

ENVIRONMENTAL INJUSTICE: THE ELEM COLONY OF POMO INDIANS

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Introduction

In the realm of environmental justice we tend to think of events, and their consequences, that took place within the past forty years. That is when we collectively woke up to the dangers of damage to the planet and the impact on marginalized or disadvantaged populations. The Bopal, Three Mile Island, and Chernobyl disasters come to mind as salient examples. The “ecology” movement hit its stride in the 1970s, having found an institutional home within the government of the United States as the Environmental Protection Agency. It is thus natural for the majority of us to think of most environmental damage to have occurred within our living memories.

The justice part of the equation compels us to focus on what it is like to be on the receiving end of such things as toxic dumps, radioactive waste, and unhealthy drinking water because of race, ethnicity, or economic challenges. Stories of environmental injustice seep into our consciousness like unwelcome glances of reflections in our darkest mirror. We, in the Western world, consume enormous amounts of energy and other resources, even though most of us know the true cost to our planet of doing so. Rosemary Ruether addressed the issue, “It [a healed relation to the earth] demands a social reordering to bring about just an loving interrelationship between men and women, between races and nations, between groups presently stratified into social classes, manifest in great disparities of access to the means of life. In short, it demands that we must speak of eco-justice, and not simply of domination of the earth as if that happened unrelated to social domination.”¹

¹ Ruether, Rosemary R. *Gaia and God: An Ecofeminist Theology of Earth Healing* (Harper San Francisco, 1992 p. 3

This paper describes the horrendous injury to the environment through toxic waste that was intentionally perpetrated against the Elem Colony of Pomo Indians, and the larger Pomo tribe, in what is now Lake County in California. The injury was possible because of the absolute social and racial domination of white settlers. Accounts of justice and injustice must be told in stories about real people. Facts and statistics are never enough. The story of the Elem Colony of Pomo Indians is long and tragic. It defines both terms, “environmental injustice” and “spiritual trauma”, to an almost unimaginable scale. Such a tale is best told from its beginning.

Clear Lake

Clear Lake is a natural fresh water lake approximately 125 miles north of San Francisco. It is the largest inland lake in California, with 68 square miles of surface area. Clearlake is the oldest lake in North America and is reported to be the third oldest lake on the planet.

Archaeologists believe that the Clear Lake basin has been occupied by Native Americans for at least 11,000 years. Evidence of this occupation has been found at nearby Borax Lake, on Rattlesnake Island, and the Turtle Bay Wetlands.² According to Elem Pomo Tribal Oral Tradition, Southeastern Pomo Nations were governed by a matriarchal society in the Clear Lake region for 4,000- 8,000 years. They led subsistence lifestyles within aboriginal boundaries that covered 50 miles of lakeshore.

Anatomy of Hatred

Genocide

Colonization of the indigenous Pomos by Spanish, Russian and American immigrants

² “Clear Lake (California),” *Wikipedia*, November 6, 2018, [https://en.wikipedia.org/w/index.php?title=Clear_Lake_\(California\)&oldid=867629584](https://en.wikipedia.org/w/index.php?title=Clear_Lake_(California)&oldid=867629584).

culminated in the 1850's during the California Gold Rush, resulting in loss of lives, land, and resources. The native Pomo people were brutally exploited and abused by American immigrants. On April 22, 1850 California passed the “Act for the Government and Protection of the Indians”, which allowed any white settler to force any Indian found to be without means of support to work for him.³ This law effectively meant that any Indian could be seized, or purchased, as a slave.

This enslavement and killing of the indigenous population of the Clear Lake region was common throughout California during that period. In his January 1851 message to the California legislature, California Governor Peter H. Burnett promised “a war of extermination will continue to be waged between the two races until the Indian race becomes extinct.”⁴ Newspapers enthusiastically supported the campaign. On August 7, 1853 the *Yreka Herald* called for the total annihilation of all Northern California Indians:

“Now that general Indian hostilities have commenced, we hope that the Government will render such aid as will enable the citizens of the north to carry on a war of extermination until the last redskin of these tribes has been killed. Extermination is no longer a question of time – the time has arrived, the work has commenced and let the first man who says treaty or peace be regarded as a traitor and coward.”⁵

In the spring of 1850 what is known as the Bloody Island Massacre took place after a number of Pomo were enslaved by settler Andrew Kelsey (the present town of Kelseyville is named after him), and Charles Stone. Finally, the Pomo revolted and killed both Kelsey and Stone. This is an account of the incident which led to the killings,

“Among the numerous crimes committed against the Indians, rape

3 1850 Cal. Stat. Ch. 133, 408-410

4 Horsman, Reginald *Race and Manifest Destiny* (Harvard University Press, 1981). p. 279

5 Madley, Benjamin *An American Genocide: The United States and the California Indian Catastrophe, 1846-1873* (Yale University Press, 2016).

of the Indian women and girls was common. A father who refused to bring his daughter to the house for sex with Kelsey or Stone when instructed to, would be whipped. In 1850, when Kelsey and Stone took the Chief's wife, the Indians decided to react. During the night, the chieftain's wife poured water into their muskets and the next morning, five braves attacked the house. Both were killed. The tribe, knowing there was no such thing as 'justifiable homicide' by an Indian, fled into the hills.”^{6 7}

Under the orders of General Persiford Smith in May of 1850, Captain Nathaniel Lyon⁸ was tasked to find and destroy the Pomos in retaliation for the killings of Kelsey and Stone. Lyon employed whale boats and brass field cannons from the U.S. Arsenal at Benicia, along with his detachment of troops and local volunteers to hunt them down. Instead of seeking the Stone-Kelsey slaves, the first victims were the completely innocent Badonnapot tribe of peaceful fishermen. Many of that tribe were killed by cannon fire and musket. It is said that 75 to nearly 200 people were killed on the day of the initial attack. Few survived. A Pomo historian later wrote of the killings of children on that day:

“One old lady, a Indian told about what she saw while hiding under a bank under a cover of hanging tuleys. She said she saw two white men coming, their guns up in the air and on their guns hung a little girl. They brought it to the creek and threw it in the water. And a little while later two more men came in the same manner. This time they had a little boy on the end of their guns and also threw it in the water....She said when they gathered the dead they found all the little ones were killed by being stabled<sic>”⁹

6 “Clear Lake Massacre - Lyon Attacks the Pomo,” accessed November 21, 2018, <http://www.chrisanddavid.com/clearlakemassacre/index.shtml>.

7 Palmer, Lyman L., *History of Napa and Lake Counties, California, Comprising Their Geography, Geology, Topography, Climatography, Springs and Timber...Together with a Full and Particular Record of the Mexican Grants...Also, Separate Histories of All the Townships...and Biographical Sketches* (Slocum, Bowen & Company, 1881).

8 Captain Nathaniel Lyons went on to serve with distinction in the Union Army during the Civil War. Before that time, however, he became an abolitionist and served in the border wars known as “Bleeding Kansas”. Lyons was promoted to the rank of brigadier general after 75 people were injured and 28 killed while he commanded a volunteer regiment in what came to be known the Camp Jackson Affair. Lyons has the distinction of being the first Union general to be killed in the American Civil War.

9 Nabokov, Peter and Deloria, Vine *Native American Testimony: A Chronicle of Indian-White Relations from*

Lyon's forces proceeded to continue with a campaign of hunting killing Indians they came in contact with for many months.

The Gold Rush

The California Gold Rush began on the morning of January 24, 1848. That was when James Marshall discovered gold while building a sawmill for his employer, John Sutter. The population of white settlers in California exploded from about 10,000 to over 220,000 said Ed Allen, interpretive lead for Marshall Gold Discovery State Historic Park.¹⁰ Native Americans, including members of the Pomo tribe, who were not hunted down and killed were used as slave labor in all manners of mining operations until laws were passed to prohibit that. Using revenues from gold fields the California government paid approximately \$1 million to militias to hunt and kill all Indians. However, Indian women and children were often sold and used as “apprentices”. The *Marysville Appeal* describes this in an editorial on December 6, 1861:

“But it is from these mountain tribes that white settlers draw their supplies of kidnapped children, educated as servants, and women for purposes of labor and lust...there are parties in the northern portion of the state whose sole occupation has been to steal young children and squaws ...and dispose of them at handsome prices to the settlers who...willingly pay \$50 or \$60 for a young Digger to cook or wait upon them, or \$100 for a likely young girl.”¹¹

From 1832 until 1871, American Indian nations were considered to be domestic, dependent tribes. Negotiated treaties between tribes and the U.S. had to be approved by the U.S.

Prophecy to the Present, 1492-2000 (Penguin Books, 1999) p. 101-106.

10 “Native History: California Gold Rush Begins, Devastates Native Population,” IndianCountryToday.com, accessed November 22, 2018, <https://newsmaven.io/indiancountrytoday/archive/native-history-california-gold-rush-begins-devastates-native-population-WI8OITnZ7U-i66nhfbWhfA/>.

11 *Marysville Appeal*, December 6, 1861, cited in Rawls, James J, *Indians of California : The Changing Image* (Norman: Norman : University of Oklahoma Press, 1984) p. 99.

Congress.¹² In 1853 the U.S. Senate authorized three commissioners, Redick McKee, George W. Barbour, and Oliver M. Wozencraft, to negotiate eighteenth treaties with the Indian tribes in California to clear the way for white settlers.

Bogus Treaties and Reservations

In exchange for promises of protection and lands with enough water and game to sustain them and their way of life the Indian tribes gave away millions of acres of land. The lands would have contained about 7.5 percent of the land area of California. In all cases, the commissioners negotiated with groups they thought represented tribes. In fact, most were simply villages, and no one questioned if the signatories were even qualified to enter into agreements.¹³

The tribes did not discover that the U.S. Senate had refused to ratify their treaties until after they began moving to their new lands. The eighteen California treaties arrived in the Senate on June 7, 1852. A few copies were printed in confidence for Senate use, then after discussion the treaties were rejected without a dissenting vote.^{14 15} What white California settlers and Congress actually wanted was for the Indians to be removed without negotiations for any of their claims to land.

The United States adopted a set of proposals set forth by Edward Fitzgerald Beale (for whom Beale Air Force Base is named) after he was commissioned the first superintendent of Indian affairs in California. His proposals for dealing with the California Indians were as

12 “American Indian Treaties,” National Archives, August 15, 2016, <https://www.archives.gov/research/native-americans/treaties>.

13 “The Secret Treaties with California’s Indians,” ResearchGate, accessed November 22, 2018, https://www.researchgate.net/publication/297911623_The_Secret_Treaties_with_California's_Indians p. 39

14 National Archives, “Journal of the Executive Proceedings of the Senate,” *Records of the Senate Committee on Indian Affairs* VIII (July 8, 1852), [https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field\(DOCID+@lit\(ej008191\)\)](https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(ej008191))).

15 The text for all eighteen unratified treaties is available for download from the California State University Monterey Bay Digital Commons at https://digitalcommons.csUMB.edu/cgi/viewcontent.cgi?article=1004&context=hornbeck_usa_2_b

follows:

In the first place, I propose a system of “military posts” to be established on reservations, for the convenience and protection of the Indians; these reservations to be regarded as military reservations, or government reservations. The Indians to be invited to assemble within these reserves.

A system of discipline and instruction to be adopted by the agent who is to live at the post.

Each reservation to contain a military establishment, the number of troops being in proportion to the population of the tribes there assembled.

The expense of the troops to be borne by the surplus produce of Indian labor.¹⁶

Five new military reservations were approved by Congress in March 1853. No treaties were to be negotiated with the Indians; instead they would be “invited to assemble within these reserves.” The invitation was done a gunpoint. Native people were forced to march to the reservations set up for them. Instead of the 7.5 million acres (about 7.5 percent of the land area of California) promised they were squeezed into a total of 125,000 acres scattered across California in lands that could not be inhabited by white California citizens. No reservation could exceed 25,000 acres.

The Native American poet Janice Gould described the forced resettlement of Native People in Northern California in her poem, *History Lesson*:

“1863: They told us, 'Because of conflict between Indians and Whites, you will be removed for your own safety, to the Round Valley Reservation, in Mendocino County, about three days march away' It has taken two weeks and of the 461 Indians that began this miserable trek, only 277 have come to Round Valley. Many died as follows: Men were shot who tried to escape. The sick or the old or women were speared if they could not keep up, bayonets being used to conserve ammunition. Babies were also

16 Rawls, James J., *Indians of California* p. 148.

killed, taken by the feet and swung against trees or rocks to crack their skulls.”¹⁷

The indigenous population in California in 1850 was inaccurately estimated to range between 70,000-100,000. By 1870 that number had dropped to about 30,000. By the 1900 federal census, only 16,000 Indians were recorded in California. The citizens of California solved their “Indian Problem” by engaging in widespread, deliberate, and intentional genocide. The vast majority of the Indians who had lived in California had either been forcibly removed to Indian reservations, or they had been killed. Professor Ed Castillo, of Sonoma State University, wrote: "The handiwork of these well armed death squads combined with the widespread random killing of Indians by individual miners resulted in the death of 100,000 Indians in the first two years of the gold rush."¹⁸

Effects of Mining on the Elem Pomos

Quicksilver (mercury) is an element in the earth's crust that cannot be created or destroyed by humans. A highly toxic form (methylmercury) builds up in fish, shellfish and animals that eat fish. These fish and animals are the main sources of methylmercury exposure to humans. High levels of mercury exposure can harm the brain, heart, kidneys, lungs, and immune system. High levels of methylmercury in the bloodstream of unborn babies and young children may harm the developing nervous system, making the child less able to think and learn.

California produced up to 90 percent of the mercury in the U.S. during the 19th and 20th centuries. Millions of pounds of quicksilver were shipped around the world for gold mining,

17 Gould, Janice, *Beneath My Heart*, 1990, <https://www.amazon.com/Beneath-My-Heart-Janice-Gould/dp/0932379842>.

18 “California Indian History” accessed December 11, 2018, <https://nativeamericancaucus.org/resources/california-indian-history/>

military munitions and thermometers. Miners discovered they could extract gold by adding quicksilver to crushed ore to create a gold/mercury alloy. Heating the alloy and vaporizing the mercury left pure gold. Because the mercury was valuable the miners recycled it, but a substantial amount was released into the environment due to inefficient vaporizing/condensation equipment and processes.

Mining had a direct impact on Pomo Indians in the Clear Lake area because one of the largest mercury mines in the world, the Sulphur Bank Mercury Mine (SBMM), was operated within their aboriginal lands from 1867-1957. This was described by Susanne Rockwell,

“Settlers on the Oaks Arm of the lake [Clear Lake] in 1862 noticed a sulfur deposit in an area with geothermal springs. They began mining the pale-yellow non-metallic substance for sale to gunpowder makers. Within a few years, the settlers discovered the sulfur was contaminated with cinnabar -- an ore that contains mercury, which when extracted into a liquid becomes quicksilver. Mercury, by this time, was essential to efficient gold mining.”¹⁹

Demand for mercury was so great that the Sulphur Bank Mercury Mine owners in 1872 began sending Chinese workers down holes 50 to 60 feet deep to extract cinnabar. By 1882 mine shafts on the site reached 200 feet or more. Mercury was processed from the ore by heating the extracted rocks in “retorts”, or mining ovens. In the late 1920s open pit mining was done with the use of gasoline powered shovels, bulldozers, and dump trucks, which caused a major increase in contaminated sediment spilling into Clear Lake.

During the 90 year operation of the mine over 4,000 tons of mercury was extracted. Low levels of mercury are still detectable in waste rock on the present day site of the now closed mine. A 90 foot deep waterhole called Herman Pit remains in the middle of the site. It is filled

¹⁹ Rockwell, Susanne.

with clear, highly acidic water fed by geothermal springs and creeks. The water from Herman Pit reacts with rocks in the area to create sulphuric acid that dissolves surrounding metals which, in turn, drain into Clear Lake.

The Sulfur Bank Mine has made the nearby Clear Lake the most mercury-polluted lake in the world. This is despite the EPA spending over \$40 million and two decades in attempts to stop mercury contamination from the water. Pollution still seeps beneath the earthen dam built by a former mine operator, Bradley Mining Co. Bradley Mining has resisted the government's efforts to recoup costs to clean up the site. The mine is now an EPA Superfund site.

Back to the Land

Although the U.S. Government forced the Elem Colony Indians onto a reserve in 1853, the reserve was discontinued eleven years later, leaving the Indians homeless, landless, and with no legal rights. Disputes about the ownership of Pomo lands date back as far back as the late nineteenth century.²⁰ The Pomos attempted to purchase a land base on their traditional lands by the establishment of rancherias and working as migrant agricultural labor. However, by 1900 they had lost 99 percent of the lands purchased to debt and foreclosure because of economic and social discrimination against them by white settlers.²¹ The Elem Pomo tribe lost legal control of 80,000 acres of its ancestral land, including Rattlesnake Island in a controversial 1949 U.S. court decision.²² Referring to ownership of Rattlesnake Island, the court (bizarrely) ruled: “...The parcels described have never been occupied, used, cultivated, improved, enjoyed, or possessed

20 “Rattlesnake Island (Clear Lake) - Wikiwand,” accessed December 7, 2018, [http://www.wikiwand.com/en/Rattlesnake_Island_\(Clear_Lake\)](http://www.wikiwand.com/en/Rattlesnake_Island_(Clear_Lake)).

21 “Pomo (Native Americans of California),” accessed December 7, 2018, <http://what-when-how.com/native-americans/pomo-native-americans-of-california/>.

22 “Rattlesnake Island (Clear Lake) - Wikiwand.”

by Indians of the Pomo Tribe, or by any Indians whatsoever. No Indian tribe has ever cleared built fences, barns, lodges, houses, ceremonial halls, or other improvements on that land, nor have any part been used as a burying place for their dead.”²³

In 1959 the Department of the Interior stopped its involvement in local Indian affairs and gave the state of California this responsibility in the California Rancheria Act. Impoverishment and closure of several rancherias was the result. From the 1950's the Elem Pomos joined other Indian groups for political and economic support. Their members were among the 89 people who occupied Alcatraz Island from 1969-1971. That protest was to reclaim the island under the terms of the Treaty of Fort Laramie (1868) with the Lakota which promised that all out-of-use federal land was to be returned to the Native people who once occupied it.²⁴ Starting in the 1970s many Pomo bands, including the Elem Colony Tribe were successful in suing the U.S. Government for re-recognition because of Bureau of Indian Affairs promises that had not been kept.²⁵

In the 1970s the Bureau of Indian Affairs built a 52-acre colony for the Elem Band of Pomo Indians directly adjacent to the lake and shuttered mine. There was a major problem with how the federal government went about building the homes, however: they used the nearby mine tailings as fill beneath the homes. Officials knew the tailings were contaminated, but claim they were not aware at the time of how dangerous mercury was to people.²⁶ The Elem were literally

23 Paleno, Gene *Lake County History: A Mystical Adventure in Time* (Upper Lake, CA: Pal Publishing Inc, 2017) p. 51

24 “Our Documents - Treaty of Fort Laramie (1868),” accessed December 7, 2018, <https://www.ourdocuments.gov/doc.php?flash=true&doc=42>. Interestingly, the Treaty of Fort Laramie promised the Black Hills of Dakota as part of the Great Sioux Reservation. Soon after the treaty was signed gold was discovered in the hills. White minors began to move into the Sioux lands and demanded protection by the U.S. Army. The famous battle at the Little Bighorn River is where General George Custer’s forces were destroyed attempting to deny the Sioux’s rights guaranteed by treaty to defend their land.

25 “Pomo (Native Americans of California).”

26 Kennedy, Karola, Interview with Karola Kennedy, Environmental Director for the Elem Indian Colony Tribal Community, Video, November 20, 2018.

living on piles of toxic mercury and sulfur until the Environmental Protection Agency finally spent more millions of dollars to remove the houses and the contaminated dirt from the colony's homes and roads. At one point, the EPA ranked the area surrounding the Elem reservation as the third highest priority toxic clean-up site in the entire country.²⁷

New homes were placed in the same location after the cleanup was done for the houses on the site. That notwithstanding, blood tests on tribe members, who numbered around 200 in the 1990s still found elevated mercury levels. Since that time more than 140 community members have left the area, leaving only about 60 people on the site of the homes built for them.²⁸

Insult to Injury

In the early-1970s, as the Elem were protesting on Alcatraz Island and engaged in legal battles against the U.S. Government, they were also attempting to stop Boise Cascade from subdividing Rattlesnake Island.²⁹ Boise Cascade eventually sold Rattlesnake Island to John Nady, a Bay Area businessman and inventor, who purchased it in 2003. His 2003 attempt to obtain permits to construct a vacation home were contested, but eventually granted.³⁰

According to the Elem and their allies, Nady has essentially defaced substantial parts of the island to build what is actually a very large vacation home without obtaining the proper permits. Nady has said in hearings before the Lake County Community Development

27 "A Day Of Infamy In Lakeport," *Anderson Valley Advertiser* (blog), September 21, 2011, <http://theava.com/archives/12178>.

28 Dearen, Jason "Mercury Still Leaking at Closed Calif. Mine Sites," *msnbc.com*, September 18, 2009, http://www.nbcnews.com/id/32900375/ns/us_news-environment/t/mercury-still-leaking-closed-calif-mine-sites/.

29 "A Day Of Infamy In Lakeport."

30 "Rattlesnake Island (Clear Lake)," *Wikipedia*, April 11, 2018, [https://en.wikipedia.org/w/index.php?title=Rattlesnake_Island_\(Clear_Lake\)&oldid=835857716](https://en.wikipedia.org/w/index.php?title=Rattlesnake_Island_(Clear_Lake)&oldid=835857716).

Department that that he “cleaned stuff off the island.” The materials he has destroyed and/or defaced during his “cleaning off” are significant artifacts of the Elem’s habitation of the island in the period since the 1800s.³¹ Nady's project appears to be in perpetual limbo because the Lake County Board of Supervisors, thankfully, will not allow him to continue building his “dream home”.^{32 33}

Multiple Dimensions of Injustice

Ecological theology is concerned with the study of ecology from the perspective of how the interconnectedness of all living (and non-living) entities relates to questions of the nature of God, soteriology, eschatology, anthropology, and creation theories. Admittedly, that is a very broad view, but Sallie McFague's definition narrows it a bit, from a Christian position, “This refocusing of knowledge, both secular and theological, to an ecological context is not sentimental nature worship. Rather, it is a recognition of the three contexts in which Christian theology has been and should be done. They are the cosmological, the political, and the psychological: the earth as a whole, the world of human oppression, and the inner life of the individual.”³⁴

In the case of the Elem Colony of Pomo Indians, multiple and systematic injury has been done to their community for over a hundred years. The injury manifests in multiple dimensions: profound disrespect for their humanity, their inability to participate in environmental self-determination, policies perpetuated to keep them at a permanent disadvantage, no compensation or reparations for their losses, brutal and consistent policies of genocide towards them in the past

31 “A Day Of Infamy In Lakeport.”

32 Kennedy, Karola

33 Paleno, Gene p. 288

34 McFague, Sally. *A New Climate for Theology: God, the World, and Global Warming* (Fortress Press, 2008)

sponsored by various branches of government of the United States of America, and a clear and consistent pattern of violation of “treaties, agreements, compacts, and covenants affirming sovereignty and self-determination”.³⁵

In addition to the consequences of being forced to live adjacent to a recognized toxic waste superfund site, and having to endure the effects of environmental pollution daily, the Elem Colony of Pomo Indians has experienced deep and permanent spiritual damage on both the community and personal levels. Karola Kennedy, Environmental Director for the Elem Indian Colony said, “The spiritual impact [of the history of oppression and the battle for Rattlesnake Island] has in many ways torn them apart. Elem is a small enough community that they're all family. It's all family and they're torn apart. To me, I couldn't imagine that. They've all had to fight for what their strong beliefs are and it's a constant fight.”³⁶

Environmental Impact on the Elem Colony

The First National People of Color Environmental Leadership Summit was held in Washington DC on October 24-27, 1991. People from Native-American, Latinx, Asian-American, Pacific Islander, and African-American communities from around the United States, Puerto Rico, the Marshal Islands, and Canada shared stories of environmental justice issues and resulting health problems. The three hundred delegates delegates drafted and adopted 17 principles of Environmental Justice, which has since served as a pivotal document for the grassroots environmental justice movement worldwide. Writing of the significance of the summit and the importance of environmental justice Mishra-Marzetti and Nordstrom wrote, “For people of color, environmental justice is about cultural, spiritual, and physical well-being. In

³⁵ “Principles of Environmental Justice,” accessed December 8, 2018, <https://www.ejnet.org/ej/principles.html>.

³⁶ Kennedy, Karola.

some cases it is a matter of survival”.³⁷

Most of the seventeen principles relate to Elem Colony of Pomo Indians, but four principles directly address their situation:

2) **Environmental Justice** demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.

5) **Environmental Justice** affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.

10) **Environmental Justice** considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.

11) **Environmental Justice** must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.³⁸

Respect and Justice

For the Elems, their initial struggle was literally one for survival. The “cultural, spiritual, and physical well-being” aspects were to follow in succession. Much of the story of the Elems is sadly, not unique in the history of the United States as regards to its disrespectful (to say the least) treatment of indigenous people. Sezin Koehler points out:

“While the term environmental racism has only existed for the past few decades, its reality has existed since the beginning of white settler colonialism in the United States and indigenous communities have been particularly victimized by environmental racism.

From 1872-1873 the US military went on a targeted campaign to kill millions of buffalo in order to starve Indigenous populations and force them to comply with the newly developing reservation

37 Mishra-Marzetti, Manish and Nordstrom, Jennifer, eds, *Justice on Earth, People of Faith Working at the Intersections of Race, Class, and the Environment* (Boston: Skinner House Books, n.d.).

38 “Principles of Environmental Justice.”

systems. These plots of reservation lands displaced Indigenous communities from their ancestral homes and were often inhospitable environments without easy access to water, food, and other natural resources that made self-sufficiency virtually impossible. Even today, indigenous peoples in America continue to survive ongoing and often daily assaults on their rights to livable spaces.”³⁹

Even though such stories of environmental abuse in “Indian Land” are well known, few come as close to the concoction of misery cooked up for the Elems by the United States Government. Research does not reveal any other tribes that have been required to live literally next door to a toxic Superfund site on 52 acres of housing that was purposefully built with mercury-contaminated land taken from that site for them to live in. As regards to the seventeen principles of Environmental Justice, the Elems might well win some twisted prize for enduring the most egregious violations of five of them.

Self-Determination

The inability of the Elem Pomos to exercise environmental self-determination is a salient feature of their story. As far as the Elem Pomos are concerned, their long history of oppression at the hands of white settlers (and the government that supported them), precluded any say in how their lands would be used. The overlay of religion and the “Manifest Destiny” imperative of the 1800's in the United States ensured the futility of any hope in that regard. Ivone Gebera, wrote about how such radicalized beliefs lead to destructive consequences:

“Economic and/or military intervention has been permitted and even justified in the name of the self-determination and development of peoples. This justification, which was partially inspired in religious traditions based on the Judeo-Christian heritage, grounded itself on the claim that it was necessary to help

39 Koehler, Sezin. “How Environmental Racism Affects Indigenous Communities in the USA,” Wear Your Voice, September 26, 2017, <https://wearyourvoicemag.com/identities/race/environmental-racism-affects-indigenous-communities-usa>.

backward, enslaved, and underdeveloped peoples to arrive at a level of evolution more in accord with the progress of all of humanity and with the "will of God." In order to 'help,' it became legitimate to use intervention, interference, coercion, and murder."⁴⁰

It is tempting to believe more enlightened policies towards Native Americans after the 1960s would have provided some relief to the Elems, but as the struggle to reclaim their lands indicate, there was no question of environmental self-determination after the EPA declared the SBMM a superfund site.

Governmental Acts

Stan Goff describes, from the perspective of economic “exchanges”, how governments carry on a war on subsistence in the name of “development”. Goff analyzes the work of Karl Polanyi, who in the book *Great Transformations* presented a “two-pronged process of *enclosure* and *regulation* that was employed by modern states to remove people from non-market driven communities and networks, especially those that gave people a degree of independence from the need for money to survive. People did not voluntarily leave their subsistence farms in the countryside to live in the city and work for wages in a factory. In fact, they fought that at every turn. They had to be legally and forcibly removed from the means of subsistence, especially land, in order to economically conscript them into emerging 'labor markets'.”⁴¹

Palanyi's two-pronged process of *enclosure* and *regulation* is well illustrated in the history of how Indians were “civilized”. White settlers saw them as a menace while their population declined precipitously as a result of displacement, disease, malnutrition, and

40 Gebara, Ivone. *Longing for Running Water: Ecofeminism and Liberation*. (Fortress Press, 1999. p. 79

41 Goff, Stan “Mammon’s Ecology : Metaphysic of the Empty Sign,” Chapter 8 accessed December 11, 2018, <http://0-web.b.ebscohost.com.grace.gtu.edu/ehost/ebookviewer/ebook/bmxlYmtfXzE4MDM5ODFfX0FO0?sid=669880ea-64b1-48fb-876e-ae5d5174d44d@sessionmgr120&vid=3&format=EK&rid=1>.

genocidal policies. It became increasingly difficult for them to exist outside white society, while the need for cheap labor increased within that society. Indians lost their identity and culture in a variety of ways; from forced education, to mandated religious conversion, to migrant labor.

The United States government actions have historically been designed to perpetuate environmental injustice towards the Elems. As was noted earlier, starting in 1848, they were literally forced off of their land and conscripted to work in the mercury mines to support the Gold Rush. Abandonment of the reservation system after 1864 that left them homeless and without legal rights was the result of intentional government acts. Importantly, between 1851 and 1865 the white citizens of California supported the genocidal removal of tribal communities by military force. The Indian Protection Act (1850) and the financing of state militias formed to hunt down and kill tribal members were brutal examples of government-sponsored injustice.

Special Legal and Natural Relationship Through Treaties

The eighteen treaties with California's Indians made in 1852 are known collectively as the “Secret Treaties”. Under the three commissioners the Indians ceded their lands to the United States in exchange for reservations and a pledge to pay for the lands. Because California had been acquired from Mexico there was an issue about whether or not Mexico recognized native land titles. If not, then California Indians would come under “U.S. sovereignty without legal claims to land.”⁴² According to Senate rules, an injunction of secrecy was placed on them, they were returned to the Department of the Interior, and there they languished in a legal and political dungeon until 1903.

The NCIA was an organization of white reformers who desired to “educate, uplift, and

42 “The Secret Treaties with California’s Indians.”

civilize” landless California Indians. Charles Edwin Kelsey was an attorney in San Jose, California and a Northern California Indian Association (NCIA) director. Kelsey wrote in 1903 that “The Indian bureau, the War Department, which had charge of Indian matters in the fifties, and the State Department all denied all knowledge of the treaties.”⁴³

Despite legislative opposition the NCIA shamed the U.S. Congress removing the injunction of secrecy about the treaties and the California Legislature into placing California Indians on small tracts of their own in 1905. Two decades later descendants of California Indians that signed the treaties with the U.S. government were successful in gaining compensation for the lands that were taken from them.⁴⁴

Legacy of the Elem Colony

*“They either want to hate us to death or they want to love us to death.” Big Valley Rancheria Elder Nelson Hopper.*⁴⁵

Before white settlers came to their lands the Pomo comprised 72 villages that lived in mutual cooperation for more than 12,000 years in the Clear Lake region. They spoke at least seven distinct languages that were mutually unintelligible. Their culture did not feature greed or tyranny. In her book, *The Pomo of Lake County*, K.C. Parker described their ethics: “Wild stuff” should be sold according to the rules of the Pomos — only manufactured articles such as deerskins, rabbit skin blankets, and baskets. Food is given away but not sold. Land is not owned, but gathering or hunting sites and their boundaries were carefully defined.”⁴⁶

The Elem Pomos had an interesting view of crime and war. According to Jim Brown, the

43 “The Secret Treaties with California’s Indians.”

44 “The Secret Treaties with California’s Indians.”

45 Parker, K.C., *The Pomo of Lake County* (Arcadia Publishing, 2008). p. 29.

46 Parker, K.C. p. 43.

long time Chief (he prefers to be called “Captain”⁴⁷) of the Elem Colony of Pomos, they had very specific ways to deal with such things:

“Our punishment was to shame a culprit. Sometimes they were banned from the tribe. If he killed somebody, the guilty man was forced to wear a feathered cape. If a single feather fell from his cape, he was obliged to commit suicide. Our battles were usually over territory. If Scotts Valley went to war over trespass, Chiefs always led the fight, not the young men. Once the Chief was killed the war was over. That was the way. If we had to kill, the Chief was expected to be in front of the fight.”⁴⁸

The Elem Colony of Pomos were the victims of many dimensions of injustice. Their way of life was not improved by contact with white invaders of their lands. That contact brought with it tremendous suffering, including the long-term, and present toxic pollution of the beautiful Clear Lake. There was much wisdom the white settlers could have learned from the Pomos about how to live in peace with neighbors, how to settle disputes, how to tend the land, and how to live sustainably.

In the case of the Elem Colony of Pomos who still, amazingly, live in the Clear Lake region, layers of injustice are woven inextricably into the fabric of all the people who now live in the area. To this day heavy metals from sources exploited on the land that was formerly owned by them still pollute Clear Lake, regardless of repeated efforts by the EPA to clean up the superfund site. Despite attempts to exterminate them, chemical poisoning, slavery, and pollution from toxic waste, the Elems are still holding on... not thriving (yet)... but certainly not beaten. Their legacy is one of extreme pain and noble resistance in the face of inhumanity. Their story is not one that is defined by the toxic waste site they are forced to live next to. It is bigger than that, and it is one we can all learn from in a world that is being poisoned every day.

47 Parker, K.C. p. 7. Parker notes “Similarly, there were no 'Chiefs' in the sense of Geronimo or Sitting Bull. In early accounts, the headman was often called captain, since he did not rule but led by example, negotiation, and consensus.”

48 Paleno, Gene p. 443.

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