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The Climate of Environmental Justice: Taking
Stock (March 16-17)

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Summary of Presentation: Climate of Environmental Justice Conference

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Summary of Presentation

Climate of Environmental Justice Conference
March 17, 2007

Environmental justice litigation has been successful in pressing political points but has reached a dead end in achieving favorable substantive outcomes

Equal protection litigation
Title VI litigation
Title VI complaints to EPA
Executive Order 12,898 litigation

Principal obstacles

Discriminatory intent
Lack of adverse environmental impact

Disclosure litigation under NEPA, little NEPAs, permitting laws has been more successful

Substantive environmental litigation and administrative procedures have been much more productive in fighting projects

Most environmental justice cases challenge particular proposed facilities. This is a problem in the movement's strategies. The steps that culminate in siting of a facility are:

- 1) Determination of underlying demand for the facility's product -- waste disposal, electricity, gasoline, etc.
- 2) Selection of technology to meet demand -- landfill, incineration; coal, nuclear
- 3) Selection of site for that technology

By concentrating on site selection, EJ movement has jumped on to what is, from national and global perspectives, the least important set of decisions. It has waited until the underlying choices have mostly been resolved, and it's down to a locational problem.

Collective action problem -- difficult to organize people around diffuse problems, as opposed to something that would affect them personally.

The same issues arise with the causes of climate change. Should be more focus on:

- 1) Energy use and conservation
- 2) Technology and fuel choice
- 3) Adaptation

Facility siting with climate change and EJ implications:

- 1) Coal-burning power plants

- 2) Wind energy (affluent communities resist)
- 3) Flood protection
- 4) Land use development patterns

Another shortcoming of most EJ litigation: Focus on new facilities, not old ones

Grandfathering as perpetuation of poor siting decisions

Also perpetuates climate-negative facilities

Approaches to solution:

- 1) NSR program
- 2) More rigorous review of renewal applications, with public participation
- 3) Better policing of compliance of operator and related companies; electronic dissemination of information
- 4) Combine with analysis of security risks

Flood hazard review in light of rising sea levels, greater storm activity

Affecting corporate behavior

Recognizing variations in corporate culture on climate issues

Public dissemination of information about climate-relevant behavior

Commenting on permit applications

Recognition of business opportunities in climate change mitigation

Openness to environmental benefit programs