

**ENVIRONMENTAL JUSTICE ADVISORY COUNCIL TO THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
February 3, 2010 Minutes**

EJ Advisory Council Members

Valorie Caffee, Chairperson
Ana Baptista, Ph.D. Vice Chairperson
The Reverend Fletcher Harper, Secretary
Sharon Brown, Corresponding Secretary
Kevin D. Moore, Parliamentarian
Stewart Abrams, P.E.
Kerry Margaret Butch
Theodore Carrington

EJ Advisory Council Members

Colandus "Kelly" Francis
Kim Thompson-Gaddy
Joann L. Held
The Rev. Dr. J. Stanley Justice
Zachary D. Lewis
Donald M. McCloskey
Judith Stark, Ph.D

Minutes Approved: March 3, 2010

ENVIRONMENTAL JUSTICE ADVISORY COUNCIL MEETING RECORD

February 3, 2010, 10:00 a.m.

NJDEP 401 E. State St., Trenton, NJ

CALL TO ORDER: Ana Baptista called the meeting to order at 10:00 a.m.

COUNCIL MEMBERS PRESENT: All of the Council members were present with the changes noted below.

EXCUSED: Judith Stark, PhD., Kim Thompson-Gaddy, Theodore Carrington

UNEXCUSED: The Rev. Stanley Justice

ALTERNATE: Kim Gaddy was represented by David Pringle

DEP SPEAKERS: DEP Acting Commissioner Bob Martin, DEP Director Jeanne Herb,

DEP EJ Coordinator Maria Franco-Spera, NJ DEP Research Scientist Steve Anderson

VISITORS: Henry Rose of the NJ Environmental Justice Alliance, Peter Montague,
Sharon Kubiak, NJDHSS

Meeting Record

Adoption of the January 6, 2010 Minutes

Kevin Moore moved that the minutes be adopted as submitted. The motion was passed unanimously.

a. EJ Toolkit for Municipalities

Kerry Butch reported that a subcommittee had two conference calls last month to discuss plans for training Municipal Officials on the use of an EJ Toolkit. She proposed that ANJEC hold 3 workshops (one each in the north, south, and central parts of the state). In addition to providing the toolkit in a notebook that would be patterned after the one from California. They would invite Steve Anderson to describe the mapping tool

that he has developed, and members of EJAC to explain Cumulative Impacts and why they should be considered at the Municipal Level.

Jeanne Herb felt it would be important to have a better handle on the content of the toolkit before scheduling the workshops. She said that DEP would be most comfortable discussing tools that are already available at the DEP, such as Data Miner and NATA.

Kelly Francis expressed that he felt it was appropriate that EJAC collaborate with ANJEC to distribute information about the Cumulative Impacts Study to municipal officials. Jeanne Herb voiced concern about the appropriate roles and responsibilities for EJAC, DEP staff that seeks to support EJAC, and ANJEC or other environmental groups in relation to projects such as this. Jeanne also noted that she would need to familiarize herself and other DEP staff about the content of the ANJEC training. Kerry Butch reviewed the various content items for the ANJEC training. It was agreed that there would be further discussion of this among interested parties prior to the next meeting.

b. Mini-NEPA Subcommittee

Valorie Caffee, who was present via teleconference due to weather impediments, suggested that the meeting which had been scheduled for today be rescheduled. She said she would forward documents related to this topic to the sub-committee. It was agreed that the meeting would take place via teleconference after the EJAC meeting.

c. Council's Wish List for AC Bob Martin

Ana Baptista invited recommendations for an EJAC list of priorities for the new DEP Commissioner. Kevin Moore recommended the list developed as a result of the cumulative impacts study comprise a substantial part of this list. Don McCloskey suggested that in addition to sharing EJAC's views, EJAC also request information about the new Commissioner's priorities. Jeanne Herb noted that the new Commissioner had not yet established priorities, but had indicated his intention to develop a strategic plan in fairly short order. Valorie Caffee suggested that a top priority should be to urge the continuation of DEP's EJ program, including the resources that support DEP's EJ staff. Fletcher Harper recommended that EJAC ask the new Commissioner about his perspectives on the importance of enforcement of existing EJ laws and regulations. Stewart Abrams expressed interest in learning about the impact of the Commissioner's desire to reduce paperwork as part of DEP's operation.

Acting Commissioner Bob Martin joined the meeting, expressed the Governor's and his personal commitment to address EJ issues, and said that he looked forward to working with EJAC in the future. He said he would welcome recommendations and input for a strategic plan he is developing for DEP. Ana Baptista expressed appreciation for his joining the meeting and asked about the best ways for EJAC to share its priorities. Mr. Martin said he looked forward to meeting with EJAC in the future, and left the meeting. Ana Baptista asked EJAC members to e-mail their priorities for the Commissioner to Corresponding Secretary Sharon Brown, Valorie Caffee and Ana

Baptista by Wednesday, 2/10. Sharon will compile these and will forward a memo to Valorie and Ana, who will forward them to the Commissioner's office.

d. Central Jersey Class A Recycling Facility

Valorie Caffee described new developments related to this, including potential legal challenges to the siting of the facility and news that there would be another public hearing in March. Guest Henry Rose of the NJ Environmental Justice Alliance noted that in Middlesex County, a similar plan had been withdrawn by the County Freeholders, and that the date for the next public hearing had not yet been set.

e. Linden Proposed PurGen Facility

Valorie Caffee noted the receipt of a letter from Bradley Campbell, attorney for the PurGen project sponsor, requesting the opportunity to meet with EJAC to discuss the project's proponents. Sharon Brown suggested that Mr. Campbell be sent a letter confirming that PurGen's perspective was being heard, and clarifying that EJAC functions solely in an advisory role to DEP. Joanne Held noted the number of times that Mr. Campbell had requested the chance to speak to the EJAC, and wondered if it would be best to invite him to speak to EJAC. Kelly Francis said he had supported EJAC's original motion because of his support of "green" technology. Kevin Moore noted that PurGen would argue that CCS is a "green" technology, and said he had supported the original motion because of his belief that Linden was an overburdened community environmentally. Don McCloskey said he believed that Mr. Campbell had the right to address the EJAC. Stewart Abrams noted that this was a situation that made clear the need for a mini-NEPA, because of the way in which it would broaden and focus the consideration of a project such as this. Kerry Butch said she was open to Mr. Campbell's speaking to EJAC. Guest Peter Montague, who has been active in relation to the PurGen situation, shared a letter with the EJAC voicing his objections to Mr. Campbell's request. Primarily, he noted that the EJAC meeting was public and open to guests, and that Mr. Campbell had not availed himself of the opportunity to attend. Mr. Montague described recent developments related to Linden. Sharon Brown noted that the EJAC would appear weak to consider rescinding its decision, and advocated a letter noting this and stating that the EJAC meetings were public. Fletcher Harper and Ana Baptista agreed. Sharon Brown emphasized the importance of EJAC establishing clear protocols and processes for responding to requests for guests to present to the EJAC. Ana Baptista agreed, and recommended that a motion be made to establish a formal policy in regards to this procedure. Valorie Caffee suggested that a motion be made in support of a letter to Mr. Campbell stating the points noted by Brown, Baptista and Harper above. It was agreed that a motion would be made when the EJAC reached the time appointed for this on its agenda.

f. Air Monitor in Camden

Don McCloskey reported that there had not been substantial progress on this matter, and that PSE&G was proceeding to place the monitor in the location previously discussed.

New Business

a. NJ DEP EJ Coordinator's Report

Maria Franco Spera reported

- that US EPA had issued new regulations on Nitrogen Oxide emissions, and that DEP was working with EPA to ensure the proper implementation of these.
- that DEP had received PurGen's formal air emissions permit application
- that the Clean Air Council would soon hold its annual meeting
- that the DEP would hold a community meeting in Paterson about air quality issues
- that DEP was proceeding with its air modeling efforts in the Newark and Elizabeth areas
- that she and Steve Anderson had been invited to present at a Washington DC EPA conference on EJ cumulative impact methodologies – and that New Jersey was the only state agency to have received such an invitation.
- with sadness that Julia Wheeler of the Concerned Citizens' Coalition of Long Branch had passed away.
- that EPA Region 2 had held a major press conference in support of addressing EJ concerns in Camden within the past month
- that Prof. Judith Stark of EJAC was attending a conference on feminism and climate change and would like to report to the EJAC at the next meeting

Maria also asked that she be copied on correspondence related to EJ concerns within DEP so that she would remain “in the loop” on these matters.

Ana Baptista asked if there were any special consideration being given to the PurGen application because of Linden's status as an EJ community. Sharon Brown voiced concern that EJAC not appear to insert itself inappropriately into discussions or processes related to permitting. Ana noted that given Linden's status as an EJ community, there was additional review that was warranted. Jeanne Herb clarified the type of review that was warranted. Stewart Abrams described a recent successful educational event in Cherry Hill focused on EJ issues in Camden, and commended educational outreach as an important part of strategy in relation to building a more environmentally just state. Peter Montague noted that Henry Rose had observed that PurGen would impact two EJ communities – Linden and Newark – and said that he believed this made it even more important that PurGen permitting be examined carefully.

Ana Baptista asked about details related to the new Nitrogen Oxide rules, and invited others planning to attend the Washington DC conference discuss the possibility of making some form of presentation.

b. The Role and Responsibilities of the EJAC

Jeanne Herb recalled the EJAC's desire to serve as an effective advisor to NJ DEP on EJ issues, and said that a review of EJAC's roles and responsibilities would be useful.

Maria Franco Spera and Ana Baptista noted that EJAC's role had changed over time and wondered if a by-laws change might be in order. Maria noted that the by-laws make clear that the EJAC's role was to advise the NJ DEP. She also noted that the recent resolution passed by EJAC in opposition to the PurGen project, and the press release that was issued by the Environmental Justice Alliance which made mention of this resolution, had raised questions within NJ DEP about EJAC's role. Valorie Caffee noted that EJAC had often sought to be proactive in its engagement of EJ issues, and that EJAC had in the past sought to have its existence formalized by the state legislature. She asked whether the regular 5-year sunset provision for Executive Orders would impact the ongoing existence of the EJAC. Sharon Brown repeated her concern that the EJAC establish standards and protocols for the way in which the EJAC conducts its business, including ways in which the EJAC responds to requests for positions or resolutions, the ways in which these are communicated, the audiences to whom these are communicated, and other related matters. Zachary Lewis voiced his agreement with the importance of consistent processes in the interest of strengthening the EJAC's identity. Kevin Moore agreed, and noted that he believed it was important for the EJAC to carry out its duty to advocate on behalf of EJ communities. Harper made a motion that a subcommittee including Executive Committee members and other EJAC members who volunteered to develop a proposal to be considered at the next EJAC meeting regarding the process the EJAC should follow to address these concerns. The motion passed unanimously, and EJAC members Kevin Moore, Zachary Lewis, Sharon Brown, and Don McCloskey volunteered to join Executive Committee Members Caffee, Baptista and Harper.

c. Bradley Campbell's 1/8/10 Letter to the EJAC

Harper moved that the Corresponding Secretary draft a letter to Mr. Campbell informing him that the EJAC would not consider rescinding its resolution and that the EJAC meetings were open to the public. The motion passed unanimously. Sharon Brown said she would draft the letter, send it to Maria Franco Spera for distribution to EJAC, and then forward to Valorie Caffee for her signature.

d. Highlights for the EJ Conference and NEJAC Meeting in New Orleans

Ana Baptista reported that the NEJAC meeting in New Orleans had been extremely positive. US EPA representatives had made clear their intention to prioritize EJ concerns

Kevin Moore reported on an op ed which he and Greg Remaud from NY-NJ Baykeeper in the Bergen Record about EJ concerns related to open space funding.

It was reported that Lisa Plevin, formerly a staff person for Sen. Lautenberg, had become chief of staff for Judith Enck, US EPA Region 2 Regional Administrator.

Ana Baptista reported that Covanta officials had failed to appear at a recent Newark City Council hearing where their attendance was expected. NJ DEP representatives had attended.

Sharon Brown reported that there was an online opportunity for the EJAC to comment on Federal rule changes – at www.regulations.gov. Jeanne Herb suggested that this issue be one of those addressed by the EJAC at future meetings.

Kelly Francis made a motion to adjourn the meeting. The motion passed unanimously.

Our next meeting will be on March 3, 2010.