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Mutual Water Systems and the Formation of Racial Inequality in Los Angeles County

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ABSTRACT: Environmental justice scholarship has indicated that a deeper contextualisation of histories and institutions is key to moving beyond simple perpetrator–victim paradigms of environmental injustice. Such contextualisation calls for recentring the state and the firm in analysis. This study answers that call by exploring five small private non-profit drinking water systems in the Los Angeles County communities of Maywood and Cudahy. Using data from Internal Revenue Service tax returns and various publicly available documents, I argue that the five firms are deeply implicated in the ongoing production of racial difference. The internal dynamics of the firms exhibit corruption and the stifling of community concerns, even while at times the firms provided unclean water. The state has supported these conditions both tacitly and actively at several scales. Even though the firms are not typical large for-profit investor-owned utilities, under the processes of racial capitalism their unique structure has enabled them to participate in the formation of environmental injustice and has made them an important part of the mosaic of forces contributing to overall environmental racism in the region.

KEYWORDS: Mutual water company, racial capitalism, corruption, social movements, Los Angeles, USA

INTRODUCTION

Starting in 2008, residents of Maywood, California (an inner-ring suburb of Los Angeles) began to experience discoloured and malodorous water in their taps (Wilson, 2009). When residents' complaints to the utility failed to resolve the problem, people began to organise. Working through a community-based organisation (CBO), Maywood residents brought in outside researchers who assessed their water and found elevated levels of manganese and tetrachloroethylene (Mattes et al., 2016). Tired of waiting for the local water providers to fix the problems, residents and the CBO undertook an electoral strategy, mounting a successful progressive environmental justice (EJ) slate for city council. They eventually gained a majority on the council, causing some optimistic researchers to prophesy a new wave of "Environmental Justice 2.0" movement in communities of colour (Carter, 2016).

Although the EJ slate was able to address some environmental disparities in the community, a solution to the water problem remained elusive. Three distinct privately held water utilities served the people of Maywood, all incorporated by suburban developers years before the city itself even existed. Maywood EJ reformers aimed to consolidate these three vestigial firms into a single publicly owned utility. After continued organising and political activity by the newly elected EJ leaders, the federal government agreed to explore the problem. The resulting report by the United States Army Corps of Engineers acknowledged that the water was contaminated, but that the contamination was within acceptable parameters for small water utilities. The report also cautioned against consolidating, saying that,

> Restructuring the water companies to be a single entity, for example, would push the number of connections and people served over the current 'small water company' thresholds, which would reduce compliance time and increase the amount of water quality monitoring required. While the shortened time for compliance and

> increased requirements for water quality monitoring would seem to be desirable by the community, the additional costs accompanying those activities would be less palatable (TetraTech, 2011: 47).

In other words, what would be unlawful behaviour for a large urban utility was considered to be perfectly fine for these small firms, regardless of the effects on residents. Thus abandoned by higher levels of government, Maywood activists changed tactics and attempted to assert control over utility boards. Ultimately, in a process explored below, this gambit also failed when courts ruled in favour of incumbent leadership.

At each turn and at multiple levels in Maywood, the state intervened on behalf of private enterprise; this included the US Army Corps of Engineers, Los Angeles County Superior Courts, and local elected officials, who often at the same time expressed sympathy and support for the beleaguered residents of Maywood. Throughout, the firms were able to successfully navigate the local political economy and to ultimately survive the vibrant and vocal public opposition. In a very real sense, they were even unaccountable to local city governments and to democratic channels.

This study is not a study of the polluted water pushed through pipes into the homes of Maywood residents; nor is it a study of some nefarious multinational firm violating the law to benefit shareholders at the expense of the safety of water-drinking clients. Rather, this study explores the internal dynamics of the small-scale firms providing water to the residents of Maywood and Cudahy (another nearby city), with an eye to better understanding how the firms function, both routinely and in the face of challenge. I find evidence that these firms, called mutual water companies (MWCs), have benefitted from unique corporate structures tied into landholding logics that are a holdover from a previous era of suburban development. Management of the utilities has successfully used that structure to insulate their boards from oversight or control in order to personally extract wealth from the communities they serve. The state has been complicit in these processes at every turn, even when EJ activists sat in key positions of local state power and actively tried to intervene.

The cases of Maywood and Cudahy thus provide a rare look into an understudied but common corporate structure in US water provision. The study, by moving beyond a simple public – private paradigm, gains a unique glimpse into the on-the-ground functions and methods of racial capitalism, shedding light on interactions among historic norms and institutions of land use policy, the federalist state, and the firm. The paper proceeds in five sections. It begins with a review of an emerging consensus in EJ literature about the key importance of the role of history, the state and the firm in understanding environmental injustice and environmental racism. The subsequent section provides information on the methods used in the study. This is followed by brief coverage of two key areas of background information: the study's geographic region and a technical discussion of the workings and governance structures of MWCs. I then explore the inner workings of five specific MWCs (three from Maywood and two from Cudahy) to better understand the priorities of utility leadership and their activities in response to challenges from the community. The final section offers a discussion on findings and puts forward possible ramifications of the study.

ENVIRONMENTAL JUSTICE, ENVIRONMENTAL RACISM, THE FIRM, AND THE STATE

Most critical environmental justice scholarship readily accepts the relationship between racial inequality and community exposure to environmental hazards. Drawing on Bryant (1995), Pellow (2000) defines environmental justice as the institutions – including norms and policies – that enable people to live in a safe space. Environmental racism manifests in the disproportionate effects of toxicity and exposure to, and effects of, pollutants and other hazards that are sustained by people of colour. A deep bench of research dating back over 50 years confirms that indeed such effects exist (see Brulle and Pellow, 2006, for a review, or Pulido, 2000, for research specific to the region of this study).

The concept of environmental racism as traditionally expressed, however, has limitations in that its overt focus is on finding a single guilty party. Over two decades ago, Pellow (2000) observed that prior environmental justice scholarship frequently exhibited a tendency to focus disproportionately on a perpetrator – victim paradigm without a deeper exploration of the various stakeholders and without a power map that explored the landscape that allowed environmental justice to flourish. Ranganathan (2016) frames the perpetrator – victim question slightly differently, through the instructive lens of intent. She argues that the desire to find a responsible party, and the need to thus establish intent, constitutes a trap in that it removes blame from the deeper structural issues underpinning environmental justice problems. Scholars have identified the ramifications of this undercurrent in environmental justice scholarship; these include an obsession with the potential of state bureaucratic processes as solutions to environmental problems (Pulido, 2017; Carrillo and Pellow, 2021), and a lack of critical inquiry into the unique economic and historical processes and institutions that have shaped a region and thus have allowed such inequality to exist in the first place (Pellow, 2000; Pulido, 2000).

The fact is that there is rarely a single racist the person pushing the button to pollute communities. Problems are structural, tied to capitalist development, facilitated by the state and, in the case of water provision, deeply connected to land use development agendas that have often originated well before the present conjuncture. Because the water sector is so highly regulated by the state, I turn now to the role of the state as a facilitator of racial formation and racial difference (Omi and Winant, 2014).

To understand environmental racism in a capitalist economic system, the state (which is often framed as a bystander in capitalist perpetrator – victim narratives) is best understood as a key channel for fostering conditions of racialised environmental injustice. Policy solutions or state intervention in a capitalist system will likely fail to provide restitution from either the legacies of, or actually occurring instances of, environmental racism. Drawing on Robinson's (1983) framing of racial capitalism as being wholly dependent on racial difference, devaluation, and disparity, Pulido (2017) argues that the capitalist state is wholly tied into an economic system that devalues non-white bodies, and that a permissive attitude towards pollution is a key component of such devaluation. The state, far from being a site of the solution, is a core component of the problem when it comes to environmental racism. Indeed, racism itself can be used to justify capitalist prerogatives, as Pulido (2019) argued in the context of the Flint water crisis. Exciting emerging empirical research backs up this theory. Vasudevan (2021), in her study of the environmental damage that was being inflicted on a community of Black aluminium workers in North Carolina, revealed the collusion between the state and the capitalist firm in their joint promotion of an image of innocence. Purifoy (2021), meanwhile, showed that some local state structures enabled majority white communities to mitigate the impacts of environmental degradation while providing little protection to communities of colour.

Even mainstream economists agree that local state structures control land use and development as one of their key functions (see Peterson, 1981, for the classic take on this argument). Land use and development policies – or, as Ranganathan (2016) calls them, the "politics of property" – fundamentally alter the landscape of a locality through processes such as white flight, residential segregation, and dispossession of housing. Analysis of land use policies and institutions is thus key to understanding processes of environmental injustice.

Indeed, scholars have argued that the historical context of development in a region is an indispensable aspect of fully grasping formations of environmental inequality (Pellow, 2000). Pulido (2000), for example, rather than focusing on individual firms that had caused pollution, tied the formation of racialised environmental injustice in suburban Los Angeles County (the region of this study) to histories of land use, urban development, and white flight. In other words, past development practices, including land use policies and histories of exclusion or banishment, will continue to underpin racialised environmental injustice long after specific practices cease or change.

The state is not a neutral party to the processes of environmental racism, and the firm itself is also far from absent. Recent scholarship has called for recentring the capitalist firm and its core processes in analyses of environmental injustice by exploring the social contexts in which they operate and the managerial logics at work within the firms themselves (Carrillo and Pellow, 2021). Indeed, a deeper look into the inner workings of the firm can provide evidence on how systems of structural inequality self-perpetuate under racial capitalism and with the collusion of the liberal state. The present study intentionally takes this approach.

The water sector provides a unique space for better understanding how the state and the firm can intersect to perpetuate and foster racial environmental inequality. When greenfield development occurs, the state tacitly or actively authorises water infrastructure development through planning, or a lack thereof. Later (in almost every part of the United States), the state heavily regulates drinking water provision and indeed often itself takes on the task of providing water. It sets the norms for what is permissible and what is prohibited and it makes decisions on how to enforce those norms.

With respect to water utilities, however, the call to recentre the firm presents unique challenges. For one thing, the common public-versus-private debate in water scholarship is misleading. Firms or government agencies which deliver water to the tap vary widely in their internal structure; nonetheless, an artificial division into public and private, where private refers to investor-owned utilities, is misleading. Calls for a more nuanced understanding of the public – private division in low- and middle-income countries (Pierce, 2014) have more recently been taken up by scholars in the US context. Dobbin and Fencl (2021), for example, found 26 distinct types of drinking water utility management structures in California and showed that differences in structure can have drastic effects on water quality outcomes. Good research has delved into some of the differences among publicly owned utility structures (Mullin, 2009), but there is little research into the ramifications of the structure of private water companies, with most researchers content to study investor-owned utilities (IOUs).

In an effort to move beyond the IOU focus, this study explores one of the most common structures for water provision in the United States, the private non-profit cooperative firm, or mutual water company (MWC). Despite its prevalence, this typically small-scale firm structure remains under-researched. Even though it does not play by the same rules and logics as a publicly traded private firm, the non-profit cooperative model can indeed work squarely within a racial capitalist system, helping to create racial difference and contribute to racialised environmental injustice. In other words, a firm need not be a large publicly traded IOU to contribute to the core mission of racial capitalism.

The MWC form was not designed for urban communities. The region of the study, originally a churning ground for fast suburban development for a whites-only homeowner class, relied on quick access to water in the absence of a formal state apparatus (Nicolaides, 2002). That historical context has allowed these firms to survive in a still-suburban region which is now inhabited overwhelmingly by people of colour who rent their homes; the governing logics behind the water utilities also remain unchanged. The result has been overt corruption,[1] disenfranchisement of residents over key decisions surrounding the water they put into their bodies, and even at times the provision of dirty drinking water. At multiple scales of proposed intervention, the state has tacitly or actively sanctioned these firms in their practices, fostering racial difference through a specific firm structure that does not seem to exhibit similar tendencies in other parts of Los Angeles County that are inhabited primarily by white residents.

The cases of this study thus provide evidence contributing to a growing literature that recognises the state's role in perpetuating racial difference and environmental injustice under capitalism, while

[1] I readily acknowledge the problematic nature of corruption as an unstable and shifting discourse, as outlined by Doshi and Ranganathan (2019). I use it here in line with their assessment of corruption as a manifestation of material power whereby "kickbacks, fraud, and looting, among other acts, are intrinsic rather than aberrant to capitalist development" (Doshi and Ranganathan, 2019: 443).

providing a unique exploration of an understudied, but very common, type of water utility governance structure, the mutual water company.

DATA AND METHODS

MWCs are non-profit organisations that must submit annual tax returns to the federal Internal Revenue Service (IRS). These forms, called 990s, are open to the public; they detail broad expenditure categories and individual compensation for some key principals.

Form 990s include broad, but not in-depth, information about how a non-profit organisation raises and spends its money. This study looks at reported categories for Total Revenue, Total Expenditures, Total Assets, Compensation to Current Offices and Directors, and All Other Expenses. These broad categories help in a general evaluation of how a firm prioritises expenditures relative to its revenues and size. Part VII Section A (one of the few itemised sections of the 990) lists compensations for key employees, officers, and directors by name. By comparing executive and board compensation to total expenditures across a wide sample of MWCs, it was possible to establish what proportion of money the company principals were taking.

In the cities of Cudahy and Maywood, there are five main MWCs in operation. These firms exhibit the highest median compensation packages in the county when considered as a percentage of total firm expenditures; they thus provide a unique case study of how this corporate structure operates in low-income communities of colour. The five firms are: Maywood Mutual Water Company #1, Maywood Mutual Water Company #2, Maywood Mutual Water Company #3, Tract 180 Mutual Water Company, and Tract 349 Mutual Water Company.

With the extreme-case approach used in this study (Yin, 2014), generalisability is an issue. The findings do not, by definition, apply to all cases; instead, they provide an example of a specific case, which shines light on a new facet of environmental injustice in a previously studied region. The paper explores the implications of interactions between state and firm when the structures in place are designed to benefit landholders in a context where they are not end water users.

The study draws on several other data sources, though information for all of the five firms was not always available from each additional source. Two of the firms examined in this study (Maywood #2 and Tract 180) borrowed money from the Los Angeles County Development Authority (LACDA), a county-level public agency. Although MWCs, as private firms, are not subject to public financial disclosure laws, these two firms provided LACDA with detailed financial documents that were available to the public under the California Public Records Act (PRA).

An investigation into legal documents filed during governance disputes within two of the five firms (Maywood #2 and Maywood #3) shines light on how firm management was able to navigate popular challenges to the firm's activity. The multiple briefs written by each side during these disputes, and the ultimate rulings in the cases, show how the state enabled the firms in question to continue operations despite flagrant management malfeasance.

Finally, lien and property transfer documents found in the files of the Los Angeles County Recorder-Registrar/County Clerk date the arrival of principals at water firms and provide evidence of private relationships between married board members. These documents help supplement timelines of board officer tenure. Table 1 summarises these data sources by firm.

Table 1. Data sources and cases of study.

Firm	IRS Form 990	Los Angeles (LA) Community Development Corp. public records requests	LA Superior Court documents	LA County Recorder-Registrar documents
Maywood #1	X			X
Maywood #2	X	X	X	X
Maywood #3	X		X	X
Tract 180	X	X		X
Tract 349	X			X
38 other LA County mutual water companies	X			

BACKGROUND INFORMATION ON THE REGION AND THE FIRM

Cudahy and Maywood

The tiny cities of Cudahy (1.14 square miles/2.95 square kilometres) and Maywood (1.18 square miles/3.06 square kilometres) are similar in many respects; though not adjacent, they are near enough that for a time they shared a police department. Both cities were developed as white enclaves in southeast Los Angeles County. Developers advertised lots with promises of ample space, clean ambiance, racial segregation enforced through racial covenants, and plenty of water for gardening (Nicolaides, 2002). Both cities incorporated primarily to avoid being annexed by neighbouring communities, though at very different times (Crouch and Dinerman, 1963).

White flight drastically changed the demographics of both communities (Pastor, 2013). Today, the cities are the two most densely populated municipalities in Los Angeles County. They have a similar number of residents (27,000 and 24,000) and residents overwhelmingly self-identify as Latinx (98 and 96%); approximately one in three residents of each city is foreign born; and median household income is well below the county average. Most importantly for this study, both cities are primarily inhabited by renters, with over 75% of homes in Maywood and 85% in Cudahy being rented. Because of MWC governance rules (explained below), this means landlords, not tenants, are the primary decisionmakers over water systems. (Table 2 summarises these and other key demographic attributes of the cities.)

Both cities have suffered from environmental discrimination and contamination. Maywood is a neighbour of Vernon, California, the infamous industrial city, and has long struggled with spillover effects from its pollution; as detailed in the introduction, polluted drinking water has been a significant community concern (Mattes et al., 2016; Carter, 2016). In 1999, the federal government established a Superfund site at 5050 Slauson Blvd., the location of a former chemical plant (EPA, 2016). Cudahy, for its part, briefly became the subject of national media attention in early 2020 when a Delta plane jettisoned 15,000 gallons of jet fuel on the community, dousing several schools and injuring multiple children (Vives, 2020).

Both cities also have recent traditions of political radicalism. In the mid-2000s, Maywood residents organised a progressive populist movement. At that optimistic point, many predicted that Maywood would be a shining example of a new form of Latinx-led suburban activism (Carpio et al., 2011; Pastor, 2013). After eliminating the notoriously racist and violent police department (Lait and Glover, 2007; Vives and Gottlieb, 2010) and establishing several new parks, reformers attempted to address the issue of water quality, starting with Maywood #2 (Carter, 2016). They were ultimately unable to make lasting changes as efforts at reform (described in detail below) bogged down in legal battles. More recently,

Maywood has again garnered national attention by becoming one of the first cities in the sanctuary city movement. The decision drew the ire of nativist (anti-immigrant) activists from outside the community who repeatedly stormed city council meetings in a preview of Trumpism (Vives, 2017). Cudahy residents similarly struggled with nativist disruption of city council meetings recently when they elected progressive Elizabeth Alcantar, a young immigrant rights activist, to city council (Wick, 2017).

Mutual water companies

Although the governance structure of mutual water company systems remains understudied, MWCs are very common in the United States. IRS tax returns show that in 49 states there is at least one MWC in operation.[2] MWCs are the most common water system both in California as a whole (Dobbin and Fencl, 2021) and in Los Angeles County, the area of analysis for this study (Pierce and Gmoser-Daskalakis, 2020), though at neither level do they serve a majority of water users.

Their unique structure dates back over a century. First permitted by the IRS in 1913 and now classified as 501(c)(12) organisations, MWCs are private tax-exempt non-profit firms that are essentially cooperatives. Landholders within a defined geography are automatically member-owners, with full rights of participation in the organisation (Seto and Chasin, 2002). MWCs first arose to facilitate cooperative irrigation projects (CalMutuals, n.d.), and are thus wholly tied into rural landholding logics and structures, although they now exist in both rural and urban areas.

MWCs are thus governed by, and are intended to wholly serve the interest of, property owners who live within their area of service provision; they are mutually beneficial only to landholders. Renter end users have no rights to participate in the MWC's decision-making processes, either directly or through indirect channels such as the local state. Unlike private firms with municipal contracts for water provision, an MWC is unaccountable to local municipal government, except to the extent that the local government is itself a landowner (Pincetl et al., 2016).

Mutual water companies come in many sizes, but most serve smaller populations than do many publicly owned utilities or IOUs. The median population served in Los Angeles County is only 914 customers and the smallest MWC serves a mere 25 connections. Larger urban MWCs, however, can serve numbers of households comparable to the numbers served by these better-studied types of firms. The largest MWC operating in Los Angeles reportedly serves over 280,000 connections, while the five firms of this study together serve around 35,000 connections (SDWIS, 2018). Thus, although larger MWC systems are relatively rare, they nonetheless constitute an important piece of the mosaic of urban water provision.

Mutual water companies primarily exist to deliver drinking water to customers' taps. Although they engage with centralised water management authorities in Southern California, they are essentially autonomous in their operations as long as they conform to mandatory state guidelines for rates and water quality. The firms of this study all manage their own wells.

Prior scholarship has argued that MWCs can create unique issues and challenges. In Texas colonias (impoverished rural communities specific to the border region), MWC governance structures have prevented local residents from participating in water decisions by curtailing public participation (Jepson and Brown, 2014). Other studies have found that small private water systems, including MWCs, struggled to meet basic quality standards (Bagley and Haws, 1985); they also found that MWCs are less proactive on maintenance, which can create water waste and inefficiency (Naik and Glickfeld, 2017).

[2] MWC is the preferred name in California, though naming conventions vary by state. According to IRS tax return filings, only Delaware has no 501(c)(12) that provides water services.

Table 2. Select demographic information for Cudahy, Maywood, and Los Angeles County.

	Cudahy	Maywood	Los Angeles County
Year incorporated	1960	1924	1850
Area in square miles /square kilometres	1.1/2.95	1.2/3.06	4057.1/10,507.8
Population	24,000	28,000	10,098,000
Population density (per sq. mi.)	20,000	23,000	2,500
Median household income	$43,381	$39,738	$68,093
Percentage Latinx	95.7	98.0	48.5
Percentage non-citizen	34.7	31.6	17.7
Percentage under 18	31.5	29.4	22.2
Total percentage ineligible to vote	66.2	61.0	39.9
Percentage of households renting	85.9	74.1	54.2

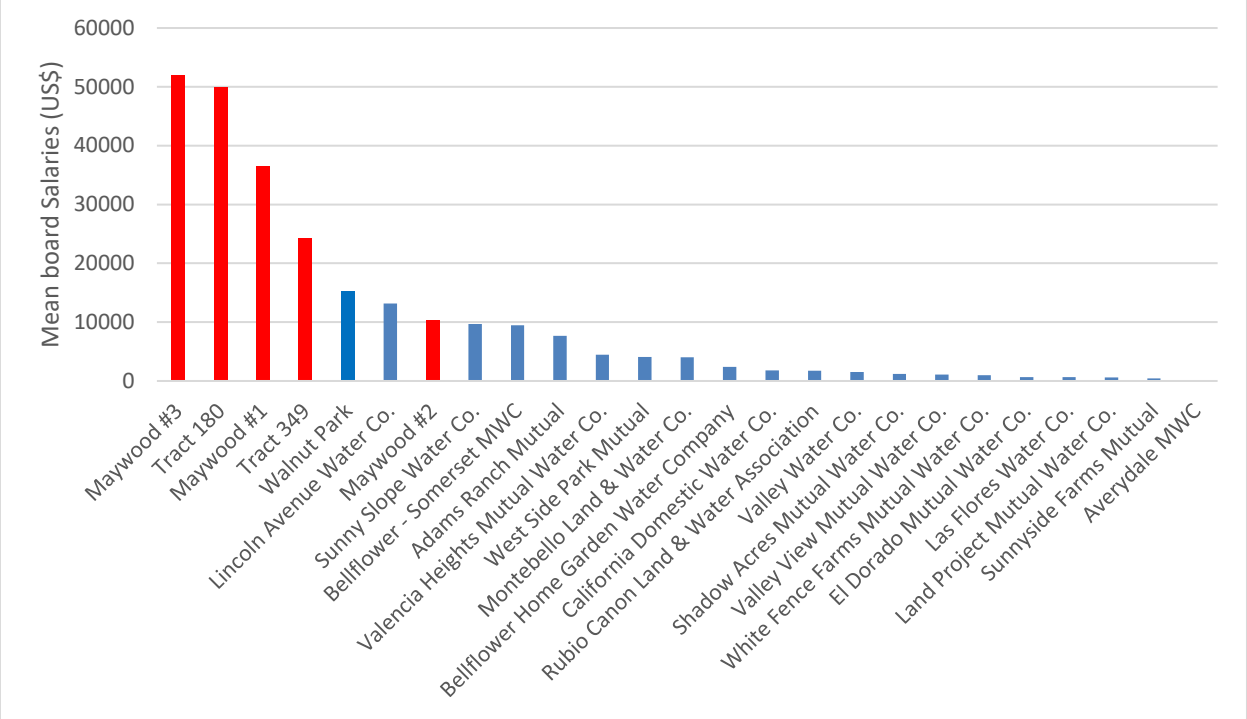
Sources: Area: US Census Bureau profiles, Cudahy City, Maywood City, and Los Angeles County, California; population, percentage of Latinx, percentage under 18: US Census 2018 ACS 5-Year Estimates Data Profiles, ACS Demographic and Housing Estimates; percentage Latinx = percentage of Hispanic or Latino of any race; median household income: US Census 2018 ACS 5-Year Estimates Data Profiles, ACS Median Income in the Past 12 Months (in 2018 inflation-adjusted dollars); percentage of non-citizens: US Census Bureau ACS 2015 5-year Estimates Selected Population Detailed Tables, Nativity and Citizenship Status in the United States; percentage of households renting: US Census Bureau ACS 2018 5-year Estimates Detailed Tables.

In the early 20th century, the MWC was an ideal way for housing developers to establish drinking water service on the frontiers of Los Angeles. Real estate firms advertised new homes on unincorporated land as having large lots and plenty of water (Nicolaides, 2002). In order to live up to their promises in the absence of centralised water planning or local government, developers turned to the newly authorised cooperative model. Owners who bought a house in these racially restricted communities were also buying a membership in the MWC, with full rights to participate in its direction and decision-making as the neighbourhood developed. In the century since, as the demographics and political logics of these suburbs shifted drastically (Pastor, 2013), some MWCs avoided change and remained independent.

As Los Angeles County became increasingly urbanised, the number of MWCs declined. A 1955 report by the State Water Resources Board counted 283 MWCs operating in LA County (quoted in Crouch and Dinerman, 1963: 55). The number today is certainly far lower, but even government oversight agencies do not have a firm grasp on the exact number of LA County MWCs. The Local Agency Formation Commission for the County of Los Angeles (LALAFCO), which oversees community water system boundaries, believes that 63 MWCs are operating in the county, though they have not verified the count (LALAFCO, 2018). A 2020 study by the UCLA Luskin Center for Innovation counted only 47 (Pierce and Gmoser-Daskalakis, 2020). At the time of writing, this study found at least 50 MWCs to be operating in the county; it found them by cross-referencing the two lists with IRS filings and with corporate filings with the California Secretary of State. The rest have presumably been consolidated into other utilities or insourced by local government in the intervening 60 years.

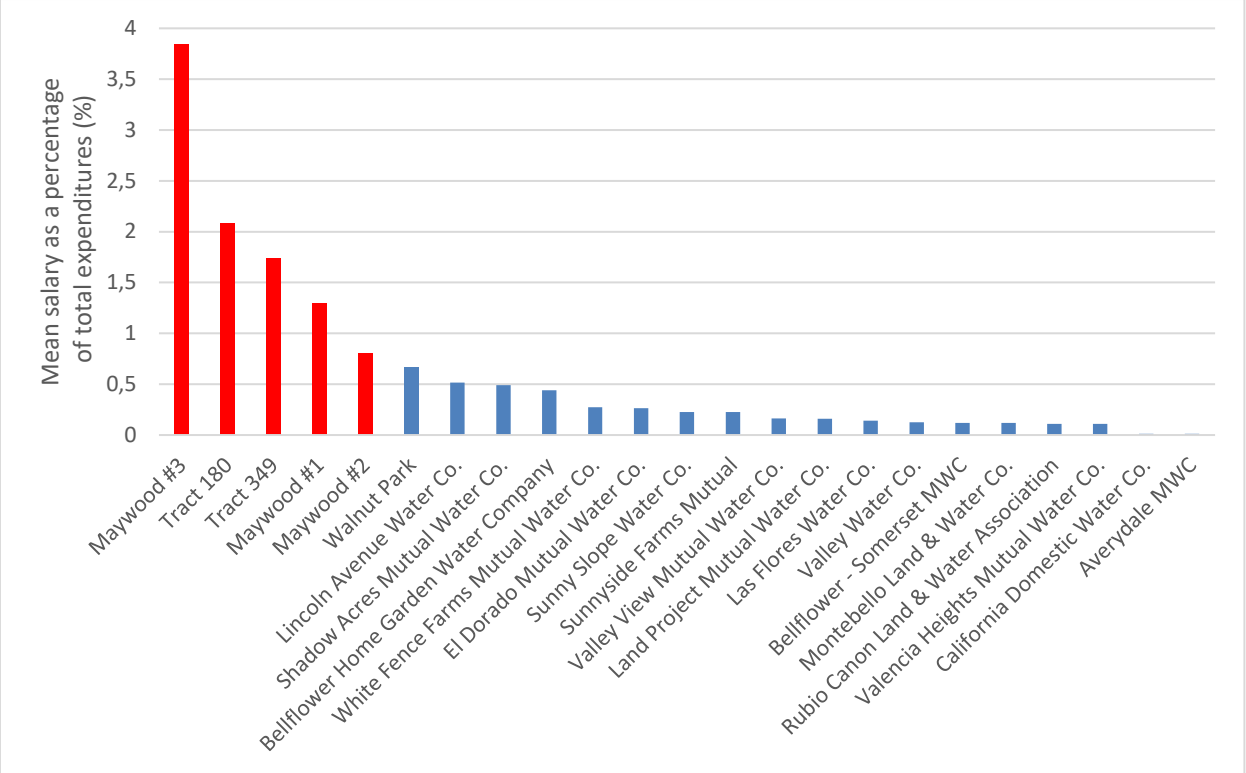
Los Angeles County MWCs exhibit a peculiar distribution of board and executive compensation, both in terms of amount and geography. Of the 43 MWCs operating in Los Angeles County that filed a Form 990 with the IRS in 2016, five of the seven highest average board member salaries lie within a 4.2 square mile (10.9 square kilometre) area encompassing Maywood and Cudahy (Figure 1).

Figure 1. Mean Los Angeles MWC board salaries, 2016.



Note: * Does not include 18 MWCs which do not compensate board members.

Figure 2. Median key salary as a percentage of total expenditures, 2016.



Note: * Does not include 18 MWCs which do not compensate board members.

Board members of MWCs frequently take little or no compensation for their work, with board members of 40% of MWCs that operate in Los Angeles County taking no compensation at all; board member compensation within these five firms, however, increases mean compensation substantially.[3] Both executive and mean board salaries, when placed in a ratio with either population served or total budget size, reveal similar trends. Finally, in order to eliminate any outlier effect from director compensation, median key figure compensation (meaning individually reported salaries of board members or employees) for all MWCs in the county was examined, and the same five firms showed the highest median key figure compensation (Figure 2). In 2017, the median board member at Maywood #3, for example, individually took home almost 4% of all money spent by the firm that year.

I now turn to an exploration of the internal dynamics of these firms to assess how these conditions arose.

FINDINGS

Firm management structures and patterns

The IRS mandates the basic rules for a 501(c)(12) to maintain its tax-exempt status, including regular board meetings and democratic elections. The California Water Board considers healthy board structure to be an important factor in assessing the at-risk status of MWCs (California Water Boards, 2020). Despite these rules, as early as 1933, accusations of board mismanagement surfaced at Maywood #1 (Los Angeles Times, 1933). Today, the MWCs operating in the Southeast County region continue to exhibit several markers of mismanagement and undemocratic processes.

Staff sit on board of directors

An obvious conflict of interest can arise when staff members have partial or total control of a firm's board. When staff participate in firm governance, they can dilute board independence and eliminate key board oversight functions. It is rare to observe the converse situation, where board members grant themselves staff positions. In California, staff members are not prohibited from sitting on firm boards. All five firms in this sample exhibited a troubling blurring of lines between board membership and staff (with conflicts arising in both directions), having taken full advantage of this state approval of mixed boards by hiring themselves into staff positions or doubly compensating themselves. Los Angeles County has even enabled this practice by, in some cases, providing the necessary funds for such self-dealing through economic development loans.

Maywood #2 provides an example of board members granting themselves remunerated positions within the firm, while making partial use of public resources. In 2003, Maywood #2 borrowed $1 million from the Los Angeles County Development Authority (LACDA) to build a new reservoir and obtain some equipment.[4] Among the terms of the loan, Maywood #2 was supposed to use some of this money to create new jobs, which the firm did; however, sitting board members took half of the new jobs for themselves. In a 2012 status report to LACDA, Maywood #2 reported hiring six new employees, three of whom were already serving as members of the board. One board member signed his own hiring paperwork; another was hired as an office assistant, even though the firm had hired two office assistants just five months earlier.[5] For several years, each of the three employed board members took home two

[3] One reason mean board compensation is so high is that executive directors sit on the boards of all these firms, another troubling issue which will be addressed later in the paper.
[4] LACDA Boarding Data Sheet, 5/27/2003. Obtained by PRA from LACDA.
[5] ibid. According to the 2012 IRS Form 990 filed by Maywood #2, the firm had seven employees in total at that time.

paycheques from Maywood #2 – one as board member and one as staff. As of 2018, one of these individuals continues to serve on the board; it is unclear if she is still drawing a salary as an employee.[6]

Executive directors occasionally serve on their own corporate boards; however, in non-profit environments the practice can again be controversial given a board's oversight role. Executive directors rarely take salaries for board service, yet firms from the sample group were frequently allowing executive directors to double dip as both staff and board members.

In Tract 180, the director of the firm also serves as a paid board member; when hired, they had a full-time public service job to boot. Tract 180 took out a similar loan from LACDA in 2007, borrowing $805,000 to recoat a reservoir,[7] with LACDA requiring annual independently audited reports. The firm reported hiring George Perez, then full-time City Manager of Cudahy, as a full-time CEO;[8] that same year he also started serving in a paid capacity on the board of directors (Gottlieb, 2011). By 2015, he was receiving two paycheques from Tract 180, for acting both as general manager and as paid president of the three-member board; as of the most recently available Form 990, he continues to do so.[9] At Maywood #1, Sergio Palos takes two salaries from the utility, one as general manager and one as a board member;[10] at various points, he also worked as a consultant for Maywood #2 and for Tract 180.[11]

While single staff members on a board may not raise red flags, a majority or near-majority of staff on a board can present conflicts of interest and eliminate board independence. Maywood #3 shows high degrees of board – employee concentration. Robert Rohlf acts as both president and board member, and at least one other member of the four-person board is an employee of Maywood #3.[12]

Finally, family connections on boards can also pose problems for board democracy. High concentrations of staff sit on the board of Tract 349. Martin Susnir serves as President of the Board and also works as an employee,[13] and his wife Carolyn Susnir also serves on the board of directors;[14] together, the two of them control a near majority of Tract 349's board.

Length of board tenure

Under IRS regulations, 501(c)(12) corporate boards are responsible to shareholders, and unsatisfied shareholders can replace the board at annual democratically conducted meetings by proxy vote (Seto and Chasin, 2002); however, because board meetings are not public events and because the state provides no oversight, it is impossible to know how often MWCs actually hold formal meetings. The state's legal framework thus enables boards to regulate and govern their own elections with little effective oversight. MWC shareholder members could in theory have legal recourse, but water end users do not, unless they own property under the MWC system. Whether or not actual elections happen as required by law, at all five firms directors have very long board tenures. Data from two management disputes cast doubt on the possibility of any effective challenges to incumbent slates by shareholders.

Maywood #3 is a prime example of lengthy board tenure. The current board of Maywood #3 has a total of five members. Of these, one joined the board in 1990 (while also an employee), two joined in

[6] Maywood Mutual Water Company #2, IRS Form 990, FY2018.
[7] LACDA Boarding Data Sheet, 12/20/07. Accessed by PRA from LACDA.
[8] LACDA Job Creation Reports. Accessed by PRA from LACDA.
[9] Tract One Hundred and Eighty Mutual Water Company, IRS Form 990, FY 2015, FY 2016, and FY 2018. Perez is listed as two distinct line items, one for each position.
[10] Maywood Mutual Water Company No. 1, IRS Form 990 FY 2015 and prior years.
[11] According to his LinkedIn profile. Accessed 8/10/2021. https://www.linkedin.com/in/sergio-palos-7602ab23/.
[12] Maywood Mutual Water Company No. 3, IRS Form 990, FY 2016. *Medina v. Maywood Mutual Water Company No. 3,* Case No. BC483318, Los Angeles County Superior Court Docket Document.
[13] Tract 349 Mutual Water Company, IRS Form 990, FY 2017.
[14] ibid. Martin and Carolyn married in 1989 according to a Quitclaim Deed. Los Angeles County Recorder-Registrar/County Clerk Document No. 89-526178.

1994 (one of whom was an employee), and a fourth joined in 1995.[15] The average tenure on the board is over 27 years. As a point of reference, the average tenure on corporate boards in the US is 8.7 years (Lukomnik, 2017).

Other MWCs in the area of study exhibit similar trends. Susnir has been running Tract 349 since at least 1998, when he is listed as president on a lien.[16] Palos has been general manager and board member of Maywood #1 for 24 years.[17] At Maywood #2, one board member has served on the board since at least 2000.

Stifling of challenge slates

Two legal disputes shine light on how MWC boards avoid accountability to shareholders. Ultimately, they may explain why board tenure is so long in the region. Between 2008 and 2012, both Maywood #2 and Maywood #3 saw unsuccessful outside efforts to unseat incumbent boards. In each case, legal challenges alleged unlawful activity by the incumbents. Despite strong evidence of election tampering, however, courts always gave the benefit of the doubt to firm management, allowing incumbents to continue their management of the firms in question. In other words, the state's legal framework guaranteeing a firm's independence became, in the hands of firm management, a powerful tool to limit the possibilities of challenge.

The dispute at Maywood #2 began in 2008 in the broader context of the city's populist movement. After taps began spewing brown water, residents organised and eventually took control of the Maywood city government through the ballot; they then began to vocally complain to other government agencies about the discoloured water. When the federal government declined to intervene after a US Army Corps of Engineers report exonerated Maywood #2, the movement switched strategies and sought to take over the firm itself. Residents attempted to convince their own landlords and local commercial property holders to sign their proxy votes over to a locally based reform slate dedicated to pursuing consolidation amongst the three Maywood-area firms (Wilson, 2009; Mattes et al., 2016).

In January of 2011, the firm held a contested election with an independent monitor and, because EJ activists were then at the helm of the local government, the City of Maywood voted for the reform slate. These shares, in addition to proxies signed over to the slate, at first appeared to win. After the monitor counted the votes, one of the incumbents attempted to change her proxy allocations in a bid to favour the incumbents, which the monitor refused to allow; on those grounds and using Maywood #2's own funds, the incumbent slate challenged the results of the election in court. They also argued that the City of Maywood's votes should be invalidated because of their connection to the EJ movement, claiming that local residents had not had sufficient time to weigh in on the city's proxy allocation. The court ruled for the plaintiffs. In the end, incumbents who were noted for a lack of transparency in their own firm had used the local state's transparency requirements – with the benediction of the court – to stifle populist dissent against the firm's practices. They funded this effort with the water use fees paid by the public opposition.

In 2012, another challenge slate (affiliated with a different local political faction) ran against the even-longer-entrenched incumbents of Maywood #3.[18] Reportedly, the board had not held an election in over 20 years (LatinoCalifornia, 2013), opting instead to renew their own tenures by annual majority board vote in clear violation of their legal obligations. The head of the challenge slate alleged that firm director Rohlf had told him, in response to hearing of a challenge, "Are you crazy? You have to wait until one of

[15] *Medina v. Maywood Mutual Water Company No. 3.* Case No. BC483318, Los Angeles County Superior Court Docket document.
[16] Los Angeles County Recorder-Registrar/County Clerk Document 98-1801626.
[17] According to his LinkedIn profile. Accessed 8/10/2021. https://www.linkedin.com/in/sergio-palos-7602ab23/.
[18] Unless otherwise noted, all information in the following two paragraphs comes from *Medina v. Maywood Mutual Water Company No. 3,* Case No. BC483318, Los Angeles County Superior Court Docket document.

the sitting board members dies".[19] In a later legal filing, the incumbents admitted that only 0.9% of the shareholders typically voted in annual elections. The board also admitted to the court that they kept poor records and did not even know who was eligible to vote, much less how to contact them.

When the challenge vote occurred, one of the incumbents personally supervised the election and immediately invalidated the lion's share of the challenge slate's proxies. The challengers sued, and the court ordered a repeat election that was to be managed by an independent party selected by firm management. The new monitor initially ruled for the challengers; several weeks later, however, he retracted his ruling under suspicious circumstances, invalidating almost 70% of the challenge proxies with little justification. In a later legal dispute between Maywood #3 and the monitor, court documents reveal that the latter had been on the firm's payroll as a consultant since at least 1992; he was thus perhaps not a truly neutral party after all.[20]

Each of these examples exhibits the high hurdles to be cleared when taking over the board of an MWC. First, a group must be able to figure out who owns property. In Maywood and Cudahy, property owners are overwhelmingly from outside the community and rental properties in Los Angeles County are increasingly held through anonymous limited liability companies (LLCs) which can make tracking down human owners even more difficult (Graziani et al., 2020). The reformers must convince a majority of these outsiders – often their own landlords – to hand water management over to reformers, and landlords have little incentive to empower their tenants over future water obligations. The reform slate, meanwhile, has no idea how many proxies each landowner actually holds or how large the universe of shares is, since firm boards guard this information closely (or may not even know themselves).

Even if they manage to clear these substantial hurdles, the incumbent board entirely controls the election process. Because many board members are also employees, they potentially stand to lose income if they lose their seats. It is these conflicted individuals who determine how election announcements go out, where they are mailed to, and which proxies are admissible; in some cases, they even supervise the election themselves. If a challenger does not like it, they can resort to the legal system, assuming they can afford a lawyer. The incumbents are able to afford counsel as they make use of the MWCs own resources. At least in these two cases, courts ruled in favour of the firm.

Finances

It should come as no surprise that tight control by parties with conflicts of interest can lead to financial irregularities. Each of the five MWCs in this study shows signs of questionable fiscal decisions. MWCs are required to send annual budgets and audited financial statements to members, but these documents are not available to the general public. When available, the quality of the documents varies widely. The firm's own auditor opens Tract 180's financial reports with a disclaimer that "management has elected to omit substantially all of the disclosures and statements of cash flows required by accounting principles generally accepted in the United States of America".[21]

Despite a lack of detailed data, IRS Form 990s display trails of questionable activity, including frequent board raises at the expense of ratepayers. Table 3 includes a summary of the data.

[19] *Medina v Maywood Water Company No. 3,* Case No. BC499760, Los Angeles County Superior Court Docket document.
[20] *Valenica v. Maywood Mutual Water Company No. 3,* Case No. 16K09693. Los Angeles Superior Court Docket document.
[21] Tract One Hundred and Eighty Mutual Water Company Audited Financial Statements, multiple years. Accessed via PRA from LACDA.

Table 3. Patterns in management and board compensation at five LA County MWCs

Data point	Maywood #1	Maywood #2	Maywood #3	Tract 180	Tract 349
Mean board salary in 2017	$49,977	$17,520	$43,825	$59,310	$28,407
Percentage increase in mean salary, 2011 – 2017 (nominal)	25.4%	1.5%	5.0%	109.7%	102.9%
Percentage increase in highest salary, 2011 – 2017 (nominal)	*	9.4%	5.0%	68.2%	116.0%
Percentage of total firm expenditures dedicated to key employees and board members, 2017	16.5%	7.3%	15.5%	14.0%	31.6%

Note: * Because of incomplete data for FY2017, highest compensation is not available.

Board raises

At three of the study's five firms, mean board salaries increased substantially between 2011 and 2017. Maywood #3 did not exhibit large increases; however, it already had, and continues to have, the highest median board compensation for all of Los Angeles County. Maywood #2 also did not display substantial increases but, as described above, the firm has a history of concealing payments to board members by accounting for them separately as employees. Whether this practice continues remains unknown.

Compensation for the most highly paid person at the firm (irrespective of that person's title) has also increased substantially over this time period, with the two firms in Cudahy displaying particularly large increases. The director of Tract 180 has a history of having granted himself questionably large salary increases during the time he served as Cudahy's city manager (California State Controller, 2014); between 2012 and 2016, the amount he personally took home from Tract 180 jumped by 520%. When questioned by the *Los Angeles Times* about drastic increases in board compensation, Tract 180's attorney glibly replied that at the board meetings, "It's always a spirited conversation" (Gottlieb, 2011). In 2017, Tract 180 overtook Maywood #3 as the highest mean compensator among all of LA County's MWCs.

Tract 349, in particular, pays a large salary to its director and president of the board relative to its budget. In 2017, the compensation for this single individual alone accounted for 21.7% of all firm expenditures. Between 2012 and 2016, this individual received an 85% increase in compensation.

State oversight

When faced with challenges, activists sometimes seek to scale up in order to pursue change (Doussard, 2015). Scaling up, however, failed to produce real results for EJ activists in southeast Los Angeles County. In 2013, following the leadership fiascos at Maywood #2 and Maywood #3, the California State Legislature passed Bill AB240 at the behest of the region's local assembly member. This bill aimed to increase transparency in MWC operations and presumably to form a new layer of oversight; it granted access to MWC budgets and to the audited financial statements of any elected official with constituents in a MWC's service area.

The veneer of transparency has accomplished little. According to multiple Public Records Act requests, not a single elected official for the jurisdictions of these MWCs in either house of the California State Legislature or in County of Los Angeles[22] has used AB240 to gain access to records from any of the five utilities.

[22] Specifically, Assemblymember Anthony Rendon, Assemblymember Miguel Santiago, State Senator Ricardo Lara, and County Supervisor Hilda Solis.

DISCUSSION

As mentioned in the introduction, this study was not an EJ-based exploration of pollution, but rather a study of the material conditions and inner workings at five instances of a type of understudied but common corporate structure which provides water in a context where the firms acted to foster environmental racism. These five firms, which serve low-income communities of colour, are outliers in the context of Los Angeles County. Managers in these firms have been able to siphon money out of the communities while shielding themselves from accountability; they are able to do so by taking advantage of a governance structure that is tied into the logics of the region's early 20th century real estate development. When push has come to shove, the state (at multiple scales) has always sided with the firm, while professing a commitment to transparency and a promise of safe water.

The firms of this study thus provide empirical evidence supporting key EJ theoretical interventions. Scholars have argued that the historical context of a region is of paramount importance to understanding today's environmental injustice (Pellow, 2000; Pulido, 2000). The historical context of the development of southeast Los Angeles County fostered a reliance by developers on small cooperatives for their water supply, essentially passing off the responsibility of water provision to the new landowners of the region in the absence of land use planning or even a local state. As the state formed around the already-existing water cooperatives, these firms were already insulated from oversight.

Environmental justice scholars have also connected the formation of polluted communities to the formation of racial difference (Pulido, 2000) and the "politics of property" (Ranganathan, 2016). Environmental degradation of the region, a result of later land use planning that emphasised industrial production, led to white flight from a previously racially exclusive enclave whose exclusivity had been upheld through the use of racial covenants. As new residents moved in, the region's landowning patterns shifted irrevocably; this generated a previously rare but now dominant set of landlord intermediaries between residents and the firms that provide their water. These landlords essentially insulate firm management from accountability to residents.

EJ scholars have cautioned against relying on the state for intervention in support of aggrieved communities under a capitalist system (Pulido, 2017; Carrillo and Pellow, 2021). Because the firms of this region were tied to landlords and not subject to local government oversight, activist residents attempted to scale up and sought outside help. As predicted by critical scholars cautioning against relying on the state, this gambit failed. Federal intervention emphasised cost-effectiveness over safety (TetraTech, 2011), while state interventions emphasised a veneer of transparency in the absence of change or oversight. Locally, the county provided ample subsidy to the MWCs with virtually no oversight and in the face of ample red flags (including warnings from the firm's own selected auditors). This practice funnelled funds that may have gone towards mitigating unclean water, directly into board members' pockets. In the judicial branch, when arbitrating between firm management and local activist opposition, courts always sided with firm management.

While this study adds to a growing body of literature containing empirical evidence in support of EJ theory surrounding the interactions between the state and the firm, it also responds to recent calls for a deeper understanding of how distinct firm-level institutional structures shape water provision. Dobbin and Fencl (2021) recently shook up the traditional public – private paradigm, calling for a more nuanced approach to studies of water utilities. Privately held utilities operate very distinctly from the privately held IOUs which many studies explore, in that IOUs answer to shareholders while MWCs answer to landholders. Despite the seemingly benign designation of 'cooperative', this study proves that even non-profit firms can be harnessed to fit into the underlying logics of a racial capitalist system and can thus contribute to the production of racial difference.

Tying water decision-making authority to land ownership can be problematic in many contexts, but the blend is particularly toxic for the communities of Cudahy and Maywood, where the vast majority of residents are tenants. Although the local state may be far from ideal as a conduit for input into decisions

(indeed, in both Cudahy and Maywood most residents cannot vote), the sanctity of the private firm in the US political economy provides MWCs with an even more impenetrable defence against oversight and intervention.

The connection between the MWC and land ownership is highly problematic. The cases in Cudahy and Maywood provide evidence of what can occur when the right to water is tied into the ability to own land, in contexts where residents cannot do so. This study is hardly the first to make this connection; Jepson and Brown (2014) identified similar issues with the MWC structure in Texas colonias. To my knowledge, however, this study is the first to explore this dynamic in a decidedly urban context. The MWC was initially intended to help rural farmers collectively access water. Developers hijacked this structure to get ahead of any centralised planning in turn of the century Los Angeles. The vestigial structures in Maywood and Cudahy have survived to the present day with completely unchanged logics and with the utter complicity of the state, even in the face of contaminated water (in the case of Maywood) and overt corruption by firm management (in both cities).

Finally, the cases of Cudahy and Maywood contribute to EJ theory's argument against simplistic perpetrator – victim paradigms. On the one hand, the residents of Maywood were far from mere victims, idly sitting by in the face of pollution; rather, they very actively fought pollution in their neighbourhoods (Carter, 2016). On the other hand, identifying a perpetrator in this scenario presents even more difficulty even though, assuredly, the self-dealing actions of individuals entrusted with the management of these firms is loathsome. However, no single person, much less a cabal, intentionally flooded Maywood's pipes with manganese and tetrachloroethylene and there was no simple and traceable intent to pollute (Ranganathan, 2016); rather, these conditions were enabled by the logics that underlie state power and the sanctity of the firm under a racial capitalist political economy.

CONCLUSIONS

The five MWCs operating in Cudahy and Maywood provide a unique glance into the connections between the firm and the state under racial capitalism. The state facilitated the production of racial difference in Cudahy and Maywood by directly funding and encouraging white flight from the area and by allowing pollution to occur. Vestigial water utilities became a side effect of, and later contributed to, this formation of racial difference. These small firms, wholly tied into the logics of landownership, became entirely unaccountable to the people of colour who resided in the cities of Cudahy and Maywood. When pollution came from the taps, residents of Maywood complained. The state ultimately decided that consolidation would not be cost-effective. When residents sought to take over the firms themselves, the state permitted overtly corrupt figures to remain at the helm and maintain the status quo. The state even directly subsidised their corruption, giving grants directly to board members through the rubric of 'job creation'.

These cases provide evidence that supports several key strands of EJ theory. As predicted by some scholars, a perpetrator – victim paradigm cannot fully explain how these firms function. The problems in the two cities were created by historical norms and institutions, and the state has played, and continues to play, a key role at multiple scales; it supports the firms while professing innocence, neutrality, and sometimes even support.

Similarly, the structure of the firms themselves has facilitated practices which ultimately serve to disconnect people from decisions over, or agency with regard to, the water they put into their bodies. The simplistic public – private paradigms that frequently dominate water discourse are of little value in understanding the inner functioning and outer effects of MWC governance structures. MWCs are a common structure for water provision in the US but they are only one of many types of governing structure. The prevalence of conditions such as those in Cudahy and Maywood should be explored in future scholarship; further study could also yield useful insights into other institutional forms that prevent people from exercising agency over their water.

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