



PHYSICIANS FOR SOCIAL RESPONSIBILITY • LOS ANGELES

Affiliate of International Physicians for the Prevention of Nuclear War • Recipient of the 1985 NOBEL PEACE PRIZE

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September 12, 2003

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Environmental Justice Program
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Dear Members:

I am pleased to submit the following comments on behalf of Physicians for Social Responsibility-LA representing 3000 members in Southern California. For the past twenty years Physicians for Social Responsibility-Los Angeles (PSR-LA) has worked to reduce violence, and the threats posed by weapons of mass destruction and environmental threats to human health. PSR-LA is the active conscience of American medicine and provides environmental health education to the medical community and communities impacted by pollution. Our advocacy and use of science is guided by the principle of "first do no harm" because we have a moral obligation to "prevent what we cannot cure." We are deeply committed to promoting a preventive and precautionary approach to protecting human health and promoting environmental justice

PSR-LA first wishes to acknowledge the great work that has been accomplished by both Cal-EPA and the Cal-EPA EJ Advisory Committee in the drafting of the EJ Recommendations and Report. PSR-LA fervently supports the Draft Recommendations and Report and is anxious to see the full implementation of these recommendations come to fruition coupled with much needed enforcement tools, resources and inter-agency cooperation, especially in the area of cross-media monitoring and enforcement while applying the precautionary approach and cumulative impact analysis to ensure an EJ analysis.

Priorities for Agency to Act Upon

Goal #1: Ensure meaningful public participation and promote community capacity building to allow communities to be effective participants in the environmental decision making processes

In order for the Agency to equally protect all communities, it almost goes without saying that chief among the Recommendations is goal #1. Laws are created and come to be through the process of social construction (influenced by economics, public benefit, politics and science). Ideally, public participation is a form of social discourse that allows the realization of important elements and values to society and community, which then lead to common values and goals. When this public participation process is inclusive of all stakeholders, including traditionally bereft of political power, then this process can be used to develop *just* environmental practices and regulations. However, given the diversity of our State the task is a complex one and has been carefully addressed in the

recommendations by the Committee. The current methods of public participation are limited in their ability to address such diversity. An example of their exclusivity, is the lack of translation or adequate translation, unfamiliar decision making process to communities such as Robert's rules of order are frequently applied, meetings are held at hours when people are working, agenda's are presented in a format that is unclear when public participation can take place. Furthermore, when community members finally do speak, they are often limited to two or three minutes, and to add insult to injury there is frequently no response or dialogue with the agency representatives. As a result, there is a sense of a lack of accomplishment and a feeling that one's comments only went into a black hole of bureaucracy. This is the norm, and this is also why the Committee's guidelines for public participation are so important.

A further element implied and complementary to the stated recommendations is that of cross-cultural competency, much needed throughout all enforcement & regulatory agencies. Agencies need to ensure that methods applied for outreach and public participation are familiar, accessible and that there is an adequate feedback process/loop within each agency for the diverse members of our state to engage in an iterative continuous meaningful dialogue on the issues of concern to them.

Conflicts within the arena of public participation clearly center around how to justly balance economic, environmental and socio-cultural needs. Without effective public participation, there would not be balance in the discourse and consequently balance would also be absent from the creation of just laws.

Goal #4 : Ensure effective cross media coordination and accountability in addressing environmental justice issues

All of the goals outlined by the Committee are equally important and necessary to effectively operationalize a comprehensive implementation and enforcement plan. However, in addition to creating state level inter-agency cooperation, we must also create programmatic mechanisms for resolving the contradictions, conflicts and barriers among local enforcement agency so as to improve their planning, enforcement, analysis, and coordination with Cal-EPA, Office of Planning and Research and the California Energy Commission. This communication on issues such as cumulative impact analysis needs to move beyond advisory and needs to be more systematic. For example, The California Integrated Waste Management Board published and distributed Local Enforcement Agency (LEA) Advisory #36-February 1997 to improve the communication on issues which may have cumulative impact on regions. This well intended method has not had much of an impact on the local operations of the LEAs. The recommendations, if adopted would strengthen the outcome of such advisories and communications.

Goal #2: Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations and policies

Chief among the local issues that must be coordinated among the various local enforcement agencies is that of Land Use and Zoning. As an example, tire burning facilities have been predominantly sited in communities of color. This was not previously known by the State until the California Integrated Waste Management Board funded a study, accomplished with sound science,

to demonstrate this disparity. The next step would be to share this information with local agencies, communities and sponsor stakeholder dialogues to plan differently in the future. The mapping of disproportionate impact of all sources of pollution (stationary and mobile) on a state-wide level is needed so that agencies, polluters, industry, planners and communities are all operating from the same information. However, we should not wait for a full assessment of all Sources of Pollution to begin assessing and determining that many communities have already been disproportionately impacted and are burdened by cumulative sources. Many ground breaking studies using regression analysis and public data sources have demonstrated disproportionate impact exists.

It is troubling that the California Plant Health Association finds the recommendations in this section overly vague and *not* based on “sound science.” We have not seen the CPHA or any other stakeholders who oppose the goals of the Report demonstrate with “sound science” that what the proposed has not been scientifically assessed. On the other hand, proponents of the Cal-EPA EJ Recommendations have presented studies and references, which truly represent sound science at its best, demonstrating the validity of both precautionary principle and the use of cumulative impact analysis. Interestingly enough, the Los Angeles County Sanitation District’s General Manager, James F. Stahl, has also opposed many of the recommendations on the basis of lack of sound science without making reference to any “sound science” himself. Revealed in the American Journal of Public Health (91-1749-1757) by Ong and Glantz is that the Chemical Manufacturer’s Association (CMA) co-founded, along with the Phillip Morris Company, one of the most vocal advocates for “sound science,” The Advancement for Sound Science Coalition (TASSC). The CMA has since been renamed and has a long history of questionable practices in debates about public health, as revealed by Bill Moyer’s devastating analysis “Trade Secrets.” The documents reviewed by Ong and Glantz unambiguously expose that TASSC was created to explicitly undermine EPA efforts to strengthen regulatory enforcement. PR firms, not scientists were hired to design and implement the “Sound Science” strategy spin through the enlisting of several industries, including the CMA. Their analysis of science is motivated not by the mission to improve public health, but by the mission to improve profits. Consequently, we must ensure to take these recommendations from the CPHA (an arm of the CMA) and others who have prescribed blindly to the “Sound Science” PR strategy. This leads to our next point on Cumulative Impact Analysis.

Cumulative Impact Analysis

Given the gaps and flaws in the CEQA that continue to take a flawed risk assessment approach and a chemical by chemical approach, that fails to scientifically model the way in which communities experience cumulative exposures, we applaud the Committee’s recommendations for cumulative impact analysis and agree that it should be required of new applicants. To fully assess and mitigate the health, social and economic costs to society of additional sources of pollution we must assess and reduce the cumulative impacts of said activity. As a result, CEQA’s guidelines on cumulative impact analysis must go beyond an analysis of just past, present and future projects, but also include an analysis of the aggregate impact on health and social costs of chemicals emitted past, present and future as this would represent the actual feasibility of projects and the externalities which they impose on society, including the impacts on human health. The other problem is that currently, under CEQA, enforcement agencies can divide polluted sites into arbitrary segments, and no single subdivision in itself will trigger concern. The impacts in these smaller areas may be found to be “less significant” within the scope of its jurisdictional analysis, however, the same review on a

regional scale may contribute to or create a significant cumulative effect. In other words, regional cumulative impact analysis is very much needed.

Facility Siting and Permitting

It is encouraging that Cal-EPA has identified that governments must establish appropriate programmatic mechanisms to identify and address environmental gaps in permitting and siting decisions. This will complement and strengthen existing regulatory structures that are not functioning all that well. Furthermore an essential component of environmental justice is to use the facility permitting process as a tool for restoring the environmental integrity of a community that is disproportionately impacted by pollution.

PSR also fully supports the establishment of *health based permitting requirements...for activities near sensitive receptors*. We strongly disagree with the LACSD comment that the AB 2588 Hot Spots program is capable of providing the complete and accurate information needed to identify sensitive receptors. This program depends on self-reported data with no mechanisms for verification which many result in inaccurate or misleading information. Again, the recommendations made by Cal-EPA EJ Advisory Committee would strengthen existing regulatory structures to ensure compliance with environmental justice goals and objectives. We also disagree with LACSD that the last facilities into a community are the cleanest. As an example, in the City of Huntington Park, a cement recycling facility was permitted after the Northridge Earthquake. This facility became not only a public nuisance, but cause increased rates of asthma and many other pulmonary illnesses. The facility came to Huntington Park after it had already been identified as “Asthma Town” by health professionals and community members alike, yet this was not considered as a factor when the permit was approved and the facility was anything but clean. Many examples like this can be demonstrated if necessary. While the development and deployment of cleaner technology is an essential component of environmental justice and economic development, we must recognize that even use of “cleaner technologies” (in disproportionately impacted areas) does not restore the environmental integrity of a community nor will it improve health. It is still adding pollution to over-burdened communities.

Mobile Source Pollution Control

We would only like to mention here that industry has been attempting to derail Cumulative Impact Analysis and other Clean Air policies by blaming the air pollution problems predominantly on mobile source pollution. This is clearly a strategy to de-regulate current laws, such as New Source Review under the Clean Air Act and also to ensure less regulatory pressure on industry by State and Local enforcement agencies. All sources of pollution must be assessed and the lack of mechanisms to assess or regulate one mechanism should not limit the assessment and regulation of other sources of pollution. We would be stuck in a vicious cycle and progress to improve the quality of life would not be made.

Precautionary Approach

The precautionary approach has been accepted and promoted among many in the public health and medical community. Many members of the sectors of society, public and the environmental

justice community have also engaged in public discourse on the issue over the years. As such, we concur that this approach should be the foundation for environmental and public health laws regulations and be part of the debate when decisions are being made.

When an activity raises threats of harm to human health or the environment, it also poses a threat to society and economic development and thus precautionary measures should be taken because the majority of chemicals have not been scientifically studied and we don't know the outcomes or impact of their use. To simply move ahead and release potential toxics into the human environment without determining their health effects is both bad policy and unsound science. According to a report by the Environmental Working Group, *Beauty Secrets*, "*no pre-market safety testing or approval is required under any federal law for chemicals in cosmetics, toys, clothing, carpets, or construction materials, to name just a few obvious sources of chemical exposure in everyday life.....It largely explains why products like hair spray, hair dye, pacifiers, stain repellants, glues and children's toys get on the market, only to be found to contain highly toxic compounds at unsafe levels.*" Industry's argument that sound science has not proven the products to be unsafe defies their own logic that sound science must be used and applied to develop regulatory standards. This is actually a discussion about shifting the burden of proof to those who would develop the chemical or inert products that might harm human health, the environment and ultimately the sustainability of society.

The claims by industry and others that state that stricter environmental regulations would cause industry to move out is an oversimplified argument for those who have not critically and thoroughly analyzed the results of many years of improved pollution controls. In a study by the Institute for Southern Studies, "Gold & Green" it was demonstrated that the contrary is true. The Institute found that States that improve environmental standards have the strongest economies. Furthermore, there is an entire Industry that has thrived and developed based on the goals of improving and cleaning the environment. This industry has grown over the years and has provided a wider economic diversity among cities and municipalities that has helped them through the rough times of the dot.com bust and the energy and accounting firm fiascos. It can be argued that taking care of the environment has helped to stabilize our economy and also to improve the quality of life, which increases the value of property and this is good for all of us.

In conclusion, PSR-LA would like to re-iterate the whole hearted support of the Cal-EPA EJ Recommendations and Report because it allows for all of the elements that would improve the democratization and integration of Environmental Justice decision making for our state which is richly diverse and must address the needs of this community if we are to thrive as a state and build leaders and engaged citizenry from all of our communities. It is the role of the Agency to ensure equal protection of health for all of our communities and this step will take us closer to that goal.

Sincerely,

Jonathan Parfrey
Executive Director