

Michigan Environmental Justice Oral History Project

Detroit, MI

Thomas Stephens

Interviewed by

Timothy Madej

November 15, 2014

Detroit, Michigan

As part of the Oral History Class in the School of Library and Information Science

Kim Schroeder, Instructor

Fall 2014

Brief Biography

Thomas Stephens is a people's lawyer for the city of Detroit and an environmental activist involved in various environmental justice court cases in Michigan. Currently, he resides in Detroit, Michigan.

Interviewer

Timothy Madej is a twenty-nine year old male living in Troy, Michigan. Currently, he is a graduate student at Wayne State University enrolled in the Master's of Library and Information Science program, focusing on archives and the Archival Administration Certification.

Abstract

Thomas Stephens is interviewed about his current and past activism in the environmental justice arena, specifically about the Detroit and Flint incinerators. Additional topics discussed by Stephens include his founding and involvement in the neighborhood groups, the Evergreen Alliance and the Michigan Environmental Justice Coalition, along with viewpoints on the current state of environmental justice in the United States. The interview period ranges from the late 1970s to 2014.

Restrictions

No restrictions have been placed on any portion of this interview or transcript. Appropriate release forms have been submitted.

Original Format

Recorded on *Olympus* Digital Voice Recorder WS-100. Recording 00:42:51 in length. WAV Formatting.

Index

As follows.

Description

Transcript: 22 leaves; 29 cm.

Access

No restrictions apply.

Summary

In 2014, Wayne State University, Masters of Library and Information Science graduate student, Timothy Madej conducted an oral history interview with Thomas Stephens. The main subjects of the interviewee's founding and involvement in the Evergreen Alliance and the Michigan Environmental Justice Coalition, along with viewpoints on the current state of environmental justice in the United States are discussed. The time periods of the late 1970s to 2014 are represented.

Provenance

Olympus Digital Voice Recorder WS-100. WAV Formatting.

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Madej, Timothy.

Detroit, Michigan.

Cite As

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Notes

A duplicate set of transcripts and recording is located in the personal possession of Timothy Madej, Wayne State University, Detroit, MI.

Library of Congress Subject Headings

Stephens, Thomas.

Madej, Timothy, 1985-

Ruckelshaus, William, 1932-

Lavelle, Rita.

Burford, Anne Gorsuch, 1942-2004.

Blanchard, James, 1942-

Mahaffey, Maryann, 1925-2006.

Ravitz, Mel, 1924-2010.

O'Neal, Janice.

Robinson, Lillian.

Schmitter, Father Phil.

Chiaverini, Sister Joanne, 1940-2008.

Young, Colman, 1918-1997.

Washington, Judge Valdemar L.

Hayman, Judge Archie L.

Engler, John, 1948-

Jansen, Judge Kathleen.

Kilpatrick, Kwame, 1970-

Detroit (Mich.).

Flint (Mich.).

Grand Blanc (Mich.).

Mt. Morris Township (Mich.).

Michigan – Environmental Justice.

Michigan – Environmental Protection Agency.

Michigan – Evergreen Alliance.

Michigan – Environmental Justice Coalition.

Michigan – Zero Discharge Alliance.

Michigan – North Cass Community Union.

Michigan – Air Pollution Control Commission.

Michigan – Toxic Substance Control Commission.

Business enterprises – Michigan – Combustion Engineering Corporation.

Business enterprises – Michigan – Waste Management.

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Added Authors

Madej, Timothy, interviewer.

Stephens, Thomas, interviewee.

Wayne State University, School of Library and Information Science.

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Detroit Environmental Justice History Oral History Project

Walter P. Reuther Library

Wayne State University

Detroit, MI

Transcript of interview conducted November 15, 2014 with:

Thomas Stephens, Detroit, Michigan

By: Timothy Madej

Transcription

00:00:00

[Start of interview]

Madej: All right. It is Saturday, November 15, 2014. My name is Tim Madej and today I have the privilege of interviewing Mr. Thomas Stephens, at the Kresge Library on the campus of Wayne State University, in Detroit, Michigan. Mr. Stephens do I have your permission to record this interview today?

Stephens: Yes!

Madej: All right, good, thank you. Well today I wanted to talk today about your involvement in the environmental justice field, specifically in Detroit. Just to start with, can you give me maybe just a brief summary of your education, work, and professional experiences so far?

Stephens: I grew up down river in Trenton [Michigan], went to Trenton High School went to the University of Michigan Residential College in the late 70s graduating in 1981, took a year off and went abroad, came back here went to law school at Wayne State between 1982 and 1986 took an extra year doing that, and I have been a people's lawyer in Detroit ever since. I work for the government right now.

Madej: Okay. What do you do with the government?

Stephens: I'm a policy analyst for the Detroit City Council.

00:00:58

Madej: Okay, thank you. All right since we are talking about environmental justice, I guess, let's just start with the basic. The United States EPA [Environmental Protection Agency] defines environmental justice as, and this is quoting directly from their website, "as the fair treatment and meaningful involvement of all people regardless of race, color, sex, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies." From with that, what do you feel your definition or how would you describe environmental justice?

Stephens: Well that's fine as definitions go except one is moved to the observation that was attributed to Gandhi, it would be nice if somebody tried it. Right?

Madej: [laughter]

Stephens: You know, environmental justice is intended to be the social justice, civil rights aspects of environmental policy and protection. The history of the

EPA shows from that very beginning, the very first director, since the definition is from the EPA, the very first director Ruckelshaus [William Ruckelshaus] was asked about this questions at one of the first, if not *the* first congressional hearing and they recognized that there would be tremendous social and economic implications of the agency's mission and he went out of his way to say that this would be a strictly technical and scientific agency and I think the growth of the environmental justice movement is sort of historic reflection and push back against that, because by looking at it in a purely technical sense, these other inherently bound up issues of race, class, quality of life and other... every type of social issue involved in the quality of your environment, your neighborhood, your home, was sort of disregarded for a long time and the environmental justice was a reaction to that. Sorry someone's calling me.

Madej: [scoff] That's all right.

Stephens: [answers cell phone] Hello... hey, how you doing?

[interview pauses for phone call]

00:03:12

[interview resumes]

Stephens: ...the waste management and was brought back to rehabilitate the EPA in the Regan administration after the first big scandal was the Regan administration in the first term which they called sewer gate where a

couple of their top administrators went to jail for lying to congress for perjury type things.

Madej: Mmhmm.

Stephens: Rita Lavelle and Anne Burford Gorsuch [Anne Gorsuch Burford], and I can't believe that I remember those names [laughter]. But, yeah, I think, you know, they, they basically came in and turned the EPA into a corporate whorehouse, excuse me, my French, and you know, were giving away the, you know, permits like candy and you know, spending all their time at lunch with polluters and stuff like that and lying to congress about it, so a couple of them ended up going to jail, but at least one of them, I think two of them.

Madej: Mmhmm.

00:03:58

Madej: Okay. You had mentioned that from your resume that I reviewed that you were, became a member of the Evergreen Alliance, can you tell me about your involvement, with that alliance?

Stephens: The Evergreen Alliance evolved out of a neighborhood group in response to the new that the city of Detroit was planning to build the world's largest trash incinerator within a half mile of all of our homes. Half mile where we're sitting here at Wayne State today.

Madej: So it was more of a neighborhood group then?

Stephens: It was more of a neighborhood group, it was purely a neighborhood group.

Madej: Okay.

Stephens: It started out with maybe twelve to fourteen no more than sixteen people in a friend's living room. The way I always describe it as, we had never used the words waste management policy consecutively in our lives. And we ended up spending five years, five of the longer years of all of our lives, trying to organize resistance to this giant trash incinerator, with some success, although it got built and it's operated and it's still operating.

Madej: Mmhmm.

Stephens: The requirement to retrofit with, you know, \$500,000,000 [00:05:00] worth of pollution for Detroit I remember was quite extraordinary and the basin wide conciseness of things like environmental justice, although we didn't use those words at the time...

Madej: What words were...?

Stephens: Pollution, contamination, disease, racism. The environmental justice movement in those terms was not something that anybody talked about until the 90s. Which this was in the eighties, so...

Madej: Yeah.

Stephens: It was that the timing was exquisite, really, I mean, you, you know it was within months of the hearing on the city going deep, deep, deep in the hock to pay for the retrofit of the incinerator, that Clinton [United States President, William Jefferson Clinton] signed the executive order and the words environmental justice and the movement, environmental justice movement became something that people talked about and consciously tried to form. So it was pro-no environmental justice is what it was.

Madej: Mmhmm.

00:05:56

Madej: You'd mentioned it was more of a neighborhood group or pretty much it a neighborhood group. Did it ever grow to more than just the neighborhood group?

Stephens: It did, I mean it became part of a nationwide network, I mean there was the Zero Discharge Alliance including groups like Greenpeace and Great Lakes United it was all around the basin.

Madej: Unhun.

Stephens: And the province of Ontario and the North Cass Community Union, which is the neighborhood group here. And the Audubon Society and the Sierra Club and I think Environmental Defense Fund you know, through a big national environmental organizations were all part of litigation against the incinerator which we were aware of and in conversation with but not actively promoting.

Madej: Mmhmm.

Stephens: Litigation was kind of a bust. One of the lessons to this whole thing has been how difficult it is to get any progress in the courts on these issues.

Madej: Mmhmm. Okay. What was... you had motioned the support from all those agencies. What was some like, the opposition and just the other people and maybe institutions or other place that wanted to have this facility built. What was that like?

00:07:05

Stephens: Combustion Engineering Corporation was the prime contractor, Westin Engineering did the environmental justice, the environmental impact analysis. Of course the city of Detroit, led by Mayor Colman Young, at the time who was the most powerful political official in Michigan.

Madej: Mmhmm.

Stephens: Heineken Miller Law Firm, was their lawyers, Detroit Edison got the, DTE was in the mix, because they were going to buy and sell energy and steam and so forth.

Madej: Mmhmm.

Stephens: Waste Management was going to dispose of the, of the ash. Those were the principal ones and I probably left out a couple others too. Those were the main ones. Five or six major corporations and the city of Detroit and the state was the permitting authority.

Madej: Mmhhh. Did they ever try and meet with your group or anything or even the other groups that were opposes to it?

Stephens: No, they held public meetings that you had the right to come and, and be heard on. But they never, no they...

Madej: Never met personally with your group or anything.

Stephens: No.

Madej: Alright.

00:08:06

Stephens: But they were, in those days Michigan had a couple of things. One was called the Toxic Substance Control Commission, which was an innovative body that was created in I think the 60s, late 60s or early 70s, after the PBB incident. I don't know if you ever hear of that, but...?

Madej: No.

Stephens: What happened was some fire retardant chemicals was inadvertently mixed with animal feed.

Madej: Okay.

Stephens: You had what was in PBB, polybrominated biphenyls. I don't know what exactly what type of chemical it was, but everybody else calls it PBB, it is highly cacogenic. They fed it to these animals and then they realized that

it was in the you know, the meat and so forth, and the milk. And it was a big problem. A lot of people carry a heavy, a lot of people in Michigan probably, myself included, much people carry a fair amount or heavier body-burden of cacogenics for that reason alone because food chain exposures big time.

Madej: Mmhmm.

00:08:58

Stephens: And after that happen this group called the Toxic Substance Control Commission was formed by the state, by the legislation, to deal with situation like that. Where if, oh, we have a toxic substance emergency, if investigating it right away find out what goes on make appropriate order to protect the public health. Well the Toxic Substance Control Commission got a hold of some of the ash produced by the incinerator and this trial operations in 1988. And the reason they got a hold of it was because the workers were getting sick. They were getting nosebleeds and dizziness and generalized fatigue, and rashes and they walked off at one point. And the construction company and combustion engineer were fined for workplace violations. And someone of them took some of the ash and gave it to the Toxic Substance Control Commission, the Toxic Substance Control Commission tested it and found that it had very high levels of lead and cadmium in it and I think other things too.

Madej: Mmhmm.

00:09:50

Stephens: Those ones stick in my mind. And suggested that it should be, well it didn't suggest, that under the law, Michigan law, this has to be stored in a hazardous waste landfill [00:10:00], you know, a specially designed landfill.

Madej: Mmhmm.

Stephens: Which was expensive, right?

Madej: Yeah.

Stephens: It's hazardous waste so they changed the law. They, they did two things. They linguistically detoxified the ash. They said the incinerator ash is a special hazard.

Madej: Unhnn.

Stephens: You put it in a special, quote-un-quote, I'm making, since we're on recording, I'm making quote marks with my hands.

Madej: [laughter]

Stephens: Special laws that settle the landfill and it will be characterized as quote-un-quote, special waste. Isn't that great, isn't that wonderful for public health? And then the other thing they did was they eliminated the Toxic Substance Control Commission.

Madej: Mmhmm.

00:10:31

Stephens: A few years later, we had a thing called the Michigan Air Pollution Control Commission. Which had appointed members, some appointed by the government and governor, some appointed as public interest representatives, some political legislature, etcetera. And they were the permanent granting authority. And it was them who denied the operating permit for the incinerator in April 1990.

Madej: Mmhmm.

Stephens: Of course, there isn't any Michigan Air Pollution Control Commission, anymore. So, so that was part of the dynamic was we would, you know, sort of rag-tag group of people, as Colman Young called us, this little group of radicals in the Cass Corridor go in and beat them in these, these licensing proceedings.

Madej: Mmhmm.

Stephens: They would have to spend a bunch of money and eliminate the forum. So now, today those permits are granted by one official within the executive branch, they hold hearings about it and the hearings are a joke, you know.

Madej: Mmhmm.

Stephens: You can say anything you want. [laughter] Thank you very much, you know.

00:11:23

Madej: Mmhmm.

Stephens: It's permits granted. And you know, that was the evolution of the policy of the environment throughout this.

Madej: Mmhmm. Now with being a resident in the city and the Evergreen Alliance being in the city, with the actual neighborhoods, did the Mayor, Colman Young really didn't have much to do with your group or anything or...?

Stephens: Nothing. No, he, I remember from a friend of mine went up to him early in the struggle and happened to run into him in the lobby of one of the buildings downtown, I think it was the Penobscot Building. And so, he's got a lot of guts so he just went up to him and said, "Mr. Mayor, are you going to stop building that incinerator?" And Colman just looked at him and said, "The money's already been spent son."

Madej: [laughter]

Stephens: That was a, that was our...personally with Colman.

Madej: There was no specific a...?

Stephens: You know, what Colman said that was really shocking was the day after the Air Pollution Control Commission voted to deny the operating permit, Colman blew a gasket and told the media that he was lead to believe the vote was going to go the other way, you know. This licensing commission's vote was apparently, he thought fixed in, you know, it's a back room agreement between him and Governor Blanchard.

Madej: Mmhmm.

Stephens: Which is not something you typically want to say, publicly, if it's true, you know. You know, Colman was getting on at that point, this was a guy that had a magnificent progressive origin and how he went from, you know, labor and organizer, the man who stood up to the House of American Activities and various committees, the first black mayor of Detroit, to the public agent of this giant incinerator, and the other corporate things that he did. The Pole Town plant, etcetera, etcetera. History of his office has never really been told. Somebody ought tell it.

Madej: Mmhmm.

00:12:58

Stephens: It was, was a little before my time, but, I mean that's another whole...

Madej: Another whole story.

Stephens: It was the political context for this, was what it was.

Madej: Unhnn.

Stephens: You, you would not going to be able to, what we learned we should have know from the beginning, and we probably didn't know but we just didn't care. You were not going to organize around an environmental issue in the 80s, in Detroit against Colman Young. I mean this was the, you know, he was a very knowledgeable leader of the city. And the, you know, the

people that vote for him were not going to turn on him because of environmental issues.

Madej: Unhnn.

Stephens: Primarily because of race and everything that attended to it.

Madej: Unhnn. Okay.

00:13:34

Madej: I think also from your resume I read that were in 1991 brought suit against the Michigan EPA, against the owners and operators of the trash incinerator.

Stephens: Yeah, well we tried to, we tried to appeal the, after they denied the permit they turned around and had a special meeting and interviewed into a consent order and gave them a permit.

Madej: Unhnn.

Stephens: On the condition that they'd do this retrofit, right?

Madej: Unhnn.

Stephens: Which cost them 500 way over \$500,000,000. And, and under Michigan law, under the procedures, you had, I was a little younger at the time, right, you have twenty-one days to appeal such an administrative filing. We filed such an appeal and a lawsuit.

Madej: Mmhmm.

Stephens: In order to preserve the rights, but I always said I was not going to pursue this by myself, I'm not going to, you know, fight Heineken ...

Madej: Yeah.

Stephens: ...and you know the state attorney general and all these corporate companies. We, we wanted, what happened was we wanted trial lawyers for public justice, a national public interest law firm to take the case and they just didn't do it.

Madej: Mmhmm. It was too controversial and not...

Stephens: You would have to ask them why they didn't do it. I sure I have some information and stuff, there's no point in me talking about it, you know. [laughter] You know, yeah, it was, it was not something that it was worth it for them.

Madej: Mmhmm. Okay, all right. So, unsuccessfully having that lawsuit go through, not go through, was there any type of more activism to try to still get it shut down?

Stephens: There was because the next agent it was going to the city council to get the finances approved for the retrofit.

Madej: Unhnn.

Stephens: That point we appeared in front of city council and argued what a bad deal it was and how the failure of the plant and its tests to meet the standards for lead, cadmium, dioxins and furan, and hydrochloric acid, was a breach of contract and they should not, they should give it back to Combustion Engineering, they'd breached their contract. We did get city council president Maryann Mahaffey's vote on that.

Madej: Okay.

Stephens: We actually tuned one vote on the city council.

Madej: Unhmm.

Stephens: For whatever that's worth. [laughter] Now councilman Mel Ravitz made a statement in conformity with his, in, in connection with his vote for it, which he acknowledged it was a terrible deal, but basically said, look we've no choice. This is the policy that the mayor has chosen for our solid waste disposal, and you know, it all a terrible deal you know to say no to it and alternative means no sense to him.

Madej: Mmhmm.

Stephens: And you know, this was of course, if you, flash forward today, to the bankruptcy, this is always the arguments, right? There is no alternative going back to Margret Thatcher in England in the late 70s and the Regan administration, you know, the claim always is on behalf of corporate power and their political supporters and allies, this is the way it has to be, there is no really alternative. By which they mean, there is no alternative

that there is consistent with maintain their power, and the system that benefits them and the way that they intended and desire.

Madej: Mmhmm.

Stephens: And that's, that's basically what happened, and that's continuing to happen...

Madej: So, political, like a political, I guess, the politics are...

Stephens: I think the word is neo-liberalism. That's the word, you know. If, if, if traditionally liberalism is a market based economy...

Madej: Unhmm.

Stephens: In which, prices are set by free interaction, economic actors who, you know, you and I decide to just, just dispose of our trash or grow our food or sell our food or transport what, that contract, you know, leads to the greatest goods, the greatest number. Neo-liberalism is the effective support of giant private economic entities corporations.

Madej: Mmhmm.

Stephens: By government even deregulation, lower taxations, lowering labor standards, enforcing, you know, draconian terms of employment. Busting unions and work...

Madej: Mmhmm.

Stephens: And, those, those particular things have come to characterize, you know the time that we live in and produced this unbelievable inequality that we have now, it's the, you know, sort of the condition that we have everything we face economic and politically and all that and everything else.

Madej: Mmhmm.

Stephens: What is this? It's eighty-five people have as much wealth, income, property as 3.5 billion people in the world.

Madej: Mmhmm.

Stephens: I believe that's the latest I saw in a, it wasn't Unicef, it was another standard, the Oxfam.

00:18:15

Madej: Okay.

Stephens: It was the Oxfam study. The eighty-five richest, the eighty-five richest people in the world, the equivalent of 3.5 billion. I would say things are out of balance. [laughter]

Stephens: You know, and I think, that you know, this whole Evergreen Alliance versus the incinerator and all the corporations that it rode in on was an early skirmish and the acceleration of that process.

Madej: Mmhmm.

Stephens: In the 80s.

Madej: Do you feel there's still a balance, an unbalance in Detroit with the I guess the wealth distribution, I guess with representation?

Stephens: I mean that's what the plan of adjustment with the bankruptcy and emergency management is all about.

Madej: Unhnn.

Stephens: You know, you have a, you have a system where in 2007 and 2008, the arrangements that were put into place back in the 70s, at the time the incinerator was planned and designed, you know the globalization of capital, the financialization of the economy, the deregulation of the, what I mentioned before, the busting and lower taxes. Through the contradictions of that system, the inequality in particular and the, you know, overcapacity you had this crash, you have this epic recession.

Madej: Yeah.

Stephens: Right? This great recession. And someone's got to pay, right? It's like you send somebody to the store and you didn't come back with the money...

Madej: Yeah.

Stephens: ... you didn't come back with dinner.

Madej: Yeah.

Stephens: You know, so who's going to pay this? And so, yeah, what you know, has been happening in the last couple of years in Detroit, is the continued evolution of that process, oh we're just going to take away from the city's workers and the retirees, you know because there's a bunch of capital out there in their pensions fund and we can get that, you know. And while we're at it, in order to make it totally, [00:20:00] in order to rationalize it were also going to give the bond holders a kick, a haircut which they did. About eighty percent of the debt they illuminated came out of the worker's hides.

00:20:08

Madej: Mmhmm. Now do you see, have you seen in the past twenty years or so, it's gotten better with the wealth distribution and more representation...

Stephens: No, it's gotten worse. No, it's gotten way worse.

Madej: How do you say it's gotten worse?

Stephens: Well, like I said for one thing we used to have a Toxic Waste Substance Control Commission, we used to have Michigander Air Pollution Control Commission. In the 80s nobody would say as Senator Richard Durbin said a few years ago, that all the banks owned congress. Citizens United, you know every single United States supreme court justice appointed to that court since the 1970s, has been not a little bit, not arguably, but significantly to the right of this predecessor.

Madej: Mmhmm.

Stephens: That kind of thing has significant consequences and you know when republican presidents have to appoint the justices and judges also, not only the justices but the local. They've done a ideological bases and when democrats have done a democratic bases. So there's been a consistent political bias built into the judiciary. The money and the elections systems have been, it's completely out of control now. It's Citizens United and everything else and so it's gotten way worse to a point where it's absolutely frightening at this point. And it literally threatens our survival.

Madej: Mmhmm.

Stephens: Because when you look at the effects on the climate, then the effects on the climate on things like food production and the availability of water. I mean people in California...

Madej: Yeah.

Stephens: ... today. People in the Great Lakes in the middle of this fresh water blessing. In Monroe County and Lucas County in Ohio, just last summer simply couldn't drink the water.

Madej: Yeah.

Stephens: So, you know, and, and within a few weeks of that we had a big rain storm here that, you know, flooded the, it's a miracle that more people were not killed.

Madej: Mmhmm.

Stephens: So, the, we are in a very, very precarious time, you know. We have a lot of distractions, electronic, pharmaceutical, emotional, political, cultural, and every other way. And if you pay attention to what's going on, if you're not scared, well anybody's paying attention, you're scared.

00:22:06

Madej: Mmhmm. Can you tell me more about, or actually tell me about the Michigan Environmental Justice Coalition that you were a founder of?

00:22:12

Stephens: Yeah, the Michigan Environmental Justice Coalition was something that was, were skipping over some of the history here.

Madej: Okay.

Stephens: I didn't realize we were going to get that far, but I can do that.

Madej: Yeah.

Stephens: After the incinerator fight and after the retrofit, in the 90s, there was, of course we started to talk about environmental justice, and there was a pair of activists, well, a small group of activists, the pair that I'm thinking of is the late Janice O'Neal and the late Lillian Robinson, both of them have passed away since and Father Phil Schmitter and the late Sister Joanne Chiaverini in Flint, and they were getting really sick, I don't know

if you're familiar with Flint, but you know, the north side of Flint is basically the black side of...

Madej: Yeah.

Stephens: ... town, and the suburbs to the north are very white and pretty well-to-do, so...

Madej: Yeah.

Stephens: ... other than parts of Grand Blanc. Both parts of Grand Blanc to the south are also Mt. Morris Township and so forth...

Madej: Unhnn.

Stephens: ... are pretty well-to-do. And what Mt. Morris Township was doing was they were citing industrial and waste processing facilities. On the edge of town where the emissions went over to the north side of Flint.

Madej: Unhnn.

Stephens: And the people I mentioned, Janice O'Neal, in particular, was an absolute heroin, an unsung hero with environmental justice in Michigan. Took exception to that happening again, and what happened was in the late 80s, or the early 90s, in the very last days of the Michigan Air Pollution Control Commission, they kicked up a big fuss about something called the Genesee Power Station.

Madej: Okay.

Stephens: Which used to be a wood waste incinerator, and ironically, in the, in the DNR [Department of Natural Resources] file, in the, in the first meetings that developed the upper half of the regulators, they describe its mission as to burn crack houses from Detroit.

Madej: Okay.

Stephens: So this [laughter] there was this big controversy about how bad this facility was going to be, which turned into a debate over the, you know, the nature of the feed stock. And, and, and we filed a lawsuit and by we, I mean the, the Morris and Jane Sugar Law Center.

Madej: Mmhmm, yeah.

Stephens: And myself was co-council, Michael Haddad as co-council. And in the first round of that lawsuit, which I was not personally involved in, other than viewing the pleadings, then Judge Valdemar Washington in Genesee County Circuit sent the parties to mediations or settlement talks, really. And the Genesee Power Station agreed not to burn so much construction and demolition debris.

Madej: Okay.

Stephens: They would limit their... it's in Detroit. To in other words, the paint contaminated wood took a very small percentage, I think it was twenty percent or something.

Madej: Unhnn.

Stephens: And to primarily burn, like, you know, brush, right.

Madej: Okay.

Stephens: And so that, that was clearly a result that was as good as we could even possibly hope to achieve through [00:25:00] litigation. So that settlement was entered but we had also sued the DNR.

Madej: Unhnn.

Stephens: And so with that claim still remaining, and Judge Washington resign, the case was assigned to his successor Judge Archie Hayman. The question became, what are we going to do about that? And we were from our position, we were like oh, okay as far as we're concerned this is done, we settled it, we'll just dismiss without prejudice. And the DNR under Engler [Governor John Engler], being the, I'll just say on the tape, being the evil mother-fuckers that they were, said oh, so you'll agree that there's no violation of, there's no, no foreground justice here. Injustice you're environmental justice and there's no discrimination. You'll agree to dismiss it on the merits that they, you lose you don't have a case that there's nothing to complain about here, right?

Madej: Mmhmm.

Stephens: We said, well no, [laugh], you know, there's a difference dismissing the case that has a hasn't been litigated without prejudice, and, and, admitting that it's not, we don't agree! It's not right, we can spend our time doing something else, better. And we, we even said, well what do

you mean? What if we admitted that there is no intentional discrimination? Because that becomes a big deal.

Madej: Unhnn.

Stephens: An issue in the criminal justice. Are we talking about disparate impacts, from a fiscally neutral policy? Are we talking about intentional racism? It was a big issue then. No, we want you to admit there was nothing.

Madej: Unhnn.

Stephens: So they forced us to go to trial! And that's when I got involved. And I tried the case with Kary Moss, who's at the ACLU, now. And we got an injunction from [laughter] Archie Hayman!

Madej: Unhnn.

Stephens: He said, don't grant anymore permits till they deal with this issue. So they were quite humiliated by that. Archie made himself a big hero.

Madej: Mmhmm.

Stephens: But he did it in a very strange procedural way. He granted the injunction on the subsequent section of the Michigan constitution, the one involving the general welfare. As opposed to the one we plead, which was the one involving the environment.

Madej: Unhnn.

Stephens: Section 51 and 52 I think or 52 or 53.

Madej: Unhnn.

Stephens: And what we did then was any competent lawyer would do was we said all right we'll amend the pleadings, we'll include that in our complaint and it's perfectly fair. Because in fact the case was tried on that basis because the DNR's defense was, hey, our policy is to defend everybody. And Archie looked at it and said, well I don't agree. You, you know, he, he was, he's a very, he's an interesting guy.

Madej: Mmhmm.

Stephens: But that's a whole other story. [laughter] Trying to get, like I say, you are ahead of the story here.

Madej: Unhnn.

Stephens: What happened was of course they appealed. And they appealed on the basis that they, it was non-political theory. And he wouldn't let us amend the pleading. So of course the court of appeals reversed.

Madej: Mmhmm.

Stephens: In a two to one decision with Judge Kathleen Jansen, it should go back and be tried. Should they, we should be allowed to amend, and then retired on that theory. Which was interesting since Kathleen Jansen had been running for the Michigan Supreme Court, and had recently lost a

close race after ruling in a very prominent case involving regulatory takings. Which is another part of this whole...

Madej: Unhnn.

Stephens: ... a conundrum, you know. And so, I think she was somewhat to how important these issue were.

Madej: Okay.

Stephens: The other two just said, we just could reverse it because this is just a neutral mess. They were right, it was a neutral mess and Archie simply got himself on the news in Flint and for two whole weeks defending the community. [laughter] And then managed to get rid of the case. [laughter]

Madej: Unhnn.

Stephens: So you got to hand it to the guy [laughter]!

Madej: Unhnn.

Stephens: Some of these guys just know how to exercise power, let's face it.

Madej: Unhnn.

Stephens: You know?

00:28:14

Madej: Do you still work with the Michigan Environmental Justice Coalition?

Stephens: There's a new Michigan Justice Coalition and they did a, they did a state-wide seminar a few weeks ago. I was just looking at some notes from it. Oh, it was on the computer. And I spoke there about some of this history.

Madej: Mmhmm.

Stephens: Haven't heard anything back since.

Madej: Okay.

Stephens: Not sure what they doing exactly.

Madej: Unhnn.

Stephens: It's a different group, really.

Madej: Okay, so it's not really... Okay.

Stephens: There's some, there's got to be, there's some, kind of continuity in the groups. But the Michigan Environmental Justice Coalition that I was involved in was in the early 90s and it was after the Flint lawsuit.

Madej: Okay.

Stephens: After the Flint lawsuit we said, all right what'll we do next? And we formed this coalition and we had several Michigan legislatures, including,

the leader of it, Kwame Kilpatrick, the then minority leader in the state senate, sponsoring environmental justice legislation.

Madej: Mmhmm.

Stephens: And I don't remember the details of the legislation. I think basically what it did was just established that environmental discrimination would be the equivalent of a violation of the Michigan LA Larson Civil Rights Act. Which was the theory we had tried the...

Madej: Mmhmm.

Stephens: ... the full case on. So that was... It did introduce that but it died...

Madej: Okay.

Stephens: ... in the committee. And then he got busy running for mayor.

Madej: Mayor. Okay. You also mentioned earlier in the interview you worked for the Maurice and Jane Sugar Law Center. And you were pretty much involved in making sure you adopted environmental justice as part of the litigation program. What were some of the challenges that were dealt with this investing in that type of law?

Stephens: Resources, resources, politics, and liberalism.

00:30:00

Madej: Unhnn.

Stephens: I was very hard to get, I mean it's notorious in the environmental justice arena, that the funds that are available for the environmental work are disproportionately and traditionally environmental movement type issues and the environmental justice movement is overwhelmingly underfunded.

Madej: Unhnn.

Stephens: So yeah, it was, it was somewhat rewarding to do it for a while you couldn't possibly make a living doing it.

Madej: Unhnn.

Stephens: And you know, the law center still exists. It's got a smaller staff now.

Madej: Unhnn.

Stephens: And does all kinds of great work. I was a cooperating attorney with them in the Flint case. And then I was a part time employer for a while after that.

Madej: Mmhmm.

Stephens: And I was just doing a few cases...

Madej: Mmhmm.

Stephens: ...on my own.

00:30:42

Madej: What has been the some of the most disappointing parts of being an activist for environmental justice in Detroit and Michigan?

Stephens: Well the fact that that incinerator's still operating is horrible.

Madej: Unhnn.

Stephens: The fact that we haven't made any real progress on environmental justice as a policy.

00:30:57

Stephens: It's terribly frustrating.

Madej: Mmhmm.

Stephens: The lack of equity and the investment of resources and the mainstream evaluation of the issues, all of those things are terribly frustrating.

Madej: Mmhmm. How about on the flip side, something that's been extremely satisfying.

Stephens: It's been extremely satisfying to be a part of something that's been extremely satisfying is what it's like to be part of you know, something that is really on the cutting edge of social justice activism for decades. And there's some very, very dynamic people associated especially if you take environmental justice and appreciate it with the, with the breadth of

it and not just in the terms of the narrow terms of the environmental definition, that you read earlier.

Madej: Yeah.

Stephens: But in terms of how it connects up with you know, transportation, and housing, and security, and education, and every little thing else. In 2010, we hosted the second annual US Social Forum here in Detroit.

Madej: Unhnn.

Stephens: And it was very clear to the people that were from all over the country that were instrumental in that, were very active in that and involved and informed in environmental justice issues and some of them, they were some of the most dynamic people I've ever been associated with, very proud to be associated to work with them. And the people from Detroit that worked on that project were also, you know environmental justice associated people. And there was this giant march at the incinerator, at the end of the US Social Forum.

Madej: Unhnn. And it was in 2010 you mentioned?

Stephens: Yeah.

Madej: Okay.

Stephens: So you know, there's just been, and like I said, I was asked to speak at a, at a conference a month or two ago. And you're still doing this here. It's good that we're documenting this.

Madej: Mmhmm.

Stephens: We have video that needs to be assembled to a project that tells the story.

Madej: Mmhmm.

Stephens: And it's, it's definitely been the thing to do because you know, there's no ques... we, we, always saw this and at the time the whole basis was to recognize this isn't just a question of how we dispose of trash...

Madej: Yeah.

Stephens: ... or whether this particular corporation that gets the, the contract to build this particular facility.

Madej: Unhnn.

Stephens: This is an essential part of decisions that we have to make that have a, that are, essential to the stage of history that we're in right now. And the stage of development of the industrial civilization we live in. Our health...

Madej: Unhnn.

Stephens: ... you know, how we define justice, progress, economic growth and economic productivity, all these things. And it was always, it was very clear, you know, people were starting to talk about global warming at the time.

Madej: Mmhmm.

Stephens: And climate, it was always clear that if we just continued along the path of paying giant industrial corporations, a premium, to quote-unquote solve problems which couldn't solve them at all, but simply created greater problems, that we were going to be facing a potential catastrophe that we are facing today.

Madej: Mmhmm.

Stephens: With our water and our land, and our, and our air. I mean the air's a little bit behind it right now, mostly because well not if you account for climate. All right the air... the carbon dioxide in the air. The, we're, we're in, in, an enormous risk. I don't know if you've looked at Naomi Klein's new book, *This Changes Everything: Capitalism vs. the Climate*, but this changes everything, you know. If you really look at the state, the situation we face, we have to go to the most fundamental issues and make decisions about how we do everything. Protect us from these, this catastrophe. It's, it's, it's inalegus to fighting fascism, seventy years ago, except it's even worse. You know, it's all of this shit that everybody says, oh but where are the jobs going to come from? Or, who's going to be or who's going to get the credit for it? Or, who's going to be the leaders? You know, no. This isn't an emergency our children's health and survival is threatened about this stuff. And that is really what it came from was that we recognized that this was coming [00:35:00] and I don't think, maybe we didn't realize it was going to be this bad even, but...

Madej: Unhnn.

Stephens: ... you know, we saw it coming and we said well we're going to at least try to you know speak truth to power about it and so it's, it's, it's good to feel that you did that, you know.

Madej: Mmhmm.

Stephens: It would be, it's, it's at the same time very frustrating because we're still, if you want, I mean, there was an environmental justice conference here in Detroit about five years ago, four or five years ago, and I was asked to speak at that and, several of the leaders from around the country were there. People I had known through their articles and through emails...

Madej: Mmhmm.

Stephens: ... and I never met, personally. And every one of the them said the same thing, because the sad thing is that if you ask, the EPA was there, it was an EPA sponsored conference, if you asked us what are the next steps in environmental justice, we can go back to the outlines that we had back in 1989 to 1993, and it would be the exact same outline. I mean you could just print it out from the computer and [laughter] here it is, this is the program. That's where ...

Madej: Unhnn.

Stephens: ... we're at, you know. And I mean, you know and that's why, you know why people can't drink water out of Lake Erie in the summer of 2014. And why, you know, you have this environmental, this climate emergency at the stage where it's at. I mean fortunately, there's a new accord

between the United States and China, so maybe it's you know, maybe there's some shift on this. Is it too little, too late? Only time will tell.

Madej: Mmhmm. Okay. What advice would you have somebody that wants to get involved in environmental justice issues or activism, especially in Detroit, even with the incinerator now or...?

00:36:29

Stephens: I think the same old advice, goes well. Think globally and act locally.

Madej: All right.

Stephens: Recognize that political change, social change is a long game, it's not a short game, you know.

Madej: Unhnn.

Stephens: You just don't make an argument to somebody to expect everything to change. But if you are dedicated to it and if you spend the time to learn it and spend the time to do it right, and build the kinds of connections and alliances, build the kind of movement that is the only thing that has ever made any good difference...

Madej: Unhnn.

Stephens: ... in this stuff. Then it's the most rewarding thing you can possibly do. Because it is the right thing to do.

Madej: Mmhmm. Are you still active in trying to get the incinerator shut down?

00:37:15

Stephens: Not the incinerator shut down so much, although I will go to their meetings. I think it's basically fall under its own weight, it's so old.

Madej: Unhnn.

Stephens: The problems that's come up now is that the smells are getting worse, they're not getting any better.

Madej: Mmhmm.

Stephens: Not exactly sure why that is. But there's a lot of course investment in Midtown, what they call Midtown, it used to be called the Cass Corridor. And those folks are upset about that.

Madej: Unhnn.

Stephens: Which leads to a really obnoxious dynamic, because, well what are you saying? Now that white people live in the corridor, you know, it's, it's all a sudden it's got to go?

Madej: Yeah.

Stephens: It's fine till then? So that's sort of going on and no, I'm not personally involved in it, although I'm sort of in dialogue and in-touch with those people.

Madej: Unhnn. Last month the Detroit News paper published an article kind of about like a settlement deal that was reached incinerator operators, Waste Energy and Detroit Renewable Power, they just kind of outlined that they were getting fined quite a bit and they have to reengineer their facility to reroute the odors. Do you feel that is enough or they're doing enough?

00:38:23

Stephens: I think it was pure window dressing. The article was so bad that it's impossible for me to know because the article talked about destroying the bad air, whatever the hell that means.

Madej: Obstruction of the odor.

Stephens: I mean...

Madej: Yeah.

Stephens: You have to have some journalist with some basic competence which clearly they didn't have there. I mean, the timing of it was very strange, of course some of Bill Shute's running for re-election. It's what, a two year process? We mean it this time. I'm shaking my finger for the recording. We mean it this time, we really better clean up your act. That is what I was referring to a minute ago.

Madej: Unhnn.

Stephens: When I said, really what seems to be going on here is everybody's saying is now that white people are living here and Midtown is supposedly, you know the great middle class...

Madej: Up and coming...

Stephens: ... frontier of Detroit, we, now we have to do something about this.

Madej: Unhnn.

Stephens: That lawsuit was filed by, as I understand it, Midtown and people who are members of the suemossey Midtown development association. I think that's who filed it.

Madej: Unhnn.

Stephens: And I got sense it was really a political sweetheart deal with Shute. They don't want to spend that kind of money you got to spend to really litigate this.

Madej: Mmhmm.

Stephens: This is a you know, a real... the same reason I didn't want to spend [laughter]... I didn't have that kind of money when I was a law, a young law student and filed that case!

Madej: Unhnn.

Stephens: And the, frankly, it's insane for them to spend the money, because now...
In 1991, we were looking at a brand new facility.

Madej: Yeah.

Stephens: With its whole life ahead of it. It's just silly now. It's getting old now,
yeah. It's old now.

Madej: Do you see any time in the future in the next 50 years, even if it's still
going to be there?

Stephens: Oh, no, it's not going to be there for fifty years. It couldn't possibly there
last that long.

Madej: Unhnn.

Stephens: Physical... I think part of the reason it smells so bad now, is that it just...

Madej: Old.

Stephens: ... degrading, you know.

Madej: Unhnn.

Stephens: Yeah, it's everything about it is contaminated with so much [00:40:00]
grease and residue from so many years of burning dumping it's...

Madej: Unhnn.

Stephens: ... not even so much burning as I think, as I understand it, it's the pile of waste.

Madej: Unhnn.

Stephens: The reason I told them was, you're setting here telling the community, I happened to be at one of the Midtown community meetings, because I was asked to meet a friend there for, actually it's part of this seminar for the Great Lakes Week, and they were there speaking to the community and they said, well we just don't know what's causing the smells. [laughter] Well come on, this is Detroit, this facility's been there for twenty years! If you pile up 3,000 tons of garbage a day, it's going to smell!

Madej: Unhnn.

Stephens: This is not complicated! [laughter] And then that's what the solution and I'm sticking to it, you know.

Madej: Unhnn.

Stephens: I think that's the situation that once you make the decision, not only to burn but to dump, so much solid waste, size is always been essential to this thing. You have to deal with complications.

Madej: Unhnn.

Stephens: Now if it's, if it's a city like Detroit, the previous twenty years when you just don't care about the people, as clearly they don't, then fine, it's a price you're willing to pay.

Madej: Mmhmm.

Stephens: But if you got this situation now, where this area, around this area where this incinerator, supposedly this great development deal, now they, now they have problems.

Madej: Mmhmm. Alright. Do you have anything else to add to the interview on environmental justice?

Stephens: No, no, we went over a lot of stuff. I mean it's, you know the, it goes on, it's got to go on.

Madej: Unhnn.

Stephens: We need to get a grip, on these issues.

Madej: Unhnn.

Stephens: And it's not only environmental, it's you know, who has the right, they call it the right to the city, right?

Madej: Mmhmm.

Stephens: Who has the ability to participate meaningfully in the process of urbanization? And altering the urban trajectory, environment

development process. And you know, that's really, I mean, Detroit, of course, is still grounds zero for that!

Madej: Mmhmm.

Stephens: Nationally, or even globally in terms of the industrialized world, for the very same reasons that we're involved in the incinerator. The nature of the local power structure, the nature of the, character and intent of capital in this particular region, in particular the regional dynamic, you know.

Madej: Mmhmm.

Stephens: There's, I mean, there's no other city in North America that built a wall around its central city...

Madej: Yeah.

Stephens: ... to the same extend that Detroit did.

Madej: Unhnn.

Stephens: And you know, that is just a fundamental reality that somehow we have to deal with. It appears that their decision is a... 600,000 people in Detroit, and half of them are you know, black and Latino and their poor as dirt, who cares?

Madej: Unhnn.

Stephens: That appears to be their policy. And we'll see how well that works out for you.

Madej: Yeah. Okay. Well I'd like to thank you for time today.

Stephens: It was a pleasure meeting you!

Madej: Thank you.

[end of interview]

00:42:51

Bibliography and Footnote Citation Forms

None.