



Environmental Justice: Emerging Concepts & Tools



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California Council for Environmental & Economic Balance

What is Environmental Justice (EJ)?

California Definition:

EJ is defined in State law as “the fair treatment of people of all **rac**es, **cultures**, and **incomes** with to the **development, adoption, implementation, and enforcement** of environmental laws and policies.”

- Government Code § 65040.12

Background:

<http://www.calepa.ca.gov/EnvJustice/Legislation/>

- } SB 115, 1999: definition, Cal/EPA mission statement
- } SB 89, 2000 and SB 828, 2001: Interagency Working Group, CEJAC & Cal/EPA EJ strategy
- } AB 1390, 2001: 50% of mobile source incentive \$
- } AB 1553, 2001: OPR guidelines for EJ in general plans
- } AB 2312, 2002: EJ small grants

What is Environmental Justice (EJ)?

US EPA definition:

"The fair treatment of people of all **rac**es, **c**ultures, **i**ncomes, and **e**ducational levels with respect to the **d**evelopment and **e**nforcement of environmental laws, regulations, and policies.

Fair treatment implies that no population should be forced to shoulder a **d**isproportionate **s**hare of **e**xposure to the negative effects of pollution due to lack of political or economic strength."

Background:

- } Federal EO 12898
 - } Title VI of the Civil Rights Act
 - } Draft: Advancing EJ through Title VI of the Civil Rights Act
- <http://www.epa.gov/environmentaljustice/plan-ej/civil-rights.html>
- } **Plan EJ 2014**

Other Key Terms

- } Cumulative Impacts & Cumulative Pollution Burden
 - } “The exposures, public health or environmental effects from the combined emissions and discharges, in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will **take into account sensitive populations and socio-economic factors, where applicable and to the extent data are available.**”
- } Precautionary Principle & Precautionary Approaches
 - } “Taking action to protect public health or the environment if a reasonable threat of serious harm exists based upon the best available science, even if absolute and undisputed scientific evidence is not available to assess the exact nature and extent of risk.”
- } Disproportionate Burden
- } Sensitivity/sensitive receptors (age, pre-existing conditions)
- } Vulnerability (socioeconomic status, race & ethnicity)



Difference often blurred...but shouldn't be

Disproportionate Burden

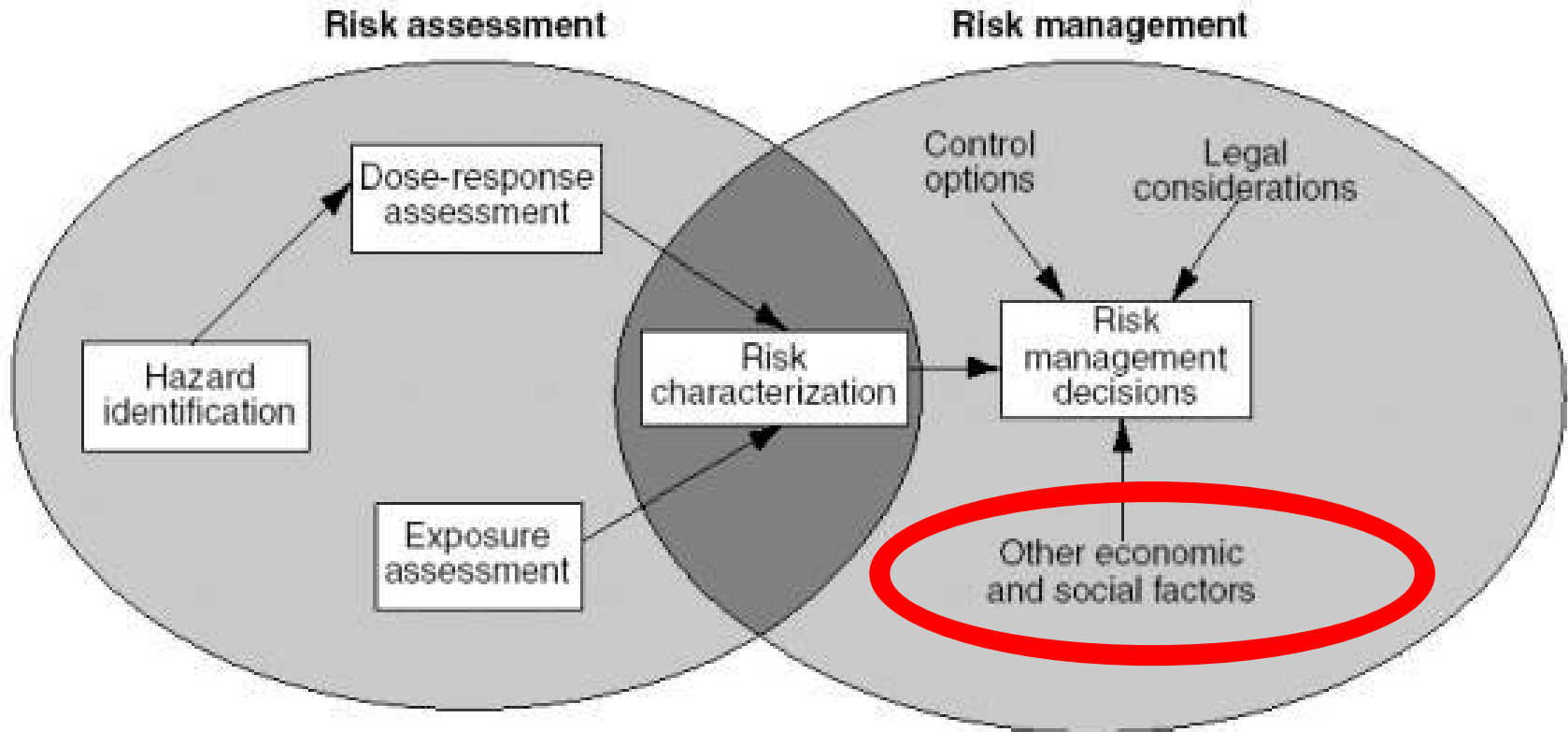
- } Low-socioeconomic community has higher levels of risk and exposure than others that are more affluent and/or white

Vulnerability

- } Even with the same level of pollution, some communities & individuals are more *vulnerable* to the effects of pollution because of low-socioeconomic status or race & ethnicity
- } SES, race & ethnicity are argued to modify the effect of exposure



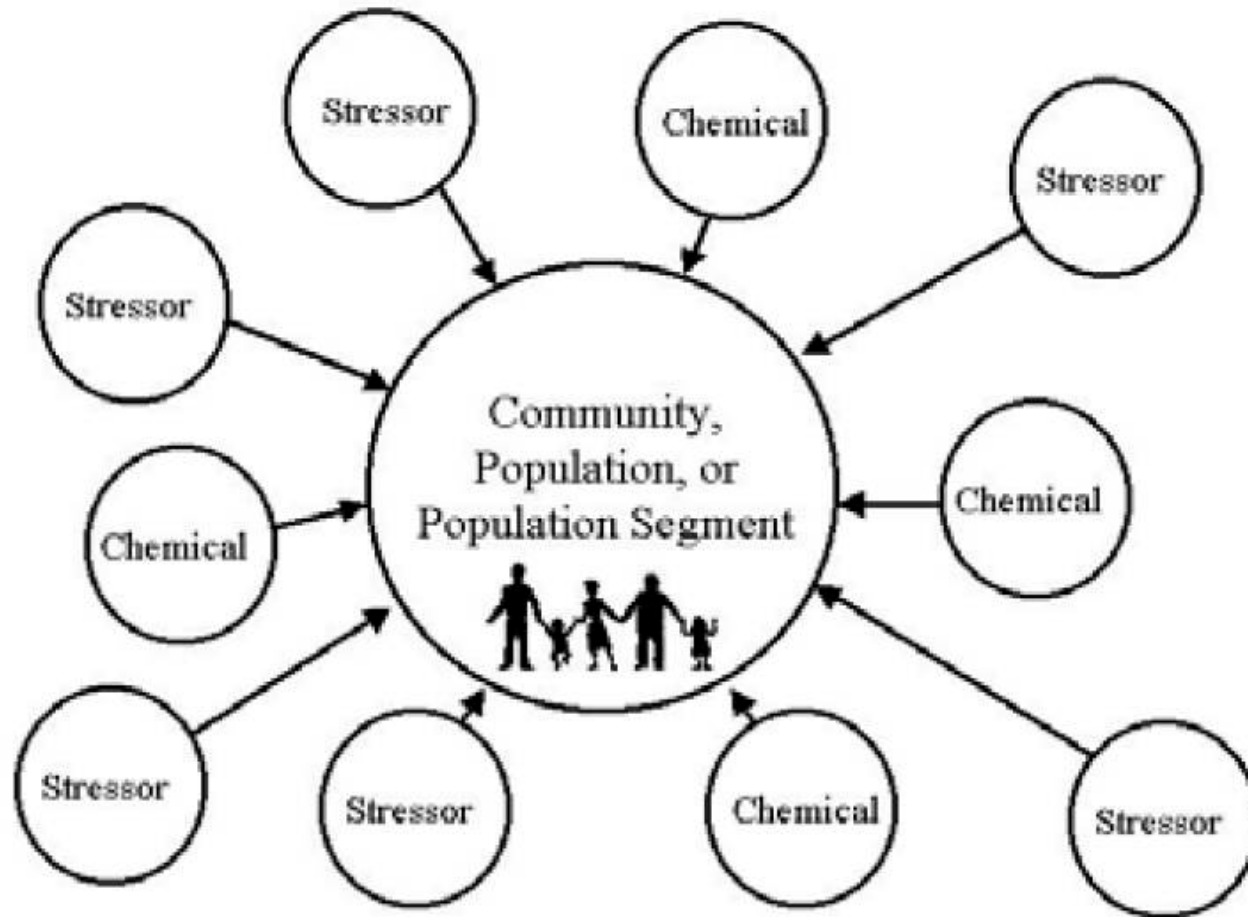
Current Approach: Risk Assessment & Risk Management



Source: EPA Office of Research and Development.



New Approach: Population-Based Assessments & Cumulative Impacts



Source: U.S. EPA Framework for Cumulative Risk Assessment, May 2003



Identifying EJ Communities

Counting and Sorting

- } Based on screening or criteria or both
- } False sense of certainty
- } All scoring is subjective – who gets to put finger on the scale?
- } Retrospective, not prospective
- } *Makes it easy to take action*

“I know it when I see it”

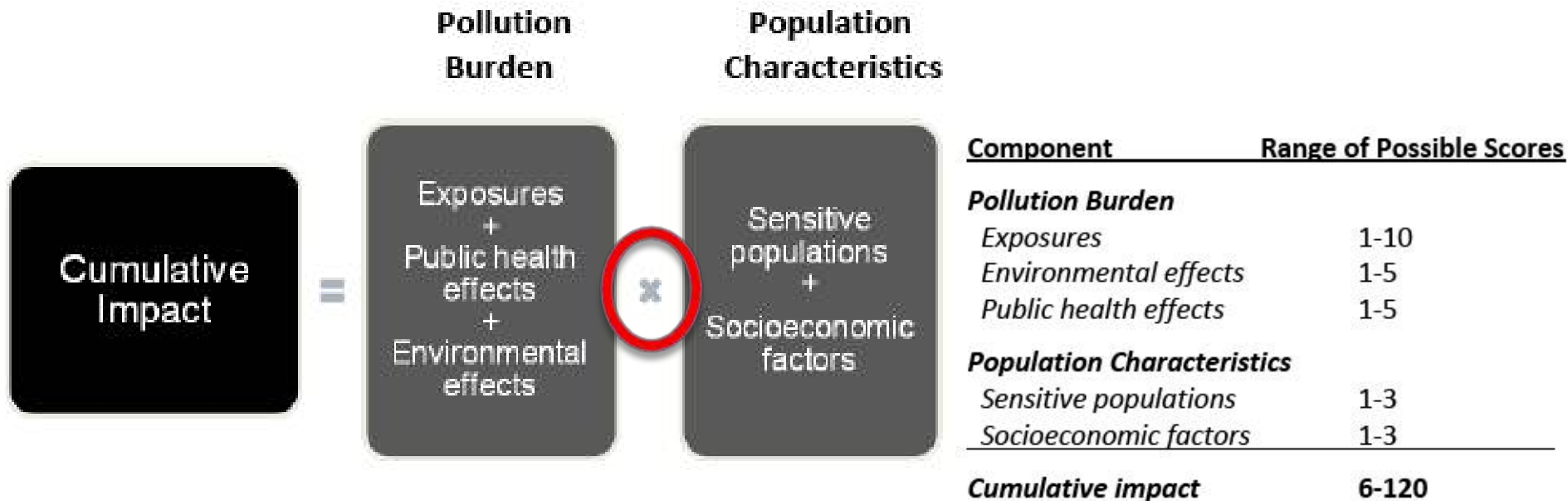
- } Communities can self-identify as EJ regardless of exposure or risk
- } Can't make a relative comparison
- } Often misses communities with no advocacy but real problems
- } *Good for programmatic solutions*



Example: Cal/EPA-OEHHA CalEnviroScreen

Statewide cumulative impacts screening method
Under Development

Formula & Weighting for Counting & Sorting



Source: Cal/EPA-OEHHA Draft California Communities Environmental Health Screening Tool, Proposed Method & Indicators, July 30, 2012



CalEnviroScreen Indicators

Exposures

- Ozone
- PM2.5
- Traffic Density
- TRI
- Pesticide use/reporting

Environmental Effects

- Cleanup sites
- Impaired water bodies
- Leaking UST
- Solid/hazardous waste sites


Public Health Effects

- LWB infants
- Asthma ER
- Cancer
- Heart Disease

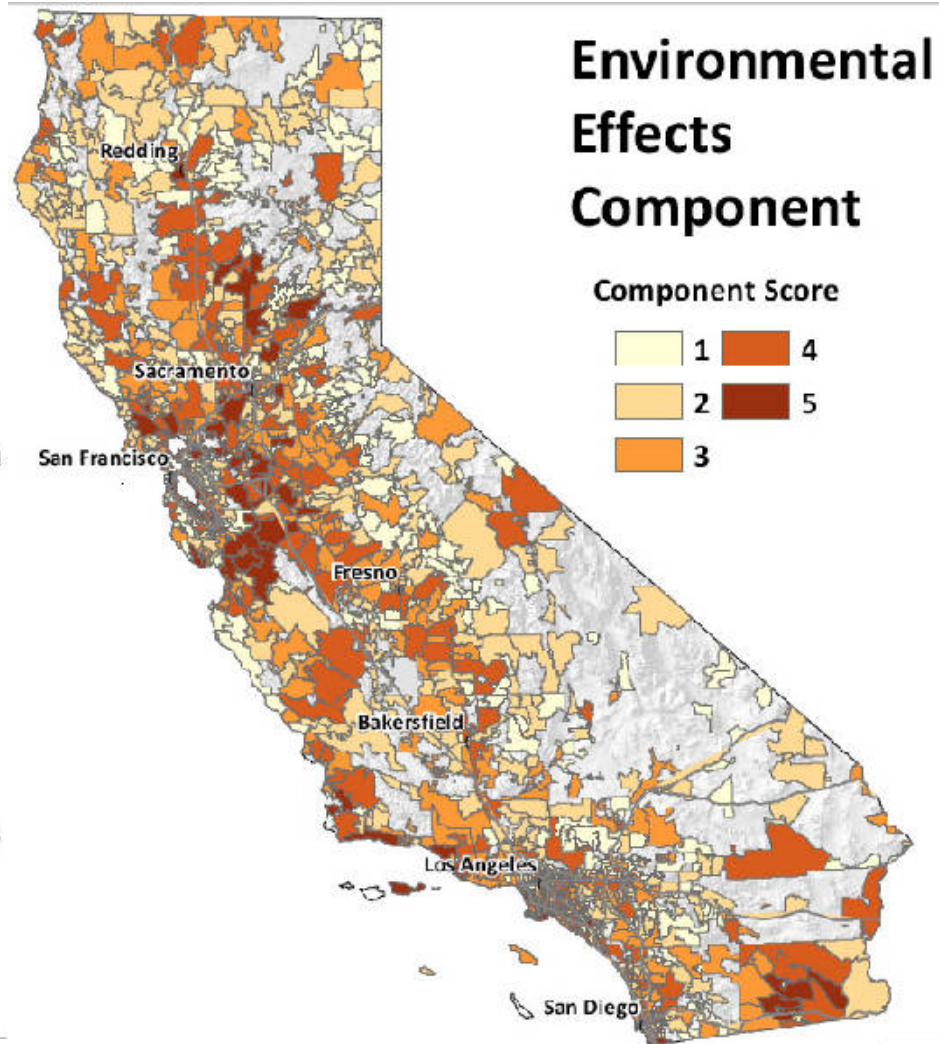
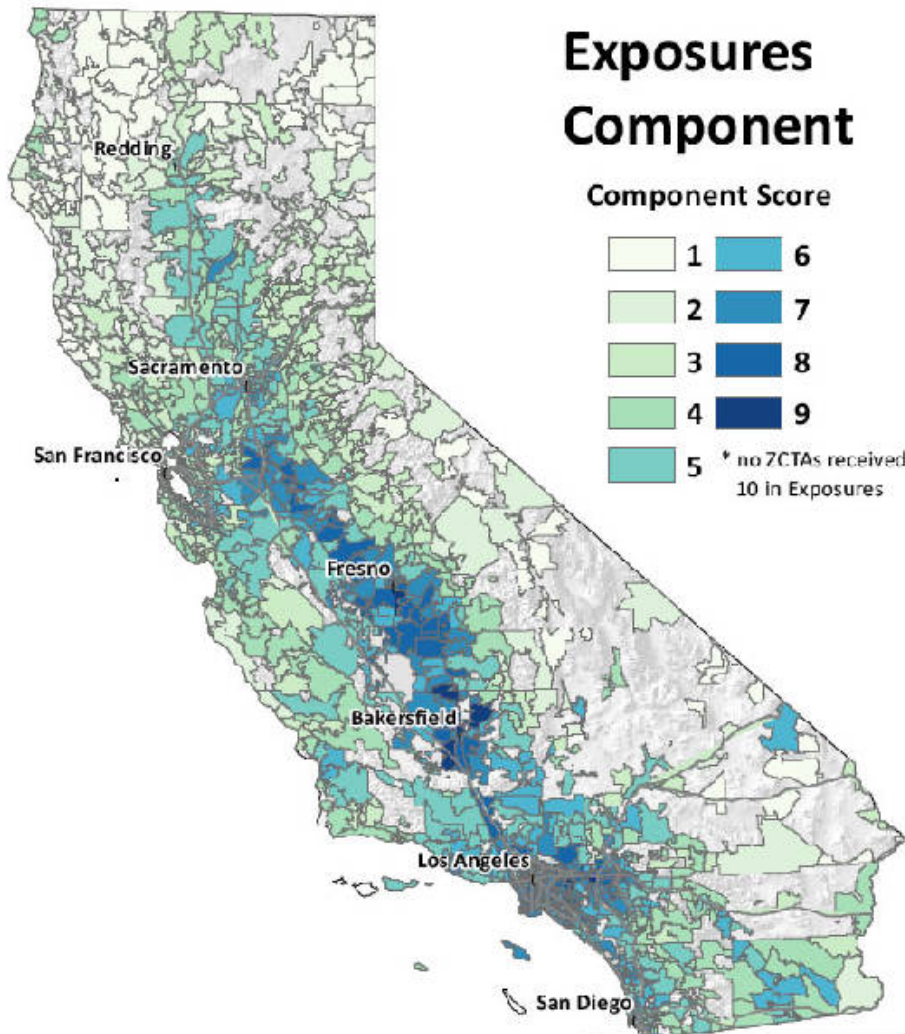
Sensitivity

- % children
- % elderly

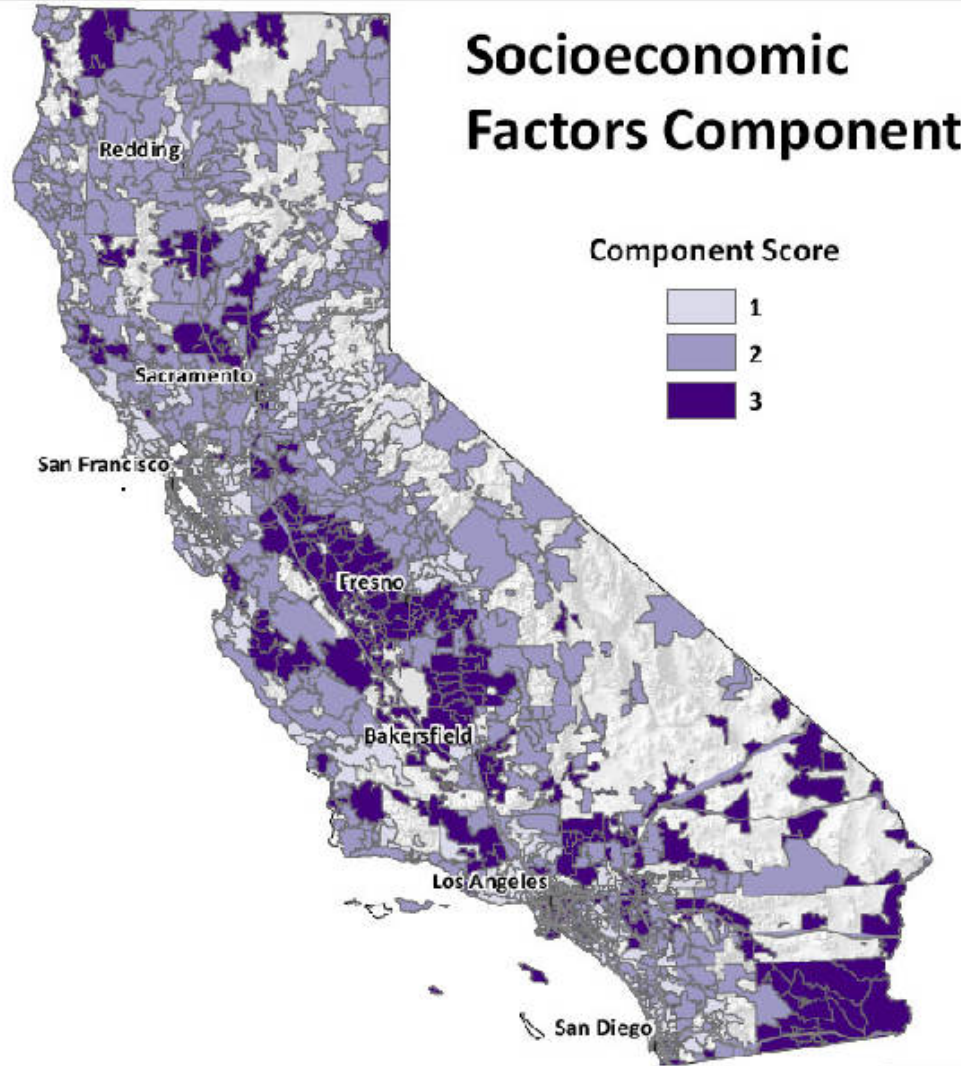
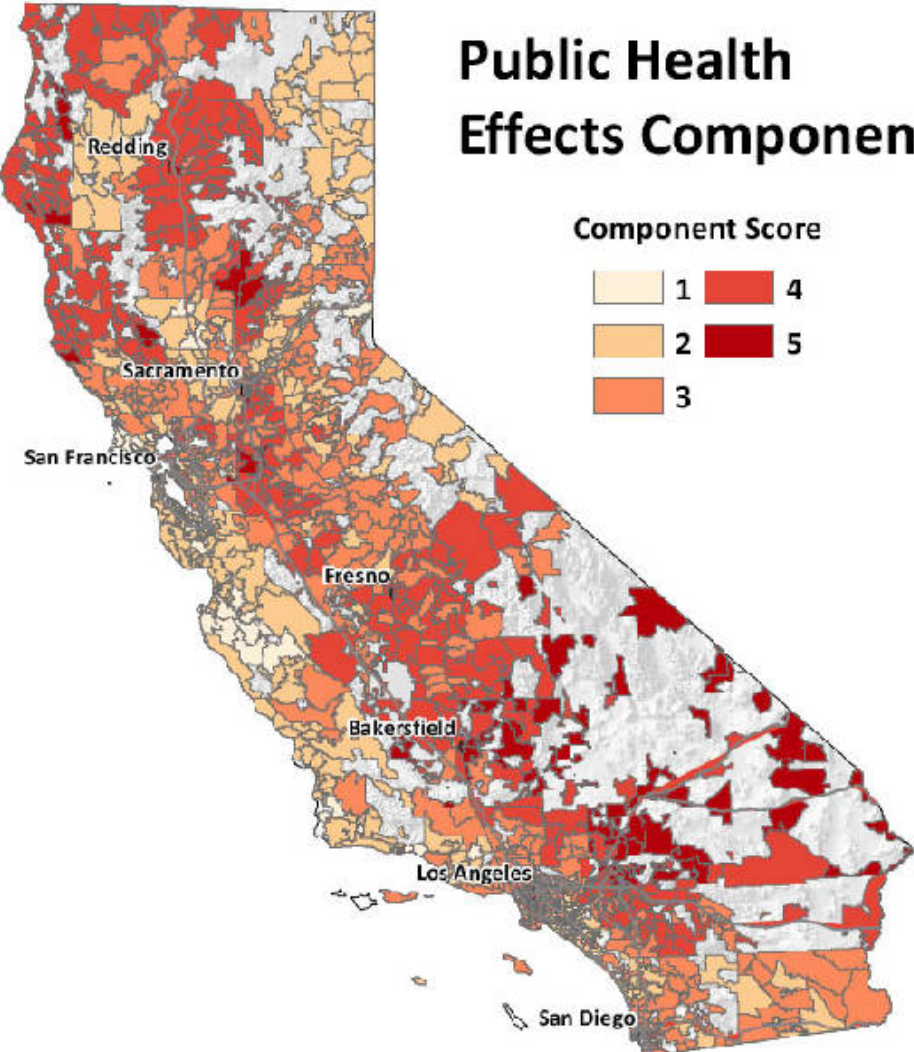
Vulnerability

- Education
 - Income
 - Poverty
 - Race & ethnicity
-
- 

Exposures & Environmental Effects



Health Effects & SES



▶ Source: Cal/EPA-OEHHA Draft California Communities Environmental Health Screening Tool, Proposed Method & Indicators, July 30, 2012

Emerging Tools and Concepts

Other tools and proposed policy solutions from EJ groups and regulatory agencies

- } Cumulative impact/EJ screenings, GIS-based
 - } EJSEAT, CalEnviroScreen, EJSM, etc.
- } Health Impact Assessments (HIAs)
 - } AB 32 HIA, I-710 HIA
- } Community-Based Participatory Research
 - } San Bernardino study, CBE E. Oakland
- } Health disparity studies
- } Exposure disparity studies
- } *Cumulative risk assessment?*

EJ Tools Under Development

Applies public health techniques to environmental issues.

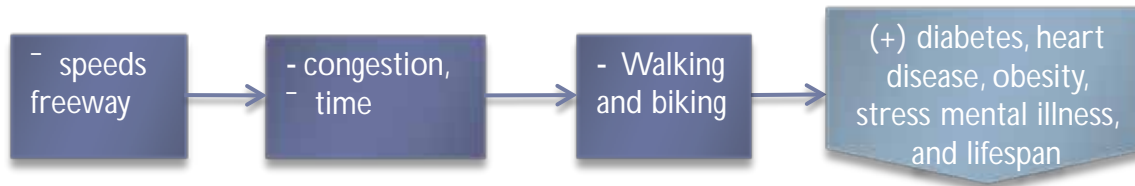
Risk assessment isn't well incorporated because of scientific challenges and community mistrust.

Lack of consistency and oversight, early stages in the development of techniques and guidelines.



Example: I-710 HIA

“Because congestion may discourage driving, Alternative 1 is likely to negatively impact physical activity and health the least of all the alternatives being considered in the EIR/EIS.”



Unacknowledged Tradeoff: é congestion = é local air pollution = Spare the Air exercise warnings

Unacknowledged Tradeoff: no project ≠ arterial system improvements + added transit

Untested Assumption: congestion will reduce driving on arterials and freeway to a degree that activity increases



- } Health outcomes caused by multiple factors – yet only pollution is being investigated and addressed
- } Hard to tell if vulnerability is cause or effect
- } Tools fail to show causation let alone proportionate responsibility of an individual source or facility
- } Many +/- impacts omitted, e.g., positive role of economy is ignored, but income and wealth is the #1 factor in health

Challenges overlaying public health models

Researchers can have limited understanding of environmental regulatory framework.

Broader definition of “environment” and “impact” – means anything extrinsic to the body.

Research is not always able nor does it necessarily seek to identify causes of harm and disease – emphasis is instead on distribution of health outcomes.



- } Public participation, access to decision making & opportunity to engage
- } Prioritized resource allocation: incentives, grants, public and private investment & increased enforcement
- } **Differential standards & requirements**
- } **Community-Benefit Agreements + additional mitigation for projects**
- } **Permit restrictions (new) and source relocation (existing)**
- } *Other?*

EJ-Proposed Policy Solutions

Almost all EJ problems arise from legacy land use planning decisions that placed people next to sources, or vice versa.

Problems can persist even when all environmental standards and rules are met in full.

EJ groups rarely engage regulated community when developing policies, or vice versa. Collaboration is a major challenge.



Engaging in EJ Policy Development

California

- } Cal/EPA-OEHHA
CalEnviroScreen – *comments due 9/18*
<http://www.oehha.ca.gov/ej/cipa073012.html>
- } LA “Clean Up Green Up”
- } SCAQMD & BAAQMD
community pilots
- } DTSC Toxic Tours
- } **AB 32**, SB 375 and RPS
- } AG CEQA litigation
<http://oag.ca.gov/environment/ceqa/litigation-settlements>

U.S. EPA

- } EPA Plan EJ 2014
 - } Rulemaking
 - } Permitting
 - } Compliance & Enforcement
 - } Resources, capacity building & engagement
 - } Research & Science
 - } Legal tools
- } New Partners for Smart Growth Conference



Engaging EJ Groups & Community-Based Organizations

Do's

- } **Engage early & often**
- } Acknowledge concerns about risk assessment and cumulative impacts
- } Speak as a member of the community
- } Listen for truth and be open to learning
- } Discuss facts to help build a shared understanding

Don'ts

- } Announce & Defend
- } Think in terms of a single source, facility or project
- } Deflect
- } Pay-to-Play
- } Jobs vs. health
- } Be surprised by objections raised at the last minute
- } Mistake EJ groups for enviros



Questions & Comments

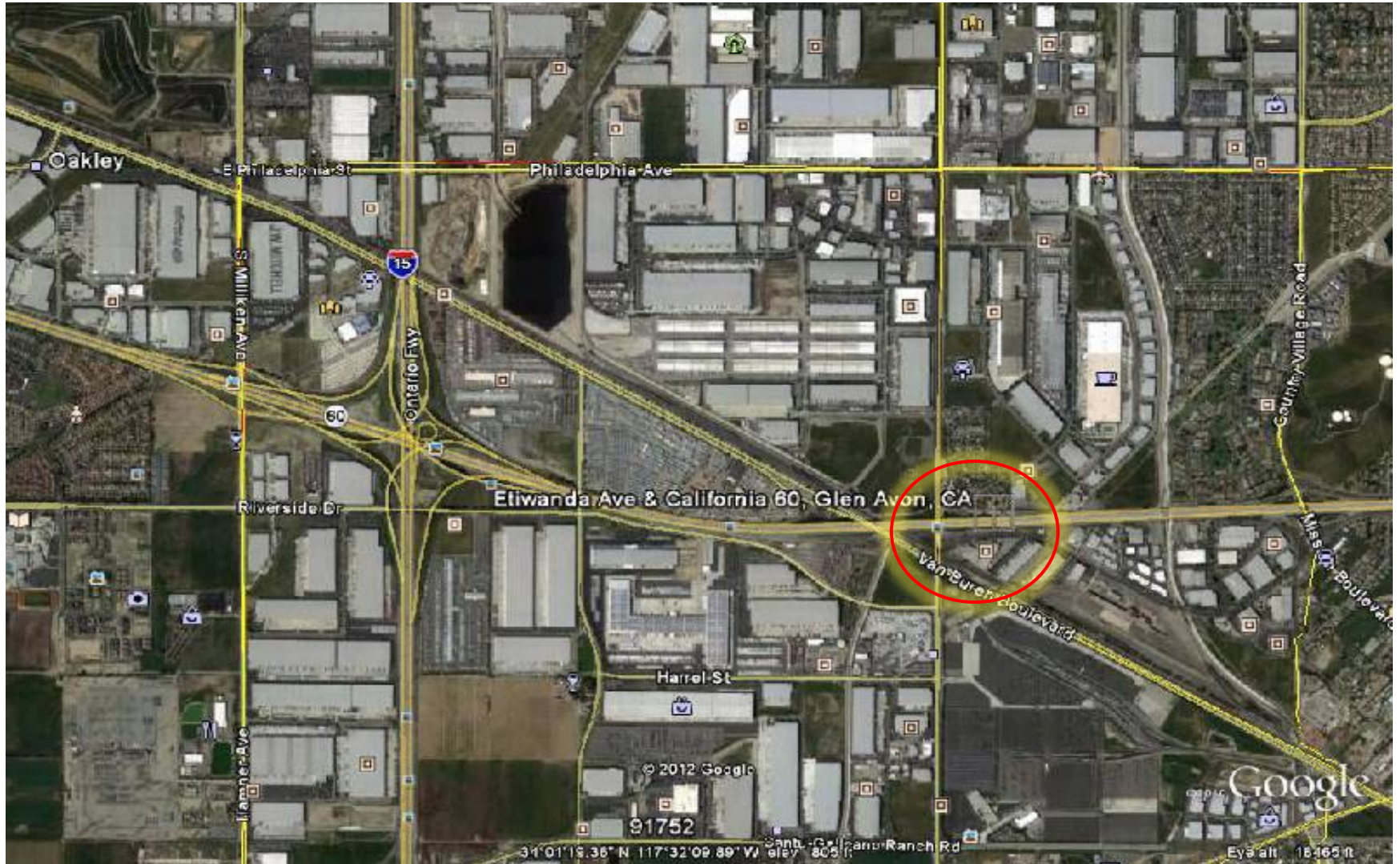
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CASE STUDY: Mira Loma Village Riverside, California

Riverside County, City of Jurupa and developer sued by
community group and state Attorney General

Mira Loma Village, Riverside, CA



The Legal Case

- } The Project's Draft EIR identified significant environmental and health impacts related to the project, particularly related to traffic, air pollution from diesel trucks
- } Riverside County failed to adequately analyze the environmental consequences of the project
- } CCAEJ* and the State claim that Riverside County failed to adequately mitigate the impacts of the proposed project

*Center for Community Action and Environmental Justice

The Issue: Mira Loma Commerce Center...

Key elements:

- } 24 industrial buildings with a total area of 1.1 million square feet
- } Six sites across 65 acres straddling Mira Loma and Glen Avon, communities that are within the newly incorporated city of Jurupa Valley
- } Area currently home to about 90 warehouses
- } 1500 additional diesel truck trips to current estimate of 15,000/day

The Issue (cont.):...and Community Impact

- } Residential area ~100 homes, mostly low-income Latino families
- } 2004 HRA in the Draft EIR concludes that the proposed project could result in a cancer risk in excess of 200-in-a-million to residential receptors surrounding the project site
 - } Existing risk about
 - } 2009 Air District review believes impact underestimated
- } A health study indicates Mira Loma children had the slowest lung growth and weakest lung capacity compared with similar areas (Source: <http://www.usc.edu/uscnews/stories/8212.html>)

Property Values

Riverside and San Bernardino counties have the highest foreclosure rates in the country. Median property values have dropped about 50% since 2007.

(Source: AP Business, July 15, 2012, <http://news.yahoo.com/calif-cities-eye-plan-seize-mortgages-190416716--finance.html>)

3 bdr. 1.5 ba Single Family

- } Built – 1956
- } Sq. Ft. – 956
- } Lot size – 7405 sq. ft
- } Price - \$134k (Bank owned)
- } Last sold/price: 2004/\$258k
- } On market - @45 days

3 bdr. 1.5 ba Single Family

- } Built – 1956
- } Sq. Ft. – 1149
- } Lot size – 7405 sq.ft.
- } Price - \$185k
- } Last sold/price: 2011/\$186k
- } On market @83 days

Source: Zillow.com, July 15, 2012

What are the options? (Developer and County)

- } Fight lawsuit
- } Mitigate, per law suit
- } Abandon project
- } *Initiate Planned Retreat for community*
- } *Other???*