

Memorandum

To: Valorie Caffee, Chair
Environmental Justice Advisory Council to the New Jersey Department of
Environmental Protection
Environmental Justice Advisory Council - Cumulative Impacts Subcommittee
Environmental Justice Advisory Council Members

From: Mark N. Mauriello, Acting Commissioner
New Jersey Department of Environmental Protection

Re: Environmental Justice Advisory Council March 2009 Report: *“Strategies for
Addressing Cumulative Impacts in Environmental Justice Communities”*

Date: July 29, 2009

I am very grateful for the important input that I have received from the Environmental Justice Advisory Council (EJAC or Council), since my appointment by Governor Corzine as Acting Commissioner of the New Jersey Department of Environmental Protection (DEP or Department) in November 2008. I consider the Council an important body to help DEP gauge environmental justice priorities and to raise issues that might not otherwise gain attention across lines of Executive agencies.

In particular, I am very impressed by the March 2009 report, titled “Strategies for Addressing Cumulative Impacts in Environmental Justice Communities” (the Cumulative Impacts Report), and the recommendations contained therein. This report was prepared by the Council to assist the Department in developing environment justice policies, actions and priorities, with the goal of integrating cumulative impacts into DEP day-to-day operations and decision-making.

I have been briefed on the many steps and efforts undertaken by the Council and the Cumulative Impacts subcommittee over the last two years to inform the contents of the report. These included hosting a public meeting in October 2007 to solicit feedback from communities, their representatives, academics and advocacy groups; interviewing researchers, advocates, community leaders and others in New Jersey and across the country; and consulting with technical and legal experts to better understand the challenges posed by cumulative environmental impacts and burdens on environmental justice communities.

It is my personal belief that all people, regardless of race, color, national origin, or income, have the right to live in vibrant, healthy and environmentally protected communities. I believe that all people have the right to equal treatment under state and

federal programs including the development, implementation, and enforcement of environmental laws, regulations, and policies. I further believe that all people should have access to available information about pollution in their community, and that they have the right to participate, in a meaningful way, in decision-making that affects the integrity of their neighborhoods.

As the principles of environmental justice and cumulative impacts are intrinsically interconnected, we are aware that there are some minority and poor communities in New Jersey that are impacted by cumulative environmental pollution and other threats to public health not seen in other communities throughout the state. However, this situation is not unique to New Jersey, and it did not develop overnight. Historically, across the country, urban cities were the centers of commerce and industry. It is important to acknowledge that while in many of New Jersey's cities and older suburbs, industry and residents are in close proximity to each other, it is this proximity that has allowed for a skilled workforce and a ratable base in many communities. We also acknowledge the vital role that business and commerce play in creating sustainable communities and in helping to offset property taxes making it possible to support municipal and school budgets. New Jersey cities have and will continue to coexist with industry.

However, while New Jersey's cities continue to be economic powerhouses for commerce and industry, many residents are faced with historic zoning and other legacy issues that places them near industrial facilities and contaminated sites. I believe the needs of these affected communities are best addressed through integrated approaches that consider multiple environmental media and multiple quality of life issues, since all communities are complex webs of interrelated and interdependent parts. Integrated approaches require proactive efforts within all State agencies, federal and local governments, in partnership with the affected communities, to maximize resources and existing authorities to address key issues such as:

- Cumulative public health impacts from multiple sources of exposure including environmental contamination, personal life choices and occupational sources;
- Local land use decision-making that may perpetuate the existence of environmentally burdened communities into the future;
- Challenges to education and access to economic opportunities;
- Equal access to proper health care; and,
- Meaningful public participation and access to decision makers by impacted communities.

In his Environmental Justice Executive Order No. 131 (EO-131), Governor Corzine recognized that the cumulative exposure to pollution from multiple sources creates a disproportionate impact on the health, well-being and quality of life of persons living in some minority and poor communities in New Jersey, and that addressing those impacts requires a coordinated response across multiple State government agencies. He mandated executive branch departments, agencies, boards, commissions, and all other bodies of the State's executive branch to review programs that promote and protect human health and the environment to ensure they meet the needs of persons living in these communities.

All State agencies must work together to preserve the integrity of these communities through strategic revitalization efforts and to protect the health of residents and workers and the environment.

Notwithstanding the range of the challenges defined above, as Acting Commissioner of the DEP, I believe that I can most effectively contribute to addressing quality of life issues in burdened communities in New Jersey through implementing policies, within the DEP realm, that are specifically designed to deliver the most tangible and meaningful improvements in these communities.

Therefore, as mandated by Governor Corzine in his EO-131, I have reviewed and considered the recommendations in the EJAC's March 2009 Cumulative Impacts Report. While acknowledging the magnitude of the challenge and the breadth of the recommendations in the report, I outline below the environmental justice priorities and policies that I have targeted for the next six months in response to some of the key recommendations in the report and some of the top environmental priorities identified by Newark's Ironbound Community Corporation in their February 2009 memorandum to the EJAC.

It is very important for me to emphasize that I consider these actions to be a first step in this Department's efforts to integrate cumulative impacts into DEP's day-to-day operations and decision making. In addition with moving forward with developing these actions, the Department will work closely with other State agencies, including the Attorney General's Office, to further examine implementation aspects of these actions and assist them in developing similar strategies to integrate environmental justice principles into their programs and policies.

In closing, I know I can look to the Council for continued advice as these priorities and policies evolve, and as new environmental justice issues demand concerted attention by the Department and other State agencies. I am also confident that working in partnership with the Council, the Governor's Office, other State agencies, county and local government and community members and their representatives, this Department and other State agencies can make significant strides to address New Jersey's environmental justice priorities over the years to come.

New Jersey Department of Environmental Protection Environmental Justice Policies and Priorities

In response to the first Key Recommendation in the EJAC's March 2009 Cumulative Impacts Report, I am very pleased to report that the Office of Policy Planning and Science in collaboration with the Environmental Justice Program has developed a preliminary geographic information system-based screening tool that integrates measures of environmental hazards and human exposures alongside demographic and socioeconomic factors. This preliminary screening tool can be used to help identify Environmental Justice Communities of Concern¹ (EJCOCs) in New Jersey. The tool was unveiled and presented by NJDEP to the EJAC, their Cumulative Impacts Subcommittee and their technical advisors in May 2009.

Based on this approach and with the understanding that the screening tool is an evolving and iterative process, the Department intends to work with the EJAC to determine the most appropriate communities in which to focus the Department's work and pilot our preliminary strategies and initiatives.

Compliance and Enforcement

- Meet with representatives of community interest groups in up to five (5) EJCOCs over the next six months to identify and discuss regulated and non-regulated active facilities for the Department's Compliance & Enforcement review and possible additional action. Additional actions could include, but are not limited to additional inspection frequency, multi-program inspections and compliance assistance as needed.
- Continue to perform inspections of high school chemistry labs, high school storage areas and middle schools by program participating County Environmental Health Act (CEHA) health agencies and/or their hazmat teams.
- Perform targeted inspection of schools located in EJCOCs for compliance with School Integrated Pest Management Program (IPM).

¹ Source: Environmental Justice Definitions. New Mexico Department of Health. NRE 392 Coursepack (Welsch). University of Michigan. Winter 1997
<<http://www.health.state.nm.us/eheb/rep/Community/Environmental%20Justice%20Definitions.pdf>>

- Perform targeted inspection of schools located in EJCOCs for compliance with School Bus Anti-Idling requirements.
- Continue to encourage environmental stewardship by industry/companies located in EJCOCs during inspection of these facilities.
- Perform an enforcement sweep of Heavy Duty off road Diesel powered vehicles in an EJCOC to ensure compliance with the Department's air pollution regulations.
- Publicize the DEP Toll Free Hotline to residents of EJCOCs for reporting environmental concerns.
- Continue providing public access to data and assistance using DEP on-line data tools including Dataminer, the Inspection Blotter and Enforcement Blotter.

Constituent Services

- Prioritize requests for speakers/presenters/event participation coming from EJCOCs.
- Continue to provide support to DEP programs working in EJCOCs to assist with outreach and education opportunities through schools or other programs working with youth.
- New Jersey Commission on Environmental Education Activities – The Commission is charged with implementing a “Plan of Action” for environmental education in New Jersey. The Commission will be releasing their new draft Plan of Action shortly. This plan offers educators of all kind a vision, guidance, strategies and support needed promote and enhance opportunities for environmental literacy in New Jersey. With assistance from the EJAC, this Plan can be strengthened to specifically support environmental education initiatives in EJCOCs. DEP will work with the EJAC to achieve this goal and will invite a member to serve on the Commission.
- Environmental Careers Resource – DEP is developing an on line resource tool for environmental careers with a focus on green collar jobs. The goal is to introduce environmental careers and green job opportunities to middle school, high school and college students. In promoting the site, we will feature the diversity of employees in the workforce as a way to attract minority/diversity of student interests. The directory would link each field or career with available college options in New Jersey including Vo Tech Schools.
- In addition to existing outreach efforts underway through the Department of Labor, Department of Education and Vo Tech schools, DEP will reach out to the EJAC for input on specific green collar jobs and other careers most needed in EJCOCs.

- After School Programming – DEP is partnering with the Department of Education and the New Jersey School Age Care Coalition to supporting the Celebrate Afterschool! Outdoors in the Garden State programs. Abbot School Districts, which are often located in EJCOCs, are among the schools participating. Celebrate Afterschool! Outdoors in the Garden State is a campaign to build lasting public support for affordable, high-quality afterschool programs across New Jersey.

Environmental Justice

- Coordinate with other NJDEP programs, as needed, to ensure implementation of these policies and priorities.
- Track the implementation of the actions set forth in this document.
- Oversee the implementation of the “Hour for Clean Power”. This project is funded through an enforcement settlement and is managed by GreenFaith, New Jersey’s interfaith coalition for the environment. The project is about the impact of climate change on urban communities and raising awareness about Global Warming to ultimately reduce emissions and adverse impacts on the lives of urban residents. Using the grant, GreenFaith will develop appropriate methods and tools that are effective in educating and engaging urban communities about this critical issue.

Environmental Regulation

Division of Solid and Hazardous Waste-Recycling

- Evaluate truck traffic impacts associated with solid waste facilities located in EJCOCs. Some impacts originate from truck routes, volume and emissions. NJDEP will require that counties address truck routing in the updates to their Solid Waste Plan.
- Implement solid waste facility permit notification enhancements similar to those developed for Water Front South air permits, including notice to interested parties and additional public comment opportunities.

Division of Air Quality - Diesel Program

- Continue the implementation of the Mandatory Diesel Retrofit Law, which targets approximately 40,000 vehicles that operate in residential areas and are used to transport children or are publicly owned (e.g., garbage trucks, NJTransit buses), and requires the

vehicles to install retrofit devices. The Diesel Program currently uses the term “Urban Complexes”, as defined by the State Planning Commission, to prioritize diesel retrofits.

- Re-explore issuing an Executive Order to require diesel retrofits on privately-owned, publicly contracted, diesel powered vehicles for construction projects focusing in EJCOCs.
 - Focus additional diesel efforts on expanding the State’s diesel truck inspection program to include light and medium duty trucks. Continue to provide outreach to mayors, local police, and port authority police to remind them that they have authority to enforce our idling regulations.
 - Continue working with urban residents and community representatives in EJCOCs to understand and address their concerns relating to air pollution and diesel emissions in their neighborhoods.
 - Resources permitting, assist community representatives with their efforts to address concerns related to air pollution and diesel emissions. For example, DEP worked with communities to identify the air pollution impacts from a proposed truck stop expansion and idling trains. Tools such as air modeling could be used with information provided by communities to provide useful information to other communities.
 - Work with New Jersey’s major ports and neighbors on diesel risk reduction efforts to deliver tangible environmental improvements.
 - Diesel Emissions Reduction Act (DERA) and the American Recovery and Reinvestment Act (ARRA)
 - State Allocation – Clean Construction New Jersey Initiative (\$1.73 million)
 - Focus in three areas: NJDOT Projects, Infrastructure Trust Projects and Site Remediation Projects
 - Priority is being given to projects in EJCOCs
 - Competitive Grants (\$18 million in Region II)
 - Worked with some potential applicants to apply for projects to reduce emissions at our Ports and the trucks that serve them – Newark/Elizabeth and Camden.
- Note: On July 9, 2009 EPA announced the awards. The two New Jersey projects include: \$7,000,000 to the Port Authority of New York & New Jersey for a Regional Truck Replacement Program and \$2,800,000 to Northeast States for Coordinated Air Use Management (NESCAUM) to repower several marine vessels by replacing pre-regulation engines with new engines.

- Ongoing Diesel Initiatives
 - The NJDEP is overseeing \$13 million in voluntary diesel risk reduction projects, with \$3 million worth of projects already completed. Most notably, the NJDEP spearheaded the installation of the state’s first two electrified truck stops with a third one underway shortly. The NJDEP has also granted \$500,000 to the South Jersey Port Corporation to reduce emissions from their diesel operations and has begun a \$3 million locomotive upgrade project at the North Jersey port. Money for these projects was obtained through competitive grants, discretionary grants, and enforcement settlements.
 - NESCAUM is utilizing a \$250,000 grant from the USEPA to implement recommendations by the State’s Environmental Justice Task Force to reduce environmental risks to citizens of Waterfront South in Camden (near the South Jersey Port). The NJDEP supplemented the grant with \$500,000 from an enforcement settlement to reduce particulate emissions from diesel equipment owned and operated by the South Jersey Port Corporation.
 - The NJDEP recently received a grant in the amount of \$85,000 from the USEPA for a project titled “Idling Reduction in a Multi-Cultural Port Community.” Our grant partner, Future City, Inc. of Elizabeth, will conduct an outreach and education program with the multi-lingual residents of the port communities surrounding the Ports of Newark and Elizabeth. Future City’s efforts will concentrate on reducing idling and changing driving habits, especially among the trucking or “drayage” industry.

Division of Air Quality - Air Quality and Permitting

- NJDEP will share draft results of a computer model and data associated with the operations in Port Newark and Elizabeth Port with the EJAC and with members of the Coalition for Healthy Ports at an upcoming meeting. This model uses meteorological data and estimates of emissions from diesel engines used at the Port to project the air quality impacts in nearby neighborhoods.
- The Department has proposed rule revisions to its Emission Statement rule to require the reporting of air toxic emissions by each stack, rather than the sum total for the facility, which allows more accurate air quality modeling of off site impacts.
- Air Permit Enhancements (SOP) developed for Waterfront South (WFS) in South Camden will also be applied at the Newark Ironbound community. The SOP includes the

following enhancements- all permits for new and modified significant sources in WFS are subject to additional public comment, public notification of stack testing results and permit applications, as well as evaluation with enhanced air quality modeling and risk assessments, based on the proposed air contaminant emission rates. DEP implements the public notification enhancements. The air program will evaluate the effectiveness of the outreach aspects of the Waterfront South Camden SOP and develop an improved outreach process for EJCOCs.

- Investigate new methods and approaches for monitoring, assessing and reporting air quality in urban and EJCOCs.
- Evaluate establishing air monitoring systems in EJCOCs that may be disproportionately burdened by a specific source/facility (e.g. port of Newark/Elizabeth). Explore ways to fund these systems, in whole or in part, through the facilities involved.
- Evaluate conducting additional air modeling evaluations (facility wide risk assessments, community level risk assessments) to determine potential human health impacts for air releases from existing facilities in EJCOCs. The Department is currently limited to about two comprehensive modeling evaluations per year.
- In the fine particulate State Implementation Plan, the Department has set a goal to achieve a 12 ug/m^3 annual average Fine Particle (PM_{2.5}) level. NJDEP is requiring facilities to reduce releases to help achieve this goal, as well as the national health standard. A recent example of New Jersey's leadership in setting performance standards for major sources is the March 2009 adoption of air pollution control rules, which include stringent emission limits for coal-fired power plants for particulates, sulfur dioxide, and nitrogen oxide, all of which contribute to fine particles in the air. For fuel oil and natural gas fired boilers, tighter nitrogen oxide limits were also set. Mercury performance standards were previously addressed for coal, iron and steel, and incinerators in a separate rule.
- The Department expects to promulgate regulations to reduce the sulfur content in fuel oil. These will especially benefit EJCOCs where there is a high density of buildings, which are heated by oil.

Natural and Historic Resources

- As part of operational policy, for natural resource injuries that occur in urban areas, DEP prioritizes the funding of projects that benefit the impacted, local urban community.
- Continue the Cool Cities Initiative prioritizing outreach to urban centers and offering assistance with development of Community Forestry Management Plans. These plans allow communities to become eligible for Cool Cities program designation, which provides funds to plant trees to increase the “green” canopy in EJCOCs.
- Continue to promote urban park projects and urban greening projects under the Green Acres Program through added priority ranking consideration and funding multipliers based on population density. Additionally, provide priority consideration for local park development applications being submitted near Abbott Schools and in conjunction with neighborhood / community development plans.
- Continue work to purchase properties in floodways subject to recurring flood damage, especially in EJCOCs.
- The Office of Engineering and Construction will add EJCOCs as a determinant in its prioritizing of Shore Protection Program funding for tidal shoreline stabilization projects, such as bulkheading and revetments, which support public use of the waterfront. EJCOCs join Urban Enterprise Zone in the project selection process.

Policy Planning and Science

- In partnership with the DHSS and other academics, continue to improve the GIS-based screening tool by incorporating additional indicators of environmental concern and vulnerability as these data become available.
- Continue to work aggressively to provide urban residents with public access to tidal water bodies and pursue opportunities for offsite access to be available in EJCOCs.
- As part of DEP’s efforts to meet GHG reduction goals statewide, set priorities for policies that have additional benefits for communities that are most affected by environmental pollution (i.e. urban tree planting not only helps to sequester CO₂ but it also reduces urban heat island affect and contributes to urban quality of life).
- Continue working with local communities and associations of state and local governments to consider regulatory and incentive-based initiatives that DEP can

undertake to promote sustainable design and consideration of environmental justice into local planning.

- Continue to work in collaboration with the New Jersey Department of Health and Senior Services to expand capability to track chronic diseases, environmental hazards and environmental exposures. Make these data publicly available through the state's web site. Use these data to improve environmental public health surveillance and conduct pilot projects on links between environmental exposure and adverse health outcomes.
- Use proceeds from RGGI auctions to fund projects at the municipal and county level that result in integrated land use/transportation planning and adoption of related ordinances that reflect the statewide GHG limits. NJDEP rulemaking allows the Department to assign extra points for projects that will provide co-benefits to the State. Extra points will be awarded to applications for projects located in EJCOCs.
- For use of the RGGI funds, establish ranking criteria to provide incentives for energy efficiency projects in EJCOCs and disincentives for increases in pollutants such as PM2.5.
- Actively participate in the Sustainable Jersey partnership, specifically in the Diversity and Equity and the Community Partnership and Outreach committees to ensure that the principles of environmental justice and cumulative impacts are incorporated into the Sustainable Jersey Certification Program. This partnership involves the NJDEP, the New Jersey League of Municipalities, Rutgers University, the New Jersey Board of Public Utilities and the Municipal Land Use Center at The College of New Jersey.
- Work with the Ironbound Community Corporation (ICC), who recently received a grant under EPA's Community Action for a Renewed Environment (CARE) Program. The project will involve providing assistance to ICC and community stakeholders to understand and identify potential toxic risks and environmental pollutant impacts in their community. We will also advise the group on the potential of different multimedia screening risk assessment models and work collaboratively with the group to help determine priorities for risk reduction.

Site Remediation

- Amend Subchapter 1.4 - Notification and Public Outreach - of the Technical Requirement for Site Remediation to replace "Environmental Justice Petition neighborhoods" (sensitive population that requires notification) with the term

Environmental Justice Communities of Concern. These EJCOCs will be determined by the Department.

- Consider cumulative impacts principles, including contaminated site density, for sites located in EJCOCs when developing criteria for site ranking, prioritization, and increased review/auditing. Also incorporate other pertinent data as it becomes available.
- The Department will nominate and recommend to the Governor's Office one representative, from an environmental justice advocacy group, community group or the EJAC, to serve on the Site Remediation Professional Licensing Board. This person shall meet the requirements set forth in the Site Remediation Reform Act, N.J.S.A. 58:10C-3.
- Prioritize the review of applications for technical assistance grants (TAGs) to nonprofit organizations that represent community groups in EJCOCs.
- BDA steering committees will include community members and/or environmental justice representatives when a BDA is located in an EJCOC.
- Prioritize, to the extent resources are available, the review of Hazardous Discharge Site Remediation Fund (HDSRF) funding application for sites located in EJCOCs.
- Continue to focus and encourage the use of public funds to promote redevelopment of "brownfields to greenfields" to create more parks, recreation and open space in EJCOCs.

Land Use Management

Division of Water Supply

- Under the Drinking Water State Revolving Fund (DWSRF) Program, the Department will continue to provide loans to assist publicly and privately owned community water systems and nonprofit non-community water systems in financing costs of infrastructure needed to achieve or maintain compliance with the Safe Drinking Water Act (SDWA) requirements and protect public health in conformance with the SDWA. Types of projects include: construction and upgrades of water treatment systems, replacement and redevelopment of wells, water main replacements, cleaning and lining of transmission lines, water meters, etc. DEP provides loans to fund up to 75% of the project costs at 0% interest, and 25% at market rate to projects that serve urban centers and complexes, as designated by the State Planning Commissioner, as well as Transit Villages designated by DOT and Brownfield Redevelopment Areas designated by DEP. Projects located in or designed to serve an Urban Center or Urban Complex are eligible to receive 20 points under the priority system. In addition, a municipality whose median household income

(MHI) is 35% or more below the State's MHI is considered a "Disadvantaged Community" and receives 80 priority points.

- In concert with the Office of the State Comptroller, provide a regulatory review of the effectiveness of Camden City Water Department's operation and maintenance contract with United Water Resources.

Division of Land Use Regulation

- Refer publicly beneficial projects located in EJCOCs, received for permit review, to the Bureau of Urban Development and Redevelopment for priority action to expedite permit issuance and initiate projects.

NJ Geologic Survey

- Scientist at the NJ Geological Survey will continue to assist Ringwood Boro and Ramapo citizens in evaluation of drilling results and subsidence hazards over abandoned mines to evaluate the sources of the arsenic in the soil at the site, and the hazard posed by the abandoned mine workings to the residents of the mine area.

Division of Watershed Management

- Recognizing the need to improve water quality in heavily urbanized areas of New Jersey, DEP will prioritize planning and implementation projects in urbanized watersheds in EJCOCs. For fiscal years 2009 and 2010, DEP allocated \$500,000 annually from the Federal 319(h) Nonpoint Source Pollution Grant Program strictly to fund projects in EJCOCs that improve the quality of stormwater runoff and associated receiving waters. In addition to this targeted funding, EJCOCs may continue compete for additional grant funds that are available state-wide. Components of the projects include storm water peak flow reduction and stormwater infiltration accomplished through such implementation project types as rain barrels/rain gardens, stormwater basin rehabilitation (retrofit), non vegetated stormwater infiltration (such as porous pavement), manufactured stormwater treatment devices (sediment traps), and riparian buffer/stream bank restoration.

Division of Water Monitoring and Standards (WM&S)

- Through its Clean Shores Program, continue to provide environmental improvement to EJCOCs including the urbanized areas of Hudson County, Bayonne, Carteret, and Camden County. This program removes an average of 5 million lbs of trash, timber and

debris from the shorelines of communities that do not have the benefit of beach fees to fund their shoreline maintenance.

- WM&S is currently monitoring the Passaic River in support of a 12 month TMDL (Total Maximum Daily Load) assessment on the urbanized Rahway River. This study is designed to find the sources of impaired waters such as Total Suspended Solids, Total Dissolved Solids and phosphorus so that such sources can be resolved through subsequent permitting and enforcement actions.
- WM&S' Stressor Identification program will, within the next year, begin to examine surface water sites in the EJCOCs, which have been targeted due to high impervious cover which is related to the exhibition of significant adverse biological impacts. This activity will identify sources of water pollution or physical deterioration detrimentally affecting human health, water quality and stream biota. Once the source or sources have been identified, the Department can - through its permitting and enforcement programs - take the appropriate actions to remediate the identified problem(s).
- WM&S conducts heavy metals (lead, mercury, nickel, cadmium, etc.) monitoring throughout the State. Many of these locations are in urban/industrial land-use areas. If found to be contaminated, areas are targeted for more extensive TMDL studies to determine the impairment's source to design strategies to abate the sources.