

September 12, 2003

Mr. Romel Pascual
Assistant Secretary for Environmental Justice
California Environmental Protection Agency
1001 I Street, 25th Floor
Sacramento, CA 95812

VIA ELECTRONIC MAIL AND FAX (916) 445-6401

Re: Comments of Environmental Health Coalition in Support of the Draft Recommendations of the CalEPA Advisory Committee on Environmental Justice to the CalEPA Interagency Working Group on Environmental Justice

Dear Mr. Pascual:

Environmental Health Coalition is writing in strong support of the Draft Recommendations of the CalEPA Advisory Committee on Environmental Justice to the CalEPA Interagency Working Group on Environmental Justice. EHC has been pleased to serve as the co-chair on the CalEPA Advisory Committee, and has seen a great deal of progress in discussions of these important issues with the various stakeholders on the Advisory Committee. If many of these criteria and recommendations are implemented, California will make great strides towards achieving environmental justice for its communities. While much work remains to be done on the recommendations and the mechanisms for their implementation, we are pleased to offer our support and the following comments on the draft:

Goal #1: Meaningful Public Participation

EHC very strongly supports all of the criteria and recommendations for this goal. It is only through meaningful public participation that those most impacted by the decisions of the CalEPA agencies will be able to impact those decisions. Furthermore, we are in strong agreement that staff education and training, available information, capacity and relationship building are all critical precursors to effective public participation programs.

In addition to the recommendations for staff training outlined on page 18, we would suggest that staff of all levels of the CalEPA agencies be encouraged and provided with the resources to tour impacted communities with community residents as one mechanism to better understand the environmental justice challenges being faced by those communities. At the same time, in addition to the Environmental Justice Small Grants

Program, travel resources should be provided to allow community residents better access to hearings and decisions being made in Sacramento.

Goal #2: Integrate Environmental Justice into Laws, Regulations and Policies

Program Development and Adoption

For all of the recommendations in this report to be implemented, it is critical that environmental justice is included in the analysis of new and the revision of existing programs and program elements. Explicit consideration of environmental justice in staff reports and other documentation provides needed accountability to ensure that this occurs, and to provide to the public a transparency in agency decision-making.

Furthermore, EHC strongly supports the recommendation on page 21 to officially recognize the need for precaution in environmental regulation and policy. While opponents of the precautionary principle suggest that regulation must be based on certainty and “sound science”, the truth of the matter is that the current regulatory system is not based on sound science. Instead, much of the environmental degradation caused over the last several decades is due to the permitting of chemicals or processes in the absence of sound science about their potential effects on health or the environment. A strong precautionary principle policy, and development of specific policies to implement it, will prevent many environmental justice problems before they occur.

Program Implementation

Land Use and Zoning

Precaution is especially important in the arena of land use. Many communities of color and low-income communities in California have been burdened by land use and zoning practices which place toxic industries immediately adjacent to homes and schools. Residents are then subject to disproportionate accident risks, emissions of air toxics, industrial truck traffic, and transport of hazardous materials and waste through their neighborhoods. Common sense and precaution would dictate that sensitive land uses should be buffered from heavy industrial land uses.

Additionally, the criteria listed on the bottom of page 22 are critical to achieving environmental justice in California. Land use, zoning and permitting practices must be revised to empower community residents to remove existing hazards from their communities. Through pollution prevention and other means, emissions from some types of facilities can be significantly reduced. However, even the cleanest of industrial land uses will still generally produce industrial truck traffic, noise, safety and accident risks that are simply incompatible with a residential neighborhood. While opponents claim that the practice of relocation of toxic industries could have an impact on jobs in these communities, EHC’s experience has shown that most community residents do not work in the industries in their neighborhoods, and yet are forced to bear the pollution burden that those industries cause.

Large sources of mobile source pollution, such as major transportation and industrial truck traffic corridors, must also be included in the land use guidance documents to be developed. Guidance should be provided to regional transportation planning agencies to ensure that environmental justice analysis is included in that process. For example, the Regional Transportation Plan for the San Diego Region limits its analysis of environmental justice to ensuring that low-income communities and communities of color do not have disproportionately long trip-times to work or school. The pollution, noise, and safety impacts associated with siting of major transportation corridors must be included in the development of these plans.

CalEPA must also work with OPR to ensure that, as regions and municipalities around the state struggle to create “smart growth”, “compact” communities, and “jobs/housing balance”, that safety, health and justice are not compromised by repeating past mistakes of mixing incompatible land uses.

Facility Siting and Permitting

Community residents and local authorities must also be given the tools to ensure that new sources of toxics are not allowed to locate in already burdened communities. Cumulative impact analysis that assesses the toxic emissions, exposure and risk to a community will be especially important to this process. EHC strongly supports the ongoing research by Cal EPA agencies into cumulative impact analysis. This work must continue until the models are sufficiently accurate to be used throughout the state. Additionally, the Office of Environmental Health Hazard Assessment should continue development of models to estimate exposure to pollutants from multiple media, since the cumulative toxic burden to a community is almost always multi-media.

However, precaution dictates that we must not wait until those models are perfected before we take action to protect communities from additional hazards. For this reason, the recommendations on page 22 to develop guidance documents and identify high-impact project scenarios are critical tools for local community residents and decision-makers. Additionally, this guidance must address the siting of sensitive land uses, such as schools, housing and hospitals, so that these types of sources are not located next to highly toxic industries or major transportation corridors.

Risk Reduction and Pollution Prevention

Additionally, the agencies of CalEPA must start to take action to bring down existing pollution levels in communities. These efforts must go beyond mere risk reduction and focus on the reduction of emissions, discharges, and community exposure to toxic materials. Pollution prevention measures are critical to this effort. We strongly support the creation of a California Office of Pollution Prevention to promote safer alternatives to existing chemicals and processes.

In addition to its obvious assistance to reduce industrial emissions, centralized pollution prevention research on consumer products and their less-toxic alternatives would be very helpful to communities of color and low-income communities. For example, we would suggest an evaluation of the process of producing vinyl windows (and identify less-

toxic/more sustainable alternatives), since these are widely used in lead hazard control, housing rehabilitation work and new construction. We also recommend that this office look into the entire life-cycle of products, and consider the impacts on workers involved in their production and use, as well as on low-income communities and communities of color.

Additionally, the work of the OPP will need to be coordinated with the research plan for the rest of the agency, and could also be helpful in promoting efficiency in enforcement. Development of a materials policy and identification of classes of materials (such as, for example, chlorinated and brominated hydrocarbons) whose phase out would make enforcement of environmental regulation more efficient, should be high priorities for this research.

We are also very supportive of the recommendations outlined on page 27 to establish goals and timelines for DHS to eliminate and reduce the incidence of environmentally caused and related illnesses. To accomplish this, basic information is needed on health outcomes at a local level, such as by neighborhood or census tract. While the State is currently engaged in a health-tracking project that will provide much health information that doesn't yet exist, there are many kinds of health information that exist now but are difficult or impossible for the public to access. Birth outcomes, cancer incidence, and asthma prevalence are examples of data that is not available for small areas. Hospital discharge data is available on the web, broken out by hospital but not by age, sex, or zip code. Convenient public access is necessary for the establishment of baseline information, and goals, and to chart progress towards achieving those goals.

Site Remediation

EHC is in strong support of most of the recommendations on page 28. However, we are concerned that the recommendation to develop guidelines for clean-up based on the use of the site will result in clean-up plans that only look at the short-term potential uses for the site, and leave toxic compounds in place to be discovered by community residents or new property owners years later. Precaution would dictate that sites be left clean for the long-term benefit of the community.

Enforcement

We also support the recommendations on program enforcement on page 29. In addition, we suggest that compliance information being routinely posted to agency websites, and that non-compliance be factored in to cumulative impact assessment and emission inventories.

Goal #3: Improve Research and Data Collection:

The first recommendation in the Data Collection section is that Cal/EPA should prepare a research plan for the entire agency. This would solve many of the current problems with research and data sets that are uncoordinated, difficult to locate, and that may or may not even exist. To create and update the research plan, it will be necessary to develop a tracking method and clearinghouse for current and past research efforts. This would make

it more feasible for researchers to coordinate efforts, and would also make it easier for members of the public to locate data and researchers

CalEPA agencies should also consult with and provide greater involvement to community members and other stakeholders prior to designing studies of the community. Ownership of the results is also a key issue that must be resolved before the research begins.

Goal #4: Cross-Media Coordination

The recommendations included under this goal are critically important to achieving environmental justice. We would also suggest that cross-border issues be considered for better interagency coordination. For example, development of cross-border enforcement policies could be developed to prevent the use by some industries of the U.S. Mexico border as a shield from responsible environmental practice. Additionally, research efforts on air sheds and watersheds in Southern California should not consider the border as an artificial boundary, but should instead assess the impacts of toxic pollution on communities on both sides of the border. Finally, a web-based clearinghouse on environmental justice information could be strengthened by developing and integrating cross-border information, and making the clearinghouse multilingual in order to serve all relevant communities, including those on the Mexican side of the border

Recommendations for Future Evaluation

In order to be truly effective, CalEPA must also promote more interagency coordination and communication with other agencies of state government that make decisions with significant environmental justice impacts. In addition to those recommendations for future evaluation, listed on page 35, we would suggest inclusion of the siting power plant facilities by the California Energy Commission.

Thank you for your consideration of our comments. We look forward to continue this ground-breaking work with CalEPA.

Sincerely,

Diane Takvorian
Executive Director

Paula Forbis
Director, Toxic Free Neighborhoods Campaign