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# *SYMPOSIUM*

BRENT NEWELL\*

## **Remembering Luke Cole\*\***

Luke Cole's professional life was all about two words: environmental justice. It is so fitting that law students here at this great law school dedicated their symposium in honor of Luke and responded to the Cole family's request for donations to the Center on Race, Poverty & the Environment in Luke's memory. Luke had a special place in his heart for law students because he wanted to help grow the next generation of public interest lawyers. On behalf of our staff at the Center and the communities for whom we work, thank you.

Luke's ties to this school's students go back twenty years. In the very beginning of his career, in 1990 when he was less than one year out of law school, Luke attended the Public Interest Environmental Law Conference, yet another student coordinated gathering at the University of Oregon School of Law. In what my good friend Charlie Tebbutt recalls as "one of the top five Conference moments of all time," Luke spoke truth to power.

Jay Hair, President of the National Wildlife Federation at the time, was giving a keynote address at a point in history when there was great tension between the so-called "big enviros" and low-income

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\*\* This speech was presented by Brent Newell at the *Journal of Environmental Law and Litigation's* symposium, *Advocating for an Environment of Equality: Legal and Ethical Duties in a Changing Climate*, held in Eugene, Oregon, on September 11, 2009. JELL wishes to thank Mr. Newell for his heartfelt words about Luke Cole. We would also like to thank the University of Oregon Environmental and Natural Resources Law Program and the Wayne Morse Center, particularly Heather Brinton, Margaret Hallock, and Jill Forcier for their support and advice.

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communities and communities of color, to whom the big enviros paid no heed. Luke was working on his first case, representing El Pueblo Para el Aire y Agua Limpio in a David and Goliath struggle against Waste Management, Inc., one of the nation's top toxic waste dump operators. El Pueblo is a grassroots group of mostly Latino residents of Kettleman City, a small San Joaquin Valley town in the rural breadbasket of California. Luke was fired up because a Waste Management executive sat on the National Wildlife Federation's board of directors. When Jay Hair began his speech, Luke stood up and shouted: "Get Waste Management off your Board! Get Waste Management off your Board!"

This happened in 1990, before the environmental justice movement had the name "environmental justice." The Kettleman City struggle was focused on a central principle in environmental justice cases: the right of the community to meaningfully participate in the decisions that affect them. In Luke's words: "If you're not at the table, you're on the menu." Not only did the good ol' boys want Kettleman City on the menu, but they wanted to ensure that the community could not even read the menu. The community showed the good ol' boys at the Kings County Board of Supervisors that they would not just submit; instead, they resisted. At the public hearing to approve the toxic waste incinerator, the Supervisors told the Spanish speakers to go to the back of the room just like the good ol' boys told our brothers and sisters to go to the back of the bus. Instead of submission, the people shouted: "¡Adelante! ¡Adelante! ¡Adelante!" They went to the front of the chamber. They went to the front of the bus. Luke's legal tactics drew from that moment.

The superior court held that the environmental impact report, printed in English, was inadequate as an informational document because Kettleman City's population had a significant percentage of monolingual Spanish speakers. El Pueblo won the lawsuit because they could not read the menu. In the face of the community's pressure and the court's decision, Waste Management abandoned its plans to build the toxic waste incinerator. El Pueblo's victory proved Luke's hypothesis that communities organized and empowered could successfully fight environmental racism. That theory became the model for his legal scholarship and lawyering. In his words, "there are two kinds of power: the power of money and the power of people."

Perhaps you have heard Luke speak. Perhaps you attended last year's JELL symposium, maybe you attended the 1998 Public Interest

Environmental Law Conference, or you may have heard him somewhere else. If you heard him speak, you heard him discuss this philosophy and his belief that the environmental justice movement should be operated from the ground up. In other words, advocates for environmental justice should be on tap, not on top, and the community should be in the driver's seat.

Words were his best tool; he was a gifted writer and a courageous, persuasive speaker. He chose to use his words to benefit others, to defend others, to protect others, and to give meaning to the term environmental justice. He represented scores of communities, on their terms, in many struggles. He successfully litigated cases for these communities and was always willing to bring the cases that would likely lose because sometimes those are the ones that must be fought regardless. Just like when he heckled Jay Hair as a young punk lawyer, Luke always spoke truth to power.

John Steinbeck gave this kind of courage and selflessness to his protagonist in the *Grapes of Wrath*:<sup>1</sup>

Tom laughed uneasily, "Well, maybe like Casy says, a fella ain't got a soul of his own, but on'y a piece of a big one—an' then—"

"Then what, Tom?"

"Then it don' matter. Then I'll be all aroun' in the dark. I'll be ever'where—wherever you look. Wherever they's a fight so hungry people can eat, I'll be there. Wherever they's a cop beatin' up a guy, I'll be there. If Casy knowed, why, I'll be in the way guys yell when they're mad an'—I'll be in the way kids laugh when they're hungry an' they know supper's ready. An' when our folks eat the stuff they raise an' live in the houses they build—why, I'll be there."<sup>2</sup>

Luke personified Tom Joad's selfless courage and willingness to live a life serving people that our society chooses to not just shove to the back of the bus, but to thoughtlessly throw under the bus.

To the University of Oregon School of Law students on the *Journal of Environmental Law and Litigation*: Thank you for being the first group to publicly honor Luke Cole's life.

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<sup>1</sup> JOHN STEINBECK, *THE GRAPES OF WRATH* (Penguin Books 2006) (1939).

<sup>2</sup> *Id.* at 419.

