Alongside the Mississippi River in southern Louisiana, a tiny, predominantly African-American community called Convent (population 2052) is locked in struggle with a giant Japanese chemical corporation called Shintech. In 1996, Shintech announced plans to spend $700 million building 3 chemical factories and an incinerator next to homes and schools in Convent, but the local people are just saying No. Each year, the Shintech plant in Convent would produce 1.1 billion pounds of polyvinyl chloride (PVC, better known as vinyl). Shintech officials acknowledge that their "state of the art" plant would be permitted to emit 611,700 pounds of toxic air contaminants each year, many of them known to be potent carcinogens. That's almost 300 pounds of industrial poisons for each man, woman and child in Convent each year. The people of Convent see Shintech's plan as a continuation of a year of race, class and environmental injustice--more disadvantaged people being dumped on by the chemical industry. The chemical industry sees it as a continuation of past triumphs.

What began as a local struggle to stop Shintech in Louisiana has grown into a national and international debate over (a) the power of civil rights laws to stop polluting industries from locating in communities of color, and (b) the need for a phase-out of PVC.

Under Title VI of the federal Civil Rights Act of 1964, residents of Convent have filed a complaint with U.S. Environmental Protection Agency (EPA), charging that their civil rights were violated by the Louisiana Department of Environmental Quality's (LDEQ) 1997 decision to issue air permits to Shintech. EPA's regulations under Title VI prohibit racial discrimination either as an intent or consequence of state environmental agency actions. The civil rights law gives EPA the authority to intervene in state permitting decisions. Living with over 16 million pounds of toxic air releases every year from ten surrounding industries, Convent residents make a very strong case that the state of Louisiana has been guilty of environmental racism for years.[1]

Convent is located in St. James Parish, in the heart of "Cancer Alley," the 85-mile stretch along the Mississippi River between Baton Rouge and New Orleans where there are presently over 140 petrochemical and other industrial plants. (In Louisiana, counties are called parishes.) Convent is over 80% African-American, and 40% of its 2052 residents live at or below poverty level.[2] According to EPA's ongoing Title VI investigation, Shintech would expose the African-American population in St. James Parish to anywhere from 71% to 242% more airborne industrial poisons than the white population.[3] In 1995, 10 facilities within 4.5 miles of the two elementary schools in Convent emitted over 16 million pounds of toxic air pollutants, an average of 250,000 pounds of industrial poisons per square mile; the national average is 382 pounds per square mile.[4] A recent study examining cancer deaths in St. James Parish found an excess mortality of 41% for whites and 59% for African-Americans for the years 1979-1992.[5]

Four years before Shintech announced its plans for Convent, the Louisiana State Advisory Committee to the U.S. Commission on Civil Rights issued a report on environmental racism in Louisiana. The Committee concluded that, "many black communities located along the industrial corridor between Baton Rouge and New Orleans are disproportionately impacted by the present State and local government system for permitting and expansion of hazardous waste and chemical facilities.... In spite of the disproportionate impact upon certain communities, the State and local governments have failed to establish regulations or safeguards to ensure such communities are reasonably protected from a high concentration of hazardous waste and industrial facilities and risk associated with living in and around such facilities."[6]

During more than two years of battle, Convent area residents have been steadfast in their opposition to Shintech. Some residents say they oppose Shintech because they want a healthy future for their children and grandchildren. Others base their opposition on the environmental degradation of their community that has already occurred as a result of massive industrial development.

Under the banner cry "Enough is enough!" residents have joined together to form St. James Citizens for Jobs and the Environment.[7] Reaching out to a diverse coalition of supporters, residents have gained the help of the Rev. Jesse Jackson, the Southern Christian Leadership Conference (SCLC, founded by Dr. Martin Luther King, Jr.), EPA's National Environmental Advisory Committee (NEJAC), and all of the members of the U.S. Congressional Black Caucus. Residents are united in their opposition to Shintech and their unity crosses racial lines. As one newspaper reported, "Had the Romeville Elementary School [where a Shintech permit hearing was held in January] been a boat it would have capsized. One side was filled with Shintech opponents, the other side a small group of Shintech supporters."[8]

In March of this year, EPA issued its INTERIM GUIDANCE FOR INVESTIGATING TITLE VI ADMINISTRATIVE COMPLAINTS challenging new pollution permits.[9] EPA's GUIDANCE document was intended to help EPA's Office of Civil Rights process a backlog of citizens' complaints that allege discrimination resulting from the issuance of environmental permits. As of August, 58 Title VI complaints had been filed with EPA. EPA has acknowledged that the Shintech case is shaping its Title VI policy.[10]

A corporate backlash has developed against EPA's Title VI initiative, led by the National Association of Manufacturers. The Environmental Council of States (an association of state environmental agencies), the U.S. Conference of Mayors, and a number of corporate-funded think tanks such as the Washington Legal Foundation have been vocal in criticizing the emerging Title VI guidance or calling for its elimination.

Corporate critics charge that EPA's efforts to enforce the civil rights law will derail other federal programs, such as brownfields, which is EPA's plan to find new uses for Superfund dump sites in rundown urban areas. The Congressional Black Caucus says there is no conflict between Title VI and brownfields. They say the brownfields program requires meaningful community participation. A well-run brownfields project would not violate the civil rights of people of color because they would be involved in the program's design and implementation, the Caucus says. Nor would citizens object to a project if they saw that it provided jobs without threatening their health or environment. As Congressman William Jefferson (D-LA) put it, "dirty industries are not the only option for revitalizing poor communities."[11] None of the 58 Title VI complaints filed with EPA has involved a brownfields project.

EPA was expected to issue a decision on the Shintech civil rights case this summer. However, in June, EPA asked its Science Advisory Board (SAB) to review its techniques for assessing disproportionate "burden." The SAB review has delayed further action. EPA's assessment of disproportionate "burden" combines 1990 census data and industry-reported air emissions estimates. Unfortunately, EPA has never independently assessed the quality of the industry-reported emissions data. An initial response from the SAB is expected in October. By deferring to its Science Advisory Board, EPA evidently hopes to appear scientific in its reasoning, not political. However, EPA has played politics in numerous attempts to offer residents lower emission levels from surrounding industries in exchange for the construction and operation of Shintech's chemical behemoth.[12] Residents have consistently refused such offers, demanding that area industries should be reducing overall emissions even if Shintech is sent packing.

Lawyers describe the Shintech case as a BROWN V. BOARD OF EDUCATION for the environmental justice movement. (BROWN V. BOARD OF EDUCATION for the environmental justice movement. (BROWN V. BOARD OF EDUCATION VS. BOARD OF EDUCATION OF TOPEKA was the federal lawsuit that ended the official policy of apartheid in U.S. schools, in 1954.) The ultimate decision by EPA or the courts will answer the $700 million question: can environmental regulators say "no" to
Shintech in defense of an African-American community already enduring significantly elevated levels of industrial poisons in the air?

The failure by Louisiana state government to protect the environment of communities of color, as reported by the state Advisory Committee to the U.S. Commission on Civil Rights, has turned ugly. Louisiana authorities and corporations have launched -- there is no other word for it -- VICIOUS attacks against Convent residents and their supporters. Louisiana Governor Mike Foster first claimed the community favored the Shintech proposal. When that failed, Foster brutally maligned the Tulane Environmental Law Clinic for providing legal assistance to Convent residents and threatened to revoke Tulane University's tax exempt status. Foster's threats, multiplied by contributions from allied corporations, led the Louisiana Supreme Court in June to set draconian new rules that prohibit the Clinic from ever again representing a client group like the St. James Citizens for Jobs and the Environment -- a stunning setback for any group that needs an attorney and can't afford one. The Foster administration has also investigated and threatened to take away the non-profit tax status of organizations that have opposed Shintech at public hearings (such as Louisiana Environmental Action Network [LEAN], Louisiana Communities United, the Southern Christian Leadership Conference and others). Governor Foster has pledged to devote the resources of his entire administration to locating the Shintech PVC plant in Convent. As the Governor explained to a New Orleans newspaper columnist, the Louisiana Department of Environmental Quality's (LDEQ) job is "to go out and make it as easy as they can within the law" for Shintech to get their permits.[13]

Shintech Vice President of Manufacturing Erv Shroeder says, "Shintech's siting decision has been based upon its assessment of basic economic factors such as availability of raw materials, direct access to deep water and access to rail transportation. At no point during the site selection process did Shintech consider the racial composition or income-earning composition of the surrounding residents."[14] But that is exactly the point. The people of Convent, just like many other communities that face the same kind of malign neglect, are tired of being treated as invisible by transnational corporations that are blind to everything except the local resources they can exploit. They say, "Enough is Enough!"

[To be continued next week.]

--by Charlie Cray and Monique Harden*

=====

* Charlie Cray is with the Greenpeace Toxics Campaign [charlie.cray@green2.greenpeace.org] and Monique Harden is an attorney with Earthjustice Legal Defense Fund [400 Magazine St., Ste. 401, New Orleans, LA 70130]. Telephone (504) 522-1394; E-mail: mharden@earthjustice.org.

[7] Contact: St. James Citizens for Jobs and the Environment, P.O. Box 331, Convent, LA 70723.