
Environmental Justice Remains EPA, SEER Focus

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Although there is no single definition of Environmental Justice (EJ), today the U.S. Environmental Protection Agency (EPA) defines it as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The environmental justice (EJ) movement’s early origins were marked by several seminal cases, such as *Bean v. Southwestern Waste Management Corporation*, 482 F. Supp. 673 (S.D. Tx. 1979), and studies, like the Government Accountability Office (GAO) study *Siting Hazardous Waste Landfills and their Correlation with Racial and Economic Status of Surrounding Communities*, GAO RCED-168 (6/1/83). Significant leaps forward were made when President Bush created the Office of Environmental Justice in the early nineties, and when in 1994 President Clinton signed Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. As we approach the EO’s twentieth anniversary, EPA has put meaningful time and effort into developing EJ Plan 2014 (www.epa.gov/environmentaljustice/plan-ej/), which outlines goals and objectives for incorporating EJ into rulemaking, permitting, compliance and enforcement, and community action. The Plan has received attention and comment, and it offers a roadmap for the Agency’s next steps.

Another notable new document is the EPA Office of General Counsel’s (OGCs) EJ Legal Tools, released by EPA earlier this year (www.epa.gov/environmentaljustice/resources/policy/plan-ej-2014/ej-legal-tools.pdf). In formally announcing Legal Tools at a forum entitled *Environmental Justice: Hearing Communities through the Economic Din*, organized by Section Chair Alexandra Dunn at DC’s National Press Club on February 23 for the Catholic University School of Law and cosponsored by the Section, EPA General Counsel Scott Fulton noted, “Environmental justice (or EJ) is not a new issue, but it is a vexing one—one with which EPA has been struggling for at least half of its life as an institution.” In discussing Legal Tools in detail, Fulton highlighted a variety of discretionary legal authorities available to the Agency to address EJ and said that it “dispels any notion that federal environmental law and environmental justice are mutually exclusive priorities; it points rather to the conclusion that federal environmental law offers ample opportunity to address EJ concerns.” For example, under the Clean Air Act, National Ambient Air Quality Standards allow consideration of sensitive subpopulations when evaluating public health risks. Under the Clean Water Act, water quality standards can be set to protect groups that consume higher amounts of fish. Many permitting processes require outreach to communities, and permit conditions under the Resource Conservation and Recovery Act can prevent a facility from adversely impacting its neighbors’ health or the surrounding environment.

Fulton also emphasized that EPA is not the sole implementer of EJ programs—in fact, many are implemented by

states, the private sector, and advanced by communities. In spring 2012, essays, speeches, and articles reflecting on the state, federal, and community interaction from the symposium *U.S. Environmental Justice and the Law*—held April 1, 2011 at the University of Mississippi School of Law, Oxford, MS—were compiled in Volume 81 of the Mississippi Law Journal (<http://mississippilawjournal.org/>). Cosponsored by the Section, the Law School, and the William Winter Institute for Racial Reconciliation, the symposium effectively discussed corporate activities to address community needs and concerns, heard from community leaders, and focused on state agency initiatives—such as offices of environmental justice or community outreach coordinators. In symposium remarks, Jewell Harper, Senior Advisor and Counsel for Environmental Justice for EPA Region 4, noted how environmental justice plays a role in daily living, stating that everyone wants the opportunity to ensure that their home community “has the same benefits and luxuries of the community that’s fifteen miles across town, the opportunity to show that a low-income minority community does not equate to a low priority community. That’s why we have to educate, educate, educate in order to elevate.”

In other symposium remarks, Daria Neal, Deputy Chief of the Federal Coordination and Compliance Section in the Civil Rights Division of the U.S. Department of Justice, referred to the recent incorporation of new federal agencies, such as the Department of Homeland Security, into the network of agencies named in the original EO. She also reflected, “[W]hen we look at what underlies the main concerns of communities (fair treatment, equal treatment, and environmental protection that actually protects communities), and if we approach our work with that in mind, it should not matter who’s in office; the work will be able to sustain itself.”

EPA also continues to develop online screening tools to allow communities to identify sources of environmental exposures in their communities. Malcolm Jackson, EPA’s Assistant Administrator for the Office of Environmental Information and Chief Information Officer noted that “[r]aising awareness about potential environmental hazards is an essential component of environmental justice.” He noted several EPA powered websites, such as EJ View (Geographic Information System mapping site allowing map and report development using demographics, facility data, and environmental factors) (<http://epamap14.epa.gov/ejmap/entry.html>); a Toxic Release Inventory tool called My Right to Know (myRTK) (functional on mobile devices with mapping capabilities) (www.epa.gov/tri/myrtk/); and My Environment (community environmental conditions by zip code/city name) ([www.epa.gov/myenvironment/](http://myenvironment/)).

Stephen Renfroe, following a thirty-five-year career with Chevron, highlighted the challenges and opportunities for corporate entities operating in economically distressed and socially diverse areas. Renfroe noted that “community engagement is an important component to the long-term success of a manufacturing facility. It involves strong relationships built on open and honest communication. It is about getting involved and building trust. It is being willing to listen and respond.”

The Section continues its dedication to promoting environmental justice awareness and knowledge in a variety of key ways. This year Section Chair Alexandra Dunn created a new Special Committee on Environmental Rights and Justice

under which the following efforts reside: the Special Committee on Environmental Justice, Chaired by Paula Schauwecker (Beveridge & Diamond); the Task Force on Rio+20, Chaired by Lee DeHihns (Alston & Bird); the Task Force on the World Justice Project, Chaired by Howard Kenison (Lindquist & Vennum); and our liaison to the IUCN Academy of Environmental Law, Pace University Law Professor Ann Powers. These chairs and their groups will identify and report on developments in environmental rights and justice for the membership, including through Section e-news, *Trends*, a new environmental rights and justice web page, and other Section communication vehicles. Together, they will seek out and identify ways to raise the profile of environmental rights and justice issues within the Section; coordinate with other ABA entities to find synergies and opportunities; and, with our Membership Service Group chaired by Pamela Barker, focus on the overlap between substantive environmental justice issues and diversity in our practice areas. To get involved, contact Section Chair Alexandra Dunn at seer.chair@americanbar.org.

As noted by Professors Svitlana Kravchenko and John Bonine in their law school text, *Human Rights and the Environment*, "Once your eyes have been opened, they cannot be closed again." This sentiment is what guides our Section's environmental justice efforts—to increase knowledge of inequities, to advance venues to address them, and to promote solutions for their resolution.

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