

C O M M E N T

# MAPPING THE MOVEMENT: THE FUTURE OF IDENTIFYING AND ADDRESSING CUMULATIVE IMPACTS

by Hilary T. Jacobs and Benjamin Wilson

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Charles Lee, long-standing activist, advisor, and policymaker, is in a unique position to assess developments within the environmental justice (EJ) movement by virtue of his nearly 40-year career dedicated to advancing EJ. Currently serving as the Senior Policy Advisor for Environmental Justice at the United States Environmental Protection Agency (EPA), he leads the development and implementation of EPA's agencywide environmental justice strategic plans. In 1987, when the EJ movement was in its infancy, Mr. Lee served as the principal author of the seminal report *Toxic Wastes and Race in the United States*,<sup>1</sup> the first national study to examine the relationship between the geography and demographics of hazardous waste sites, and one of the first studies to provide data supporting what had long been suspected by many: a pattern of disproportionate environmental burdens in low-income and minority areas.<sup>2</sup> The *Toxic Wastes and Race* report spurred "an entire generation of social science researchers investigating the interplay between race, class and the environment[.]" generating academic research and scholarship on the relationship between race, class, and the environment that had not previously existed.<sup>3</sup>

Since the 1987 publication of *Toxic Wastes and Race*, the environmental justice movement has garnered recognition nationally and internationally, with Mr. Lee leading the charge. In 1991, he helped organize the First National People of Color Environmental Leadership Summit, a four-day convening of hundreds of grassroots and environmental leaders from around the world,<sup>4</sup> which resulted in the publication of the *Principles of Environmental Justice*.<sup>5</sup> He served as a charter member of the National Environmental Justice Advisory Council and has directed EPA's Office of Environmental Justice. It is not an exaggeration to suggest that Mr. Lee's work has inspired generations of scholars, activists, and attorneys invested in advancing EJ and ensuring that *everyone* has a healthy environment.

Mr. Lee has a deep and unique understanding and appreciation of the history of the EJ movement, and a recognition of the pivotal roles diverse actors play in advancing EJ, together—including lawyers, researchers, academics, community residents and leaders, and emerging EJ advocates.<sup>6</sup> This understanding makes Lee exceptionally able to identify the next generation of EJ leaders. So, when Charles Lee says that something—in this case EJ mapping and screening tools—is and will be a "game changer" to the EJ movement, we listen.<sup>7</sup>

1. See generally COMMISSION FOR RACIAL JUSTICE, UNITED CHURCH OF CHRIST, *Toxic Wastes and Race in the United States: A National Report on Racial and Socio-Economic Characteristics of Communities With Hazardous Waste Sites* (1987) (hereinafter *Toxic Wastes and Race* report or *Toxic Wastes and Race*).

2. See Diane Morrison, *Rallying Point: Charles Lee's Long-Standing Career in Environmental Justice*, 99 (Suppl. 3) AM. J. PUB. HEALTH S508 (2009) ("'Toxic Wastes and Race' was the first report to use rigorous analysis and methods to show how pollution and environmental hazards were disproportionately affecting minority and low-income communities."); see also Robert D. Bullard et al., *TOXIC WASTES AND RACE AT TWENTY: 1987-2007* 2 (Mar. 2007) (generally discussing the impact of the *Toxic Wastes and Race* report).

3. See Bullard et al., *supra* note 2.

4. See *id.* at 3.

5. Delegates to the First National People of Color Environmental Leadership Summit, *The Principles of Environmental Justice (EJ)* (Oct. 24-27, 1991), available at <https://www.nrdc.org/sites/default/files/ej-principles.pdf>.

6. Charles Lee, *A Game Changer in the Making? Lessons From States Advancing Environmental Justice Through Mapping and Cumulative Impact Strategies*, 50 ELR 10203, 10214 (Mar. 2020).

7. See Aaron Wade, *An Interview With Charles Lee*, POLLINATOR: UNITED CHURCH CHRIST ENV'T JUST. BLOG (Sept. 8, 2017) available at [https://www.ucc.org/pollinator\\_an\\_interview\\_with\\_charles\\_lee/](https://www.ucc.org/pollinator_an_interview_with_charles_lee/).

## I. EJ Mapping as a “Game Changer”

Because environmental justice is inherently a conversation about geography (i.e., *where* in our states, cities, and towns are environmental burdens most concentrated), maps represent a natural tool for articulating and addressing EJ issues. In many ways, using mapping as a way to identify cumulative impacts is the natural outgrowth of what Lee and his colleagues started in 1987 with *Toxic Wastes and Race in the United States*, one of the first publications to put data behind the pattern of disparate impacts that many in this country had witnessed for years.

By distilling lessons learned from two of the most developed mapping tools in the country—California Environmental Protection Agency’s (CalEPA’s) CalEnviroScreen and the EPA’s EJ Screen—Charles Lee’s article paves the way for future mapping efforts. Indeed, the first takeaway he highlights is that addressing cumulative impacts is a “core strategy for advancing environmental justice, and this is embodied in EJ mapping.”<sup>8</sup> As he notes, identifying cumulative and disproportionate impacts—which can be achieved through mapping—is often a “fundamental first step” in advancing EJ goals.<sup>9</sup> Identification of cumulative impacts can help integrate EJ considerations into government decisionmaking regarding facility siting and permitting and can help arm EJ advocates with data. The article also describes the keys to developing a successful mapping tool, including that the tool be science-based, endorsed and used by government, informed by community experience, and widely available.<sup>10</sup>

Mr. Lee concludes his article with a call to action—that mapping tools should be replicable and reproducible across jurisdictions—and a message of hope—that mapping tools, like other EJ efforts, have been successful due to the combined efforts of communities, academia, and government. Lee is adamant that everyone involved in this movement can, with commitment and determination, make a difference.<sup>11</sup>

## II. The Future of EJ Mapping

The growing numbers of states with EJ mapping tools<sup>12</sup> supports Mr. Lee’s conclusion that existing EJ mapping

efforts provide a replicable model for the development of future EJ mapping tools.<sup>13</sup> The future of EJ mapping lies not only in its expansion across new state, local, and possibly even international jurisdictions, but also in the way we use these tools to further EJ goals. Mr. Lee emphasizes the importance of identifying disparate impacts, which can be achieved via mapping, as a key first step in “integrat[ing] EJ in government decisionmaking.”<sup>14</sup> As Mr. Lee discusses, mapping tools can also be used to take EJ a step further, beyond the “procedural strategies” used by environmental management agencies<sup>15</sup> to facilitate the actual investment of beneficial environmental resources such as targeted funding for EJ projects, enhanced enforcement efforts, and renewable energy infrastructure and jobs in overburdened and disadvantaged communities.<sup>16</sup>

However, the use of EJ maps has even more potential than is currently being realized. Mr. Lee notes that mapping tools such as CalEnviroScreen and EJScreen are not only tools to be used by regulators and EJ advocates, but can also be useful tools for the private sector.<sup>17</sup> To be sure, municipalities, private developers, utilities, oil and gas, mining, and other industries can do a better job of avoiding, or, at a minimum, mitigating the adverse impact of their proposed projects on EJ communities if they take advantage of these and other tools being developed by states and municipalities across the country. Savvy companies should want to pay heed to information provided in these tools in order to avoid unnecessary adverse impacts on, and undue conflict with, an EJ community, as well as any reputational harm and costs that accompany those impacts. In fact, being a “good neighbor” who brings a desired service that benefits the broader community as well as the community immediately impacted by the development, is in companies’ best interests. EJ mapping tools provide an opportunity to existing corporate neighbors to improve their community relationships, and allows incoming companies to more proactively become good neighbors before they even arrive.

EJ mapping tools can help prepare companies for long-overdue conversations with the EJ communities they enter or in which they operate regarding: (1) the need for a given project, (2) the project’s cumulative impacts on a given EJ community, (3) alternative project locations, (4) how to minimize a project’s environmental harm, and (5) how, if at all possible, a project can be altered to accommodate an

8. Lee, *supra* note 6, at 10208.

9. *Id.* at 10204-05, 10210.

10. *Id.* at 10209-10.

11. *Id.* at 10211-15.

12. In addition to California, the following states have agencies with dedicated EJ mapping tools: Illinois, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, and Washington. Illinois EPA EJ Start, <https://www.arcgis.com/apps/webappviewer/index.html?id=f154845da68a4a3f837cd3b880b0233c>; MADEP EJ Viewer, [http://maps.massgis.state.ma.us/map\\_ol/ej.php](http://maps.massgis.state.ma.us/map_ol/ej.php); Understanding EJ in Minnesota, <https://www.arcgis.com/apps/MapSeries/index.html?appid=f5bf57c8dac24404b7f8ef1717f57d00>; NJ EJ Mapping Tool, <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=34e507ead25b4aa5a5051dbb85e55055>; Maps & Geospatial Tools for EJ, <https://www.dec.ny.gov/public/911.html>; NDEQ NC Community Mapping System, <https://deq.nc.gov/outreach-education/environmental-justice/deq-north-carolina-community-mapping-system>; PADEP EJ Areas Viewer, <https://www.arcgis.com/apps/webappviewer/index.html?id=f31a188de>

122467691cae93c3339469c; RIDEM, EJ Map, <http://www.arcgis.com/home/webmap/viewer.html?webmap=b24d6c60ff3a4947a14fbd15a66390c6&text=-72.3519,41.0712,-70.6655,42.0922>; WA Environmental Health Disparities Map, <https://www.doh.wa.gov/DataandStatistics/Reports/WashingtonTrackingNetworkWTN/InformationbyLocation/WashingtonEnvironmentalHealthDisparitiesMap>.

13. Lee, *supra* note 6, at 10213-14.

14. *Id.* at 10204.

15. Ana Isabel Baptista, *Just Policies? A Multiple Case Study of State Environmental Justice Policies* (May 2008) (unpublished Ph.D. dissertation, Rutgers University) (on file with the Rutgers University Library) available at <https://rucore.libraries.rutgers.edu/rutgers-lib/24087/PDF/1/play/>.

16. Lee, *supra* note 6, at 10204, 10210-11 (discussing CalEPA’s use of CalEnviroScreen to identify EJ communities for targeted funding initiatives).

17. *Id.* at 10214.

EJ community's concerns. In short, private-sector parties can use these tools to develop (or operate) their project in a way that allows them to simultaneously create a long-standing, collaborative relationship with their neighbors. The enlightened, responsible corporate citizen can and should use these tools to foster positive future interactions with the communities they propose to enter.

As Mr. Lee's article underscores, EJ mapping tools foster a new and different way of addressing environmental issues

to ensure that EJ communities are protected, consulted, and given a real seat at the table with respect to projects affecting their communities. These tools provide power to those communities and enable governmental agencies to make better-informed decisions and equip companies and developers to chart a more enlightened and equitable course to development.