

# Journal of Civil Rights and Economic Development

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Volume 9  
Issue 2 *Volume 9, Spring 1994, Issue 2*

Article 10

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## QUALITY OF LIFE: JUSTICE EQUATES FAIRNESS

RICHARD KLEINER\*

I want to thank St. John's School of Law for the invitation. This is the second time I have been to New York, and I have heard all the preconceived notions about New Yorkers from the comedians and the media, and I just want to say I have been greeted with warmth, friendliness, and helpfulness; and I appreciate it.

First of all, who are we? Louisiana Chemical Association ("LCA") is my state's chemical manufacturing association. We represent about seventy companies operating more than ninety plant sites throughout the state. Our companies' mission is to make chemicals at a profit, we hope, in an internationally competitive market.<sup>1</sup> Louisiana is the third largest chemical producing state in the nation. The chemical industry in Louisiana and Texas, does the "heavy lifting" for the rest of the nation and a good part of the world's economy. Namely, we take the basic raw materials, sulfur, salt, oil, gas, phosphate, rock, etc., and turn those into commodity chemicals, eventually becoming end products such as pharmaceuticals and plastics ad infinitum. Our plants are operated by highly trained engineers, scientists and operators. The emissions from our operations are permitted by federal and state law.

You know what environmental justice is. I think that was touched on very well in the previous panel. The phrase "environmental justice" first came to the forefront back in 1988 in Louisiana, and we immediately thought, "environmental emissions, got to get them down, got to do something about them." We quickly learned that environmental justice encompasses, as I think a couple of speakers have touched on, a variety of issues, really all

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<sup>1</sup> See Dr. Michael S. Greve, *Environmental Justice or Political Opportunism?*, 9 ST. JOHN'S J. LEGAL COMMENT. 475 (1994).

local, involving an interaction between industry, and the community and government, whether it is state or local government.

There are environmental problems, whether it's an odor, an emergency response problem, a pollution problem, questions about proximity of neighborhoods to our facilities, whether we need to create greenbelts, offer a buyout or what have you. Local hiring and training is a top economic issue. "Am I deriving any direct monetary benefit from this facility?" our neighbor's ask. "What is my stake in that operation? Do we purchase locally or are we going outside the parish—in our case we have parishes in Louisiana, not counties—to purchase from businesses rather than giving local business people preference?" Education is a key issue. Without education, our children do not have opportunities and are not employable. We have a big concern about that. Crime and drugs are brought up, and of course, environmental health risk is a concern. But fundamental health care and access to it is also a critical issue.

Thus, environmental justice encompasses a wide range of issues, and I think the bottom line is quality of life. The key question is: "Does the person who lives next to an industrial facility have the same right to a good quality of life as a person who lives on top of the hill, near the country club?" Our answer to that as an industry is yes, they do have the same right, the bottom line being fairness; and I think justice equates fairness.

I want to very briefly go through some LCA actions, meaning actions that the association staff and its working committees are starting to address some of these issues in Louisiana. I will go briefly into what our companies at the plant sites are trying to do and address a few concerns.

First of all, in 1992, the Louisiana Advisory Committee to the United States Civil Rights Commission met and conducted hearings on environmental justice issues in Louisiana.<sup>2</sup> We were invited to testify and did testify. A lot of the details of what I could talk about are in this document before me. Our message was that, we could argue until we are all blue in the face over "chicken or egg" issues, like who was there first, the industry or the neighborhood. We could point fingers and beat each other up about who is

<sup>2</sup> See *Upcoming Environmental Equity Forum*, La. Indus. Envtl. Alert, Jan. 1992, available in LEXIS, Nexis Library, ARCNEWS File.

wrong and who's fault was what, but our bottom line to the Commission was, "look, industry is here, and the neighborhoods are here."

In many cases we are located near minority neighborhoods. We know these neighborhoods have concerns, and the issue is, what are we doing today to address those concerns? What do we need to be doing in the future to address our neighbor's concerns?" And with that, we concluded our testimony. The only other issues we addressed were allegations that we purposely sited near neighborhoods for racial reasons. Our answer to that was absolutely not. Our companies are multinational businesses. We sited in Louisiana for obvious sound business reasons. Number one, we needed large tracts of land. We bought huge tracts of land owned by plantations. Plantations were there for the same reasons we sited there. Although they were romanticized in the movies, the plantations were businesses built on slave labor. Our employees, by the way, make forty to sixty thousand dollars a year. The second reason is access to raw materials. Louisiana and Texas are the only two states in the nation that have the unique combination of materials in their geographic boundaries, and, of course, we needed access to other raw materials from our industrial neighbors. Thirdly, the Mississippi River is the largest port in the world, and we needed access to the Mississippi River to export the twenty-five percent of the chemicals that we ship to the rest of the world.

The first thing that the LCA board did was acknowledge that this issue is real and is not going away. In April of 1993, we created an environmental justice task force within our organization. We went out and recruited employees from all walks of life and all sexes and races from our group. Also at this time, the Louisiana Department of Environmental Quality ("DEQ") formed its own environmental justice advisory group. We supported that group with our participation. Presently, DEQ has set up a pilot program of environmental justice advisory panels. Supported by a \$75,000 E.P.A. grant. We also helped the DEQ select the environmental justice coordinator they hired as well.

In September of 1993, the Louisiana Civil Rights Commission released its environmental justice report.<sup>3</sup> Basically, they found that black communities in Louisiana were disproportionately impacted by industry, although there was not any of what you would call hard evidence to support this. The commission said they found no evidence of intentional discrimination by industry, and complimented the chemical industry for being constructively involved in the dialogue. The Commission made two recommendations to industry. First, industry should reexamine its siting decisions, paying special attention to communities affected by emissions. Secondly, they recommended we expand Responsible Care<sup>®</sup> to include environmental justice issues.

Responsible Care<sup>®</sup> is a voluntary performance improvement initiative that has been developed by the chemical industry about five years ago. Two months ago, in response to the Civil Rights Commission report, we released what is the first ever environmental justice guidance memorandum to our industry. Again, I have this package which will be available to you right here, which summarizes many of the concerns raised by environmental justice advocates and recommends to our membership to take these concerns into consideration in their day-to-day operations. We suggested that they be sensitive to this issue and address these concerns where appropriate.

We also have taken that guidance and followed up on it with DEQ officials. We have met with those DEQ officials and also key minority leaders in Louisiana. We have had meetings with Dr. Press Robinson, the Chancellor at Southern University—Southern is the nation's largest black institution—and Dr. Bob Ford, who is a member of the Louisiana advisory committee to the Civil Rights Commission, and we will continue that kind of interaction. DEQ public hearings began last month on environmental justice.<sup>4</sup> Once again, we sent a notice out to our members encouraging them to attend and to listen—mainly listen, go out and hear what people are saying and what their concerns are. We suggested that

<sup>3</sup> See *Louisiana Committee Finds Blacks Impacted Disproportionately by Toxic Waste Sites*, STATE ENVTL. DAILY, Sept. 21 1993, at 16.

<sup>4</sup> See *How LCA Sees It*, La. Indus. Envtl. Advisor, Mar. 1994, available in LEXIS, Nexis Library, CURNWS File; see also *Strike Up the Band*, La. Indus. Envtl. Advisor, Mar. 1994, available in LEXIS, Nexis Library, CURNWS File.

if they had something to say, fine, but we are really just asking our members to go out and listen.

The bottom line on the recommendations to our membership is that we will work to keep the community informed, and clean up our act. And we are cleaning up our act. We are in the process of going beyond what the permits say. We are working on pollution prevention quite hard. By this year, our projections are that Louisiana will have reduced its emissions to air, land, and water by seventy-five percent from the 1987 baseline of the EPA toxic release inventory. We want to help enable our communities to solve their problems and benefit economically from our operations. We encourage meaningful employee participation—we have 30,000 direct employees. We want to get more of our employees out in the community who may have expertise in education, for example, who want to tutor people, who want to help build and rebuild homes in organizations such as Habitat for Humanity.

Redirecting funding to environmental justice concerns is another idea. Industry is not a government entity. We do not provide government services. However, if a community near our plants has been disenfranchised from resources that the government provides, we may be able to help them organize and maybe exercise some influence to get some of these resources where they are needed. For example, redirecting public and private grants and developing community funding partnerships.

We have now formed about twenty community advisory panels (“CAPS”) throughout the state in the major industrial parishes, and about fifty of our plants are participants and support the CAPS.

