ENVIRONMENTAL JUSTICE - WHAT IS TO BE DONE?

by J. Stacey Sullivan

The 80-mile strip along the Mississippi River in Louisiana between New Orleans and Baton Rouge is home to a predominantly African American population. It is also home to more than 100 oil refineries and petrochemical plants that produce a quarter of the entire U.S. petrochemical output. Pollutants from these industries so saturate the area that it has been dubbed "Cancer Alley" by its inhabitants. Pat Bryant, executive director of the Gulf Coast Tenants' Association, says that the region has been essentially written off as a "national sacrifice area."[1]

A predominantly Hispanic neighborhood shares its section of Albuquerque, New Mexico with a pig farm, a dog food plant, a landfill, a sewage plant, and industrial sites for GE, Chevron, and Texaco. Richard Moore, co-director of the Southwest Organization Project says, "We have many people with cancer and leukemia in this neighborhood, sick children, many with blue baby syndrome." When asked why authorities haven't remedied such unhealthy conditions, Moore replies, "We don't have the complexion for protection."[2]

Toxic sites, including a hazardous waste incinerator, seven landfills, several chemical plants, and lagoons filled with contaminants, surround Altgeld Gardens, a 10,000-person housing project in Southeast Chicago whose population of 10,000 is almost entirely African American. It has one of the highest cancer rates in the U.S. There are no gardens in Altgeld Gardens - no one would dare eat anything grown in that soil.[3]

One could add neighborhoods like West Harlem in New York City; Vernon and South Central Los Angeles; Tahlequah, Oklahoma; the West Side of Dallas; Emelle, Alabama; and many others to this litany of toxic horrors. Two things unite these communities: an inordinately high percentage of the region's toxic sites, and populations composed primarily of people of color. A growing body of evidence indicates that this is not merely a series of scattered coincidences, but rather a systematic exploitation of poor, minority neighborhoods as dumping grounds for the nation's toxic waste. Leaders of social justice and environmental poverty law organizations have dubbed this phenomenon "environmental racism."

This article traces the evolution of the concept of "environmental racism," its belated recognition by mainstream environmental organizations, and the varying degrees of success of different approaches to its amelioration.

CONCEPTUAL ORIGINS OF "ENVIRONMENTAL RACISM"

The first Earth Day in 1970 was an almost exclusively middle class, white affair. The issues generating the most interest at that time included wilderness, wildlife habitat, and the degradation of "quality of life" - middle class, white life. The environmental movement that evolved out of that first Earth Day continued to be predominantly white and largely uninterested or unaware of issues involving people of color. Some environmentalists became early advocates of the NIMBY (Not In My Backyard) syndrome and resisted the siting of polluting or toxic sites in scenic rural

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areas or their own affluent communities.

NIMBYism accelerated the preexisting tendency to locate polluting and toxic sites in poor, minority neighborhoods. At first these communities treated this as more of the same - everything from slaughterhouses to freeways always seemed to wind up in their neighborhoods. Mainstream environmental organizations seemed singularly uninterested in the pollution problems of the inner cities. Community concerns about the concentration of toxicity in minority neighborhoods took a back seat to the struggles for political participation, equal access, housing, and jobs.

This pattern of community resignation to the siting of toxic dumps in minority neighborhoods began to change in the 1970s. Neighborhood organizations began to challenge siting decisions made by state and local authorities. In 1982, a group of interracial protestors attempted to prevent the citing of a PCB landfill in predominantly black Warren County, North Carolina by using the nonviolent civil disobedience tactics of the civil rights movement.[4] The campaign failed, but the national attention it attracted prompted the Government Accounting Office (GAO) to examine the racial demographics of toxic sites. The GAO's 1983 report found that three out of the four commercial hazardous waste landfills in the Southeast United States were located in majority black communities.[5]

The United Church of Christ Commission for Racial Justice (CRJ) published the first comprehensive national study of the relationship between race and toxic dump siting, Toxic Waste and Race In the United States, in 1987.[6] It remains the single most important documentation of the correlation between toxic dump siting and race, and its findings deserve close examination.

TOXIC WASTE AND RACE: WHAT WAS DISCOVERED

The Commission's report consisted of two studies: one that analyzed the correlation between minority communities and commercial hazardous waste facilities (CHW), and another that examined the correlation between such communities and uncontrolled toxic waste sites (UTW). UTWs are closed or abandoned sites that the EPA believes pose a threat to human health and the environment. Both studies revealed a consistent national pattern: race was the most significant determinant of the location of hazardous waste facilities.[7]

Socioeconomic status was found to be a significant factor, but not nearly as

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significant as race.[8] For example, Warren County, North Carolina is poor, predominantly black, and the home of a PCB dump. Emelle, Alabama has a large middle-class black population and the largest hazardous waste landfill in the country.[9] Forty percent of the total CHW capacity of the country is in landfills in predominantly black or Latino neighborhoods. Three out of every five blacks and Latinos live in communities with UTWs. The average minority population is four times greater in areas with UTW sites than in those without them.[10] The inescapable conclusion of Toxic Waste and Race is that the burden of dealing with the toxic wastes generated by the entire society falls disproportionately on that segment of the society comprised of people of color.

Several possible causes for this disproportionate burden have been advanced. Locating toxic dumps in minority neighborhoods is often politically expedient. The residents are more likely to be poor and politically powerless. If a state or local agency has to choose between placing a toxic dump in an affluent and politically

sophisticated white neighborhood where the NIMBY syndrome is in full bloom, or in a relatively powerless minority community, the politically safe choice is apparent.[11] A consulting firm made the point very clearly to the California Waste Management Board in 1984: "All socioeconomic groups tend to resent the nearby siting of major facilities, but the middle and upper-socioeconomic strata possess better resources to [e]ffectuate their opposition."[12]

Segregated housing is another possible cause for discriminatory dump siting. Poor whites are much more likely than poor blacks to live in economically varied areas, and therefore benefit from the political clout of their middle class neighbors. The lower property values that result from segregated housing make minority neighborhoods vulnerable to toxic dump siting.[13] The end result of poverty, political powerlessness, and segregation is de facto environmental racism that provides benefits to white Americans while shifting costs to Americans of color.[14]

STATE AND LOCAL SITING PROCEDURES

The federal Resource Conservation and Recovery Act (RCRA) regulates the generation, treatment, transportation, and disposal of hazardous wastes.[15] While RCRA controls how parties deal with hazardous wastes, Congress gives the states primary responsibility to determine where that waste will go. A majority of the states have put formal siting procedures into place. A review of these procedures reveals two different approaches to these siting decisions: active state participation and local control.[16]

Most states take the active state participation approach. One rationale is that hazardous waste disposal concerns the state as a whole. Another rationale is that state control can sometimes help dissipate the strength of NIMBY sentiments. States use one of three methods to make and review siting decisions under the "active" approach: preemption, reservation of the power to override local decisionmaking, and procedural restraints.[17]

States retain complete authority to approve a hazardous waste site under preemption. The state strictly limits local control. While preemption is common, the siting of hazardous facilities without local control tends to galvanize opposition. In order to ameliorate this opposition, some states turn to the second method, reservation. The states give local communities the right to say "yes" or "no" to a waste site, but reserve the authority to override the local decision. Under the third method, some states grant municipal governments the primary authority to make siting decisions, but put procedural restraints into place to ensure that these decisions are made 'fairly' - sites cannot be voted down categorically.[18]

A small minority of states, including California, leave siting decisions almost entirely in the hands of local or regional authorities. Local control seems fair, since those who would be directly affected by a siting decision make the decision themselves. In practice, however, local control leads to gridlock and inequity. The NIMBY syndrome is much more potent when local authorities make siting decisions.[19]

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Both state and local siting procedures focus on getting facilities located somewhere. Very few states address the issue of fair demographic, economic, and racial distribution of facilities. This inattentiveness leads to gross imbalances. For example, Richmond, California is home to over 100,000 people and more than 350 industrial facilities. The southern and

western parts of town, which bear the highest concentration of these sites, are where all the lower income, minority neighborhoods are found.[20] Throughout the country, officials often cite public participation in almost all siting decisions as evidence of the process' basic fairness. The effectiveness of local opposition is invoked as evidence that the process is democratic. However, such arguments ignore the fact that not all parts of the local communities can speak with equally effective voices. In this society, being economically powerless often means being politically powerless as well. Affluent and well organized neighborhoods are always more likely to be able to keep hazardous waste sites out of their backyards.[21]

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Sometimes state or local governments will attempt to sidestep local opposition by offering economic benefits to a community in return for acceptance of a toxic site. Jobs and development funds are among the most common of these benefits. These deals carry much more weight in poor minority communities with small tax bases and high unemployment. Such offers are little more than cynical bribes, which attempt to exchange economic benefits for the health and safety of local residents.[22] Such government action is symptomatic of the larger false dichotomy often posited by government and business between jobs and environmental safety. As Rev. Jesse Jackson puts it, "workers end up with a 25-year gold watch for their dedication, and then they spend their savings and benefits on chemotherapy because they've had to make the unreal and unfair trade between lungs and jobs."[23]

The siting process as it currently exists in most states has been unresponsive to the concerns of minorities about the disproportionate number of sites in their neighborhoods. Hazardous waste producers' need for dump sites and affluent, politically potent neighborhoods' resistance speak much more loudly to politicians and bureaucrats than do the concerns of poor and politically powerless minorities. The next section of this article examines whether the judicial process has offered more satisfactory tools for amelioration of environmental racism.

JUDICIAL REMEDIES FOR ENVIRONMENTAL RACISM

Attempts at obtaining a judicial remedy in federal courts for minority communities disproportionately burdened by toxic sites have foundered. Those attempts employed the Equal Protection Clause of the 14th Amendment and section 1983 of the Civil Rights Act of 1866.[24] In order to succeed in an Equal Protection Clause challenge to toxic waste siting, plaintiffs must prove that the siting decision was motivated by invidious discriminatory intent.[25] Such an intent may be proved by circumstantial rather than direct evidence.[26]

In Village of Arlington Heights v. Metropolitan Housing Development Corp.,[27] the U.S. Supreme Court laid out five factors to use as sources for such evidence: 1) the impact of the official action and whether it bears more heavily on one race than another; 2) the historical background of the decision, especially if it "reveals a series of official actions taken for invidious purposes;" 3) the sequence of events preceding the decision; 4) any substantive or procedural departures from the normal decisionmaking process; and 5) the legislative or administrative history.[28] These factors are not to be considered exhaustive. Since Arlington Heights, appellate courts have focused largely on the first two factors, disparate impact and invidious intent. The courts have particularly emphasized invidious intent as crucial.[29]

Plaintiffs in Equal Protection Clause

cases are therefore presented with a heavy burden of proof in having to establish invidious intent to discriminate. As Prof. Rachel D. Godsil puts it, this "forces the plaintiff, the party with the least access to evidence of probative motivation, to produce that evidence."[30]

Two cases have attempted to use the Equal Protection Clause to challenge municipalities' dump siting decisions. In each case the plaintiffs presented data establishing that the siting decisions had a disproportionate effect on minority neighborhoods. In each case the court found this data insufficient to infer racial discrimination.[31]

In the first of these cases, Bean v. Southwestern Waste Management,[32] the plaintiffs moved for a preliminary injunction of the Texas Department of Health's (TDH) decision to grant a permit to defendant to operate a solid waste facility within 1700 feet of a predominantly black high school and neighborhood. Plaintiffs alleged that racial discrimination motivated the decision, in violation of 42 U.S.C. Sec. 1983.[33] The plaintiffs put forward two theories based on Arlington Heights factors to establish intent. First, the decision in question was part of a pattern of discrimination in siting decisions by TDH.[34] Second, TDH's approval of the permit was discriminatory in light of the historical discriminatory pattern of siting and the specific events surrounding the decision.[35] Plaintiffs supplied statistical and other data to support these theories.

The district court found that the state's decision to allow a waste site within 1700 feet of a high school was "both unfortunate and insensitive." However, the court also found that the plaintiff's statistical data failed to demonstrate invidious discriminatory intent on the part of TDH.[36]

In East Bibb Twiggs Neighborhood Ass'n v. Macon-Bibb County Planning & Zoning Comm'n,[37] plaintiffs challenged defendant's decision to allow a private landfill in a census tract in which sixty percent of the population was black. The court applied the Arlington Heights factors to the case and found no evidence of intentional racial discrimination.[38] The court limited its review of the historical background of the decision to the history of the specific agency involved, not local government as a whole.[39] The court also used the fact that the county's existing landfill was in a predominantly white area to discount the disparate impact of the siting at issue.[40]

Some legal scholars have looked to Equal Protection Clause cases involving disparate provision of municipal services as analogies for toxic waste siting actions.[41] In a series of Florida cases concerning provision of municipal services,[42] the 11th Circuit Court of Appeals moved away from the mechanistic, per se application of the invidious intent test favored by the Supreme Court in Equal Protection cases and placed more emphasis on discriminatory impact. As the 11th Circuit stated in its review of Dowdell v. Apopka, which concerned unequal provision of street paving, water distribution, and storm drainage, "[w]hile voluntary acts and 'awareness of consequences' alone do not necessitate a finding of discriminatory intent, 'actions having foreseeable and anticipated disparate impact are relevant evidence to prove the ultimate fact, forbidden purpose.'"[43] Despite this relative loosening of the requirements to establish discrimination, the disparate impact in these Florida cases was so blatant as to lead almost necessarily to an inference of discriminatory intent. Dowdell cannot be seen as a major shift in judicial response to discrimination cases.

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Conclusions can be drawn from this review of federal cases involving waste siting. Prevailing in federal court under the Equal Protection Clause requires, at the very least, probative evidence of overwhelming disparate impact, and most likely clear evidence of invidious intent. So far, no plaintiff has been able to satisfy this burden of proof in a waste siting case. Given the current tenor of the federal bench, it is hard to imagine the situation changing in any substantial way in the near future.

Naikang Tsao has proposed that lawyers wishing to bring environmental discrimination suits look primarily to state rather than federal law for remedy.[44] Tsao lays out a three-prong approach. First, the interested lawyer should look to state statutory law dealing with hazardous waste. Attorneys should look closely for general statutory language ignored during the siting process and possible defects in the review required of the state or municipality.[45] Second, the attorney should examine state common law and equitable doctrines. Two areas of common law could prove useful: anticipatory nuisance and the "duty to serve" doctrine.[46] Finally, the attorney should look to the constitutions of the individual states, particularly those provisions that may exist addressing general equality, environmental protection, exclusionary zoning, and health and poverty.[47] Particularly in states where the courts tend to extend protection of individual rights beyond those recognized by the U.S. Supreme Court, state constitutional litigation could be a promising approach to the problem of ameliorating environmental racism.[48]

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While Naikang Tsao's proposals for using state law as a means of remedying environmental racism through the courts contain some promising ideas, the conclusion is inescapable that the judicial system is not, and will not be for some time, the primary vehicle for change. How, then, is the problem to be addressed?

GRASSROOTS ACTIVISM AND COALITION BUILDING

Luke Cole, staff attorney for California Rural Legal Assistance, states that "the central flaw in using a civil rights law-based approach to attack the disproportionate burden of toxic waste sites borne by people of color is, simply, that it relies on the law."[49] As was seen earlier, state and local siting decisions are made in a political environment in which people of color have been traditionally underrepresented and powerless. This powerlessness is assumed by those who either impose toxic sites on minority neighborhoods or bribe the residents into exchanging their environmental well-being for short term economic benefits. The same political system that has created these inequitable siting policies has also created the laws that facilitate and protect the implementation of those policies. People of color in this society face not only a more toxic environment, but "more discrimination, stress, insecurity, school failure, and psychological and physical health problems" than whites, even when income levels are the same.[50] Luke Cole points out that this inequality exists "not in spite of our system of laws, but because of our system of laws."[51]

Mr. Cole advocates grassroots activism as the real answer to environmental racism, indeed to all racism.[52] He puts forward four reasons to bolster his argument. First is source reduction. Grassroots activism shuts off the safety valve for industry's excessive production of toxic waste. The fewer toxic waste dumps that are allowed to open, the more prohibitive the cost of disposing of the waste becomes. When communities formerly seen as easy targets for toxic sites organize

and resist, industry is forced to take the radical step of thinking in terms of reducing its waste production. Thus grassroots activism accomplishes what all the anti-pollution laws of the last quarter century have failed to do - reduce the amount of toxic waste generated by industry.[53]

Second, the decision to site a toxic dump is a political and economic decision, not a legal one. Political tools, not legal ones, are required to combat these siting decisions. Community-based efforts are direct and efficient, while the legal process is agonizingly slow.[54]

Third, fighting anti-pollution battles in court allows polluters to use their greatest strength - financial resources. Communities fighting polluters is people fighting money. People power carries very little weight in court. It is wonderfully potent in the street. Also, taking the struggle out of the hands of the community and placing it in the hands of lawyers, however well-intentioned, effectively disempowers the community and reinforces patterns of paternalism.[55]

Fourth, the judicial universe has changed utterly since the heyday of the Warren Court and the civil rights movement. Civil rights law has done very little to combat the racism underlying the blatantly discriminatory laws civil rights legislation and adjudication substantially eliminated in the '50s and '60s. The courts are no longer inclined to "give" individuals their rights. Therefore, like the civil rights movement in its early days, those who would combat environmental racism must organize and act to take their rights.[56]

Lawyers have a definite role to play in this grassroots struggle. Litigation will sometimes be necessary. But lawyers can perform a more basic function well before the time an issue goes to court. Lawyers can use their knowledge of the system to help empower community groups, by helping clarify and define goals, assist in organizational activities, plan strategy, and advise in confrontations with government agencies. Any legal strategy must grow out of grassroots organization, not be imposed on it by some all-knowing hired legal gun.[57]

Grassroots organizations have won some impressive victories in the fight for environmental justice. In 1984, a group called Concerned Citizens of South Central Los Angeles was formed to fight the proposed siting of a solid waste incinerator in their neighborhood. African American women composed the majority of the group's membership. The group formed alliances with environmental, slow-growth, and public interest law organizations, and applied pressure on city officials. In 1987, the mayor and city council killed the project.[58]

At the same time Concerned Citizens were fighting this battle, California Thermal Treatment Services (CTTS) received permission to build another incinerator, this one for the burning of hazardous waste, in the industrial city of Vernon, south of downtown Los Angeles and a mile upwind from several neighborhoods in predominantly Latino East L.A. This incinerator was designed to burn 22,500 tons of hazardous waste a year. Mothers of East Los Angeles (MELA), a group of Latino women who had originally organized to fight the siting of a prison in their area, led the struggle against the Vernon project. Through intense lobbying of state and national agencies responsible for air quality, MELA succeeded in bringing steadily increasing pressure on CTTS. Among other things, MELA pushed the state legislature to strengthen California's environmental impact

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requirements for hazardous waste incinerators. After years of both judicial and political effort, CTTS abandoned the project in 1992.[59]

In 1991, California Rural Legal Assistance (CRLA) filed a class action lawsuit challenging Chemical Waste Management's plans to build a hazardous waste incinerator in Kettleman City in the San Joaquin Valley. One of California's three Class I toxic waste dumps was already located in Kettleman City, which has a population that is 95% Latino. The suit was

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the result of a long term organizing effort by El Pueblo Para el Aire y Agua Limpio (People For Clean Air and Water). The suit challenged the incinerator project's environmental impact statement. It also pointed to the use of English only in documents required to communicate with a community where 40% of the people spoke only Spanish. Finally, the suit challenged the policy of operating hazardous waste incinerators in minority communities. In 1992, a superior court judge overturned the county's approval of the project. The court cited the incinerator's impact on air quality and agriculture, the inadequacy of the EIS, and the failure to involve local residents in the decision by not providing Spanish translations of material on the project.[60] The case is currently on appeal.

Along with the growth of effective grassroots opposition to the siting of toxic waste in minority communities, the possibility of powerful coalitions forming between environmental and social justice organizations offers hope for the future. In October 1991, the First National People of Color Environmental Leadership summit was held in Washington, DC.[61] Part of the impetus for this conference came from the fact that mainstream environmental organizations have been appallingly slow in recognizing the importance of minority environmental concerns.[62]

In response, some of those groups have set up the Environmental Consortium for Minority Outreach in Washington, DC.[63] Articles on environmental racism have appeared in the magazines of the Sierra Club and the Natural Resources Defence Council. The Earth Island Institute has had an African American president.[64] Rev. Benjamin Chavis, the man who coined the phrase "environmental racism," has been named as the head of the NAACP. Closer to home, on November 5, 1992 the Environmental Law Society, Black Law Students Association, and La Raza Law Students Association of the University of California, Davis Law School co-sponsored a teach-in on Race, Poverty, and the Environment. Among the speakers were Luke Cole of California Rural Legal Assistance and Robin Cannon, president of Concerned Citizens of South Central Los Angeles.

The environmental and social justice movements have a great deal in common, and a great deal to offer one another. Neither will ever become truly popular and broad-based unless they each shed the parochialism and self-righteousness that limit their vision. The problems of environmental degradation will never be solved until the world comes to grips with the crushing poverty of so many of its people. Too often a note of misanthropy creeps into environmental rhetoric. Ecology, after all, is about the interconnectedness of everything - even people with one another.

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ENDNOTES

1. Karl Grossman, "Of Toxic Waste and Environmental Justice," E, Vol. III No. 3, 32.
2. Id.
3. Id. at 31.
4. Rachel D. Godsil, Remedying Toxic Racism, 90 Mich. L.Rev. 394 (1991).
5. Id.
6. Committee for Racial Justice, United Church of Christ, Toxic Wastes and Race in the United States (1987).
7. Id. at xiii.
8. Id.
9. Id.
10. Id. at xiv.
11. Godsil, at 399.
12. Naikang Tsao, Ameliorating Toxic Racism: A Citizen's Guide to Combatting the Discriminatory Siting of Toxic Waste Dumps, 67 N.Y.U. L. Rev. 366, 367. (1992).
13. Godsil, at 399.
14. Robert D. Bullard, "The Threat of Environmental Racism," Natural Resources & Environment, Vol. 7 No. 3, Winter 1993, 23.
15. Tsao, at 368.
16. Id.
17. Id. at 369.
18. Id.
19. Id. at 372.
20. Id.
21. Id. at 373.
22. Id.
23. "Reverend Jesse Jackson - Fighting for the Right to Breathe Free," E, supra., at 12.
24. Sec. 1983 reads in relevant part:
    > "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State... subjects, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...," 42 U.S.C. § 1983 (1988).
25. The Court established the standard for Equal Protection Clause cases in Washington v. Davis, 426 U.S. 229 (1976).
26. Id. at 242.
27. Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252 (1977).
28. Id. at 266-68
29. Godsil, at 410.
30. Id.
31. Id. at 411.
32. Bean v. Southwestern Waste Management, 482 F. Supp. 673 (S.D. Tex. 1979).
33. Id. at 675.
34. Id. at 677.
35. Id. at 678.
36. Id. at 680.
37. East Bibb Twiggs Neighborhood Ass'n v. Macon-Bibb County Planning and Zoning Comm'n, 706 F. Supp. 880 (M.D. Ga. 1989), aff'd, 896 F.2d 1264 (11th Cir. 1989). The district court decision gives a fuller exposition of the facts than does the appellate decision.
38. East Bibb Twiggs, 706 F. Supp. at 887.
39. Id. at 885.
40. Id. at 884.
41. Godsil, at 416; Tsao, at 412.
42. Dowdell v. City of Apopka, 511 F. Supp. 1375 (M.D. Fla. 1981), rev'd in part on other grounds, 698 F.2d 1181 (11th Cir. 1983), Baker v. City of Kissimmee, 645 F. Supp. 571 (M.D. Fla. 1986), Ammons v. Dade City, 594 F. Supp. 1274 (M.D. Fla. 1984), aff'd, 783 F.2d 982 (11th Cir. 1986).
43. Dowdell, 698 F.2d at 1186.
44. Tsao, at 379.
45. Id. at 381.
46. Id. at 382.
47. Id. at 394.
48. Id. n.175, at 395. Tsao cites a 1982 study that includes California in its list of states tending to expand protection of individual liberties. Given the current ideological bent of the California Supreme Court, one wonders if California still belongs on this list.
49. Luke W. Cole, Remedies for Environmental Racism: A View from the Field, 90 Mich. L.Rev. 1991 (1992).
50. Richard Delgado, Recasting the American Race Problem, 79 Cal. L.Rev. 1389, 1391 (1991).
51. Cole, at 1995.
52. Id. at 1996.
53. Id.
54. Id.
55. Id.
56. Id. at 1997.

57. Id.
58. Bullard, at 26.
59. Id.
60. Id. at 55.
61. Grossman, at 30.
62. Jackson, at 14.
63. Grossman, at 34.
64. Id. at 35.