Environmental Justice
University of California, Berkeley
School of Law (Berkeley Law)
Course Information
Fall, 2008

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Office Hours: My regular Fall 2008 office hours are Wednesdays 3-5, but I am always willing to see you at a different time if those hours don’t work for you. The best way to arrange an appointment with me is by email at the address above.

Readings: The required book for the course is Luke W. Cole & Sheila Foster, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT. Other readings will be handed out in class or posted on the course website.

The last page of this course description provides a tentative syllabus for the entire semester.

Course Website: The course website is the place where you can find this syllabus, electronic versions of most of the supplemental readings, announcements, and random stuff. Please check it regularly.

Class Description:

The U.S. environmental justice movement emerged in the late 1980s as under-resourced communities of color organized to fight the disproportionate siting of locally-unwanted land uses (LULUs) in their neighborhoods. The movement distinguished itself from the mainstream environmental movement in both its methodology and its substantive concerns. With respect to method, the movement put political organizing at the center and law at the periphery, in contrast to mainstream environmentalism which has relied heavily on judicial and legislative action. With respect to its concerns, the EJ movement has focused on the social justice needs of humans in the built environment, rather than on the need to protect “the environment,” conceptualized as wilderness, from humans.

In this seminar we will survey the history of the environmental justice movement and then examine current legal, policy, and political issues with which the movement is struggling, including land use planning and climate change.

Course Expectations: Each student will be expected to complete three projects over the course of the semester. First, each student, working with others in groups of two or three, will be responsible for leading class discussion once on the assigned readings. Second, each student will be expected to produce a PowerPoint presentation on some aspect or aspects of his or her neighborhood. Third,
each student will be expected to submit a final paper at least 30 pages long, due at the end of the semester, on a topic concerning environmental justice.

There are three options for the final project. First, students can write a traditional research paper. Second, students can write a “pathfinder” on some aspect of the environmental justice movement in the Bay Area, based on your independent field research in the community. Third, if students choose to link up with and do research for an environmental justice organization this semester, a short “reflection piece” describing and reflecting on that research will be required.

**Grading:** Your final grade will be based on (1) your grade on the final project (worth approximately 80%); (2) your grade on the PowerPoint presentation (approximately 10 %); and (3) your participation in class, including general discussion and discussion leadership (approximately 10%).
Reading Assignments

I. August 18 Introduction: What is environmental justice?
   A. No readings
   B. Film excerpt: When the Levees Broke

II. August 25: History and Principles of the EJ movement
   A. Readings:
      1. History and framing of the environmental justice movement
         a. Finis Dunaway, "Gas Masks, Pogo, and the Ecological Indian," American Studies Quarterly (hard copy)
         b. Schellenberger & Nordhaus, "The Death of Environmentalism" (online)
         c. David Pellow, book review of Schellenberger & Nordhaus (online)
         d. Daniel Faber, Capitalizing on Environmental Justice 221-258 (hard copy)
         e. Gauna & Rechtschaffen 20-26
      2. Systems theory: race, class, and causation
         b. Gauna & Rechtschaffen 55-85; 27-44
         c. Laura Pulido, Rethinking Environmental Racism (online)

III. September 8: Governance and the politics of power
   A. Administrative Governance 101
      1. “Command and control” versus markets
         a. Richard Stewart, Models for Environmental Regulation
         b. Bradley Karkkainen, Bottlenecks and Baselines
         c. Pew Center on Climate Change, Cap and Trade 101
         d. Environmental Justice Coalition, Debunking the Myths of Cap and Trade
         e. Los Angeles Times, “Time to Tax Carbon” (editorial)
      2. Risk management: CBA versus the PP
         a. Sunstein versus Heinzerling, Georgetown Law Journal
      3. Agency decisionmaking and public participation
         a. Gauna & Rechtschaffen 107-132
      4. Communities and lawyers
         a. Readings:
            (1) Gauna and Rechtschaffen 245-254
            (2) Luke Cole, The Three Great Myths of White Americana

IV. September 15: Knowledge and Power (Continued); Permitting
   A. Readings:
      1. Knowledge and Power (Continued)

2. Permitting
a. Gauna and Rechtschaffen 187-215
b. Remand order, In re Russell City Energy Center

B. Guest speaker: Helen Kang, GGU EJ clinic

V. September 22: Air Regulation in the Central Valley
A. Readings:
1. The Political Economy of the Central Valley

2. Regulating Air Pollution in the Central Valley
   b. Bayview-Hunters Point et al v. MTC, 366 F3d. 692 (9th Cir. 2003)
   c. Safe Air for Everyone et al v. EPA, 488 F3d 1088 (9th Cir. 2007)
   d. El Comite para Bienestar de Earlimart et al. v. Warmerdam (9th Cir. 2008)

B. Guest speaker: Brent Newell, CRPE

VI. October 6: Climate Justice
A. Introduction to Climate Justice

B. Global Climate Justice

C. Local and Regional Climate Justice
1. Case Study, Climate Change, Environmental Justice, and Human Rights in California’s Central Valley
2. Western Climate Initiative - overview and map
3. AB 32 - bill, overview

VII. October 13: Participatory Action Research
A. Kenneth M. Reardon, Participatory Action Research as Service Learning, 73 New Directions for Teaching and Learning 57 (Spring 1998)
B. Articles from Burden of Proof: Using Research for Environmental Justice, Special Issue, Race, Poverty, and the Environment (Winter 2004/05):
   1. Azibuike Akaba, “Science as a Double-Edged Sword”
   3. Swati Prakash, “Power, Privilege and Participation”
C. Guest speakers: Catalina Garzon and Mary Louise Frampton

VIII. October 20: Unincorporated Communities and Environmental Justice
C. CCCI v. Modesto, Third Amended Complaint, Case No. CIV-F-02-6121 (E.D. Cal. 2007)
D. Guest speaker: Phoebe Seaton

IX. October 27: Transportation, Land Use Planning, and Environmental Justice
D. “MTC, Where Are Our Buses?” Challenging the Bay Area’s Separate and Unequal Transit System,” Communities for a Better Environment, Urban Habitat, and Public Advocates (December 2006)
E. Guest speakers: Connie Malloy, Lindsay Imai, and Cheryl Lane

X. November 3: Economic Development, Environmental Justice, and Green Jobs
B. Paul G. Lewis, Retail Politics: Local Sales Tax and the Fiscalization of Land Use,
XI. November 10: Environmental Justice and Public Health
E. Guest speaker: Anthony Iton

XII. November 17: Environmental Justice and Food Systems
A. Andrea Freeman, Fast Food: Oppression Through Poor Nutrition, 95 Cal. L.Rev. 2221 (2007)
F. Guest speaker: Lisa Feldstein

XIII. November 24: Environmental Justice and Indigenous Peoples
A. Rechtschaffen and Gauna, pp. 421-460
B. Navajo Nation v. United States Forest Service (9th Cir. 2008)
C. Guest speaker: Caitlin Sislin