

Defeating California's Dirty Energy Initiative

Lessons from Proposition 23

November 29, 2010

On November 2, California voters defeated Proposition 23 – the “Dirty Energy Proposition” by 22 percentage points – No: 61% to Yes: 39%. The dramatic trouncing of the proposition was a huge victory for clean air, clean energy and climate policy. “No on 23” received more votes than anything else on the California ballot (over 5,800,000) including the candidates for Governor, U.S. Senate and even the Chief Justice – who ran unopposed.



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In the conservative counties of Plumas, Yuba, Nevada and Butte, the home of Proposition 23 author and Assembly Member Dan Logue, the ballot measure was defeated by 6 points even though those same voters strongly supported the Republican candidate for Governor Meg Whitman and U.S. Senate Carly Fiorina. In this article, we trace the history of the fight and lessons learned that could be used in future clean energy opportunities in California, other states, and at the Federal level.

In the Beginning



Interview with Assembly member Dan Logue on his views on Proposition 23 and climate change (see footnote 1).

Proposition 23 started its life in Fall 2009 through the combined efforts of Assembly Member Dan Logue (R-Chico)¹, Ted Costa, a veteran of many ballot measures, and Congressman Tom McClintock (R-CA). Mr. Logue had already tried to block California's clean energy and climate law (AB 32) by introducing a bill (AB 118²) that died in a January 2010 hearing of the Assembly's Natural Resources Committee chaired by Nancy Skinner (D-Berkeley) by a vote of 3 to 6.

Having “exhausted” their attempt to suspend AB 32 through the legislative process, the proponents quickly converted the concepts in AB 118 into a ballot initiative. Costa submitted the initiative to Attorney General Jerry Brown's office for approval to circulate for signatures.

¹ <http://www.youtube.com/watch?v=5FoOSu0WQsw>

² http://www.legislature.ca.gov/cgi-bin/port-postquery?bill_number=ab_118&sess=CUR&house=A&author=logue

In February, a Sacramento political attorney Tom Hiltachk³, submitted two of his own versions⁴ that were similar to Costa's but designed to "attract more funding." Now the "California Jobs Initiative" had three different versions under consideration. Eventually Costa was moved out and he ended up opposing the proposition. Texas-based oil companies Valero and Tesoro emerged as the primary funders. The final ballot language avoided attacking AB 32 directly and instead called for a temporary suspension until the economy recovered. An unemployment rate of 5.5% was set as the target both to make it appear "reasonable" but sufficiently unobtainable to effectively kill off AB 32. The Attorney General's office provided an accurate "title and summary" for the initiative that highlighted its potential negative impacts on clean air.

During this entire early period, what was to become the No on 23 Committee organized and retained experts in ballot measure campaigns, polling, communications and outreach. The goal was to counter the Yes on 23 Committee at every step along the way. Initial officers of the "No" campaign were the Natural Resources Defense Council (NRDC), California League of Conservation Voters (CLCV) and Environmental Defense Fund (EDF). The NRDC Action Fund, E2, Greentech Action Fund (GAF), Silicon Valley Leadership Group, Clean Economy Network, Craton Equity and the Resources Law Group soon joined them.

The "No on 23" Campaign Plan

At a critical meeting on April 20, 2010, the No on 23 Committee discussed the research results from 1,200 telephone interviews of likely voters. The results demonstrated that voters could go either way on the ballot measure. If the issue was framed in the voters' minds as the "California Jobs Initiative," as the Yes on 23 Campaign wanted, it had a good chance of passing. Given early framing as a "jobs" measure, the polling showed a plurality of voters would be willing to support it – especially if messages were driven by the overwhelming financial resources that the oil companies could bring to bear.

Our research showed that voters continued their historically strong concerns about air quality and were highly motivated to vote "No" on a measure that would increase air pollution. This became our strongest argument against Proposition 23. Research also showed that voters could be moved to a "No" position if they learned that self-interested Texas oil companies were funding the measure and that Proposition 23 threatened California's clean energy economy. The campaign team developed a name for the measure to brand Proposition 23 what it was: "The Dirty Energy Proposition."

After our meeting, the oil money we had been expecting materialized. On April 23, the California Secretary of State publically reported that Valero Oil had contributed \$500,000 and Tesoro \$100,000 to the Yes on 23 Campaign. This re-enforced our final theme: "The Dirty Energy Proposition – brought to you by two Texas oil companies".

The critical lessons were to keep the advantage of a "No" campaign and to have a campaign "frame" that re-enforced a policy message.

³ http://www.ballotpedia.org/wiki/index.php/Thomas_W._Hiltachk

⁴ <http://www.sos.ca.gov/elections/ccrov/pdf/2010/february/10070km.pdf>

The campaign frame was “Stop the Dirty Energy Proposition” and it had multiple goals:

1. An easy to understand branding of Proposition 23 that kept the focus on defeating the measure, not defending the details of AB 32.
2. A personal appeal connected to a local issue - the air you breathe.
3. A rejection of out-of-state interests trying to change the rules in California.

The policy message was to protect California’s climate policies for both environmental and economic reasons – but that amounted to saying “Yes to AB 32”. We needed to maintain a “No” campaign frame so the voters clearly associated “No” with Proposition 23. Having established a campaign frame, we then could get people to pay attention to the policy message. As it would turn out, it was also possible to get people to take to the streets!

In April, we designed our No on 23 Campaign⁵ with the following assumptions about the Yes on 23 Campaign that were based on our own research:

- **They would seek to “own” the No psychology.** The proponents were already working to flip the yes/no psychology to their advantage by putting AB 32 “on trial.” They would wage a campaign to make the overall concept, details, and costs of AB 32 the basis for the vote, rather than the impacts of their initiative.
- **They would try to frame AB 32 as a costly “Energy Tax” and their measure as the “California Jobs Initiative.”** The proponents used both of these framing devices on their website⁶ and in printed materials. They sought the advantage of a clear problem/solution psychology as they tried to raise awareness of AB 32 in a negative light.
- **They would attack the “enemy” – politicians, bureaucrats, and their expensive law.** Their “villain” would be Sacramento. By tying the passage and implementation of AB 32 to state government, the proponents would try to tap into the climate of deep public dissatisfaction with elected officials at every level. As it would turn out, California avoided the tsunami of incumbent discontent that washed over the rest of the nation.
- **They would try to build a broad-based coalition with as much support as possible from the California business community and local governments.** Aware of the danger of being branded as an oil company effort, the proponents would try to recruit a meaningful in-state coalition, including manufacturers, anti-tax groups, local governments and certain minority groups.
- **They would potentially launch advertising in the summer.** Assuming oil dollars started flowing early, we anticipated that the proponents would launch advertising during the summer to attempt to get out front and frame the measure their way.

⁵ <http://www.stopdirtyenergyprop.com>

⁶ <http://www.yeson23.com>

As it would turn out, we were prepared for the worst case. We out-framed them. Even though they never talked about Valero and Tesoro, we brought “two Texas oil companies” into every message and kept them in the spotlight. While the “Yes” campaign got their message out, they lacked the funding needed to make it the dominant frame in the voters’ minds.

Raising Early Money and Organizing Early

Through April, the No on 23 Campaign had raised about \$650,000 from the NRDC Action Fund, NRDC, EDF and GAF compared to the opposition’s \$2 million. We needed the money to support our campaign team’s work and for paid media and field operations. We had contracted with a comprehensive campaign team including:

- Winner & Mandabach – Strategy, management and paid media
- Conservation Strategy Group – Campaign coordination
- Mercury Public Affairs – Business and Governor liaison
- Bicker Castillo & Fairbanks – Coalition building
- FM3 Research – Opinion research and polling
- Forza Communications – Earned media and campaign spokesperson
- Resources Law Group – Fundraising and strategy
- Better World Group – Coalition building
- Other consultants included those focusing on local government, Latino and other group outreach.

The opposition had to spend an estimated \$2 million on signature gathering. After that, we expected them to pull money on demand from oil interests to launch a major media campaign to brand Proposition 23 as the “California Jobs Initiative.”

Assemblyman Logue had projected the Yes on 23 Campaign would have a \$50 million budget⁷. Given that, we calculated that our campaign would need a minimum of \$20 million, preferably \$30+ million to be competitive. The bulk of the budget was needed for paid TV advertising starting sometime in September and continuing through the election on November 2. If the opposition started TV ads early, we would have to get on the airwaves to deny them the opportunity to frame the measure. Even though an increasing percentage of California voters get their information from social media and other sources, when it comes to initiative campaigns, TV still delivers the broadest impact.

While the Yes campaign raised money⁸ primarily from **Non-California companies**, the No campaign raised money primarily from **individuals in California**. Our first major contributions came from two California NRDC trustees – Bob Fisher and Wendy Schmidt. This was followed shortly thereafter by a \$5 million commitment from San Francisco investor Tom Steyer – who also agreed to co-chair the No campaign with former Secretary of State George Shultz. The combined contributions guaranteed us the ability to respond to the Yes campaign if they started advertising early.

⁷ <http://wonkroom.thinkprogress.org/?p=31924>

⁸ <http://maplight.org/content/california-prop-23-nov-2010>

Secretary Shultz, the Governor and Non-partisanship

California Governor Arnold Schwarzenegger took on the No on 23 Campaign as his major activity for the election. He was able to work with many California- based businesses to help them understand the economic benefits and the popular support for defeating Proposition 23. As a result of his efforts, most major California- based companies stayed out of the fight. Exceptions were Occidental Oil and JG Boswell. Even the California Chamber of Commerce, who originally led the opposition to AB 32 in 2006, stayed neutral on Proposition 23 (see contribution website⁹)!



Former Secretary of State George Shultz speaks at the No on 23 victory party in San Francisco, Nov. 2, 2010. Others on stage included Fabian Nunez (former Assembly Speaker and co-author of AB 32) and Gov. Arnold Schwarzenegger.

In addition, the Governor led the efforts to keep the No on 23 Campaign non-partisan and very broad- based. He recruited Secretary George Shultz to be a co-chair. Secretary Shultz was able to link California's clean energy efforts to clean air efforts from previous Republican administrations including President Nixon creating the U.S. EPA, President Regan supporting the Montreal Protocol to address the ozone hole and the first President Bush addressing acid rain with the first cap and trade program. He also provided credible and convincing evidence on why Republican gubernatorial candidate Meg Whitman should oppose Prop 23 (see below).

The Oil Industry Divided

While some members of the press tried to portray the Proposition 23 battle as "Big Oil" versus "Silicon Valley," this was never the case. The oil companies supporting Proposition 23 were primarily the independent oil refiners such as Valero and Tesoro. The major, integrated oil companies such as BP, Exxon, Chevron (the biggest California headquartered oil company) stayed on the sidelines. Shell was opposed. The reasons were economic and political.

In an April meeting of California refineries, Tesoro gave a presentation¹⁰ outlining the major compliance requirements of AB 32 for refiners and distributors of fuels. The refineries would need to reduce their emissions, and fuel distributors would need to reduce the greenhouse gas (GHG) content of their fuels by 10% by 2020. Tesoro proposed backing Proposition 23 as an alternative to investing in compliance with AB 32.

By contrast, the integrated oil companies have multiple revenue sources and major

⁹ <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1323890&view=late1>

¹⁰ <http://www.e2.org/jsp/controller?docId=24175>

investments in lower GHG, non-fossil fuels. In effect, the integrated oil companies were making financial investments based on AB 32 policies while the independent refineries were looking to avoid investments required for AB 32 compliance.

Meanwhile the No on 23 Campaign was always very broad-based with a combination of local governments, public health and environmental groups, labor groups, community groups, industry, utilities, and California companies.

The “No” campaign’s work – building a non-partisan coalition, raising early money, being aggressive about isolating and stigmatizing Valero and Tesoro in earned media created a climate where Proposition 23 was a bad political bet for other companies. This created a further incentive for oil companies not to invest in Proposition 23.

In the end, it became a battle between the independent oil refiners versus a cross section of all of California. We had over 1,000 endorsements from businesses and organizations.

Campaign Season

Traditionally, the election campaign season starts up after Labor Day when the public starts to pay attention. As we entered September, more than three quarters of likely California voters still had never heard of Proposition 23. The proponents had gone to court and secured some key wording changes to the Attorney General’s title and summary – new words that they were hoping would be to the Yes side’s advantage. We had only raised about \$7M through mid-September. Public polls indicated Proposition 23 was losing but our own polling on the revised ballot label – using the wording that voters would actually see on the ballot - continued to show that Proposition 23 was too close to call if voters made their decisions based on that language. While we had serious interest from potential contributors, we were behind on fundraising and people were waiting to see the actual campaign material – especially the TV ads.

In a few key meetings in mid-September, Winner/Mandabach rolled out the full campaign, including ads, to potential supporters. Fundraising started to click. Major contributions came from California leaders like John Doerr, Ann Doerr, Vinod Khosla, John Morgridge, Gordon Moore and many others. We found ourselves on a path beyond the \$20M minimum needed to get our message out. (See link¹¹ to No contributions.)

The Showdown

A California election does not happen just on Election Day. A month before the election, vote by mail begins and in fact over 40% of Californians vote by mail prior to Election Day. We wanted to get on the air before the first voters cast their ballots.

On September 27, both the Yes and No campaigns started advertising.

¹¹ <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1324059&view=late1>



Yes on 23 advertisement¹²



No on 23 advertisement¹³

The No campaign covered all major media markets but to our surprise, the Yes campaign was running ads only in the medium and small media markets. The "Yes" side poured advertising into Sacramento - making this a major battleground.

We began nightly polling to track awareness of Proposition 23, whether people had already voted and if they recalled either the "Yes" or "No" ads. Sacramento was a market that we believed should be friendlier to the "Yes" campaign. If they could not win in Sacramento, they could not win the state.

We increased our ad buy in Sacramento – not to the level of the Yes campaign but close. We immediately developed a new ad for the markets where the "Yes" side was running advertising that featured their ad and exposed its sponsorship by Texas oil companies. We made it impossible for the "Yes" side to shake off their Texas friends. At the end of a week, the results were in. After having seen ads from both sides for a week, more voters were opposed to Proposition 23. We now knew that if we raised enough money to keep our message in the public eye, we could defeat the Dirty Energy Proposition.



Protest at Valero station. See footnote 15 for the "Valero Oil of Texas" video.

Valero Oil of Texas is not the Oil for Me

Our goal was a decisive win with broad public support. This was the first major vote in the United States by the general public on clean energy and climate. It is one thing for a legislature to create a policy and another for the general public to vote. This was especially true in an election cycle where the Tea Party was attempting to take down the clean energy message nationwide (see "CA tea party activists"¹⁴).

Valero gas stations became the place for rallies all across the state. These in turn inspired lyrics to the tune of the "Yellow Rose of Texas"¹⁵

¹² <http://www.youtube.com/watch?v=KUXoqnb4SIU>

¹³ <http://www.youtube.com/watch?v=BpbYmOVFdSo>

¹⁴ http://www.mercurynews.com/breaking-news/ci_16221401?nclick_check=1&forced=true

¹⁵ <http://www.youtube.com/watch?v=zyjYY82uOIM>

but this time it was the “Valero Oil of Texas” (see footnote for lyrics¹⁶) and produced as a viral video. It would be the first of many independently produced social media messages including a reminder on Enron, a message from James Cameron, high school student projects, local rappers and many more. The social media contributions took on a life of their own.



Have out of state energy companies always looked after California's best interests? A video¹⁷ produced by E2 member Chris Arndt.



Green for All's Texas villains¹⁸ trying to influence California voters.



Actor David Arquette's "Don't Mess With California"¹⁹



Director James Cameron warning²⁰ of the risk from Proposition 23 - with a surprise Cyborg

In August, CLCV, NRDC Action Fund, and others with the help of campaign experts including Donnie Fowler of DogPatch Strategies and Katie Merrill of Merrill Strategies Group formed a separate field operation campaign, the Clean Energy and Good Jobs Mobilization Committee. It supported No on 23 and No on 26, another initiative intended to make it harder to fund state programs, including environmental protection. The field operations focused on low income communities through Communities United²¹, college campuses through Environment California and CALPIRG, and environmental and progressive voters through Credo Mobile, Sierra Club, CLCV, NRDC Action Fund and EDF Action Fund.

Collectively they overwhelmed the California Tea Party as 3,200 volunteers combined with our paid staff made 2.8 million calls and sent 3.4 million mail pieces. On college campuses alone, over 370,000 contacts were made. On Election Day, over 900,000 get-out-the-vote calls were made to likely No on 23 voters. By the day before the election, our internal polling showed us ahead by double digits with momentum clearly gaining on the “No” side. The fact that we won by 22 points is likely indicative of the value of the field operations in increasing voter motivation.

¹⁶ <http://www.e2.org/jsp/controller?docId=24197>

¹⁷ <http://www.youtube.com/watch?v=Jx5fbL1Ozu0>

¹⁸ <http://www.youtube.com/watch?v=ICdTHrtU12Y>

¹⁹ <http://www.youtube.com/watch?v=Wo1wNpza2rM>

²⁰ <http://www.youtube.com/watch?v=PALjum3boB0>

²¹ <http://communitiesagainstoprop23.com>

The field campaign was hugely successful due to both the quality of the people and organizations doing the work but also the campaign message. It had the key elements of:

1. A Victim – people affected by dirty air from dirty energy
2. A Villain – dirty energy with Valero as the poster image
3. An Opportunity – the economic and environmental benefits of clean energy.

The Closing Weeks

Throughout the campaign, our goal was to run a broad, bipartisan opposition to Proposition 23. We also wanted the candidates for Governor and U.S. Senate to announce their opposition. Gubernatorial candidate Jerry Brown and Senatorial incumbent Barbara Boxer were opposed from the beginning. We used all our connections to deliver information to the Whitman for Governor and Fiorini for Senate campaigns that Proposition 23 was bad policy and bad politics. The Governor's office already had authority to make changes, if necessary, to suspend AB 32 temporarily and didn't need Proposition 23. Politically independent voters were significantly against Proposition 23. Whitman came out officially against Proposition 23, a major victory for our campaign. Fiorini, running to the right, came out in favor.

As the last few weeks of the election came and went, the Yes campaign went dark. They stopped running ads and seemed to be stuck at \$9M in contributions to our \$23M as of October 18th. "The private sector is spread thin," Logue explained²². "Resources have diminished more than we thought."

Meanwhile, the No campaign continued to gather strength as contributions continued to flow from a broad cross section of people. We maintained our \$30M plans covering the major media markets and worried about what the Yes campaign was up to. How could the oil industry lack funds? They had put up the money they needed at every other stage of the campaign -- to gather signatures, to challenge the title and summary in court, to hire top consultants, to produce TV ads. Where were they now?

As the campaign entered its final week, an additional \$1.5M came into the "Yes" campaign and they focused their media buys on the all-important Southern California media markets. Our internal polls showed a worrisome tightening of the race after the Southern California advertising began, but as it turned out it was only temporary. The "No" side never trailed. The vote against Prop 23 steadily grew over the final week, building to a 15-point advantage. In the end, the remaining undecided voters broke heavily against Proposition 23 and it was defeated 61% to 39%.

Lessons for the Future

Some aspects of the Proposition 23 fight were unique to the specific time and place and

²² <http://www.sacbee.com/2010/10/17/3108147/as-prop-23-dives-money-goes-elsewhere.html>

are not easily repeated, but other aspects are important for future fights:

1. Have a campaign “frame” and a policy message. If you think about the national activities on healthcare, banking reform and climate, the message was always about the policy (i.e., the public option, cap and trade, etc). While the right policy is essential, the campaign needs to have a separate frame that is values based, locally or personally relevant and something that will motivate voters to take to the streets. For the “No” campaign it was:

- Campaign frame - say No to the Dirty Energy Proposition brought to you by two Texas oil companies
- Policy message - protect AB 32.

2. Campaigns need a victim, villain and opportunity. In our campaign the victims were people affected by dirty air. The villain was dirty air and the out of state oil refiners. It was not “Big Oil” – they were mostly on the sidelines. The opportunity was the job and economic growth from clean energy.

3. Broad-based, bipartisan campaign. The “No” campaign was never a special interest group – even though the Yes campaign tried to paint us that way. Our rhetoric was chosen to work across party lines and while we did not hide from climate policy, we did not lead with it. Most people generally believe that energy independence, clean air and Cleantech are good things.

4. Research. The “No” campaign was research based. We did extensive and ongoing research on voter attitudes and which messengers they trusted (answer – the American Lung Association followed by Firefighters and Cleantech companies). We also did deep research into the refining industry to understand their financial motivations and drivers. This allowed us to understand the difference between refiners and oil companies.

What’s Next?

Defeating Proposition 23 was a major California and national victory. In the first ever vote of the people, they rejected the Proposition 23 message that suspending environmental regulations would create jobs and they endorsed the message of clean energy. This was true of young and old, Democrats, Independents and Republicans.

California will now be under a microscope. For almost any bad news in California, someone will say it was because Proposition 23 wasn’t passed. The pressure is on to prove that a clean energy economy is both feasible, more resilient and ultimately more affordable than maintaining the fossil fuel status quo.

Note: This article was originally published on November 29, 2010 in the E2 Update. An on-line copy with links can be found at:

http://www.e2.org/jsp/controller?docId=24079&anchorName=Prop_23