and public health" and convinced a dozen swing members in the legislature to sign on as coauthors.<sup>9</sup> The speaker of the Assembly, Fabian Núñez,

<sup>3</sup>Many of the participants we interviewed remain actively involved in climate policy. To address the sensitive issues we explore in the article, our interviewees were promised anonymity. Although we do not include people's names, we do include the organization type (i.e., mainstream environmental or environmental justice) and the organization name where that information is public knowledge (for example in the annual reports of an organization).

<sup>4</sup>These include elected members of the legislature and their staff, regulators and staff members at environmental organizations and environmental justice organizations. Our analysis is filtered through our own multidisciplinary lenses drawn from community development, engineering, ecology, geography, and the environmental humanities.

<sup>5</sup>In addition to the drafting of the AB 32 legislation discussed here, we are also exploring the structure of AB 32 implementation by surveying and conducting further interviews with additional actors in the process. These surveys are in progress and their results are not discussed here.

<sup>6</sup>Hanemann, 2007; Michael Hanemann, "California's New Greenhouse Gas Laws," *Review of Environmental Economics and Policy* 2 (2008): 114-129.

<sup>7</sup>"Bridging a Chasm," *Solutions* (Vol. 37, No. 5 November-December 2006): Environmental Defense Fund Newsletter, <[http://www.edf.org/documents/5606\\_Solutions1106.pdf](http://www.edf.org/documents/5606_Solutions1106.pdf)> (last accessed on March 17, 2009).

<sup>8</sup>Interview with author, February 19, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>9</sup>*Ibid.*

TABLE 1. FORMAL ELEMENTS OF ENVIRONMENTAL JUSTICE IN ASSEMBLY BILL 32

<i>Environmental Justice Element</i>	<i>Relevant Legislative Language in AB 32</i>
Environmental Justice Advisory Committee (EJAC)	“The advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.” <sup>i</sup>
Public workshops for comment on the development of the Scoping Plan	<i>Directly specifies</i> the location of a portion of these workshops as being “in regions of the state that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both.” <sup>ii</sup>
Community Empowerment Amendment	Section 38562 identifies a number of considerations the CARB must address or use as guidance when developing those regulations: including that CARB must “Ensure that activities undertaken comply with the regulations and do not disproportionately impact low-income communities.” <sup>iii</sup> In addition, Section 38565, known as the Community Empowerment Amendment (CEA) included language designed to allow low-income communities to directly participate in and benefit from the greenhouse gas reductions regulatory plan that is created as a result of AB 32. <sup>iv</sup>

<sup>i</sup>Assembly Bill 32. Official California Legislative Information. <[http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf#page=11](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf#page=11)> (last accessed on March 18, 2009).

<sup>ii</sup>Section 38561(g). Assembly Bill 32. Official California Legislative Information. <[http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf#page=11](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf#page=11)> (last accessed on March 18, 2009).

<sup>iii</sup>Section 38562. Assembly Bill 32. Official California Legislative Information. <[http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf#page=11](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf#page=11)> (last accessed on March 18, 2009).

<sup>iv</sup>Section 38565 states: “The state board shall ensure that greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California and provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.” Assembly Bill 32. Official California Legislative Information. <[http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab\\_0001-0050/ab\\_32\\_bill\\_20060927\\_chaptered.pdf#page=11](http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf#page=11)> (last accessed on March 18, 2009).

explicitly credits EDF for “securing the support” from the environmental justice community, which was critical for this bill’s passage.<sup>10</sup> Assembly Speaker Núñez and Fran Pavley were co-sponsors of the bill. The argument for a public health connection to environmental justice constituencies was made by EDF staff at workshops to EJ groups<sup>11</sup> and in later workshops for the Latino legislative caucus.<sup>12</sup> The primacy of public health was also stated as a key factor in securing Pavley’s support for the bill, in that “her interest in the issue came from seeing so many school kids suffering from asthma.”<sup>13</sup> EDF’s hiring of a staffer with environmental justice expertise is traceable to their concern that environmental justice groups would oppose the bill, particularly if it mandated cap and trade.<sup>14</sup> Environmental justice groups had expressed strong opposition to a cap-and-trade program, arguing that the virtues of the market had been oversold by economists in the case of electricity deregulation and the RECLAIM (Regional Clean Air Incentives Market) trading program in Los Angeles.<sup>15</sup>

But why did EDF perceive environmental justice organizations and interests as a potential threat to AB 32? In part, this perception is related to the *strength and organization* of California environmental justice organizations and the new demographic reality of California as a majority-minority state, with an increasingly influential Latino legislative caucus (according to 2005 Census Data, almost 44% of California is non-Hispanic white, and over

35% is Hispanic, approx. 12% is Asian, and almost 7% is African American). California has over 20 state laws dealing with environmental justice in some form or another affecting a range of issues and agencies, emerging in part

<sup>10</sup>“First in nation, California caps global warming pollution,” Solutions (Vol. 37, No. 5 November–December 2006): Environmental Defense newsletter retrievable at <[http://www.edf.org/documents/5606\\_Solutions1106.pdf](http://www.edf.org/documents/5606_Solutions1106.pdf)> (last accessed on March 17, 2009).

<sup>11</sup>Interview with the author, January 6, 2009, Sacramento, CA (tape recorder and handwritten notes in possession of the author).

<sup>12</sup>California Latino Legislative Clean Air Summit: The Right to Breathe Clean Air? Held on November 30, 2007. California Latino Caucus. <<http://democrats.assembly.ca.gov/latinocaucus/gallery.htm>> (last accessed on March 17, 2009).

<sup>13</sup>“Getting to Yes,” Solutions (Vol. 37, No. 5 November–December 2006): Environmental Defense newsletter retrievable at <[http://www.edf.org/documents/5606\\_Solutions1106.pdf](http://www.edf.org/documents/5606_Solutions1106.pdf)> (last accessed on March 17, 2009).

<sup>14</sup>The mainstream environmental groups are arguably more invested in neoliberal discourse than environmental justice groups, and there also significant differences between the mainstream environmental groups. One interviewee suggested that EDF was more invested in market mechanisms than NRDC. Interview with author, February 19, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author). See also Nik Heynen, James McCarthy, Scott Prudham, and Paul Robbins (eds). *Neoliberal Environments False Promises and Unnatural Consequences* (Routledge, 2007).

<sup>15</sup>Hanemann, 2007: 18.

from high profile environmental justice organizing, and savvy political organizing.<sup>16</sup> Although California environmental justice organizations are like most environmental justice groups nationally in that they are locally based, these groups are uniquely very well-organized at the regional (particularly in the Bay Area and Los Angeles) and statewide level, particularly in comparison with other states in the nation. There are at least two mechanisms for local environmental justice groups to organize at the statewide level. These are through the California Alliance working group on Environmental Justice,<sup>17</sup> and through key organizations that act as the “policy/legislative arm of the environmental justice movement.”<sup>18</sup> These organizations acted as the “go-to” groups in the drafting and legislative process of AB 32 through which the formal elements of environmental justice and the discursive elements (the importance of increasing attention to public health and in opposition to mandating cap and trade) were negotiated.

### DISCUSSION: LIMITS AND GAINS OF ENVIRONMENTAL JUSTICE ELEMENTS IN AB 32

In this section, we briefly assess the complicated ways to gauge the “success” of both the formal and discursive environmental justice elements in AB 32. From the perspective of the environmental justice organizations involved in the AB 32 process, the institutionalization of the environmental justice advisory committee (EJAC) in AB 32 was a key victory, and perhaps the major reason why AB 32 is a “unique piece of legislation” from an environmental justice social movement perspective.<sup>19</sup> Although the presence of an environmental justice advisory committee is not a unique innovation, its presence as one of two committees directly specified in the legislation is nonetheless symbolically prominent, as is the specification of the composition of the committee itself. In addition, EJAC was the only committee who created its own mission statement.<sup>20</sup> The structure and composition of the EJAC is indicative of the potency of adding participatory access mechanisms, while at the same time highlighting the limits of this committee structure. For example, the legislative language setting up the EJAC refers directly to disproportionate impacts as a consideration in the selection of the members (those communities “most impacted”), but does not directly address the role of the advisory committee in the discharge of the regulatory mechanisms to achieve AB 32.

This advance/ retrenchment is also reflected in the way in which the workshops and committee meetings were conducted. Although workshops were indeed held in minority communities, there are *no* public records or documentation of what happened at these workshops aside from the formal presentations given by agency staff. No records of the community response to these presentations were kept. EJAC deliberations were also not recorded (although the EJAC did issue advisory reports to CARB). This lack of documentation was criticized by an EJAC member who noted their committee meetings and the public workshop meetings were not translated into

Spanish or recorded, “There’s no transcript, there’s no nothing. So it sort of goes towards there’s no real record of what we talked about but for notes on it, which is somewhat disturbing.”<sup>21</sup> Similarly, advocates who pressed for the Community Empowerment Amendment (CEA) point to the relative inattention by CARB to developing the mechanisms to implementing the CEA, evidenced by the single steering committee meeting that was held on the topic.<sup>22</sup> In other words, the existence of formal elements can be regarded in their mere existence as a victory of sorts. On the other hand, the implications of what these elements look like in practice is a more complicated task.

In addition to the *formal* elements contained within AB 32, environmental justice concerns are informally reflected in two ways: 1) a strengthening of the language on public health and 2) opposition to mandating a specific market mechanism, in particular cap and trade (see Table 2). As the bill sponsors received feedback on the language of the bill, several revisions were made, which referred directly to concerns raised by environmental justice groups. Among the notable changes were an *increased* emphasis on the public health impacts and the *omission* of language mandating cap and trade as *the* preferred market mechanism. The emphases expressed by the envi-

<sup>16</sup>Jonathan K. London, Julie Sze, and Raoul S. Lievanos, “Problems, Promise, Progress, and Perils: Critical Reflections on Environmental Justice Policy Implementation in California,” *UCLA Journal of Environmental Policy* (2008) 26: 255–289.

<sup>17</sup>The Alliance is comprised of the following organizations: Asian Pacific Environmental Network (APEN), Center for Community Action and Environmental Justice (CCAEE), Communities for a Better Environment (CBE), Environmental Health Coalition (EHC), PODER—People Organized to Demand Economic and Environmental Rights. California Environmental Justice Working Group. <<http://californiastatealliance.org/article.php?id=50>> (last accessed on March 17, 2009).

<sup>18</sup>A number of our interviewees confirmed that these groups are California Communities Against Toxics and Environmental Rights Alliance. See their organization web sites at <<http://www.stoptoxics.org>> and <<http://www.envirorights.org>> (last accessed on March 17, 2009).

<sup>19</sup>Telephone Interview with author, March 7, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>20</sup>The other committee mentioned in AB 32, the Economic and Technology Advancement Advisory Committee (ETAAC), had their mandated in the legislation itself, in Section 38591(d). <<http://www.arb.ca.gov/cc/etaac/etaac.htm>> (last accessed on March 18, 2009). The Market Advisory Committee (MAC) was prescribed in the executive order S-20-06: “The Secretary for Environmental Protection shall create a Market Advisory Committee of national and international experts to make recommendations to the State Air Resources Board on or before June 30, 2007, on the design of a market-based compliance program.” The mandate of the committee is to “create market-based compliance mechanisms for reducing greenhouse gases.” Market Advisory Committee. <[http://www.climatechange.ca.gov/market\\_advisory\\_committee/index.html](http://www.climatechange.ca.gov/market_advisory_committee/index.html)> (last accessed on March 18, 2009).

<sup>21</sup>Interview with author, November 20, 2008, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>22</sup>Telephone Interview with author, March 13, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

TABLE 2. INFORMAL ENVIRONMENTAL JUSTICE ELEMENTS IN ASSEMBLY BILL 32

<i>Informal/Discursive Environmental Justice Elements</i>	<i>Relevant Legislative Language in AB 32</i>
Increasing Public Health	CARB is required to “consider the potential for direct, indirect, and cumulative emissions impacts from these mechanisms, including localized impacts in communities that are already impacted by air pollution” and “prevent any increase in the emissions of toxic air contaminants of criteria air pollutants” before including market-based compliance mechanisms.
Opposition to Mandated Cap and Trade	“authorize the state board to adopt market-based compliance mechanisms, as defined, meeting specified requirements”

ronmental justice organizations on public health and opposition to mandating cap and trade are not independent but interrelated.

Environmental justice organizations have long expressed concerns related to disproportionately poor air quality and the concomitant health effects that are experienced by largely minority communities. Despite AB 32’s primary focus on greenhouse gases, which are not localized, facilities that emit greenhouse gases also often emit criteria pollutants, or “co-pollutants.” Although the term “co-pollutants” is not explicit in the bill, during AB 32’s implementation process, environmental justice organizations expressed concern about the potential for localized increases in co-pollutant emissions should a cap-and-trade system be mandated under AB 32.<sup>23</sup> During the drafting of AB 32, there was heated debate over whether the bill should specify that CARB *shall* include the use of market measures (understood as an emissions trading scheme, supported by the governor) or *may* include the use of market measures, as proposed by the Democrats, pending an investigation of the potential for backsliding.<sup>24</sup> The language mandating cap and trade as the preferred market mechanism was vehemently opposed by environmental justice groups.<sup>25</sup> In the final text of the bill, cap and trade as a specifies market mechanism is *not* mandated—a victory that environmental justice organizations claim as their own.<sup>26</sup> The final bill also included wording that specifies that prior to implementation of market measures that CARB shall (to the extent feasible) consider cumulative emissions impacts in communities adversely impacted by air pollution, design any market-based mechanism to prevent backsliding, and maximize co-benefits for California.

California environmental justice groups also have years of experience and significant differences with mainstream environmental groups about the best methods for achieving environmental solutions. As one environmental justice advocate described the relationship:

Environmental justice groups represent communities already impacted by the health effects of pollution. Mainstream environmental groups supported the legislation as it was written. Usually in this type of arrangement when mainstream environmental and

environmental justice groups collaborate on a single issue, we get “screwed.” We (the environmental justice groups) have shared principles but operate on a different set of questions and interests, in that we question how things will impact our local community while they question what the legislation will do for the state/region?”<sup>27</sup>

This tension between the mainstream and environmental justice groups has a long history that continues to play out in relations between these constituencies at the legislative level.<sup>28</sup> At the same time, AB 32 arguably represented an opportunity for interest convergence despite this long history of tension between environmental and environmental justice groups.<sup>29</sup>

<sup>23</sup>Hanemann, 2007: 18.

<sup>24</sup>Hanemann, 2008: 114–129.

<sup>25</sup>This sentiment was confirmed by interviews with members of environmental and environmental justice groups. Interview with author, February 19, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author). Interview with the author, January 6, 2009, Sacramento, CA (tape recorder and handwritten notes in possession of the author). Telephone Interview with author, March 13, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>26</sup>Telephone Interview with author, March 7, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>27</sup>Telephone Interview with author, March 7, 2009, Davis, CA (tape recorder and handwritten notes in possession of the author).

<sup>28</sup>Ronald Sandler and Phaedra Pezullo (eds). *Environmental Justice and Environmentalism: The Social Justice Challenge to the Environmental Movements* (The MIT Press, 2007).

<sup>29</sup>One interest convergence might have been the Community Empowerment Amendment language, which environmental justice groups did not work on explicitly but which has the potential to address gains and direct resources from future revenue streams in an innovative way, although in practice, there was not as much attention from environmental justice groups in this topic. Global Green developed this language, based on its years of working on projects greening building in low-income communities (post-Katrina New Orleans), and greening schools and public housing in primarily racial minority communities. Global Green USA 2007 Annual Report, page 10. <<http://www.globalgreen.org/i/file/GG%202007%20Annual%20Report.pdf>> (last accessed on March 17, 2009).

### CONCLUSION: WHAT DOES IT ALL MEAN? CONTINUING FIGHTS OVER IMPLEMENTATION

Environmental justice concerns are reflected in many places in AB 32 both in formal and discursive elements. Whether the insertion of the formal elements of environmental justice in the bill is effective remains to be seen and depends upon diverse criteria of what constitutes success and for whom. That is, while support of the environmental justice organizations was seen as critical to passing the bill, the practical implementation of the language on low-income and communities of color is still unfolding. But there are emerging signals that suggest that there is a significant gap between implementing an equitable process and having more environmentally just outcomes emerge as a consequence.

The story that we tell about environmental justice in AB 32 is important in demonstrating the extent of environmental justice organizations and their role in the policymaking process. Environmental justice organizations are a key political constituency in California's climate and environmental politics; a status that is not necessarily reflected in other states. But, our research suggests that legislative language and formal language is a *necessary* but *insufficient* condition for ensuring that equitable solutions emerge. Similar to AB 32, the President's Executive Order on Children's Environmental Health raised *awareness and increased the transparency* of the regulatory process for a particular issue. But it also had limited reach and application, in part because many of the criteria listed for assessing risk required substantial (and often subjective) interpretation.<sup>30</sup>

In conclusion, we suggest that the backdrop of political negotiations that resulted in environmental justice elements being added to AB 32, coupled with the untested notion that increasing participation (say through the EJAC), will *necessarily* lead to more just outcomes is critical to understanding why deep political conflict remains on how best to integrate environmental justice into the ongoing implementation of AB 32. The key question in California now is about *implementation*—both on the actions taken and on the system to monitor the results. En-

vironmental organizations, including environmental justice groups, have always pursued multiple tracks of political activism, the "inside" track (participation) and the outside track (litigation and policy advocacy). The relative positioning of environmental and environmental justice organizations becomes very important as CARB begins to issue the regulatory implementation requirements. In June 2008, environmental justice advocates filed suit against ARB for its failure to meet procedural due process and violations of AB 32. Although it is beyond the scope of this article to ask and answer the following important questions, they remain important to consider (and are thus the focus of our ongoing research): How well-designed is AB 32 to actually achieve ends of changing outcomes, particularly around health? What are the indicators? What are the mechanisms for tracking/assessment provisions? And finally, what are the measures of accountability? Is AB 32 really "Best in Show" when it comes to climate and environmental justice policy? If not, what are the implications of the emerging mutual disillusionment between environmental justice groups and the mainstream environmental community and CARB? The answers to these questions are significant within California and as a laboratory for state, regional, and federal authorities who struggle with the on-going climate crisis.

Address correspondence to:

Julie Sze  
John Muir Institute of the Environment  
University of California Davis  
Davis, CA 95616

<sup>30</sup>This finding has parallels in the field of children's health. In 1997, Executive Order (EO) 13045 was signed by President Clinton. The EO directed federal agencies to ensure that "policies, programs, activities and standards" assessed the potential, among others, for disproportionate health risks. Devon Payne-Sturges and Debra Kemp, "Ten Years of Addressing Children's Health Through Regulatory Policy at the U.S. Environmental Protection Agency," *Environmental Health Perspectives* 116 (December 2008): 1720-1724.