

De-chartering Unocal

CALLING UNOCAL “A DANGEROUS scofflaw corporation,” a coalition of 30 citizens’ groups in September petitioned the Attorney General of California to begin charter revocation proceedings against Union Oil Company of California (Unocal).

The 127-page petition argues that Unocal has engaged in corporate law-breaking, was responsible for the 1969 oil blowout in the Santa Barbara Channel and numerous other acts of pollution, committed hundreds of occupational safety and health violations, treated workers unfairly, is complicit in human rights violations in Afghanistan and Burma and has “usurped political power.”

Claiming that the state of California routinely puts out of business hundreds of unruly accountants, lawyers and doctors every year, the coalition called upon California Attorney General Dan Lungren to begin a legal process that would result in the revocation of Unocal’s charter.

“We’re letting the people of California in on a well-kept secret,” says Loyola Law School Professor Robert Benson, who drafted the petition. “The people mistakenly assume that we have to try to control these giant corporate repeat offenders one toxic spill at a time, one layoff at a time, one human rights violation at a time. But the law has always allowed the attorney general to go to court to simply dissolve a corporation for wrongdoing and sell its assets to others who will operate in the public interest.”

If this authority exists, why is it that only once this century — in 1976 when a conservative Republican attorney general asked a court to dissolve a private water company for allegedly delivering impure water to its customers — has the attorney general sought to revoke a corporate charter in California?

“California attorneys general haven’t often done it because they’ve become soft on corporate crime,” Benson says. “Baseball players and convicted individuals in California get only three strikes. Why should big corpora-

tions get endless strikes?”

Benson argues that a single act of unlawfulness is enough to trigger charter revocation proceedings, although he admits that if an attorney general acts against a major company, it will be for a pattern of wrongdoing, not for an isolated act of wrongdoing.

Unocal’s Barry Lane says that if it is true that one bad act can trigger revocation, then “any company that has ever been found guilty of anything,” would face charter revocation proceedings and “the attorney general would be running every company in the state.”

So, which is Unocal — a sometimes criminal, or a corporate recidivist?

“We have committed misdemeanors in the past,” Lane admits, “but then so have many companies. We have operated here for 100 years. Yes we have made some mistakes, but we have always taken responsibility for those mistakes and worked to correct them.”

The petition alleges more than a single mistake. It lists 10 counts against the company, including:

- Environmental devastation. “The company’s environmental devastation extends from local to global and is serious enough to describe as ecocide,” the petition alleges, focusing especially on the company’s pollution in California.

- Unfair and unethical treatment of workers. The petition points to the company’s conscious strategy of selling off U.S. operations and discarding U.S. jobs, in order to focus on overseas drilling investments.

- Complicity in crimes against humanity: aiding oppression of women. The petition alleges that Unocal has negotiated with and offered vocal support to the Taliban in Afghanistan — though it suspended negotiations following the U.S. bombing of alleged “terrorist camps” in Afghanistan in August. The Taliban have imposed the most extensive regime of gender apartheid known to the world, the petition points out. Unocal says, “we have neither signed nor negotiated any business deals with

any faction in Afghanistan.”

- Complicity in crimes against humanity: aiding oppression of homosexuals. In addition to discrimination against women, the Taliban have a policy of putting homosexuals to death.

- Complicity in crimes against humanity: enslavement and forced labor. Unocal is building a gas pipeline in Burma, in business partnership with Burma’s SLORC dictatorship. The government has allegedly used forced laborers to prepare fields and build infrastructure to facilitate pipeline construction. Unocal denies that any forced labor has been used in connection with the pipeline project, and argues that a policy of “constructive engagement” offers the best hope for democratizing Burma.

- Complicity in crimes against humanity: forced relocation of Burmese villages and villagers. The Burmese government has allegedly carried out mass, forced relocations without compensation as part of the oil and gas project.

- Complicity in crimes against humanity: killings, torture and rape. The petition alleges that Unocal is liable for human rights violations by “its military and business partner [in Burma] under traditional common-law doctrines of conspiracy and agency, and under international law doctrines of joint participation and individual responsibility for crimes against humanity.”

- Complicity in gradual cultural genocide of tribal and indigenous peoples. The petition alleges that Unocal operations in the area inhabited by the Lubicon Cree in Alberta, Canada are contributing to cultural genocide. Unocal alleges it is “caught in the middle” in a dispute between the Lubicon Cree and the Canadian government.

At the time of filing the petition, the coalition acknowledged its chances of success — especially with a right-wing attorney general — were slim, at best.

“We are not politically naive,” Benson says. “We don’t think that this is going to get so far along the road that Unocal will actually be broken up anytime soon, although it should be. Much more likely, we think the attorney general will deny the petition, and

then we will use this as a tool to put pressure on the political process.”

If an attorney general were independent enough to file such a petition, a judge could appoint a receiver, so that the assets do not flee the jurisdiction. Then if the judge was inclined to strip the company of its charter, he or she would have the authority to make “such orders and decrees and issue such injunctions in the case as justice and equity require.”

The petition requests that the attorney general begin proceedings to dissolve Unocal and to appoint a receiver and preserve company assets pending dissolution. The petition also asks the attorney general to ask a court to use its powers in winding up the company “to make such orders and decrees and issue such injunctions in the case as justice and equity require,” in order to fully protect jobs, workers, stockholders, unions, communities, the environment, suppliers, customers, governmental entities and the public interest.”

Benson says that, if he were the judge, he would transform the company into a renewable energy company, which would create more jobs and inflict less damage to the environment.

Ronnie Dugger, founder of the Alliance for Democracy, one of the groups that signed the petition, calls the filing “an historic event.”

“It is the first broad-based effort of this century to use the people’s sovereign authority over a corporation chartered by one of our states to terminate its privilege to do business,” Dugger says. “It is a step toward regaining actual democratic control over these giant corporations we’ve created.”

A spokesperson for Lungren’s office said at the time of filing that the office had yet to receive the petition and it would take “weeks” for lawyers to study it and respond.

That turned out not to be true. Lungren took less than a week to reject the petition.

In a terse three-sentence letter to Benson, Lungren says simply that “we decline to institute legal proceedings at this time.” There was no explanation for the decision.

In the letter of refusal, Lungren suggests the petitioners might ask for per-

mission to bring the suit themselves as a sort of private attorney general.

“That’s proof they didn’t even read the petition,” Benson says. “We rejected that avenue in advance. It is legally inappropriate because our clients are not seeking a remedy of private harms unique to them but of harms to the public at large. In such a case it is the attorney general’s statutory duty to protect that interest in court, not ours. More importantly, only the full resources of the state will be adequate to challenge a corporation of Unocal’s wealth and size and Attorney General Lungren knows that. The Attorney General’s suggestion that we take on

Unocal ourselves is like urging us to enter a lion’s den armed only with sticks.”

Benson says he would consult with the 30 petitioners on the option of seeking a court order compelling the attorney general to act.

Benson says that Lungren’s action was unprecedented. In similar situations under the statute, the attorney general has always presented a detailed legal analysis of his reasons for declining to take action.

“Instead, we got a three sentence rejection that a court can clearly reverse as arbitrary and capricious,” Benson says.

— *Russell Mokhiber*

The Color of Money

IN A U.S. POLITICAL SYSTEM GREASED with campaign contributions, people of color are political disenfranchised.

That is the conclusion of “The Color of Money,” a September study by Public Campaign, which documents a massive imbalance in federal campaign contributions by whites and people of color.

The report compares the home address of individual donors of \$200 or more to federal campaigns with the minority population in those donors’ zip codes. The analysis shows extreme racial disparities in campaign giving patterns.

The 100,000 residents of a single zip code in Manhattan (10021) gave nearly twice as much money as the 9.5 million residents of the 483 zip codes in which people of color comprise well over half of the population. On a per-person basis, the 10021 residents’ contributions were more than 140 times the rate of those in the heavily minority districts.

The 26 highest-donor zip codes gave approximately as much money as the 2,500 zip codes in which people of color are the majority. More than 60 times as many people live in the majority people of color zip codes as in the high-donor areas.

“These findings are significant because in today’s election process, those who can afford to give the most

money to campaigns are those who have the most influence over our government and our policies,” says Ellen Miller, executive director of Public Campaign. “The world of campaign finance is as segregated as any other area of American society. In this case, those who cannot afford to give money are effectively shut out of the political process.”

Adds Representative Luis Gutierrez, D-Illinois, “These data “remind us that the goal of achieving a truly democratic system — where each political proposal will be judged on its merit and the strength of ideas — will likely remain out of reach until we change the current campaign finance system that now allows policy decisions to be shaped by the relative influence of the political patrons who line up on opposite sides of an issue.”

“The Color of Money” presents a series of state and city maps showing which zip codes provide the highest number of campaign contributions and which zip code areas have larger minority populations. These two categories appear as virtual photo-negatives in the maps.

In Washington, D.C., the highest-giving city, the two highest-giving zip code areas within the city (20008 and 20007) supplied 10 percent more political money than the 14 Washington, D.C. zip codes in which people of

color comprise at least half of the population. Nine times more people live in the 14 people of color zip codes than in the two high-donor areas.

The study found similar results in other cities:

- In Los Angeles, the third highest giving city, the single highest-giving zip code area (90067) donated more money than the 46 Los Angeles zip codes with majority people of color populations. The 46 people of color zip codes have a combined population 718 times bigger than 90067.

- In Chicago, the fourth highest-giving city, the top donating zip code (60611) gave 43 percent more money to federal candidates than the 28 Chicago zip code areas in which people of color are a majority.

- In Atlanta, the sixth biggest donor city, the single top-giving zip code (30305) gave 33 percent more political money than the 18 zip codes with majority people of color populations.

- In Houston, the eighth highest-given city, the two highest-donating zip code areas (77002 and 77019) gave 13 percent more in political contributions to federal candidates than the 46 zip code areas in which people of color comprise 50 percent or more of the population.

The data analysis is based on 1990 census data and 1995-1996 campaign contribution data.

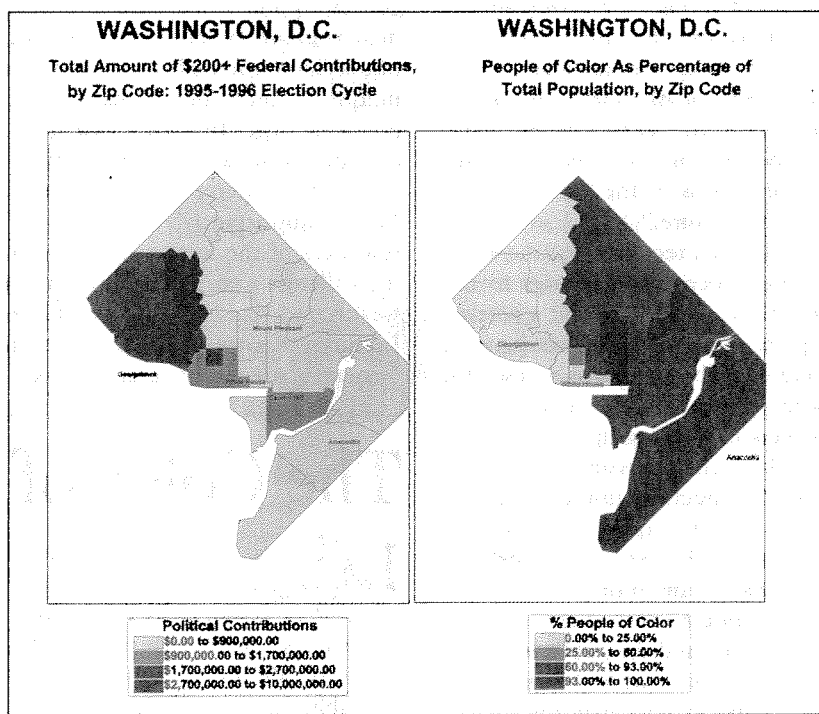
Using this data required limiting the analysis to zip codes. That introduces some room for error, because it does not correlate race with individual donors. It is possible that some zip code areas with high minority populations, for example, also contain upper-class white communities that are high donors; and in such an instance, the results may be skewed to suggest that minorities contributed more than they did.

"The Color of Money" acknowledges that "a zip code-based analysis can only provide an approximate picture of the racial identities of campaign contributors in various geographic areas."

"But," it notes, "while the 'x-ray' may be fuzzy at the edges, the larger picture it depicts is clear."

— Robert Weissman

THE COLOR OF MONEY IN WASHINGTON, D.C.



THE LAWRENCE SUMMERS MEMORIAL AWARD*

THE SEPTEMBER 1998 LAWRENCE SUMMERS MEMORIAL AWARD* goes to U.S. Chamber of Commerce Vice President William Kovacs, for remarks delivered to the Plastics and Chemicals Industries Association in Australia.

The Australian Broadcasting Company reports that "Mr. Kovacs told delegates the biggest threat to plastics and chemicals, and perhaps all industry, is the ability for anyone to disseminate incorrect information cheaply to the entire world. He says the use of the Internet by extreme environmentalists and greater amounts of public disclosure law will create fear and allow the sabotage of industries. Mr. Kovacs warns that when the tide changes against industry, industrialized countries will act like countries dominated by religious fundamentalists." ("Internet a Threat to Industry, Forum Told, Australian Broadcasting Company," September 2, 1998.)

*In a 1991 internal memorandum, then-World Bank economist and current Deputy Secretary of Treasury Lawrence Summers argued for the transfer of waste and dirty industries from industrialized to developing countries. "Just between you and me, shouldn't the World Bank be encouraging more migration of the dirty industries to the LDCs (lesser developed countries)?" Summers wrote. "I think the economic logic behind dumping a load of toxic waste in the lowest wage country is impeccable and we should face up to that. ... I've always thought that underpopulated countries in Africa are vastly under polluted; their air quality is vastly inefficiently low [sic] compared to Los Angeles or Mexico City." Summers later said the memo was meant to be ironic.