USING LEGAL ACTION
TO DRIVE SOCIAL CHANGE
IN THE EARTHQUAKE ENGINEERING COMMUNITY

Building on Successes from the Environmental Movement and Learning from its Challenges

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How legal action has become a useful tool for the environmental movement

Presentation will cover:

• Tools in the advocacy toolkit
• Environmental cases to enforce laws
• Applicability to earthquake context

Presentation will enable you to:

* Understand when legal action might be promising
* Apply that understanding to earthquake-related objectives
Earthquake Community Objectives

Deal with the worst buildings: soft-story, URM

• Prioritizing action on these buildings
  • Compelling cities to establish—and enforce—ordinances

• Educating government and building owners
  • Extent of potential damage, urgency, what more they should be doing

• Understanding liabilities/responsibilities
Birth of the environmental movement: Fighting DDT

Education, lawsuit, ban

- 1962: *Silent Spring* alters public concern of dangers of DDT, causes widespread public concern
- 1967: environmental groups sue to ban DDT
- 1972: US bans DDT (for crop uses)
Educating the public – *Silent Spring*

1962: *New York Times* serial: *Silent Spring*

- “It meticulously described how DDT entered the food chain and accumulated in the fatty tissues of animals, including human beings, and caused cancer and genetic damage.”

- “[S]he had compiled *Silent Spring* as one would a lawyer's brief” with notes and experts – NRDC
Lawsuit: EDF v. Hardin/Ruckelhaus

1967: Environmental groups sue government

- Petition to cancel registration of pesticides with DDT (under law regulating shipment of “economic poisons” in interstate commerce)
- Evidence: ospreys with poor reproductive success; DDT in eggs that didn’t hatch
- “Failure to act promptly”
- EPA bans DDT (most uses)
- Both sides appeal, to no avail
Birth of the environmental movement

“[T]he need to regulate industry in order to protect the environment became widely accepted, and environmentalism was born.” - NRDC
DDT Case – SIMILARITIES

- Regulate to protect against harm
  - Educating the public can raise concern, lead to call to action
    - Public is concerned about earthquakes
  - Law exists but isn’t being enforced
    - Law exists in many jurisdictions
    - Courts can order action, i.e., order government to enforce laws requiring retrofitting
DEEPWATER HORIZON OIL SPILL

- Failure to take precautions caused disaster
  - Emergency preparedness
  - Civil and criminal lawsuits holding BP liable
  - But remedy came after harm

Photo: U.S. Coast Guard
DEEPWATER HORIZON LITIGATION

- Lawsuits
  - Environmental
  - Property
  - Economic (lost profits)
  - Wrongful death and injury claims (rig workers)
  - Injuries and health risks from cleanup

- Jurisdiction
  - Civil – federal
  - Civil – state
  - Criminal

Photo: Louisiana Department of Environmental Quality
DEEPWATER HORIZON
OUTCOME

• Outcome of lawsuits
  • Require better emergency plans
    • Preparedness
  • Money damages
    • Deterrent
• Moratorium on dangerous activity
  • Short-lived

Photo: Melissa Schilling
DEEPWATER HORIZON – SIMILARITIES

• Failure to take precautions resulted in disaster
  • Infrequent
    • Can be hard to convince people take necessary precautions
  • Disastrous when they occur
    • Not ok to wait and hope it doesn’t happen; need to prevent
  • Damages can be huge but remedy comes too late
    • Damages underscore need to prevent and costs of inaction
    • Short window of opportunity after disaster
  • Applicability to earthquake context
    • Money damages could help with repair and rebuilding costs
    • Could be effective deterrent
LEGAL ACTION/LITIGATION

LET THE COURTS DECIDE

+ • Enforceable
  • Powerful, clear
  • Third-party (judge) verified

— • Time-consuming
  • Expensive
  • Result or outcome might be very specific
  • Law might not be on your side
LEGAL ACTION/LITIGATION

WHEN LEGAL ACTION MAY BE EFFECTIVE IN PURSUING YOUR GOAL

- Law exists to support your concern
- Scope of problem is sufficiently narrow
- Time and cost justified by good end result