



Hazardous Materials Commission

Environmental Justice Presentation

May 22, 2008

History

- 1982 – Warren County, North Carolina protests about PCB landfill
- 1983 – GAO report on hazardous waste landfills
- 1987 – United Church of Christ report, Toxic Wastes and Race in the United States
- 1989 – Richmond at Risk – CBE report looking at Environmental Justice issues in Richmond

Development of Principles

- 1991 – First National People of Color Leadership Summit Principles of Environmental Justice

17 Principles:

#4 – Environmental Justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water and food.

#7 – Environmental Justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.

Development of Principles - Federal Government

- 1994 – President Clinton issues Executive Order 12898 on Federal Actions to address Environmental Justice in Minority Populations and Low-Income Populations

Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, **disproportionately high** and adverse human health or environmental effects of its programs, policies and activities on **minority** populations and **low-income** populations

Executive Order 12898 purpose:

- To focus attention to federal agencies on the human health and environmental conditions in minority communities and low-income communities with the goal of achieving environmental justice
- To foster non-discrimination in federal programs that substantially affect human health or the environment (Title VI of the Civil Rights Act of 1964)
- To give minority and low-income communities greater opportunities for public participation in, and access to public information on matters relating to human health and the environment

Executive Order 12898 requires:

- Creation of an Interagency Working Group of federal agencies
- Development of a strategy to identify and address disproportionately high adverse effects on minority and low-income populations
- Research, data collection and analysis that addresses environmental justice concerns

Scope of Executive Order 12898

- “This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers or any other person with this order.”
- As a result, the Supreme Court has determined that law suites under Title VI must show intentional discrimination to win, and very few have been able to do so.

Development of Principles - the State of California

- 1999 – SB 115, Solis
 - Designated Office of Planning and Research in charge of coordinating Environmental Justice.
 - Defined environmental justice as:
“The **fair treatment** of people of all races, cultures and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies. (Government Code Section 65040.12)”
 - Public Resource code Section 72000 (in part): CalEPA shall conduct its programs policies and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures and income levels, including minority populations and low-income populations of the state.”
 - Requires CalEPA to develop model mission statement for state agencies.

Development of Principles - the State of California

- 2000 – SB 89, Escutia
 - Established a procedural framework for pursuing environmental justice
 - Created the Interagency Working Group of CalEPA agencies
 - Created the Advisory Committee on Environmental Justice

Development of Principles - the State of California

- 2001 – AB 1553 (Keeley)
 - Required Office of Planning and Research to establish guidelines for incorporating environmental justice into the general plans adopted by cities and counties

Development of Principles - the State of California

- 2004 - CalEPA publishes EJ Strategy

The goals are:

- Ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes.
- Integrate environmental justice into the development, adoption, implementation and enforcement of environmental laws, regulations and policies.

Development of Principles - the State of California

- Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.
- Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

Development of Principles - the State of California

- 2004 – CalEPA publishes Environmental Justice Action Plan

The goals of the plan are to:

- Develop guidance on precautionary approaches
- Develop guidance on cumulative impacts analysis
- Improve tools for public participation and community capacity-building
- Ensure EJ considerations within the Governor's Environmental Action Plan

Development of Principles - the State of California

Six Pilot projects under Action Plan

- Air Resources Board Pilot in Southern California focusing on emission sources near highways and industrial sources
- Department of Pesticide Regulations project in Central Valley focusing on pesticide issues
- Department of Toxic Substances Control project looking at brownfield remediation
- Water Resources Control Board project focusing on water issues on tribal land
- Integrated Waste Management Board project focusing on precautionary approaches
- Office of Environmental Health Hazard Assessment project focusing on cumulative impacts

Development of Principles - Contra Costa County

- October 2000 – Hazardous Materials Commission report to the Board of Supervisors on Environmental Justice
- October 11, 2000 – Board of Supervisors accepts HMC report
- April 2002 – Consultant hired to assist County to develop and implement policies related to Environmental Justice
- September 23, 2003 – County adopts Environmental Justice Policy

Development of Principles - Contra Costa County

2000 Hazardous Materials Commission report:

- Defined Environmental Justice as fair treatment for people of all races, cultures and income with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies and encouragement of public participation in making and implementing those policies. (Gov code 65040.12)
- Reached consensus with the principle of fair treatment embraced by state law and share a vision that no community should carry an undue burden of environmental harm. There were no objections to fostering public information and participation in government activities concerning the environment.

Development of Principles - Contra Costa County

- Did not reach consensus of the issue of the scope of environmental justice, the implementation of buffer zones, the applicability to permits.
- Recommended that the Board of Supervisors declare the County's commitment to environmental justice, defined in Government Code Sec. 65040.12 (see also Public Resources Code Sec. 72000-72001)

Development of Principles - Contra Costa County

October 11, 2000 Actions by the Board of Supervisors:

- Accepted the Hazardous Materials Commission report
- Endorsed the State definition of Environmental Justice
- Directed the County Administrator to assemble the appropriate County Departments to work with the HMC to develop and implement policies related to environmental justice
- Established an Ad hoc committee of the Board consisting of the Supervisors from District I and V (Gioia and Glover) to work with the Board and the CAO on this issue

Development of Principles - Contra Costa County

Work of the Consultant: April 2002 – July 2003

- Worked with 5 departments to identify Environmental Justice Priorities
- Developed an Environmental Justice Strategy framework
- Pilot program on illegal dumping
- Identified departmental priorities

Development of Principles - Contra Costa County

EJ Priorities:

- Asthma
 - access to health care
 - air quality
 - pesticides
- Land Use Policy
 - permitting/zoning
 - general plan buffer zones
 - limiting future pollutants
- Housing
 - safety
 - displacement/gentrification



Development of Principles - Contra Costa County

EJ Framework:

- Operational definition/Written procedures
- Multi-departmental approach – Roundtable
- Education
- Public Participation
- Accountability
- Access to Resources and Information
- City buy-in and participation

Development of Principles - Contra Costa County

September 23, 2003 Actions by the Board of Supervisors:

- Receive the EJ report
- Recognize that the county has adopted a definition of EJ
- Recognize each county department is unique and had its own public participation process
- Adopt an EJ Policy statement
- Direct county departments to designate a staff EJ representative
- Direct the CAO to designate an EJ coordinator responsible for county-wide oversight and to chair periodic meetings with department reps to integrate EJ policy into County departments

Development of Principles - Contra Costa County

- Direct EJ committee to develop internal procedures for oversight of EJ issues
- Direct County Departments to report annually to Board
- Establish an illegal dumping task force
- Coordinate picking up illegal dumping
- Acknowledge the severe budget constraints for picking up illegal dumping

Implementation of County's EJ policy

- December 2003 – CAO asks departments to designate EJ representatives
- March 15, 2004 – First EJ Representative meeting
- March 22, 2004 with Ad hoc – reviewed State General Plan EJ guidelines
- April 2004 through September 2005 - primary focus on illegal dumping
- Last Taskforce meeting September 7, 2005
 - plan was to survey Supervisors to identify their priorities

Implementation of County's EJ policy

Contra Costa Health Services – In 2007 Public Health Division developed framework for addressing Environmental Justice issues. Five principles for action:

- Respect for community partners
- Early involvement by the public in responding to EJ issues
- Community participation strategies that allow for meaningful public participation
- Transparent decision-making
- Coordination of efforts across departments and jurisdictions

Implementation of County's EJ policy – Public Works

In December 2007 the Public Works Department provided the Hazardous Materials Commission with a summary of their efforts to address Environmental Justice:

1. Improved Communication and Community Outreach
 - Community Liaison – 40 community meetings in 2007
 - Community Informer newsletter
 - Municipal services Improvements – establishment of regional offices
 - Partnering with non-profits

Implementation of County's EJ policy – Public Works

2. Education Programs and Job Training Outreach

- Facilitate Leadership Training – improving communication skills
- Watershed Program outreach – calendar
- Project outreach – intensifying efforts

Implementation of County's EJ policy – Public Works

3. Pollution Prevention/Quality of Life

- Built Environment – participating in multi-departmental team
- Pollution reduction programs – Watershed program focus on hazardous materials dumping
- Integrated Pest Management – using less pesticides
- Street standards – reducing stormwater runoff
- Greenhouse gas emissions – reducing sources
- Neighborhood health – North Richmond truck route study, reducing railroad pollution

Implementation of County's EJ policy – Community Development

In December 2007 the Community Development Dept provided the Hazardous Materials Commission with a summary of their efforts to address Environmental Justice:

1. Ensure just and equal access to information and procedures
 - Developed appointment-based services
 - Identified lead contacts for geographic areas
 - Joint community outreach with other departments
 - Updated website and expanded services
 - Service-based public information references
 - Increased multi-lingual outreach

Implementation of County's EJ policy – Community Development

2. Administrative Operations

- Cultural diversity training
- Aggressive implementation of small business and minority contracting program

3. Transportation planning

- Community-based transportation plan for North Richmond and Bay-Point
- North Richmond truck route study
- Advocated for community based grants in transportation plan

Implementation of County's EJ policy – Community Development

4. Redevelopment/Housing

- Improved community meeting outreach, notification and translation
- Helped develop program to educate businesses regarding funding for diesel truck retrofit, new regulations, and other information to reduce diesel pollution
- Maximized the opportunity for local residents to secure jobs created by economic development opportunities
- Provided financing for capital improvements for a retail facility in North Richmond

Implementation of State's EJ policy

December 2007 – Presentation to HMC by Shankar Prasad, Deputy Secretary for Science and Environmental Justice

- Cumulative Impacts mapping
- EJ Pilot – OEHHA pilot on precautionary Principle and Cumulative Impacts – First meeting on June 5th, 2008
- Advisory Body – not enough applicants
- EJ grants – 32 projects in last two years
- AB 32 – Climate change leg as EJ focus

Implementation of State's EJ Policy – Current Status

Office of Planning and Research

- Have shifted their oversight function to CalEPA
- Last updated EJ general plan guidelines in 2003
- Not sure if there will be any future efforts

CalEPA

- Have not filled Shankar Prasad's position
- Have not reconvened the EJ citizens advisory committee
- OEHHA holding first meeting on cumulative impact on June 5th

Implementation of EPA's EJ Policy

Region 9:

- CARE Grant in Bay Point
- EJ small grant on Richmond General Plan
- Work with other Divisions to focus priorities
- This year's area priorities are the Central Valley and Ports

Previous focus on Richmond resulted in 5 million dollars of Federal money in Richmond in last 10 years:

- EJ grants
- Brownfield grants
- Pollution prevention
- ORD grants

Present Research

Two studies found continuing patterns on inequality based on race and income status

- Still Toxic After All These Years: Air Quality and Environmental Justice in the San Francisco Bay Area. Feb. 2007, Center for Justice, Tolerance & Community, UCSC
- Toxic Wastes and Race at Twenty, 1987 – 2007. A report prepared for the United Church of Christ Justice & Witness Ministries

March 4, 2008 HMC letter to County Counsel

Six questions:

1. What is the legal obligation of the County to ensure Environmental Justice laws and policies (County, State and Federal) are being followed when the County makes decisions that may result in disproportionate environmental impacts in a specific community, or that may increase already existing disproportionate environmental impacts?
2. What is the County's legal obligation to take action when an existing environmental injustice has been identified?
3. What are the mechanisms by which the County ensures it's legal obligation to carry out applicable Environments Justice policies and laws are being met?

March 4, 2008 HMC letter to County Counsel

4. What are the consequences for the County not carrying out either Federal or State Environmental Justice laws or policies, or it's own Environmental Justice policy?
5. What is the obligation of cities within Contra Costa County to follow the County's Environmental Justice policy?
6. What is the obligation of the County to ensure that cities within Contra Costa County follow Federal, State, or County Environmental Justice laws and policies?

March 4, 2008 HMC request to County Counsel

Comments from Jason Crapo on HMC questions:

- The County did convene the EJ working group,
- They worked together significantly and well together to reduce garbage problems in North Richmond as a pilot project,
- They developed relationships between departments on the issue of Environmental Justice,
- The County is always interested in hearing about any Environmental Justice problems the Commission identifies,
- A structure exists to respond to any Environmental Justice issues that arise in the form of an executive management team made up of the heads of Public Works, Building Inspection, Community Development and the Environmental Health.