



Environmental Justice and Environmental Law

Tracy Hester

Environmental
Practicum
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Cesar Chavez High School in Houston, TX



Environmental Justice - History

- Deep Roots
 - United Church of Christ *Toxic Wastes and Race in the United States* (1987); GAO studies
 - *National Law Journal* series
 - 1992 Environmental Justice Act
 - E.O. 12,898
- Initial strong legal efforts to identify enforceable EJ rights for both permitting and enforcement
- Roadblocks
 - Equal Protection and Due Process challenges: intent
 - Title VI: private right of action
 - Difficulties of proof

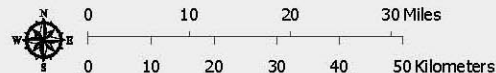
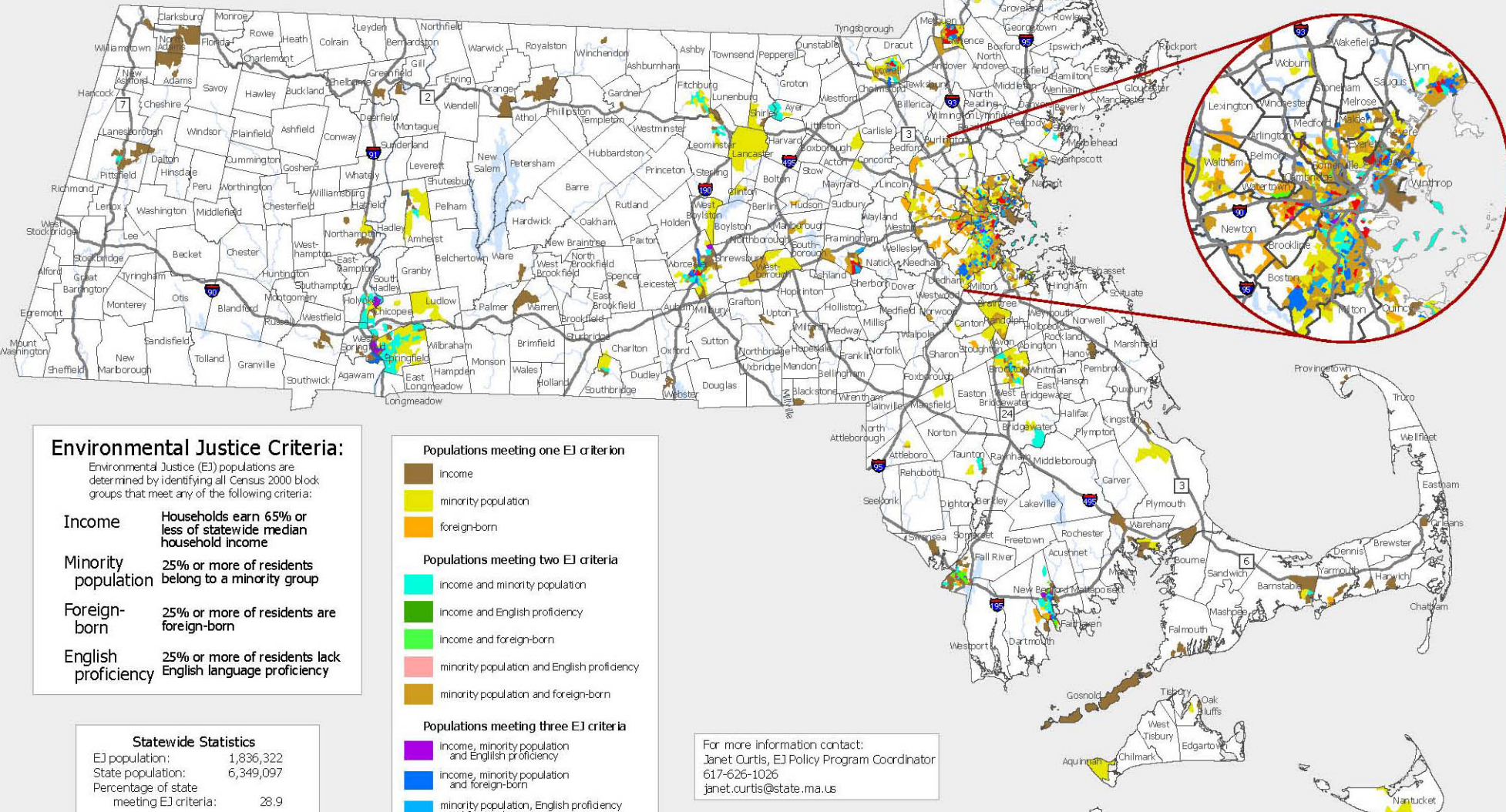
Key EJ Issues for Environmental Law



How will environmental justice concerns affect:

- Development of rules and public notice procedures
- Permits for facilities
- The decision to pursue enforcement, both civil and criminal
- Sentencing and punishment

Environmental Justice Populations





EJ and Environmental Enforcement

- History: need to process complex data to identify highest priority sites and issues
- EPA has worked hard to develop EJ Geographic Information Systems
 - Region 6 Multimedia Targeting List (1994)
 - Environmental Justice Index
 - Early stage implementation issues
 - EJSEAT



Potential Future Developments



- EPA Environmental Justice guidance on permitting – Dec. 2010
- Accelerated review and enforcement of Title VI administrative petitions
 - *Rosemere*
- Challenges to legal boundaries for remedies
 - Equal Protection limits?
 - Minimized by careful crafting of goals and targets
- State activity
 - EJ challenge to implementation of AB32



EJ – the Legal Bottom Line

- EJ has not yielded a bright legal test for either intentional discrimination or disparate impact
- It has had strong influence on EPA's (and other agencies') priorities and choices
- As a result, while not a typical legal obligation enforceable in court, you must account for it in environmental legal strategy and litigation



Questions?

Professor Tracy Hester
University of Houston Law Center

tdheste2@central.uh.edu
713-743-1152 (office)