

The struggle at Yellow Creek

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Valerie Miller

Introduction

Stories of community advocacy from the United States are relatively unknown yet reveal certain common challenges faced by marginalised groups everywhere as they struggle to exercise their rights. The intersection of power, discrimination, and poverty not only shapes the context of rural communities in Africa, Asia, and Latin America but in the US as well. One experience from Yellow Creek, Kentucky provides special insights into the dynamics of change, citizen organising, and activism in the American south.

Background

Living in the mountains of Appalachia, one of the poorest and most exploited regions of the country, residents of the small community of Yellow Creek were forced to become strong advocates on their own behalf. Problems of corporate pollution and government inaction threatened their health and livelihoods. Mothers, fathers, farmers, mineworkers, railroad employees, teachers, and labourers came together to form the Yellow Creek Concerned Citizens to fight the poisoning of their water and lands.

In the United States, companies that use or generate toxics often locate in poorer communities, frequently in the south, where citizens have not been active in holding business or government accountable. In such settings, traditional power dynamics favour industry and discourage community participation. The voices of the poor are dismissed as irrelevant or incompetent. People from Appalachia, for example, are viewed as dumb ignorant country folk incapable of being informed or active citizens. Entrenched political and economic elites reinforce such stereotypes and shape public policy to conform to their own interests.

In this context, people from Yellow Creek waged a 15-year battle to make their water and their community healthy again. Along the way they won many victories big and small – in court, in city hall, in the minds of the public, and in their own attitudes towards themselves as citizens and leaders. By establishing a community-run health monitoring fund, Yellow Creek's court victory set a precedent for others. Their multiple strategies provide lessons on how local groups can hold government and

corporations accountable to basic standards of environmental health and justice.

Local organising and networking

For decades the Middlesboro Tanning Company, run and owned by a Chicago business group, dumped dangerous chemicals into Yellow Creek. Part of an international leather and tanning operation, the Kentucky plant polluted the water supply and overloaded the county's sewage treatment plant with the full complicity of local government officials. Individual complaints by residents produced no results. But a 1980 drought forced the community's small farmers to use creek water for their livestock and pushed people to organise. When their animals suddenly died after drinking the water, residents wanted to know why. Who was responsible? If the creek was toxic was their well water safe for human use? If the community was being poisoned what could they do about it? Since the citizens of Yellow Creek first asked those questions, they have learned more than they ever wanted to about cancer, chemicals, corruption and sewage treatment plants. Most importantly, they have used that knowledge and collective strength to build a powerful local movement for change and accountability.

Along the way, they sought out assistance from the Highlander Research and Education Centre, an NGO that has supported social movements and community groups throughout the south. Inspired by Danish Folkschools, Highlander began as a union organising centre in the 1930s, moving to the struggle for racial justice in the 50s and 60s and later to issues of environmental and economic justice and community organising. Mistrustful of outsiders and mindful of the importance of autonomy, the Yellow Creek group interviewed Highlander staff to be sure they shared basic values of respect and community power. In an ongoing relationship, Highlander provided the group with strategic support. This included:

- video training for members
- exchanges with other community organisations and activists
- introduction to concerned scientists and donors
- helpful guidelines for using the Freedom of Information Act which ultimately proved vital for uncovering the truth about corporate and government actions

Change, citizen organising, and activism at Yellow Creek

Marcelo Espinoza (K-Cat)



Yellow Creek eventually returned the favour by loaning Highlander two of their principal leaders, Larry and Sheila Wilson, to coordinate Highlander's region-wide Environmental Health and Justice programme. The experience of Yellow Creek helped give birth to Highlander's STP schools (Stop the Poisoning/Save the Planet workshops) which brought together hundreds of community activists working on environmental justice to plan strategy and learn from one another.

Legal action

As in so many community environmental struggles, the Yellow Creek group had to become both detective and expert in toxic chemicals and the law. Using the Freedom of Information Act, they uncovered proof of company and city lies and illegalities. Poisonous sludge from the tannery continually overran the municipal sewage treatment plant making it impossible to produce safe drinking water, yet officials and owners consistently denied there was any negligence or danger. To counter such assertions, the group conducted health surveys, videotaped waste dumping, and worked with university researchers and scientists to determine the extent of poisoning. What they found confirmed their worst fears. Studies revealed that leukaemia rates along the creek were five times the

national average; rates of miscarriage and birth defects were equally alarming.

As the Yellow Creek group peeled back the layers of lies, their anger escalated, as did their commitment to stop the abuse. They occupied city hall, used the media to educate the public, got the Red Cross to truck in safe water, organised creek clean-up days, testified before Congress, the US legislature pressured government officials to enforce clean water standards, and in between, held dances and raffles to fund their battles. They eventually elected a reform city government and, in 1985, got a safe water line to the community. Each step of the way, however, contained new problems and dangers.

Community leaders were shot at, their brake lines cut, their children harassed, and their pets killed. The tanner sued the group for \$3 million for 'loss of business' and the city sued them for 'defamation of character'. Reluctantly the group concluded that it would have to go to court to force officials to obey the law and make amends for the harm they had inflicted on the community. In 1983 residents of Yellow Creek filed a class action suit against the city and the tanning company. The group later dropped charges against the

city after officials met a series of demands. The city built a new multi-million dollar sewage treatment facility, imposed stringent regulations on the tannery, paid \$390,000 to Yellow Creek residents for damages, and admitted its own guilt and complicity. Through a series of legal manoeuvres, however, corporate officials delayed their own trial date for 12 years and insisted the case be tried outside the county. To keep their lawyers accountable during this long process, the group selected a small core team of members who were responsible for finalising and overseeing the community's legal agenda with the legal staff. Finally, on 30 January 1995, the community faced the tannery owners before a jury. The courtroom confrontation raged on for 11 days.

Dramatic scientific testimony on miscarriages and birth deformities hit the jury hard. One university researcher presented test results on the short-term impact of Yellow Creek water on fish embryos. In locations near the plant, survival rates ranged from zero to 16%. Jurors strained to see the large colour photographs he displayed showing birth defects in the fish tested. After viewing their twisted curved spines and deformed bodies the jury drew back, shaking their heads in disgust. Wrenching testimony of community people about their own families and children's miscarriages, cancers, and deformities produced tears in jurors' eyes and left the room silent.

The combination of the community and expert testimony proved fatal to the tannery owners. The jury found the company and four of its owners guilty of gross negligence and, together with the city of Middlesboro, ordered them to provide \$11 million to the community for a health fund to monitor and identify the effects of the poisoning. In addition, the individual owners must give another \$4.1 million to the citizens of Yellow Creek in punishment for their crimes. The bailiff (the court security person) probably best described the trial's outcome when he turned to Larry Wilson and said 'You sure whupped their asses.'

Reasons for success

The reasons for Yellow Creek's successes were many. They included:

- creating high levels of trust among members
- sharing leadership responsibilities broadly
- being scrupulously open and transparent in all financial dealings
- using democratic procedures and affirming the contributions of all members
- ensuring accuracy of information based on both community and 'scientific' knowledge
- designing activities that use humour and common sense in the face of power
- keeping lawyers and other experts accountable to the group's decisions

- obtaining the strategic support of a collaborative NGO
- going bowling on Thursdays and line-dancing on Saturdays to keep everybody sane and fast on their feet

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Notes

Valerie Miller is co-director of Just Associates, partner of the Yellow Creek Concerned Citizens responsible for documenting the lessons of their struggle (1990–1996). She was also special advisor to the Highlander Centre (1980–1995), which included serving as coordinator of an international exchange programme that brought together community activists from Kenya, Nicaragua, Indonesia, and the US (1991–1994).

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