



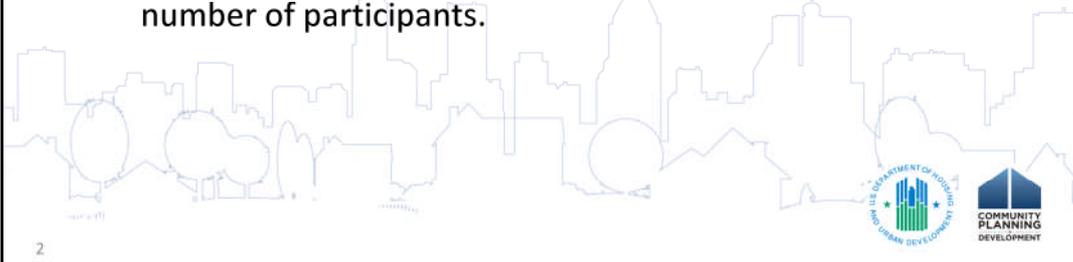
Environmental Justice at HUD

Why, What, and How



Webinar Format

- Presentation will last approximately 45 minutes followed by 45 minutes of Q&A.
- Recording of webinar will be posted on HUD's [Office of Environment and Energy Website](#) by the conclusion of the webinar series in October.
- Audience members are muted due to the high number of participants.



Audio Issues During the Webinar

- For audio, please use the following phone number: 866-893-1635, or listen through your computer.
- If you have technical difficulty with the audio or video portions of this webcast, try:
 - Logging off, then logging in again
 - Requesting help through the Q &A box that will appear on your screen.



How to Submit Questions

Type your questions in the Q & A box that will appear on your screen during the presentation. Technical questions will be addressed right away; content questions will be answered after the presentation.



WHY: HUD at the EJ Table

Secretary Donovan at the
Reconvening of the
Environmental Justice
Interagency Working Group
22 September 2010



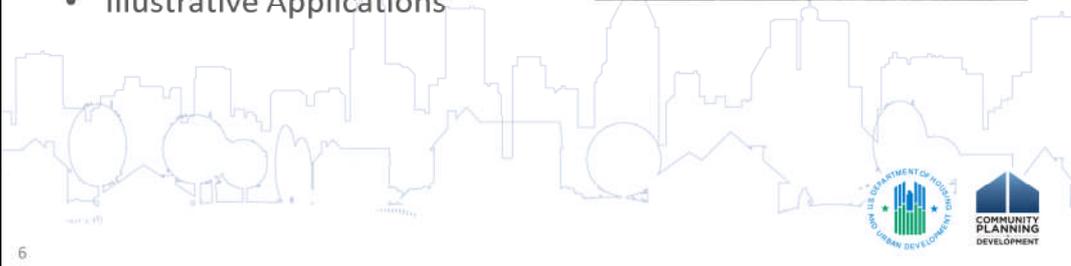
"At HUD we are committed to providing equal access to housing, mitigating risks to communities in disaster-prone areas, ensuring homes are free of health hazards, and working to create sustainable and inclusive communities across America so that a family's success is not determined by the zip code they live in."

Shaun Donovan



WHAT: Learning Objectives

- Abbreviated Background on Environmental Justice
- Terminology
- Environmental Review Coordination
- Analysis Approach
- Illustrative Applications



Abbreviated Background

- Academic studies documented injustice—1979-1992
- Movement grew from grassroots with small, local victories
- **Executive Order 12898 Signed—1994**
- HUD Strategy published—1995
- **Interagency Working Group Reconvened—August 2010**
- HUD updated Strategy posted—April 2012



Academic Studies

Bullard (1979): Study of landfill and incinerator siting in Houston for *Bean v. Southwestern Waste Management, Inc.*

GAO (1983): Siting of Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities

Lee (1987): Toxic Wastes and Race in the United States

Bullard (1990): Dumping in Dixie: Race, Class and Environmental Quality

American Bar Association (1992): Unequal Protection: The Racial Divide in Environmental Law (National Law Journal)

Bullard (2007): Toxic Wastes and Race at Twenty 1987-2007

Local Victories

Warren County, North Carolina—1982

People of Color Environmental Leadership

Summit—1991

Terminology

Environmental Justice—HUD’s *Departmental Strategy 2012*

- Equal access to safe and healthy housing by all Americans;
- Mitigating risks to communities in disaster-prone areas;
- Providing access to affordable, accessible, quality housing free of hazards to residents’ health; and
- Working to achieve inclusive, sustainable communities free from discrimination.

Meaningful Public Participation—Decision makers seek out and facilitate involvement from those potentially affected at a time when least expensive or disruptive change can be made.

Disproportionate Impact—An unequal share of the negative consequences in relation to the larger community.

Low-Income—60% Area Mean Income



Terminology

Meaningful Involvement:

- Decision makers seek out and facilitate the involvement of those potentially affected
- People have an opportunity to participate, and
- The public's contribution can influence the agency's decision



Source: <http://www.epa.gov/compliance/environmentaljustice/basics/index.html>

CEQ's EJ guidance encourages opportunities for "...complete representation of the community as a whole..." "...through means other than written communication..."
<http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf>

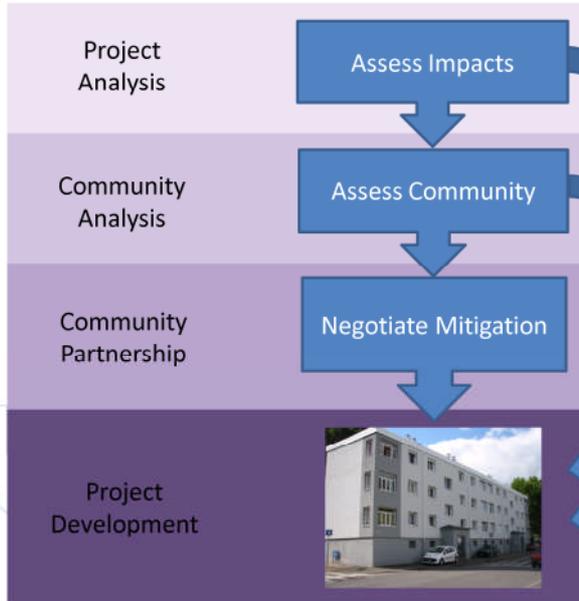
Terminology

Fair Treatment:

No group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.



Environmental Justice Analysis Approach



11



Project Analysis Phase

Determine if the Executive Order 12898 Applies (Parts 50 and 58).

Is the Project:

- Exempt/Categorically Excluded Not Subject to Federal Laws and Authorities?

 - Environmental Justice is Not Triggered

- Categorically Excluded Subject to Federal Laws and Authorities or Otherwise Requires an Environmental Assessment?

 - Environmental Justice Must be Considered;
Move to the Next Phase



12

You're already doing the first step through the Statutory Checklist and your Environmental Assessment.

Categorically Excluded Not Subject to Federal Laws and Authorities (24CFR50.19 or 24CFR58.35(b))

Categorically Excluded Subject to Federal Laws and Authorities (24CFR50.20 or 24CFR58.35(a))

Project Analysis Phase (cont'd)

Determine if there are Adverse Impacts

- No *adverse impacts*, no problem
 - Document findings and proceed with project
- If found, change project to eliminate impacts
 - If successful, document findings and proceed with project
- If Adverse Impacts cannot be eliminated, move to the next phase



13



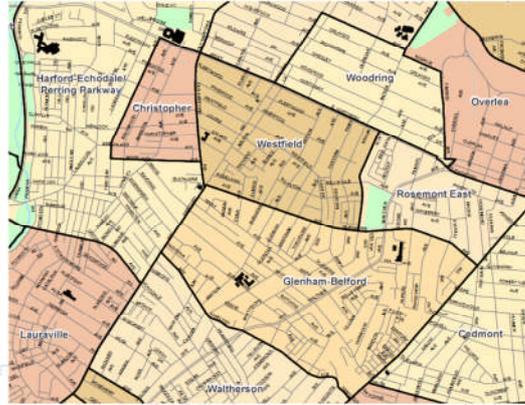
Impact Test

The premise: If there is no impact, there is no EJ issue.

Community Analysis Phase

Define the Boundaries of the Community

- Established Neighborhoods
 - Local planning departments often publish neighborhood maps
 - Ask residents or community organizations (Everyone knows their turf)
- Physical Barriers (Highways, Rivers, Railroads, etc.)



14



Census tracts and zip codes may not describe a neighborhood, but they should be considered since the best data sources are defined by them.

Example Graphic: Baltimore City Neighborhood Map 2010

(<http://www.livebaltimore.com/UploadedFiles/neighborhoods/region/Neighborhood%20Map%20Feb.%202010.pdf>)

Community Analysis Phase

Determine if the Project is in an EJ Community

- Use an Authoritative Data Source
 - Census, American Community Survey, State or Local Demographic Analyses are useful.
 - **Windshield Surveys are not valid.**
- Is the affected community minority or low-income?
 - 60% Area Mean Income or
 - Appreciably higher percentage minority than the jurisdiction
 - If “No,” document findings and proceed with project



If an EJ Community is Affected, Move to the Next Phase



15

Demographic Test

The premise: If there is no EJ community, there is no EJ issue.

Relative data example 2010 Atlanta: 54.0% Black, 38.4% White. If community is an appreciably higher percentage, EJ concern is justified.

60% of Area Median Gross Income is the maximum income eligibility threshold for Low Income Housing Tax Credits

(http://www.huduser.org/Datasets/qct/QCT2013_Notice.PDF)

Check “Qualified Census Tracts” at <http://www.huduser.org/portal/datasets/qct.html>

Community Analysis Phase (Part 2)

•If an EJ Community is negatively affected, is it disproportional?

- Does this concern affect others equally? Is it fair? (**Explain**)
- Do other populations/neighborhoods cope with different issues of similar severity? (**Explain**)



16

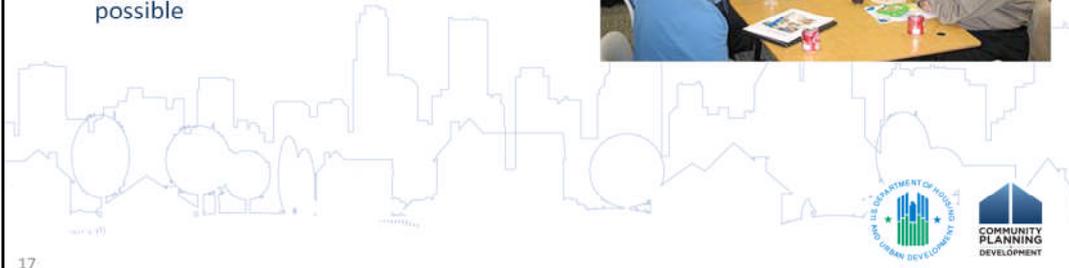
Disproportionate Test

The premise: If the impact is not disproportionate to an EJ community, there is no EJ issue. **Explain your conclusion.**

Community Partnership Phase

If an EJ Community is negatively and disproportionately affected, develop a partnership.

- Meaningful participation happens early in the project planning process.
 - Before decisions are made
 - While low-cost or no-cost mitigations are possible



This should happen during scoping

Community Partnership Phase (cont'd)

Coordinate with Other Outreach Opportunities and Requirements

- National Environmental Policy Act Scoping
- National Historic Preservation Act, Section 106 Consultation
- Consolidated Plan Biannual Outreach
 - “These requirements are designed especially to encourage participation by low- and moderate-income persons... A jurisdiction also is expected to take whatever actions are appropriate to encourage participation of all its citizens, including minorities...” [24CFR91.105(a)(2)(ii)]
- Local Zoning Map or Comprehensive Plan Updates, Conditional Use Hearings

Invite Affected Parties

- Residents, Leaders, and Elected Officials
- Other Stakeholders (Major Employers, Developers, Service Providers)

18



Consolidated Plans are required for communities accessing the following HUD programs: CDBG (24CFR570.431(b)(3)), HOME, ESG, HOPWA, Supportive Housing for the Elderly (202), HOPE 6, Choice Neighborhoods, and others

Community Partnership Phase (cont'd)

Participation Ground Rules

- Agency determines mitigation for environmental justice
 - Community input must be considered
 - Community must be informed of the decision
 - If HUD is the Agency, final decision on mitigation rests with HUD (Program Office or Responsible Entity)
- In-person, public discussions are preferred



“The requirements for citizen participation do not restrict the responsibility or authority of the applicant for the development and execution of its community development program.” *Community Development Block Grant regulations 24CFR570.431(a)*

Illustrative Application #1

Project Description

- Mixed-use: 5-stories with retail, offices, and residential
 - A total of 180 dwelling units proposed
- Located between arterial road with light rail and active freight rail with switching yard



Environmental Issues

- Noise Unacceptable at 83 decibels
- Site within fall distance of electrical transmission lines
- The neighboring land uses industrial



Environmental Justice Concern

- Negative impacts
- 80% low-income residents is disproportionate.

Resolution

Developer abandoned project.



Illustrative Application #1 (cont'd)



21



Illustrative Application #2

Project Description

- Group Home for Developmentally-disabled Adults.
 - Very low-income residents ($\leq 30\%$ AMI)
 - A total of 15 dwelling units proposed.
- Between arterial road and active freight rail
- Adjacent: Fast food restaurant & Body Shop



Environmental Issues

- Noise Unacceptable at 78 decibels

Environmental Justice Concern

- Program office considered land use a negative impact
- 79% Hispanic residents suggests disproportionate

Resolution

- 4 existing, similar facilities in surrounding suburbs dispelled disproportionality—project built.



Illustrative Application #3

Project Description

- Affordable Housing
 - 326 dwelling units
 - 49 family dwelling units
- Located at foot of San Francisco Bay Bridge

Environmental Issues

- Noise Unacceptable at 77 decibels
- Air quality poor
- Soil contamination
- Food desert

Environmental Justice Concern

- Negative impacts
- Very low-income residents (30% AMI), impact is disproportionate

Resolution

Issues addressed, project built.



Illustrative Application #3 (cont'd)



24



Illustrative Application #4

Project Description

- Elderly Rental Housing
- 60% low-income tenants

Environmental Issues

- Dioxin soil contamination
- 79 dB (min) noise exposure

Environmental Justice Concern

- Undisclosed immediate threat
- Disproportionate, negative impacts

Resolution

- Project funding denied
- Source cleaned to industrial standard (1/2 acre @ \$2.5M)
- 6 families living on adjacent parcel notified of exposure
- State and EPA coordinating cleanup with owner liability



25



6.5 acre site between railroad and major road. Noise from roadway not assessed in the environmental review submitted. Odors from nearby slaughter house also noted.

Dioxin source was a leaking tank at an adjacent wood treatment plant. Subsequent testing found dioxin levels at 15-20 times the residential standard.

Finding of No Significant Impact invalidated by HUD

State Department of Environmental Quality reorganized

State avoided approximately \$20M in cleanup costs

Owner deemed a potentially responsible party due to denial of access for additional testing

Families notified of contamination

Illustrative Application #5

Project Description

- Public Housing Development for Low-income Tenants
- HOPE VI redevelopment grant awarded

Environmental Issues

- Severely distressed
- Crime-ridden
- Blighted

Environmental Justice Concern

- Disproportionate economic impact to minority businesses



26



HOPE VI Goals

- Deconcentrate poverty
- Create mixed income/use communities

Illustrative Application #5 (cont'd)

OLD IS NEW AGAIN

Five buildings that belonged to the former St. Thomas housing development are being reopened as River Garden units.

Source: HFI Companies Inc. STAFF GRAPHIC BY EMMETT MAYER III

River Garden Plan

- Mixed Income
 - Subsidized units
 - Market rate
- Mixed Use
 - Residential
 - Commercial
- Economic Development
 - Jobs creation & training
 - Positive impact for small business
 - On-site property management & housing counseling

Phase 1 - 296 rental units

73 single family homes

57 elderly units

“Historic” apartments – 37 subsidized units

Phase 2 – 310 rental and townhome units

Off-site – 100 rental, 50 homeownership units (to be developed)

Retail – Super Walmart (100,000 sqft), 26,000 sqft other

Illustrative Application #5 (cont'd)

The Controversy: Wal-Mart announced as retail anchor after demolition

- Environmental Review
 - First completed in 2000
 - Reopened in 2002
 - NEPA
 - Historic Preservation
 - Environmental Justice



Resolution

- Updated NEPA evaluation resulted in Finding of No Significant Impact
- Updated review of historic preservation alternatives
 - Archaeology
 - Design review
- Assessed socio-economic impacts on small business
- Assessed Environmental Justice concerns
- Decisions and development upheld—project built.

28



•Environmental review challenged

Coliseum Square Association v. Alphonso Jackson (HUD) Focused on NEPA & NHPA violations

•5th Circuit Court of Appeals ruled in favor of HUD (2006)

•District Court denied request for rehearing

•U.S. Supreme Court denied request for reviewing (certiorari) (2007)

Resource Links

HUD's Environmental Justice Strategy

- <http://portal.hud.gov/hudportal/documents/huddoc?id=envjustice.pdf>

HUD's Assessment Tools for Environmental Compliance

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/atec

HUD User Datasets

- <http://www.huduser.org/portal/>

Council on Environmental Quality's EJ Guidance

- http://ceq.hss.doe.gov/nepa_information/justice.html

American Journal on Public Health's Environmental Justice Compendium

- <http://ajph.aphapublications.org/toc/ajph/101/S1>

EJView and NEPA assist

- <http://www.epa.gov/environmentaljustice/mapping.html>
- <http://www.epa.gov/oecaerth/nepa/nepassist-mapping.html>

29



Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT)

<http://www.epa.gov/compliance/ej/resources/policy/ej-seat.html>

www.census.gov

Reflection

Presenter and HUD EJ Contact:

Jim Potter

202.402.4610 james.m.potter@hud.gov

Democracy cannot succeed unless those who express their choice are prepared to choose wisely. The real safeguard of democracy, therefore, is education.

Franklin D. Roosevelt

30



<http://www.brainyquote.com/quotes/keywords/democracy.html>