

Sept. 12, 2003

Cal/EPA – EJ Program  
1001 I St., 25<sup>th</sup> floor  
Sacramento, CA 95814

**Re: Comments on Cal/EPA Advisory Committee on Environmental Justice,  
Draft Recommendations Report to the Cal/EPA Interagency Working Group on  
Environmental Justice**

Sierra Club California, representing our 200,000 members, appreciates the opportunity to comment on the committee's draft recommendations. We have participated in the process by attending committee meetings, addressing the committee, and discussing the committee's work with environmental justice experts across the state.

Our overriding concern is what follow-up structure will be established to implement these recommendations and integrate them into the operations of California's state, regional, and local environmental agencies. This lack of implementation structure is the biggest gap in the report; without it, communities will have little confidence that more than a few of the listed goals will actually be realized.

We commend the committee for a fine draft, but we believe that a number of major environmental justice problems need to be more fully addressed by the report. These comments grow out of the experiences of our volunteers and staff.

**1. In general, government agencies are not responsive to environmental justice priorities raised by communities.** The agencies tend to think that their own priorities are more important, and so they respond minimally when a community complains about a polluting facility or a pollutant problem. Examples include the agencies' failure to address dioxin exposures, and the Bay Area Air Quality Management District's shrugging off of major emissions problems at area refineries.

**2. Environmental Agencies too often fail to crack down on violators in disadvantaged communities.** The problems range from the obvious (like BAAQMD simply ignoring violations from the IES incinerator in Oakland for years) to the incompetent, as when agencies refuse to do their own emissions monitoring at operations that are self-monitored or monitored only on announced days when everything is perfect. Air regulators never inspect after 5:00 p.m. or on weekends (the "free to pollute" hours).

**3. Increasing and unjustified secrecy in the agencies is making it very difficult for communities to access information.** The DTSC refinery project, which was compiling detailed information about refinery emissions and violations that has been available only on paper in various offices, has been suppressed by the bogus excuse of security

concerns. This information should all be on the Internet and be readily accessible sorted by facility, not by environmental agency. As we have told the committee, information on refineries' compliance with air and water safeguards poses no security risks, and using the façade of "terrorism concerns" to hide information is a huge barrier to environmental justice. Cal/EPA tried repeatedly this year to insert broad and unnecessary secrecy language into legislation addressing hazardous materials storage.

**4. Agency communication with individual members of the public is often abysmal.**

One has to have excellent English language skills and a college-level vocabulary just to reach the person at an agency who can provide meaningful information or who can accept and respond to a complaint. One has to call during working hours to get anywhere. Callers need to have phone numbers at which they can receive return calls (because it usually takes several calls) and lots of time to sit by the phone waiting for the call. Community members have had difficulty getting responses even in cases of chemical leaks posing imminent dangers. Furthermore, most agencies never respond to e-mails to general public inquiry addresses.

**5. Allocation of resources too often discriminates against low-income and minority communities.** For example, most funding for monitoring and cleaning up beach pollution is going to the "glamorous" coastal beaches. In the San Francisco Bay Area, bay-side beaches – many of which, according to the limited monitoring data, have high bacteria levels – receive little attention. This is an environmental justice problem because those bay-side beaches are frequented by people of color who do not have sufficient transportation options to visit the coastal beaches favored by the more affluent.

While the draft recommendations address permitting of new facilities, an important but relatively rare event, they do not sufficiently address the ongoing issues detailed above.

We do support much that is in the report, particularly the recommendations for more emphasis on inherently safer systems, pollution prevention, and precautionary approaches when evidence of potential for harm exists. The calls for regulation and legislation in regard to these basic policy approaches are appropriate, though much could be accomplished by a change of mindset at environmental agencies, which need to free themselves to regulate processes to **prevent** releases so that they do not have to regulate the ensuing treatment or evacuation caused by those releases. We also support the analysis and consideration of cumulative impacts from multiple sources of pollution.

We appreciate the diligent and earnest work of the committee, and look forward to working with the committee and Cal/EPA toward the goal of fully realizing environmental justice for all Californians.

Respectfully Submitted,

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Senior Legislative Representative