

# Environmental Justice: How to Avoid Controversy



Enercon Services, Inc.

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# Agenda

- Defining Environmental Justice (EJ)
- Regulatory and Social Drivers
- NGOs and Civic Groups
- Contentions and Controversy
- Avoiding Controversy
- Q & A



# What is Environmental Justice?

Environmental Justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

*Guidance on Considering Environmental Justice  
During the Development of Regulatory Actions, EPA*



# What are the drivers?

- Regulatory
  - Executive Order 12898
  - National Environmental Policy Act (40 CFR Parts 1500-1508)
  - EPA, May 2016
- Social Considerations
  - Being a good neighbor
  - Avoiding controversy



# NGOs and Citizen Groups



**Deep South Center for Environmental Justice**



- Training and Webcasts
  - ✓ BOLD Alliance
  - ✓ Nonviolent Protest Training
  - ✓ Direct Action Manual
- Regional Politics
  - ✓ Local Resolutions
- NGO Prepared Reports and Models
- Citizen Groups
  - ✓ The New Industry Watchdogs

# Contentions and Controversy

## Dept. of Transportation – Overton Park

- Timeline: Late 1950s to 1971 (Acreages deeded back to City in 1987)
- Location: Memphis, Tennessee
- Major Parties Involved: Citizens to Preserve Overton Park Advocacy Group
- Result: The Supreme Court ruled that DOT did not fully consider the impacts to Overton Park.
  - Paved the way for more citizen-based lawsuits related to public rights and environmental disputes.
  - Required agencies to thoroughly consider environmental impacts and alternatives.

Commonly referred to as the Overton Park Criteria, which is a test to ensure that projects using a 4(f) resource (e.g. parklands) have evaluated project alternatives that avoid that resource.





# Contentions and Controversy

Louisiana Energy Services, LP. – Clairborne Enrichment Center

- Timeline: 1989 to 1998
- Location: Homer, Louisiana
- Major Parties Involved: Local Citizens, Nuclear Information Resources Service (NIRS), Earthjustice, and Diane Curran (HCS&E)
- Result: The site was not approved.

This became one of the nation's first courtroom verdicts on environmental justice.

# Contentions and Controversy

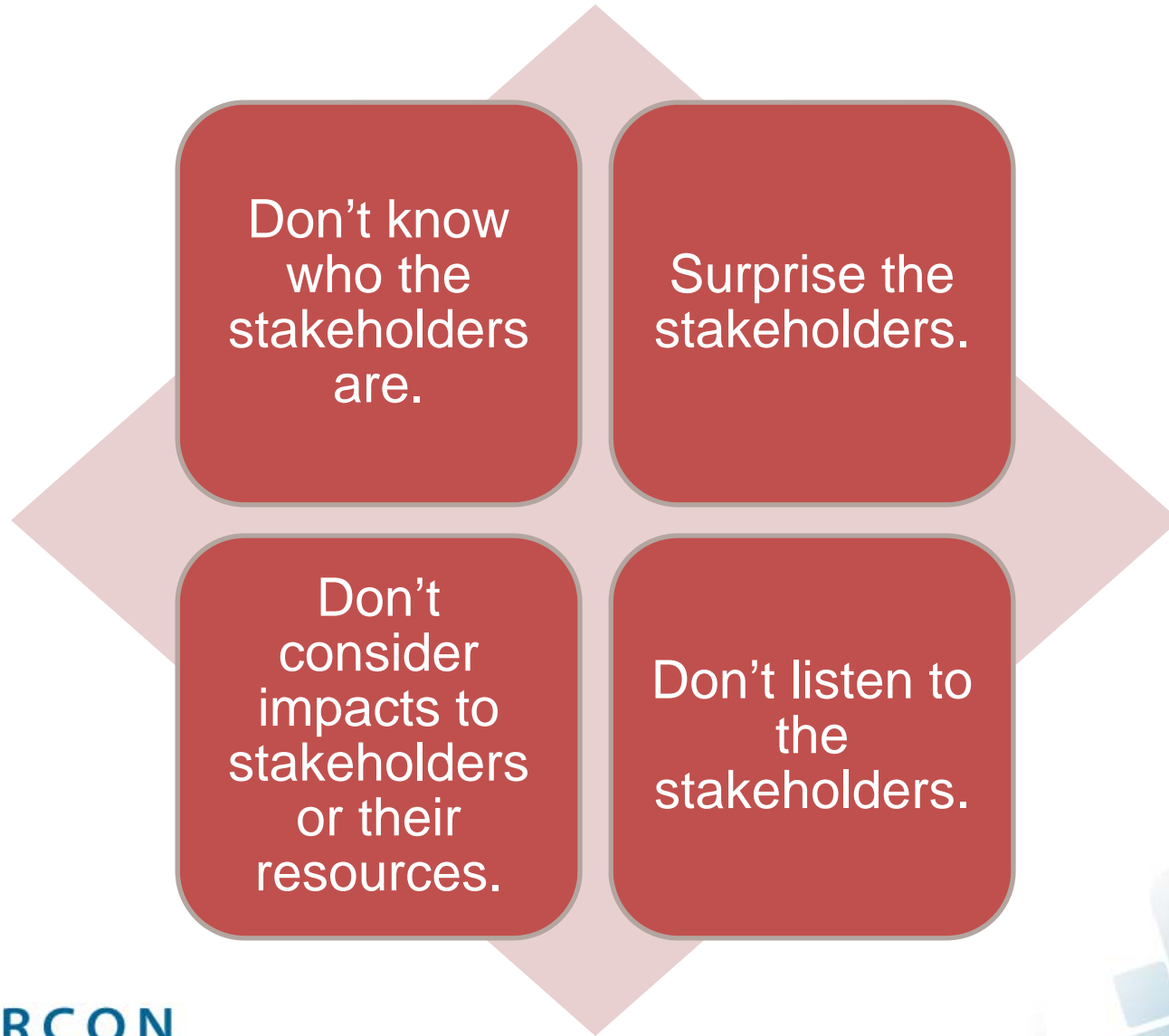
## Dakota Access Pipeline

- Timeline: December 2014 to *Ongoing*
- Location: Lake Oahe, North Dakota
- Major Parties Involved: Standing Rock Sioux Tribe, Earthjustice, countless citizen and tribal groups.
- Result: June 14<sup>th</sup>, Federal Judge James Boasberg wrote,
  - “the Court agrees that [the Corps] did not adequately consider the impacts of an oil spill on fishing rights, hunting rights, or environmental justice, or the degree to which the pipeline’s effects are likely to be highly controversial.”





# Ingredients of Controversy



# Avoiding Controversy: Planning & Site Selections

- Thorough Planning
  - Proportionality
  - Identify Stakeholders
  - Identify Project Impacts
- Well Informed Site Selection



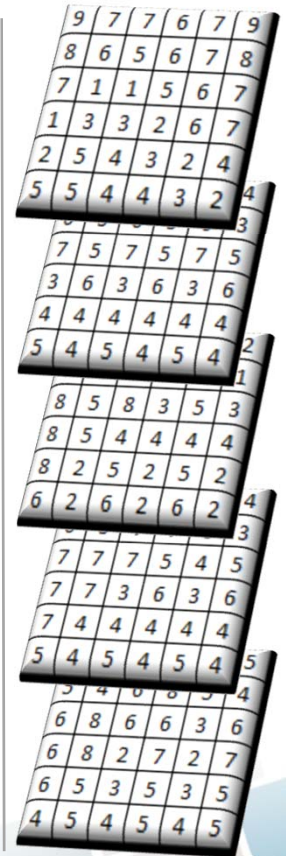
Land Use Land Cover

Digital Elevation Model  
(Slope)

Identified Low-Income and  
Minority Populations

Soil Data

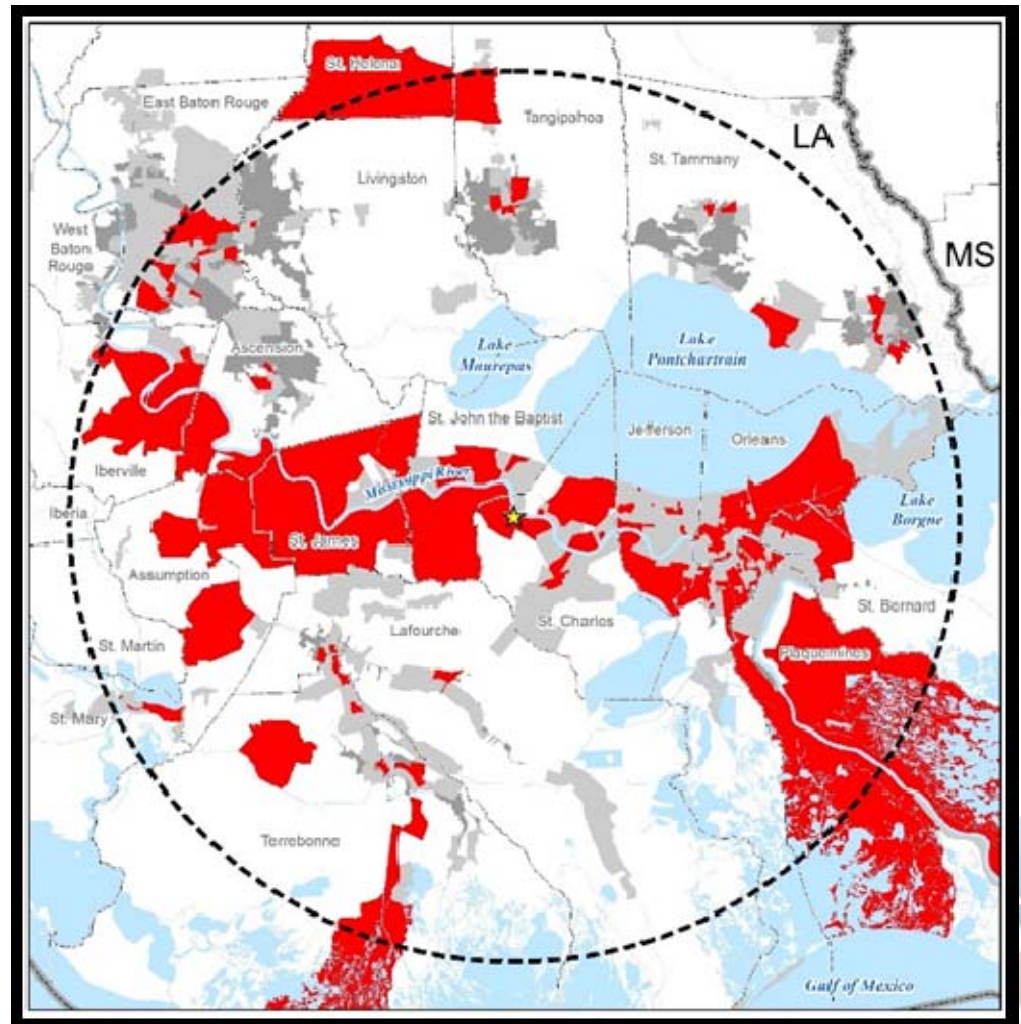
Aerial Imagery



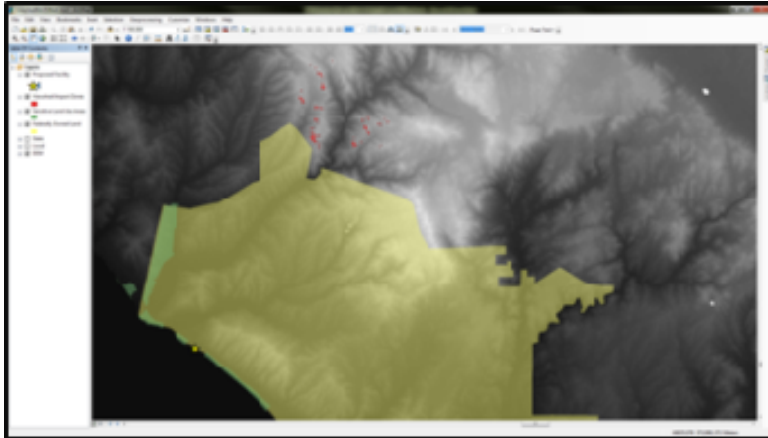
# Avoiding Controversy:

Identify Minority, Low-Income and Special Populations

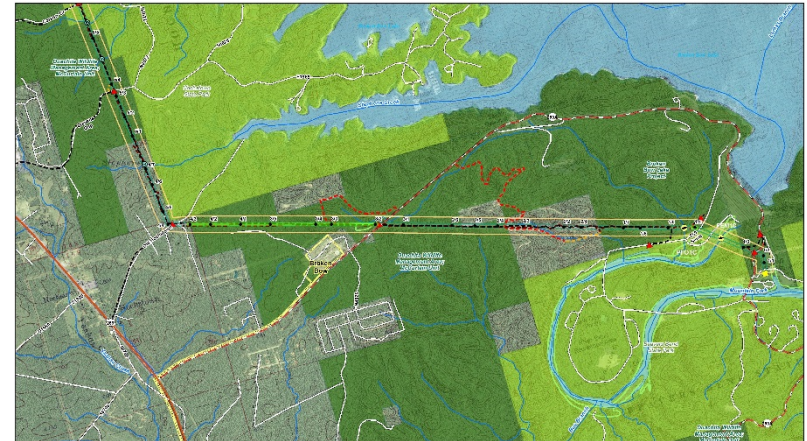
- Well Documented EJ Assessments
  - Geographically and Demographically Based Impact Pathway Analyses
  - Accurate
  - Repeatable and Defendable



# Avoiding Controversy: Evaluating Impact Pathways



*Viewshed Analyses*



*Corridor Assessment*

- Identify all of the anticipated project impacts.
- Perform a geographically based impact pathway assessment.
- Identify any disproportionate, adverse impacts.



# Avoiding Controversy: Stakeholder Engagement

- Community Outreach / Meetings
- Customize Communications and Education
- Good Maps / Illustrations
- Build Trust and Mutual Respect
- Develop Relationships





# Avoiding Controversy: Understand Protest Culture

- Be Prepared for Questions
- Communicate with Stakeholders
- Social Media
- Safety



Photo by NBC News, 8/15/16.

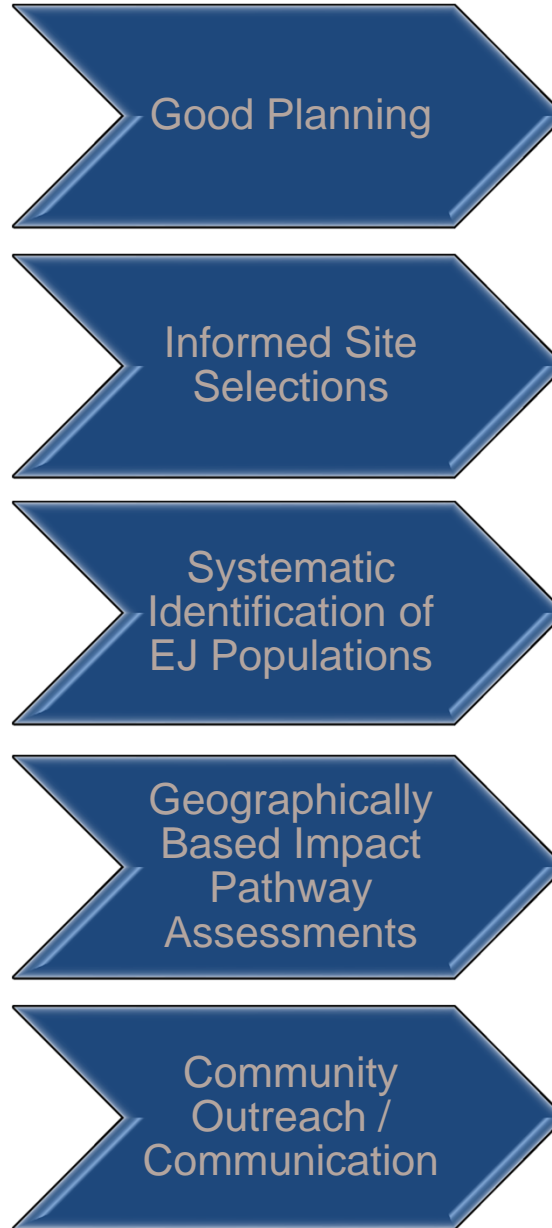


Photo by Culture: Subculture Photography on Flickr.

# Summary



NGOs /  
Civic Groups



Mutual Trust /  
Project  
Advocates



# Questions/Comments?



# Follow-up Contact Information

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